

# STUDY

Study 349 · December 2016

## ORGANIZING GERMAN AUTOMOBILE PLANTS IN THE USA

**An Assessment of the United Auto Workers' Efforts to Organize  
German-Owned Automobile Plants**

Stephen J. Silvia



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## ABSTRACT

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Over the past three decades, all three German automobile producers have built production facilities in the United States. Despite the similarities among the firms when it comes to collective employee representation in Germany, the employee-relations practices of each firm differs markedly in the United States. The case of BMW makes it clear that the United Auto Workers union does not have sufficient power resources to organize foreign-owned plants in the southeastern United States without assistance from abroad. The UAW has received no help from BMW's works council or IG Metall to organize the company's Spartanburg, South Carolina, plant. Consequently, the autoworkers union has made no progress there. The UAW did receive considerable support from IG Metall and the Daimler World Employee Council to organize Daimler's Vance, Alabama, Mercedes plant, but the union failed to gain enough support to hold a recognition election because Daimler's "negative neutral" position on unionization was sufficient to thwart all attempts to organize the plant. Volkswagen management, in contrast, took a "positive neutral" stance to unionization and the UAW received substantial help from IG Metall and Volkswagen's works councils. Yet, the UAW failed to win a representation election for the whole plant in February 2014, but instead won a recognition election for a small unit of skilled mechanics in December 2014. Political opposition to unionization and tactical errors account for the loss in the February election. The result at Volkswagen is dissatisfaction in all corners. The UAW has only organized a unit of 164 workers in a plant with over 2,500 employees. Volkswagen management refuses to bargain with the unit because its jurisdiction does not cover the entire plant. Volkswagen management has implemented a "community organization engagement" policy that provides employees with some information and consultation, but falls well short of codetermination rights. The Volkswagen case illustrates the considerable challenge involved in trying to reconcile two quite different national systems of collective employee representation. The latest strategy of the UAW and IG Metall to organize German-owned parts suppliers may prove more successful. The parts suppliers' plants are smaller and they generally do not receive subsidies. The organizing drives are unlikely to attract the same degree of political opposition as a result.

## INTRODUCTION

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A core assumption of the “comparative capitalisms” literature (e.g., Hall and Soskice 2001; and Brewster et al. 2011), which has been the orthodoxy in the field of comparative political economy for almost two decades, is that the best way to uncover meaningful differences in the structure, articulation and practices of *firms* is to compare modal practices at the level of the *national economy*. Even if there are some “deviant” firms, national models – for example, coordinated market economies or liberal market economies – shape the structures and practices of most firms and therefore tell us all we need to know about firms. One shortcoming of this approach is that it assumes that the typical firm is *national* – that is, does not operate across borders – which is not the case for increasing numbers of firms, particularly the largest ones.

The comparative capitalisms literature would suggest that multinational firms with headquarters in the same country and producing in the same sector would take the same approach to major production questions when operating in the same host country. This study undertakes an analysis of three automobile producers with headquarters in Germany: *Bayerische Motoren Werke* (BMW), Daimler and Volkswagen (VW). It shows that the three companies have developed decidedly different policies when it comes to collective employee representation in the United States. BMW is the furthest from having collective representation. Daimler is also far from having collective representation, despite the establishment of United Auto Workers (UAW) Local 112 for Mercedes Benz U.S. International (MBUSI) employees. Volkswagen actually has some elements of collective representation. UAW Local 42 has organized the skilled mechanics who account for about ten percent of the permanent employees in the plant, but to date, Volkswagen has refused to bargain with the union. Volkswagen management has implemented a “community organization engagement” policy that, although a far cry from codetermination, offers employee organizations a range of information, consultation and access to the plant based on the size of the organization.

This study endeavors to answer three questions: Why do we have divergent outcomes? What are the incompatibilities in the industrial relations systems of Germany and the United States that have made it so difficult to achieve collective employee representation? What are the future prospects for transnational union cooperation to advance collective employee representation in the form of union recognition and works councils in the United States?

# 1 TURNING A BLIND EYE? BAYERISCHE MOTOREN WERKE, SPARTANBURG COUNTY, SOUTH CAROLINA

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The BMW factory in Spartanburg County, South Carolina, has no union, no works council, and no prospects of getting either form of collective employee representation any time soon. The United Automobile Workers trade union never mounted a serious union organizing effort there. Neither the UAW's German counterpart, *Industriegewerkschaft Metall* (IG Metall, Industrial Union of Mechanical Engineering Employees), nor the BMW enterprise works council ever even agitated to form a union or to create a works council at Spartanburg, even as the South Carolina plant expanded over the years to become BMW's biggest production site in the world. The UAW, IG Metall, and the respective works councils at Daimler and Volkswagen did, in contrast, try to advance collective employee representation in Vance, Alabama, and Chattanooga, Tennessee. What accounts for the difference? The explanations for the dearth of action at BMW are, in brief, the company's strong paternalism and, most important, the disinclination of the BMW works council leader to become involved.

## 1.1 BMW and the United States Market in the 1980s and 1990s

The Spartanburg plant is the oldest of the three German-owned automobile plants currently operating in the United States. BMW's leadership made the decision to look for a production site in the United States in 1988, which, ironically, was the same year that Volkswagen closed its plant in Westmoreland County, Pennsylvania. The reasons for building a plant in the United States were simple: the importance of the US market and the deutschmark-dollar exchange rate. BMW Director of Marketing Planning at the time, Heinz van Deelen, stated that from the company's perspective, "to be a global player, 'you must have a market position in Japan, the United States, and Europe. If you lose one of these markets, you will eventually lose them all'" (Dolan 1993: 2–3).

BMW sales in the United States fluctuated greatly in the decade before the Spartanburg plant opened. From 1980 to 1985, the deutschmark depreciated against the US dollar by 61.5 percent, falling from 1.82 to 2.94 marks per dollar. The favorable exchange rate helped BMW to advance its position



in the US market; BMW sold 96,000 units in 1986. Success did not last, however. Between 1985 and 1988, the deutschmark appreciated by 40 percent to 1.76 marks per dollar, driving up the dollar price of BMW's cars, which were all imported from Germany. Other factors also buffeted the company. The 1987 tax reform eliminated the deductibility of interest payments other than mortgages from taxes and imposed a luxury tax on automobiles that cost more than \$ 30,000, which cut into high-end car sales. The stock market crash of the same year also took a toll, as did the launch of the Lexus and Infiniti lines of Japanese luxury cars, which offered consumers comparable quality at a lower price. Consequently, BMW's US sales fell to 73,300 in 1988. BMW management could not change many things that contributed to the sales slide in the United States, like US tax law and intensifying Japanese competition. The company could, however, eliminate the exchange-rate risk by building a plant in the United States. A plant in the United States had additional attractions. Wage costs were far lower than in Germany. Manufacturing in the North American market insulated BMW from any potential trade restrictions similar to the "voluntary export restraints" that the United States negotiated with Japan during the mid-1980s. Fully cognizant of Volkswagen's bad experience in Westmoreland County, BMW went through a deliberate process to select a site. All the while, conditions for the company in the United States deteriorated. By 1990, the exchange rate reached a historic high of 1.62 marks per dollar. The US economy slipped into recession during the following year. As a result, BMW's 1991 US sales fell to 53,000 (*Regional Focus*, April 2011).

## 1.2 BMW Spartanburg

In June 1992, BMW announced that it would build a plant in Spartanburg County, South Carolina. BMW management chose Spartanburg as the site for its first full assembly plant outside of Germany for several reasons. Spartanburg is on the U.S. East Coast, which permits phone conversations during working hours between Germany and the United States. The transportation connections are good. Spartanburg has ready access to a suitably large airport and a deep-water port in Charleston is less than three hours away. Spartanburg is also sufficiently close to the company's major US markets. South Carolina state and local governments made Spartanburg more enticing by offering BMW an incentive package worth \$ 130 million. Once BMW decided on Spartanburg, the plant went up quickly. Construction began in April

1993. BMW hired the first line employees for training in January 1994. The employees moved into the plant in July and the first vehicles rolled off the assembly line in September (Winter 1998: 91–107).

The United Auto Workers leadership saw the BMW plant as an opportunity, despite the difficulties unions historically have had organizing in the southern United States. The state's unionization rate ranked second from the bottom in the early 1990s, but UAW officials did have some grounds for hope. The UAW was coming fresh off its successful unionization effort at Daimler's Freightliner subsidiary in Mount Holly, North Carolina in 1991. During the organizing campaign, IG Metall officials made it clear to Daimler management that they supported the UAW. The UAW leadership hoped that German management, unlike their Japanese counterparts, would be amenable to unionization, given postwar Germany's tradition of cooperative "social partnership" in industrial relations. After all, fifteen years earlier, Volkswagen management had readily accepted unionization at the Westmoreland plant. Moreover, the pay scale at the Spartanburg plant was competitive for the region but low for the auto sector. BMW set the pay at \$ 12 an hour to start, with a series of incremental increases to follow that would top out after two years at \$ 16 an hour. Even this final rate was 20 percent below the union wage at the three domestic auto producers, and just half of what German auto workers earn (*Los Angeles Times*, 9 November 1985; *Newsday*, 29 June 1992; and *New York Times*, 11 April 1993).

At first things looked promising for the UAW. In 1993, the Chair of BMW's managing board, Eberhard von Kuenheim, suggested that UAW representatives meet with the head of BMW's US subsidiary, Allen O. Kinzer. A few months later, UAW president Owen Bieber met with BMW executives in Munich, and they reiterated Kuenheim's suggestion. Yet, when UAW officials attempted to arrange the meeting, Mr. Kinzer replied with a written refusal. BMW had hired Kinzer, an American, because of his experience with foreign startups. Kinzer played key roles in setting up Honda's first motorcycle and automobile plants in Marysville, Ohio in 1978 and 1982. In the mid-1980s, Honda management successfully fought off the UAW's unionization efforts by providing decent wages, first-rate benefits, and good working conditions, including organizing employees into semi-autonomous work teams. Kinzer brought the same approach to BMW in Spartanburg, which BMW's German management accepted after their brief encounters with the UAW in 1993. UAW leaders explored setting up an organizing drive in Spartanburg in 1993 and again in 1998, but they were never able to identify a large enough number of BMW employees who were interested in unionization to justify launching

a formal effort (*Automotive News Europe*, 11 May 1998; *Los Angeles Times*, 30 September 1993 and 29 May 1994; UAW Statement, 15 November 1994; and *Wards Auto*, 1 April 1998).

What are the characteristics of BMW that have made it so difficult to organize the Spartanburg plant? First, BMW is a deeply paternalistic company. Since the 1960s, the Quandt family has held close to half of the company's shares. Although the Quandts have relied on chief executives from outside of the family to run BMW since the 1970s, they have remained involved on the supervisory board as the firm grew in both size and global reach. The employees' side of the company has also been dynastic. There have been only two Chairs of the enterprise works council since 1956: Kurt Golda, from 1956 to 1987, and Manfred Schoch, whom Golda picked to succeed him. The personalities of Golda and Schoch are very much alike: soft spoken, autocratic and intensely loyal to the firm. The dominant position of the enterprise works council Chair at BMW has left little room for IG Metall to have influence at the firm (*Zeit*, 25 September 1987).

BMW management made the decision to build the Spartanburg plant early in Manfred Schoch's chairmanship of BMW's enterprise works council. Schoch's experience serving simultaneously as Vice-chair of BMW's supervisory board made him acutely aware of the importance of the US market and the challenges that the company faced there. Schoch, therefore, did not object to the investment in South Carolina so long as it did not lead to job losses at BMW plants in Germany. Schoch has maintained this position for all of BMW's investments outside of Germany. BMW management has expanded the Spartanburg plant several times over the years. By 2015, the plant had become BMW's largest in the world, with 8,000 employees and production of over 400,000 vehicles, 60 percent of which are exported (*Zeit*, 27 August 2015).

Of the three German car producers, BMW has the thinnest transnational network of works councils and transnational labor agreements. From the first days of postwar Germany to the early 1990s, BMW had works councils at all of its German production sites and an enterprise works council, but little else. Two events in 1994 altered the *status quo*: the acquisition of the Rover Group and the passage of the European Union works council directive. This directive requires all firms with 1000 or more employees in the European Economic Area and 150 employees in at least two member states to establish a European works council upon a written request to do so from 100 or more employees in at least two member states. Negotiations took place in 1995 between BMW management and employee representatives from Germany,

Austria and the United Kingdom regarding the components, duties and rights of a European works council. The parties reached an agreement in April that they formally signed in November 1995. Manfred Schoch became Chair; a position that he holds to this day (BMW Euro-Works-Council 1995; and Whittall 2000).

Fallout from the Rover takeover, which has been described as “The Ultimate Blunder” (Kiley 2004), dominated the agenda of the European works council until BMW sold Rover in 2000. Cultural misunderstanding was rife. British trade unionists, who maintained a confrontational class-based approach to industrial relations, frequently clashed with the BMW works councilors who adhered to a particularly paternalistic version of social partnership. Two major retrenchments at Rover ultimately forced the British and German employees to find a way to work together, but the experience was trying for all those concerned (Whittall 2010). The Rover experience traumatized the leadership of BMW’s works council, which has shown no interest in creating a BMW global works council akin to those at Daimler and Volkswagen, or helping the UAW to organize in Spartanburg.

BMW management has shown that it values works councils, at least in some circumstances. It has established employee representation at plants in Brazil, China, India and South Africa. Currently, Spartanburg is the only BMW production facility worldwide that does not have a works council. Management has shown no intention of creating one. Manfred Schoch has said that he wishes the Spartanburg plant had a works council, but that he did not anticipate one being created in the foreseeable future, citing US jurisprudence that forbids works councils in non-unionized workplaces. Schoch indicated no interest in working with BMW employees or the UAW, nor has he ever advocated for a global works council for BMW (*Wirtschaftswoche*, 28 March 2014).

In summary, it comes as no surprise that there is no collective employee representation at BMW’s Spartanburg, South Carolina, plant because there is no collective actor advocating for it. The UAW has never really undertaken a serious effort, despite the success the UAW has had in North Carolina organizing Daimler plants in the truck and bus sectors. IG Metall has not made it a priority. Manfred Schoch’s strategy of containing BMW’s transnational network of works councils to Europe has helped him to sustain his hegemony within the realm of BMW works councils, but it has come at a cost. Production sites like Spartanburg are left to their own devices when it comes to employee representation. The strategy has a second downside. Today, a majority of BMW’s output comes from plants that are not under the umbrella of the

firm's European works council. The trend is likely to continue for years to come. One could make the case that South Carolina is simply too difficult an environment for a union and that no amount of assistance coming from Germany could change that. Our other cases, which have harsh environments in their own right, will help us explore that proposition. The case of BMW in Spartanburg does suggest that any organizing drive at a German-owned automobile producer will go nowhere without assistance from a German enterprise works council.

## 2 NEGATIVE NEUTRALITY: MERCEDES-BENZ U.S. INTERNATIONAL

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Mercedes-Benz U.S. International, which is the official name of the factory that Daimler built in Vance, Alabama, is our second case. MBUSI is an example of a joint union-led cooperative effort to organize a German plant by the UAW and IG Metall. Daimler's enterprise works council and World Employee Committee also played important roles. The position of Daimler management regarding unionization is best described as negative neutrality. There have been four attempts to unionize the Vance plant since it opened. The UAW tried with conventional campaigns in 1999 and 2000. The International Association of Machinists (IAM) made an effort once in 2006. The UAW attempted again with the help of IG Metall and the Daimler works council starting in 2011. The results to date, as we shall see, are a failure to organize MBUSI.

### 2.1 Daimler and the United States Market in the 1980s and 1990s

Daimler-Benz executives decided to build a plant in the United States for the same reasons as BMW. Tax-law changes and a rapidly appreciating deutschmark deeply cut into US sales of Mercedes-Benz cars. Between 1986 and 1991, annual sales fell from 100,000 to 59,000. One significant difference between the Daimler and the BMW investments was that Daimler executives chose to produce a car that the company did not make elsewhere, namely a sport utility vehicle. Most observers thought that Daimler would invest in the Carolinas because the company already had four truck and bus plants in North Carolina. Daimler instead chose Vance, Alabama because Alabama offered \$100 million in subsidies to build a \$300 million dollar plant. While this is less than the \$130 million that BMW received from South Carolina, it is far better than what other states – including South Carolina – had put on the table. Daimler announced the decision in 1993, a year after BMW management publicly announced its plans to build a plant in South Carolina. The plant initially employed 1,500, had an annual capacity of 60,000 units, and produced its first vehicle in February 1997 (*Los Angeles Times*, 30 September 1993).

## 2.2 MBUSI and DaimlerChrysler

The merger of Daimler-Benz and Chrysler in 1998 produced a complex relationship between the new company and the trade unions. The UAW first unionized Chrysler's units in the 1930s and 1940s. DaimlerChrysler was legally incorporated as a German firm, which meant that the company fell under the German 1976 codetermination act that requires ten of the twenty members of the supervisory board to be employee representatives (Silvia 2013: 53). In the USA, there is precedent for union representation on the corporate board. In exchange for concessions in the late 1970s, UAW president Doug Fraser gained a seat on Chrysler's board and served from 1979 to 1983. His successor, Owen Bieber, served from 1983 to 1991. Just three weeks after the announcement of the merger, UAW president and vice-president Stephen Yokich and Richard Shoemaker met with IG Metall Chair Klaus Zwickel. They agreed to three actions. First, IG Metall ceded one of three trade union seats on the DaimlerChrysler supervisory board to Yokich. Second, Yokich and Zwickel proposed to the DaimlerChrysler board that the company create a world works council similar to what Volkswagen had just formed that year. Third, the two unions agreed to cooperate in organizing the MBUSI factory in Vance (EIRO, DE9805264N, 7 May 1998; and Piazza 2002, p. 127).

UAW leaders launched organizing drives at MBUSI in 1999 and 2000. The efforts immediately ran into numerous difficulties. First, DaimlerChrysler's official policy was that it was neutral when it came to unionization, but neutrality at Chrysler meant something different than what neutrality meant at MBUSI. At Chrysler, neutrality meant that the company would accept the "card check" procedure for union recognition, which is the method that allows an employer to accept a union as the exclusive bargaining agent in a workplace when a union can show that a majority of employees in the collective bargaining unit had signed cards authorizing a recognition election. These cards typically state that the signatory accepts the union as a bargaining agent. For MBUSI, in contrast, management only promised not to campaign against unionization.

MBUSI quickly ramped up wages to between \$20 and \$25, which were comparable to the pay scales at US auto producers. This strategy – which stood in contrast to BMW's low-wage approach – led many workers to question whether unionization could provide them with anything they did not already have. MBUSI also adopted modern inclusive management techniques – such as team work and granting considerable responsibility to employees – which undercut interest in unionization among many employees.

MBUSI's policies proved to be effective in narrowing interest in unionization to about a quarter of the workforce. Indeed, a group of employees actually actively opposed unionization. They went so far as to print anti-union flyers and stickers, and to hire an anti-union consultant for advice. Still, as a part of the neutrality pledge, MBUSI management, permitted union organizers in 2000 to meet with employees and distribute literature inside the plant. Management even allowed UAW president Yokich into the plant to speak to the employees. The organizing drive still failed (*Automotive News*, 17 April 2006; *New York Times*, 29 June 1999; and *Tuscaloosa News*, 1 April 2006).

IG Metall and UAW leaders did achieve their second objective, namely, the creation of a world works council, after three years of at times tense negotiations with DaimlerChrysler management. The DaimlerChrysler World Employee Committee held its constituent meeting in July 2002. The original committee had 13 employees and trade union representatives from four continents. Six works councilors were from Germany, three were from the UAW, and the plants in Brazil, Canada, Spain and South Africa contributed one member each. The World Employee Council (WEC) elected Erich Klemm, Chair of the Daimler enterprise works council, as WEC Chair, and UAW vice-president Nate Gooden as vice-chair. It is important to note that the WEC does not have codetermination rights comparable to a German works council. Its scope is limited to information and consultation. The committee meets once a year (EIRO, DE02029204N, 28 September 2002).

One of the WEC's first actions was to draft a document based on the United Nations Global Compact on corporate social responsibility jointly with DaimlerChrysler management and the International Metalworkers Federation, which was the global confederation of trade unions in the mechanical engineering sector. DaimlerChrysler CEO Jürgen Schrempp had signed the UN Global Compact – which obliges firms to promote human rights, fair labor practices, environmental protection and anti-corruption measures – in 2001. The parties signed the four-page document titled, “Social Responsibility Principles of DaimlerChrysler” in September 2002 at the company's North American headquarters in Auburn Hills, Michigan. The document committed DaimlerChrysler to respect and support compliance with all internationally accepted human rights, including equal opportunities and non-discrimination with respect to employment, and equal pay for equal work. The company also acknowledged “the human right to form trade unions,” constructive cooperation with employee representatives, and direct, respectful and fair communication with employees. DaimlerChrysler “opposed all exploitative working conditions,” and supported the “protection of health” and “the right to



reasonable compensation” in both the firm and its suppliers. The new social responsibility principles altered nothing on the ground in Vance. The plant remained nonunion. By 2005, employment had grown to 4,000, as DaimlerChrysler undertook a \$600 million expansion of the plant, adding the R Class and GL Class lines, which increased annual output to 160,000 units.

In 2006, unionization at MBUSI once again became an issue. At the behest of a group of MBUSI workers, the International Association of Machinists and Aerospace Workers union launched a new organizing effort. The campaign included billboard advertising, television and radio ads, outreach to community leaders and a webpage. DaimlerChrysler maintained a high-wage policy; workers received between \$26 and \$30 an hour. The IAM made “having a voice” and job security the centerpiece issues of their organizing drive, because some employees felt that their say at the plant had diminished in recent years. Other issues included excessive overtime, cuts in health benefits for retirees, the absence of seniority rights, and the composition of the workforce. One thousand of the 4,000 employees were actually employees of a temporary employment agency. They were paid significantly less than the MBUSI employees, but they were not in the bargaining unit because they worked for the temporary employment agency, not DaimlerChrysler. The group of MBUSI employees who had been adamantly opposed to unionization in 1999 and 2000 reconstituted. They re-hired the anti-union consultant they had used earlier and formed an anti-union information committee. The anti-union group of employees held meetings. The IAM also faced a challenge from within the labor movement. The UAW leaders judged the IAM organizing campaign to be poaching on their turf. The autoworkers union went to the peak trade union confederation to which both the IAM and the UAW belong, the American Federation of Labor – Congress of Industrial Organizations (AFL-CIO), to challenge the IAM’s jurisdiction over the Vance plant. The UAW reopened an office in Tuscaloosa County and began visiting homes of MBUSI employees to strengthen their claim. The IAM organizing drive ended in failure. The AFL-CIO ultimately ruled on the jurisdictional dispute in favor of the UAW (*Automotive News*, 17 April 2006; *PRNewswire*, 17 March 2006; *Tuscaloosa News*, 1 April 2006; and *Washington Times*, 26 March 2006).

### 2.3 MBUSI and Daimler

In August 2007, Daimler sold Chrysler to Cerberus Capital Management. The merger never produced the promised synergies and Chrysler began los-

ing significant amounts of money in 2006. The DaimlerChrysler merger resulted in a huge loss for the firm. Daimler-Benz paid \$37 billion in stock swaps to acquire Chrysler in 1998. In 2007, the company gave Cerberus Capital Management \$650 million to take Chrysler off its hands (*Time*, 30 April 2009). The MBUSI plant remained part of the smaller company with a new, simpler name: Daimler. Ron Gettelfinger, who succeeded Stephen Yokich as UAW president in 2002, joined the supervisory board of DaimlerChrysler in 2007, but lost the seat a year later in the wake of Daimler selling Chrysler.

The 2008–09 financial crisis triggered change on multiple fronts. Mercedes sales in the United States for October 2008 fell by 25 percent compared to October of the previous year, prompting MBUSI management to offer buyouts for the first time ever to any employee willing to resign. Ron Gettelfinger spent most of late 2008 and early 2009 negotiating bailouts for Chrysler and General Motors. Gettelfinger made both enduring friends and enemies for the UAW in the process. The administration of George W. Bush and congressional Democrats reached agreement on a stop-gap bailout for Chrysler and GM. Conservative Senate Republicans including Bob Corker, a former mayor of Chattanooga, Tennessee, and Richard Shelby of Alabama, demanded that the package include deep cuts in wages, benefits and pensions. Gettelfinger refused, arguing that the UAW had already made major concessions in its 2005 and 2007 contracts. He accused Corker and the others of singling out, “workers and retirees for different treatment and to make them shoulder the entire burden of any restructuring.” The Republican Senators blocked the bailout. Senator Shelby called it, “A bridge-loan to nowhere.” The Bush administration responded by providing short-term bridge loans to the companies. In the first half of 2009, GM executives explored a variety of restructuring plans. One component of many plans was the sale of GM’s European subsidiary, OPEL. Ultimately, GM went bankrupt on 1 June 2009 without selling OPEL. The US government bought GM’s assets and led the restructuring of the company. That same month, the Italian automaker FIAT bought Chrysler (*Bloomberg*, 10 June 2009; *Los Angeles Times*, 13 December 2008; *New York Times*, 19 December 2008 and 1 June 2009; and *Politico*, 7 December 2008).

One consequence of the financial crisis was a strengthening of the ties between IG Metall and the UAW. Successive IG Metall and UAW leaders had worked together for decades, but the relationship had been strained for many years. IG Metall leaders had grown disdainful of their American counterparts because of their inability to halt membership losses and organize foreign-owned

subsidiaries. IG Metall leaders found irksome the complacency and lack of strategic thinking that dominated the UAW during the Bieber and Yokich years. For example, IG Metall officials ultimately helped the UAW in the campaign to organize the Daimler subsidiary Freightliner in the 1990s and 2000s, but they criticized the UAW leadership for coming to them only after poorly planned recognition drives had run into trouble. German unionists also complained that the UAW leadership had not always kept its commitments over the years, and the two unions had differed over some policies, such as trade liberalization (*Mitbestimmung*, November 2011). The relationship changed in 2009. The proposed sale of OPEL led to numerous exchanges between Ron Gettelfinger and Berthold Huber, who had become Chair of IG Metall in 2007. Huber, unlike his predecessors, has good command of English, and got along with Gettelfinger. The relationship deepened when the prospect of Daimler playing off workforces in Germany and the United States suddenly became a reality. In late 2009, word got out that Daimler was considering shifting production of C Class cars for the North American market to Vance. In response, 12,000 workers protested at the Sindelfingen factory where Daimler made the C Class car. A picture of a protester wearing an IG Metall hat and carrying a sign with a crudely drawn American flag on it and the words “C-Klasse, NO NO – AMERIKA” quickly made it to Alabama (Associated Press, 20 March 2002; and [www.AL.com](http://www.AL.com), 1 December 2009).

## 2.4 Bob King and the Revitalization of the UAW

Ron Gettelfinger retired in 2010, and Bob King became UAW president. King, unlike his predecessors, was described as “cerebral,” “unconventional,” “a fiery free thinker,” and a strategist. Huber shares these traits, and the two got along. King set the revitalization of the union as his primary objective (*New York Times*, 16 June 2010). There was certainly a pressing need for revitalization. UAW membership in 2010 was 386,677, which was just one-quarter of the 1.5 million members that the union had at its peak in 1979. Less than one half of the membership was actively employed in the auto industry. Japanese, German and Korean firms had built more than twenty plants in the US, mostly in the southeast, and employed more than 100,000. The foreign non-unionized plants produced 43.6 percent of the cars made in the USA in 2010 (*Labor Notes*, February 2011; *Wall Street Journal*, 3 January 2011).

King argued that to revitalize the union, “The UAW of the twenty-first century must be fundamentally and radically different from the UAW of the

twentieth century.” The union must abandon its adversarial approach to industrial relations and embrace management, “as partners in innovation and quality.” Internal transformation of the UAW was a necessary prerequisite to organize the foreign-owned automobile plants, an essential step of the union’s revitalization effort. King maintained that “the best way to deliver shareholder value, is to partner with the UAW on quality, productivity, attendance, employee morale, and the overall goal of providing the best product at the best price to the customer.” He added, “I guarantee that employers with UAW partnerships are going to outperform nonunion employers in every key measurable!” (King/UAW 2 August 2010; and *Wall Street Journal*, 3 January 2011).

In December 2010, the UAW’s 17-member International Board approved a statement entitled, “UAW Principles for Fair Union Elections.” The purpose of the statement was to outline the union’s new approach for organizing foreign-owned automobile plants. The UAW released the document on 3 January 2011, a week before Detroit’s annual North American International Auto Show, to maximize media attention. The statement, which took the form of eleven principles, was innovative for the UAW in several respects. The first principle declared that unionization is a human right. The UAW had previously portrayed unionization as a human right in passing, but stating it first placed greater emphasis on this conceptualization, which the union leadership hoped would have particular resonance with foreign producers and their trade unions. German producers, for example, had all signed accords with IG Metall and the International Metalworkers Federation or its successor, IndustriALL, that use the language of the UN Global Compact, which describes joining a union as a human right. Framing unionization in human rights terms also enabled UAW officials to label any company resisting unionization as a human-rights violator. Most of the other principles aimed to equalize union access to employees and to promote a positive tone during organizing efforts (UAW, “UAW Principles for Fair Union Elections,” 2011).

Two additional principles stood out. The ninth principle embraced the use of a secret ballot in organization campaigns. It was a break from the UAW’s long-standing preference for card check recognition. Foreign producers were especially hesitant to accept card-check recognition. The UAW leadership reasoned that foregoing card-check recognition would help to avoid starting an organizing drive on a negative note. The eleventh principle was the most conspicuous. It stated that if the UAW won a union recognition election, the union “will be committed to the success of the employer and will encourage ... members to engage in the employer’s successful achievement of its

mission,” embracing “a performance-based and participatory culture where the union contributes to continual improvement of processes and shared responsibility for quality, innovation, flexibility and value.” The purpose of this principle was to offer a sharp break from the narrow job classifications and oppositional grievance culture that dominated many domestic plants with UAW representation (UAW, “UAW Principles for Fair Union Elections,” 2011).

In interviews over the course of January 2011, Bob King described the new drive to organize foreign-owned plants as, “unlike anything that’s been seen in the UAW in many, many years.” Using a poker analogy, King said that the campaign was “an all-in hand. If we lose, we’ll die quicker. If we win, we rebuild the UAW” (*Labor Notes*, February 2011). King stressed that a part of the union’s new approach was to focus on helping companies become more competitive. He acknowledged that to succeed, the UAW would have to change minds, asserting, “We just have to convince them that we’re not the evil empire that they think we are.” The UAW was prepared to support the organizing effort financially. King stated that the union had “pretty big pockets” and was willing to spend \$60 million. King also underscored the urgency: “If we don’t organize these transnationals, I don’t think there’s a long-term future for the UAW, I really don’t.” King disclosed that the UAW had already held “informal and confidential discussions with company representatives,” but he did not say which. The union would decide in three months which companies to target. The UAW’s goal was to organize at least one foreign-owned plant by the end of 2011 (*Detroit News*, 4 January 2011; *New York Times*, 13 January 2011; *Wall Street Journal*, 3 January 2011; and *Washington Post*, 18 January 2011).

Bob King visited Germany in February 2011 to meet with the IG Metall leadership and the Chair of the Daimler general works council, Erich Klemm, to discuss his strategy and to enlist help. King did not return home empty-handed. Both Klemm and the IG Metall leadership decided to support King’s effort to organize German plants operating in the United States (IG Metall, *Pressemitteilung*, 3 February 2011; and IHS Global Insight Daily Analysis, 30 December 2011).

## 2.5 The Coordinated Effort to Organize MBUSI

Exchanges between American and German Mercedes employees began in August 2011 when a group of German works council members and staff met

with MBUSI employees in Alabama. In February 2012, Kirk Garner, a MBUSI employee, attended the annual meeting of the Daimler World Employee Committee as an observer. In the spring of 2012, the UAW and German works council staff held workshops for MBUSI employees interested in learning more about works councils and German industrial relations. In August 2012, a group of thirteen Mercedes employees from the Gaggenau and Sindelfingen plants visited Vance. All of the Germans were IG Metall members; some also had roles on works councils (*Tuscaloosa News*, 22 February 2014).

The 2012 German employee delegation brought with them a flyer that included a group picture and a letter of introduction. The flyer explained that:

“We are here because we want to meet with you. *Vance is the only unrepresented plant in the Mercedes Car Group.* We look forward to the day when Vance is among the represented plants and you can join us in the important global discussion about the future of our company that we as Daimler employees have through our global union network and by electing representatives to the Daimler World Employee Committee.

We are here in Vance because we want to meet with you to tell you that we support you if you choose to be represented by the United Auto Workers union. And, *we think that it is in the interest of all employees to have input in our company’s future through union representation.*” [emphases in the original]

The German employee delegation also brought with them a slick magazine for MBUSI employees titled, *Spark*, which the Daimler works council produced in Germany. The issue opened with a one-page article about “The 21<sup>st</sup> Century UAW,” which explained the union’s new embrace of “innovation, flexibility and continuous improvement,” followed by a letter from Bob King and an interview with the then Chair of Daimler’s enterprise works council and the Daimler World Employee Committee, Erich Klemm. The biggest pieces in the issue were a detailed five-page illustrated explanation of German industrial relations and six pages of questions and answers about union organizing drives, the UAW, works councils and labor relations at Mercedes. A professional-looking logo appeared throughout the publication. It was an abstract depiction of a bird with the colors of the US flag on its right wing and the German flag on its left wing. The bird hovers over the logos of the UAW, IG Metall and Daimler works council. The last item in the issue was a tele-

phone number, e-mail address and website: [www.togetherforabetterlife.com](http://www.togetherforabetterlife.com) (accessed 22.11.2016). The logo appeared again on the back cover along with the slogan, “*Gemeinsam für ein gutes Leben*,” which IG Metall had begun using a few years earlier, and just below it, “Together for a better life,” which, although not a literal translation, captures the intent of the German slogan. MBUSI management did not allow any delegation members to enter the Vance plant. Instead, the Germans accompanied UAW representatives and pro-union employees on “house calls” to Vance employees. House calls are a common practice in union organizing drives in the USA. Union organizers prefer visiting employees in their homes because they are more at ease there versus holding conversations at work where management can observe them. Even so, the Germans reported that many employees hesitated to speak to the group because they feared the consequences of aggravating MBUSI management (*Brennpunkt*, November 2012).

In late January 2013, twelve MBUSI employees who are members of the organizing leadership council went to Sindelfingen for a week to meet with Daimler and IG Metall representatives, and to see how German industrial relations worked in practice at Daimler (See: <https://youtu.be/hjZxhwPgVKQ>, accessed 22 November 2016). A month later, Daimler Labor Relations Director Wilfried Porth reiterated that the company took a neutral stance on unionization, but added that the UAW would find no open door at MBUSI. Porth’s assessment was that the UAW faced an uphill battle in Vance because wages and benefits were competitive, MBUSI management had maintained an open relationship with the employees and the contraction of the domestic producers over the last forty years did not make UAW membership attractive to many MBUSI employees (*Detroit Free Press*, 23 February 2013).

A second issue of *Spark* – again produced by the Daimler works council in Germany – came out in February 2013. It opened with short statements from Bob King and Erich Klemm. King expressed his “admiration and support for your impressive progress in building a union at MBUSI,” and added, “Much has been learned from past efforts to build a union at Vance. This time, the unprecedented support and involvement of the German union IG Metall and the Daimler Works Council have made all the difference. Team members are learning that under the Daimler model of co-determination, management and union are not adversaries.” Klemm stated that, “we are irritated by the attitude of the Daimler management against the efforts of the UAW to organize workers at MSUBI. The management should, in our view, not hide behind the cloak of neutrality. Rather, we expect compliance with the newly adopted Integrity Code, which assures all workforces in the Daimler

Group freedom of coalition.” The remainder of the issue contained letters from four MBUSI employees attesting to, “Why I want a Union at MBUSI,” three letters from German colleagues detailing “German Support for Union Effort at MBUSI,” and an article on “The Basics of Bargaining.” In June 2013, MBUSI employee and UAW supporter David Gilbert went as an observer to the annual Daimler World Employee Committee and reported back on his experience.

The UAW prepared for intensifying the organizing drive by moving into a larger office near the plant. Organizers put the flags of the UAW and IG Metall side-by-side on the wall. The union created a website: [www.uawvance.org](http://www.uawvance.org). The organizing drive focused on six issues: the large number of temporary employees in the plant, the need for improvements in the pension plan, more control over shift scheduling, better ergonomics, a “buddy-buddy” system that favors employees who have ingratiated themselves with management, and an increasing emphasis on the bottom line over the concerns of employees. Pro-union employees claim that these factors resulted in declining morale. As the organizing drive gained momentum, it attracted opposition. Anti-union employees launched their own website. Alabama Governor Robert Bentley visited the Vance plant in June 2013 to send off MBUSI chief executive Markus Schaefer, who was returning to Germany. At the sendoff, Bentley said, “I really don’t believe they have any need for unionization and an intermediary between them and management. I don’t think it’s going to happen” ([www.AL.com](http://www.AL.com), 30 June, 23 July and 28 July 2013).

The unionization drive continued to gather momentum over the summer of 2013. Some Germans returned to Alabama. Denise Rumpeltes, an IG Metall member and works councilor at the Sindelfingen plant, explained her motivation behind helping the MBUSI employees organize. She noted that MBUSI was Daimler’s only nonunionized plant. It was also the only one without representation on Daimler’s World Employee Committee. “It’s necessary that we have somebody we can talk to, to ensure the company doesn’t play us off against each other.” Union critics in Vance countered that the Germans’ real motivation for helping the UAW was to prevent additional production transfers out of Germany. They added that the UAW was only interested in finding a new source of union dues ([www.AL.com](http://www.AL.com), 23 August 2013; and *Financial Times*, 29 October 2013).

Daimler’s neutrality came increasingly into question as the unionization drive progressed. When asked about a works council at MBUSI, production chief for the Mercedes brand, Andreas Renschler, replied, “We just don’t need it.” He added, “The governor of Alabama said himself that he doesn’t



want factories oriented towards trade unions. Workers are happy because they have direct access to management.” Daimler chief financial officer Bodo Uebber repeated that management maintained a neutral position regarding unionization, but it was “happy” with the non-union *status quo* (Reuters, 10 September 2013; and *Wall Street Journal*, 7 November 2013).

Both sides ratcheted things up another notch in the late summer of 2013. Union opponents rented space on two billboards on the main highway near the plant. One read, “Just say NO to the UAW. Because Alabama is the home of winners, not losers,” and the message on the other was, “Don’t let the UAW turn Alabama into the next Detroit.” Sonny Hawthorne, a leader of the anti-union forces told local media that donations from employees opposed to unionization paid for the billboards. Hawthorne added that he thought that the UAW organizing drive “has hit a wall”: it was falling well short of having enough supporters to call for a representation election ([www.AL.com](http://www.AL.com), 23 and 30 August 2013).

The UAW tried to gain additional supporters by using an old tactic that has worked in many previous organizing drives. The union filed unfair labor practice claims with the National Labor Relations Board (NLRB) against MBUSI, accusing management of using harassment and intimidation to stop union supporters from distributing leaflets inside the plant. Union proponents claimed that the company’s actions violated Daimler’s own Principles of Social Responsibility. Union opponents asserted that the UAW proponents were “grasping at every straw they can,” because the unionization “efforts have been stalled for six months.” The tactic failed to increase the number of employees who had signed authorization cards ([www.AL.com](http://www.AL.com), 10 October 2013 and 27 January 2014).

Momentum began to slip away from the pro-union employees in 2014. The UAW loss in the February 2014 union recognition election at Volkswagen in Chattanooga (which is discussed in detail in the next section) dealt a severe psychological blow to pro-union employees at Vance. In late May, a group of pro-union employees, including Kirk Garner, who had gone to the Daimler World Employee Committee as an observer in 2012, publicly asked the UAW to halt the organizing campaign. “This has gone on for two-and-a-half years, and people are burnt out,” Garner explained. Garner and Jim Spitzley, another MBUSI employee, said that at one point the UAW had authorization cards from more than 30 percent of Vance employees, which is the minimum needed to petition for a representation election. Experience had taught UAW organizers that the likelihood of winning was highest when the union had at least 65 percent or more of the employees, because the union

typically loses support in the heat of a recognition election. Both men complained about a lack of advertising, the use of rookie organizers and UAW officials who were preoccupied by “a master plan” that prioritized the campaign at Volkswagen over MBUSI. Spitzley said that the UAW officials were “in denial right now, and they’re wanting to keep it going,” even though the core group of pro-union employees had dwindled from 180 to about 50. “There’s a lot of people that will not sign a card with the UAW. They’re tired of it. They’ve done it before and nothing has come of it,” Spitzley added. Garner and Spitzley said that they were among a group of employees who had spoken with the International Association of Machinists; they would now prefer to work with the IAM. Gary Casteel, the head of UAW Region 8 – which is the UAW region that covers the region from Pennsylvania to Mississippi including Alabama, South Carolina and Tennessee – issued an immediate response stating that the UAW intends to continue the organizing effort at MBUSI. Casteel also pointed out that the AFL-CIO had given the UAW exclusive jurisdiction over MBUSI in the wake of the IAM’s failed attempt to organize the plant in 2006. A week later, UAW officials announced at the union’s convention in the first week of June that they would soon unveil a new plan for organizing MBUSI and Volkswagen ([www.AL.com](http://www.AL.com), 30 May 2014; and Reuters, 5 June 2014).

The UAW held its quadrennial convention in the first week of June 2014. The auto workers union constitution sets an age limit of 65 on candidates running for union offices, which meant that Bob King could not run for reelection. There is no doubt that Bob King dramatically changed the UAW during his four years as the union’s president. King’s strategic vision for reviving the United Auto Workers was to unionize foreign-owned auto producers. King launched major organizing drives at Daimler’s plant in Vance, the Volkswagen facility in Chattanooga, and Nissan’s factory in Canton, Mississippi. King raised the UAW’s cooperation with foreign unions – in particular, IG Metall – to a new level.

Reviving the UAW proved to be far more arduous an undertaking than King had anticipated, however. He was not able to achieve the goal of organizing at least one foreign-owned plant during his presidency. The convention elected King’s deputy, Secretary-Treasurer Dennis Williams, as the new UAW president, and Gary Casteel as secretary-treasurer.

It is worth noting that Casteel – a native of Florence, Alabama – had been heading UAW Region 8. Casteel was thus the UAW officer directly responsible for organizing both MBUSI and Volkswagen Chattanooga. Casteel’s advance to the higher post in the union indicated approval of the job

he had been doing and confirmed continued support for King's strategy to organize the foreign-owned auto producers.

In early July, the new UAW leadership announced that the union was making "a historic move." The UAW would start to form locals in Chattanooga and Vance without recognition of the union as the sole bargaining agent of the employees. The UAW leadership called it a "German-style strategy" that departed from the "all-or-nothing NLRB process." In Vance, union representatives distributed a flyer dated July 2014 with *Spark Extra* on the masthead and the headline, "It's Time to Form Our UAW Local Union at MBUSI!". The subtitle read, "the UAW, IG Metall, & the Daimler World Employee Committee (WEC) have pledged ultimate support in the *immediate formation* of a union local at MBUSI" (emphasis in the original). Under the headline, "What this Means," the flyer stated, "We will have our own UAW local union," "We will have global influence ... the Daimler World Employee Committee (WEC) will grant a permanent seat to an elected delegate from the MBUSI local union," and "We can start signing up members now." The backside of the flyer was titled, "Questions: Answered." One question was, "Has this ever been done before?" The answer was, "This is unique ... nowadays in the U.S. In the early days of the UAW, many workplaces were organized in a similar fashion ... It is still very typical today in Germany and in much of the rest of the world ... This UAW local will be built in an innovative German-American style, pulling the best practices of American & German labor organizing together and tailoring a union that fits the unique culture and needs of MBUSI Team Members." Another question was, "How is establishing this UAW local union different from what we were doing before with authorization cards?" The answer explained that employees could join the local immediately. The members would then elect officers and work together to address issues of concern in the plant. The flyer added, "This does not depend on MBUSI, the NLRB, or anyone but Team Members ourselves." The flyer did make it clear that MBUSI had no legal obligation to bargain with a local that the federal government had not certified as the exclusive agent of the employees.

The over-the-top language of the July 2014 flyer could not disguise the reality that the decision to create a local for MBUSI employees was an experiment born out of desperation. The organizing drive had plateaued well short of the numbers needed to pursue a representation election with any confidence. Forming a local was a second-best solution designed to placate the pro-union employees who were frustrated by the lack of progress and to buy time. There was nothing to lose by forming a local to see if that attracted ad-

ditional employees to the union. The new approach was enough of a step forward to bring back into the fold some union supporters, like Kirk Garner and Jim Spitzley, who had expressed doubts earlier in the year (Dow Jones News-wire, 5 September 2014).

The United Auto Workers formally chartered the Vance local, giving it the number 112, on 3 October 2014. IG Metall vice-chair Jörg Hofmann and the newly elected Chair of the Daimler enterprise works council and World Employee Committee Michael Brecht both spoke at the official ceremony. A week earlier, Brecht had said that, “It should be normal that we have a union at each of our plants. ... It is unacceptable to me how the company is acting here.” Hoffmann declared at the ceremony, “We want to see effective worker representation at MBUSI. We believe now is the time to fulfill the promise of co-determination in Alabama and we believe that the UAW is the right partner to assist the workers.” UAW president Dennis Williams, who was also there, asserted, “It’s time for the committed and hard-working employees at MBUSI to have the same representation that Daimler employees enjoy around the world. It’s the right thing to do. Plus, it will improve productivity and quality, ensuring success for both the company and the workforce.” Williams pointed out that the UAW already represented 7,000 Daimler employees in Daimler Trucks North America facilities. He added, “Our hope is that management will recognize the importance of today’s announcement and welcome our new local union into the Daimler family.” Gary Casteel indicated that the UAW did not intend to pursue a recognition election at MBUSI. It instead aimed to persuade the company to recognize the union by using the card check process (*Detroit News*, 3 October 2014; IG Metall, Pressemitteilung, no. 28/2014, 4 October 2014; Reuters, 3 October 2014; *Times Free Press*, 24 September 2014; and UAW, “News from the UAW,” 3 October 2014).

Brecht, Hofmann and Williams used the occasion to sign a letter of intent that made more formal the cooperation among IG Metall, the Daimler World Employee Committee and the UAW to organize MBUSI employees. The letter was meant to make it clear to both employees and management that IG Metall and the WEC would remain steadfast in support of the organizing drive. The next day, IG Metall issued a statement demanding “genuine code-termination and effective employee representation for the employees of the American Mercedes plant” (IG Metall, Pressemitteilung, no. 28/2014, 4 October 2014; and UAW, “News from the UAW,” 3 October 2014).

In between the announcement and the creation of the Vance local, the NLRB Administrative Law Judge Keltner Locke ruled that MBUSI had violated US labor law by maintaining an “overly broad solicitation and distribu-

tion rule” by forbidding leafletting in mixed-use areas of the plant. He ordered management to amend it. The judge dismissed the harassment and intimidation allegations, and imposed no fine (UAW, “News from the UAW,” 31 July 2014).

Dieter Zetsche, chair of Daimler’s managing board, visited Vance in early September 2014 to celebrate the start of production of the C Class sedan. Zetsche used the occasion to announce that Daimler would start to build a fifth model at the plant, the ML Coupe, in 2015, as a part of the company’s five-year, \$2.4 billion expansion plan. When complete, the investment would permit Daimler to employ 7,000 and to build up to 300,000 vehicles annually. The plant at the time of Zetsche’s visit employed 2,500 full-time and 1,000 part-time employees. When asked about the unionization effort, Zetsche replied, “We will maintain our position of neutrality.” He added that he did not believe that the employees would vote to recognize the UAW, but “that’s up to our employees to make their call.” He continued, “The team here in Tuscaloosa has decided for the last twenty years not to organize with the UAW or any other union. ... As long as a company does what they should do with their workers – treat them respectfully and treat them correctly – they are never going to unionize.” Alabama Governor Robert Bentley, who attended the event, told reporters that if the UAW succeeded in unionizing the Vance plant, it would hurt his ability to attract foreign investment to the state. Bentley added, “I am not anti-union. I really am not. However, I have to look at it from a recruiting standpoint. ... A company like Mercedes, if they were to unionize, would it hurt my ability to recruit companies to Alabama? Absolutely it would” (*Detroit News*, 5 and 28 September 2014; *New York Times*, 5 September 2014; and *Times Free Press*, 24 September 2014).

The creation of local 112 temporarily boosted the morale of union sympathizers at MBUSI, but it did not make the path to recognition any clearer. Gary Casteel described the local’s task as an evolutionary effort, something that would not have the definitive moment of a representation election that determines success or failure. Local 112 members pledged that they would get involved in the community. They would support charitable causes, youth programs and other local efforts ([www.AL.com](http://www.AL.com), 5 October 2014; and UAW Local 723 News, Fall 2014). Local 112 also applied the tactic of filing unfair labor practice complaints against MBUSI, but had less success. In November 2014, the Administrative Law Judge found that MBUSI’s written policy prohibiting employees from talking about unionization when they were at the plant but not on company time violated the National Labor Relations Act. MBUSI appealed the ruling. The case is still pending (*Detroit Free Press*,

1 December 2014; Wards Auto, 11 March 2015; and <https://www.nlrb.gov/case/10-CA-112406>, accessed 11 March 2016).

The 2015 gathering of the Daimler World Employee Committee brought home the uncertain position of local 112. The WEC elected local 112 president George Jones to serve as one of three US representatives on the WEC. Yet when Jones made his travel plans, MBUSI management stipulated that Jones use vacation time to attend the meeting because the company did not recognize local 112. The company relented only after WEC Chair Michael Brecht insisted.

Local 112 has made little progress expanding its membership since it was chartered. One reason is that the generous compensation MBUSI employees already receive makes organizing a challenge. A 2015 Center for Automotive Research study found that MBUSI topped the list at \$65 when it came to hourly labor cost in North America, surpassing the unionized workforces at Fiat Chrysler (\$48), Ford (\$57) and General Motors (\$58) (Reuters, 23 March 2015). MBUSI's high compensation strategy narrows the room for Local 112 leaders to claim that they can improve workers' lives. Local 112 has gone dormant in social media. Its Facebook page has not been updated since 2014 and for months now, anyone clicking on <https://youtu.be/hjZxhwPgVKQ> (accessed 22 November 2016) is greeted with, "We are currently undergoing site maintenance."

In summary, in the case of MBUSI, the unions on both sides of the Atlantic took the lead in the organizing effort with a strong assist from Daimler's works council. IG Metall's investment of both personnel and funds is particularly noteworthy, given that the German union would never receive any dues in return if the undertaking had been successful. Despite the concerted effort of the UAW, IG Metall and Daimler's powerful works council, the campaign to unionize MBUSI must be judged a failure. MBUSI is no closer to having a union contract than it was when the campaign began in 2011. The principal explanation for the failure is the corporate strategy of negative neutrality. This strategy came in three forms: the generous compensation of MBUSI employees, repeated management assertions that the employees did not need a union, and restricting solicitation for the union on company premises. Secondary factors, such as a culture that is not supportive of unionization and state politicians speaking out against unionization, were present, but the evidence does not suggest that they had much of an impact.

It is useful to discuss briefly here the difference between Daimler and BMW. Vance is a case in which substantial investment in organizing has borne no fruit. Spartanburg, in contrast, is a case in which organizing never

even started. Both cases share management resistance bordering on hostility toward unionization at their US facilities. Management's attitude and actions, therefore, do not account for the difference in the outcomes. Perhaps South Carolina is simply less fertile ground for an organizing drive, but the failure of BMW's enterprise works council to take any interest in the Spartanburg plant stands out as the most salient difference between the two cases. That having been said, it is hard to heap scorn on the BMW works council for its choice, given the outcome in Vance.

So far, we have identified management hostility as the key causal factor explaining the failure to unionize German automobile plants in the United States. What would be the result if management were not so hostile? We can explore that question delving into the case of Volkswagen.

## 3 POSITIVE NEUTRALITY: VOLKSWAGEN

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The case of Volkswagen differs from BMW and Daimler in one crucial respect. Volkswagen management explicitly advocated for a works council and was willing to accept unionization to get it. This difference in Volkswagen management's position changed the salience of other factors – in particular, of anti-union political forces – in explaining the outcome. Despite VW's starting position, which can best be described as pro-works council and positive neutrality toward unionization, the results have been widespread dissatisfaction and no winners. Although there is some engagement with employees, there is no works council at the Chattanooga plant, which remains the principal goal of Volkswagen management and works councils. The UAW did win a recognition election, but the jurisdiction covers only 164 skilled mechanics in a plant with more than 2,500 employees. Labor relations are far from the harmonious ideal to which both the UAW and Volkswagen initially aspired. Volkswagen management has challenged the legitimacy of the bargaining unit of skilled mechanics and refused to bargain. The UAW leadership has charged VW with committing unfair labor practices. Anti-union Tennessee politicians did not succeed in keeping the UAW completely out of the Chattanooga plant. How did this organizing drive that started with constructive cooperation between the UAW and VW reach an outcome that pleased no one?

### 3.1 Volkswagen's first American Plant: Westmoreland, Pennsylvania

To understand employment relations in Volkswagen's Chattanooga plant it is crucial to begin the story in the 1960s when Volkswagen initially entered the U.S. market, well before the first shovel broke ground in southeastern Tennessee. Volkswagen's simple, reliable, inexpensive cars proved attractive, particularly to younger consumers. Pioneering iconoclastic advertising campaigns solidified Volkswagen's image as the car of choice of the 1960s counterculture. By 1970, Volkswagen had become the leading auto exporter to the United States. Its US sales reached an all-time high of 569,696 cars, which amounted to six percent of the US market. In that same year, Volkswagen began to export cars from its upscale Audi division to the United States. However, market conditions shifted against VW in the 1970s. Although VW had



fuel efficient cars, the company was unable to capitalize on the 1973–74 energy shock for two reasons. First, the German mark appreciated sharply, increasing by 48 percent against the US dollar between 1970 and 1975. The soaring mark forced Volkswagen to raise prices. Second, Volkswagen had not kept up technologically. The company was still relying largely on models that had been designed in the 1930s. New emissions and safety requirements in the United States made it impossible to continue selling many of them. Japanese competitors increasingly exported cars to the US market that were superior to Volkswagens in terms of price and quality. As a result, Volkswagen's sales slumped despite the unprecedented demand for economy cars in the United States (*Los Angeles Times*, 26 February 1998).

Volkswagen's leadership attempted to secure the company's place in the US market by introducing new models and producing them in the United States. Volkswagen already had considerable experience operating facilities abroad. It had plants in Brazil, South Africa and Mexico for many years. VW's management expected fewer challenges operating in the US than in these low-income countries. Volkswagen's supervisory board voted in favor of building a plant in the United States in April 1976 only after management gave employee representatives from IG Metall and the firm's works council "strong guarantees" that the US production would not cost German jobs (*New York Times*, 24 April 1976). Such guarantees were necessary because representatives of the employees and the German state of Lower Saxony, where VW is headquartered and has its flagship plant, controlled a majority of the votes on the supervisory board. Thus, together they could block any investment decision. In October 1976, Volkswagen signed a thirty-year lease with the state of Pennsylvania to use an abandoned Chrysler assembly plant in Westmoreland County, Pennsylvania, just east of Pittsburgh. Volkswagen received what was seen at the time as the princely sum of \$70 million from the state and local governments in the form of infrastructure improvements and tax abatements to make the investment. Once the plant had a workforce, Volkswagen management recognized the United Auto Workers union as their employees' collective bargaining agent using the card check procedure, which does not include a representation election. All auto production plants in the US at the time had unionized labor. Volkswagen management had no intention of departing from that practice (*Pittsburgh Press*, 10 April 1978).

The Westmoreland plant produced its first car, a white Volkswagen Rabbit, in April 1978. (Until 2010, Rabbit was the US model name for the car that the company has called Golf elsewhere in the world.) VW developed this model to replace the iconic Beetle as an entry-level economy car (*Mother Jones*, Jan-

uary 1978). The Westmoreland plant was initially profitable; the second oil shock of the late 1970s and early 1980s increased oil prices, which helped to boost sales of economy cars like the Rabbit. Problems quickly began to pile up, however. Volkswagen decided to hire US managers to run the plant. Most of these managers had previously worked for Chrysler and General Motors, “where conflict with the union was a normal part of the workday” (Reuters 21 October 2013). The result was discord on all fronts. Industrial strife broke out in the plant only six months after it opened. Westmoreland workers staged several wildcat strikes in an effort to raise wages to the same rates that General Motors paid. A memorable chant from the picket line, playing off the model name Rabbit, was, “No money, no bunny!” Minorities picketed the plant, claiming that the company discriminated in hiring (*Mother Jones*, January 1979). German upper management and the US plant managers also feuded frequently over a range of issues, which added to the plant’s dysfunction.

To be sure, the Golf/Rabbit was a far better car than the Beetle. It has been successful throughout most of the world. Unfortunately, the model gained a reputation in the United States as a vehicle that broke down frequently and was prone to engine fires. Japanese competitors offering far more reliable cars at more affordable prices cut into VW’s US sales, which by 1980 had fallen by almost half from the 1970 peak to 293,595. Competition in North America continued to heat up during the 1980s. In 1982, Honda became the first Japanese automobile company to open a plant in the United States. Nissan followed suit in 1983. Toyota established a joint venture with General Motors in 1984 and Mazda opened a plant in 1987. Meanwhile, Volkswagen did little to update the Rabbit in North America. The company fell further behind its Japanese rivals. By 1987, the Westmoreland plant was operating at forty percent of capacity and losing \$120 million annually. The UAW offered the company substantial concessions including a wage cut in a bid to keep the plant open, but it was too late. Volkswagen closed Westmoreland on 14 July 1988 and shipped the plant’s machinery to China. Volkswagen sales continued to dwindle in the United States, falling to 49,533 units in 1993 (Reuters, 21 October 2013). Over the subsequent two decades, Volkswagen remained a minor player in the US market. Successive dollar depreciations made the US a particularly challenging market for VW. From the late 1980s to the early 2000s, Volkswagen management turned its attention elsewhere.

### 3.2 The Transformation of Volkswagen into a Global Company

Starting in the 1980s, Volkswagen management executed a series of acquisitions and expansions that transformed the company into one of the largest automobile producers in the world. Between 1982 and 1990, Volkswagen gradually gained control over the Spanish automobile company, SEAT, which was its first non-German subsidiary. In 1984, the company began producing in China. Once the Cold War came to an end, Volkswagen engaged in a major eastward expansion. It acquired majority control over the Czech auto firm Škoda in stages during the first half of the 1990s and added production capacity throughout much of central and eastern Europe. VW expanded its luxury offerings in 1998 by buying Bentley, Bugatti and Lamborghini. The company spent much of the early to mid-2000s consolidating these acquisitions by restructuring them into the Audi group for its upscale marques and the Volkswagen group for its mass-market products.

In 2008, newly named VW chief executive officer Martin Winterkorn opened a new chapter for Volkswagen by launching the ambitious “Strategy 2018,” which set Volkswagen’s corporate goal: becoming “the world’s most profitable, fascinating and sustainable automobile manufacturer,” by 2018 (*Forbes*, 17 April 2013; and Volkswagen Aktiengesellschaft, *Geschäftsbericht* 2008). Strategy 2018 quickly became intertwined with an additional objective: becoming the world’s largest car company. To achieve that goal, Volkswagen could no longer neglect the US market. In 2007, the company sold 330,000 Volkswagens and 93,500 Audis in the United States, which amounted to a market share of just 2.5 percent. More often than not, Volkswagen lost money in the US market. As early as 2005, the company talked about building a new plant in the US as a part of “Project Moonraker,” which included sending 22 VW engineers to the US to learn about American car preferences, but there was no follow through (*Financial Times*, 17 September 2010). Now, as a part of Strategy 2018, the new Volkswagen leadership committed to building a production plant in the United States in order to expand the company’s US market share. Bernd Osterloh, chair of VW’s enterprise works council and member of the enterprise supervisory board, embraced the idea, observing, “In light of the dollar exchange rate there is no medium-run alternative to production in the dollar area” (*Handelsblatt*, 13 May 2008). Volkswagen considered Alabama and Michigan for this plant, but ultimately decided in favor of Chattanooga, Tennessee, because the city and state governments offered the company an unprecedented \$577 million incentive package to build its billion-dollar plant there, which would open in 2011. Bob Corker,

Chattanooga mayor at the time, played an important role in persuading the Volkswagen leadership to invest in the city. With the investment decision in place, VW management set new corporate goals for the US market: increase sales to 800,000 Volkswagens and 200,000 Audis by 2018, which would more than double the company's market share to six percent (*Financial Times*, 14 July 2008; *Nashville Post*, 29 August 2008; and *Welt*, 16 July 2008).

### 3.3 Volkswagen and Corporate Social Responsibility

Besides rapid expansion and diversification, Volkswagen had also become one of the world's leading companies when it comes to corporate social responsibility (CSR). Volkswagen defines CSR to include a social dimension that extends to employment relations. As a result, the company negotiated and signed a series of documents anchoring and specifying its commitment to its employees in this area. The first was the "Declaration on Social Rights and Industrial Relationships at Volkswagen," which company management signed in Bratislava, Slovakia, on 6 June 2002, along with its negotiating partners, the VW global works council and the International Metalworkers Federation. The declaration committed Volkswagen to respect the core standards of the International Labor Organization, specifically, the right to organize, non-discrimination, rejection of forced and child labor, compensation at least corresponding to local laws and standards, work hours that at least match national legal requirements, and occupational safety and health protection. In subsequent years, VW signed international agreements on occupational safety and health, and cooperative information exchange with worker representatives. On 29 October 2009, Volkswagen went a step further by signing the "Charter on Labour Relations within the Volkswagen Group" with the VW European works council, the VW global works council, and the International Metalworkers Federation. The VW labor relations charter committed the firm to provide for "the in-house participation rights of democratically elected employee representatives" at all of the company's facilities. The charter's language is far more expansive than analogous agreements at BMW and Daimler. In practice, all parties to the agreement have understood this language to mean that all Volkswagen facilities worldwide, including the new Chattanooga plant, should have a works council or something equivalent that conforms to national law and practice (Telljohann 2012: 107–108).

One reason why Volkswagen has gone further than other companies in labor and social affairs is the firm's unusual ownership structure and corporate governance. The ownership of Volkswagen is complex and concentrated.

Porsche Automobil Holding S.E. owns 32 percent of the company, but has 50.7 percent of the shareholder voting rights within the firm. (The Porsche and Piëch families, in turn, own 90 percent of Porsche Automobil Holding S.E.) Porsche GmbH holds an additional 2.4 percent of the shareholder votes. The state of Lower Saxony owns 13 percent of the company, but has twenty percent of the shareholder votes. Qatar's sovereign wealth fund owns 16 percent of VW and has 17 percent of the shareholder votes. Ordinary shareholders own 37.6 percent of the company, but have only 9.9 percent of the votes ([http://www.volkswagenag.com/content/vwcorp/content/en/investor\\_relations/share/Shareholder\\_Structure.html](http://www.volkswagenag.com/content/vwcorp/content/en/investor_relations/share/Shareholder_Structure.html), accessed 9 March 2016).

Volkswagen's peculiar ownership structure gives the Porsche and Piëch families a comparable position to the Quandts in BMW. Nonetheless, employees have had a much greater influence on Volkswagen's social and labor policies than is the case at BMW because of Lower Saxony's ownership stake. The presence of two representatives from the state government of Lower Saxony on Volkswagen's supervisory board led the company to commit to more expansive labor and social policies than has been the case for other German automobile companies, particularly when the left-of-center Social Democratic Party led the government in Lower Saxony. Moreover, Lower Saxony's ownership stake makes Volkswagen ineligible to join any regional affiliate of the Federation of German Employers' Associations in the Metal and Electrical Engineering Industries (Gesamtmetall), because the associations' bylaws forbid firms with public ownership. As a result, Volkswagen has a single-firm collective agreement with IG Metall, whereas BMW and Daimler facilities fall under the region-wide collective agreements (*Flächentarifverträge*) of Gesamtmetall's affiliates. This isolation as an employer has left Volkswagen more vulnerable to pressure from IG Metall. The firm has agreed to more generous collective agreements as a consequence. Volkswagen's isolation has also contributed to corporate leadership integrating the company's works councils far more deeply into the process of firm decision-making than is the case at either BMW or Daimler. This includes investment and production decisions. (*Wall Street Journal*, 16 April 2015).

### 3.4 Volkswagen Chattanooga

VW's Chattanooga plant first began producing cars in April 2011. Volkswagen emulated BMW rather than Daimler when it came to wages. Starting pay was set at \$ 14.50 an hour, or about \$ 30,000 per year, which was well below

not only the typical \$28 an hour wage for autoworkers at domestic producers, but also the median national income at the time, which was \$49,445. Nonetheless, Volkswagen received over 85,000 applications for 2,000 jobs. Volkswagen hired mostly local workers for the assembly-line jobs, but the company did hire a number of line managers who had previously worked at Toyota, including Don Jackson, who became head of manufacturing. Jackson made no bones about his admiration of Toyota and his opposition to the UAW (*Automotive News*, 22 February 2014; and *Financial Times*, 20 June and 9 August 2011).

As soon as the Chattanooga plant began operating, workers sympathetic to the UAW began to organize. UAW president Bob King had just launched his drive to unionize foreign-owned auto plants in the United States and, given VW's extensive commitment to labor rights and the prominent position of the enterprise works council within the firm, Volkswagen looked like the UAW's most promising prospect. Volkswagen reacted cautiously. In August 2011, Guenther Scherelis, general manager of communications for the Chattanooga plant, said that the right of employees to have a voice in the company was one of Volkswagen's core values, but he insisted that employees, "will decide for themselves about whether to be represented by a union or not." VW enterprise works council Chair and deputy supervisory board Chair Bernd Osterloh said that he supported unionization of the Chattanooga plant, but that he would not actively promote the UAW's organizing drive. German law forbids works councils from aiding domestic unions. Thus works councilors were wary of helping U.S. unions (*Automotive News*, 22 February 2014; 30 December 2011 *IHS Global Insight Daily Analysis*; Reuters, 3 August 2011; and *Times Free Press*, 19 August 2011).

The cautious reaction of the firm's management and even the Chair of the enterprise works council to the UAW's overtures caught King and his colleagues by surprise. Two factors explain it. The legacy of Westmoreland still lingered in the minds of many, and at Volkswagen, the enterprise works council rather than IG Metall is the leading representative of employees. Volkswagen's works councilors have taken great pains over the years to ensure that the firm's works councils remained autonomous from IG Metall. The priorities of Berndt Osterloh and his colleagues were for the Chattanooga plant to be a success and to establish a works council in Chattanooga.

Cross-Atlantic exchanges and video conferences between the UAW and IG Metall began in 2011. Chattanooga employee Justin King participated as an observer at the Volkswagen Global Works Council in November 2011. In March 2012, VW announced that it would hire an additional 800 workers,

with the aim of increasing the workforce to 2,700. In the same month, UAW sympathizers started gathering employee authorization cards for a recognition election. In May, Osterloh reiterated the position of the Volkswagen enterprise works council: establishing a works council at the Chattanooga plant – with or without the UAW – was the priority. The council would not attempt to persuade VW management to recognize the UAW through a card check. Osterloh assured reporters that the works council supported the UAW's organizing efforts at the Chattanooga plant, but added, "We can't take workers at VW Chattanooga by the hand when it comes to voting." It was up to the UAW to convince workers to vote for union representation. He said that if the Chattanooga workers rejected the UAW, "we would make efforts to bring about some sort of interest lobby. ... It's important that this site has a voice on the global works council" (Reuters, 23 March and 24 May 2012; *Times Free Press*, 19 April 2013).

In June 2012, then General Secretary of the enterprise works council Frank Patta travelled to Chattanooga and met with Volkswagen employees to deliver the message from the enterprise works council in person. Patta told them that the enterprise works council wants them to have employee representation and that they would benefit from having a works council, but that the German enterprise council would not pressure them or management to vote to recognize the UAW in a representation election (*Automotive News*, 22 February 2014).

The leaders of Volkswagen's works council were unaware of American jurisprudence when it comes to works councils. No works council has been established in the United States since the 1930s due to U.S. labor law. When trade unions in the United States began to grow rapidly in the 1930s, large numbers of firms created company-dominated "workplace committees" to stave off unionization. The rising popularity of workplace committees as a union-avoidance tool led lawmakers to ban them in the 1935 National Labor Relations Act (Jacoby 1995: 388–98). Specifically, section 8(a)(2) of the Act states that it is "an unfair labor practice for an employer ... to dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it." For half a century, no firms attempted to establish employee committees. The issue reemerged in the 1980s, however, as Japanese business practices became increasingly influential in the United States. Firms began to create employee "quality circles" to help increase productivity. In 1992 and 1993, the National Labor Relations Board found the quality circles at the non-union plants of the Electromation and DuPont companies to be in violation of the section 8(a)(2) prohibition of

company unions. The Board's decision also made it clear that creating a workplace committee at a unionized workplace was *not* a violation of the section 8(a)(2) prohibition, so long as the union approved of its creation (Electromation Inc. 309 NLRB No. 163 1992; E.I. du Pont de Nemours & Co. 311 N.L.R.B. 893 1993; Devaney 1993: 39–52; and Stokes 1994). What this meant for Chattanooga was that the plant could only have a works council if it were unionized and the union negotiated with management to create one. UAW president Bob King embraced the idea of works councils in 2010. Once the leaders of Volkswagen's enterprise works council learned about the US jurisprudence regarding worker committees. The challenge for the German works councilors was to get a works council established in Chattanooga that was in conformance with US jurisprudence, but not dominated by the UAW.

UAW officials had some misconceptions of their own. They mistakenly imagined works councils to be akin to "jointness committees," which are the labor-management committees that the UAW and domestic auto producers established starting in the latter half of the 1980s to deal with issues such as workplace safety and scheduling. Equating jointness committees with works councils overlooks big differences between the two. Unions select the worker participants on jointness committees from the bargaining unit. Bargaining units in the United States rarely cover all the employees at a workplace because United States labor law precludes any employees who have a supervisory component to their job from being in a bargaining unit. Works councils, in contrast, are independent from German trade unions. Employees elect works councilors in a process that has no formal role for trade unions. All employees except for upper management are eligible to vote in works council elections and serve as a works councilor, even those who have a supervisory component to their job. Equating works councils with jointness committees has generated considerable friction between UAW officials and Volkswagen's works councilors because the American union officials start with the premise that a jointness committee is subordinate to the union, whereas Volkswagen's works councilors start with the premise that if a committee is subordinate to the union and does not include white collar as well as blue collar employees, it is not truly a works council.

By the summer of 2012, labor relations at the Chattanooga plant had already become contentious. VW dismissed the controversial head of manufacturing, Don Jackson, in June because he insisted on using "the Toyota way," which included opposition to unions, rather than "the Volkswagen way," which did not. Many of his subordinates who had been with him at



Toyota remained at Volkswagen even after Jackson left. In August, a group of employees started circulating a petition that expressed opposition to the UAW organizing the Chattanooga plant. They collected 563 signatures. At a plant meeting, an employee received loud applause and cheers when he said that the Chattanooga plant did not need a union (*Automotive News*, 22 February 2014; and Reuters, 20 March 2013).

In January of 2013, Sebastian Patta became head of human resources at the Chattanooga plant. Patta was previously head of personnel at Volkswagen's Braunschweig plant. Sebastian Patta is from a Volkswagen family. His father was an Italian immigrant to Germany who worked on the line in a Volkswagen factory. His brother, Frank, has had several prominent roles in IG Metall in Wolfsburg and on VW Works Councils. Sebastian Patta's approach to industrial relations is in keeping with the German postwar tradition of "social partnership" between labor and management (Silvia 2013: 2). Regarding the question of unionization at the Chattanooga plant, Sebastian Patta's view is that it is up to the Chattanooga workers to decide, but his approach can best be characterized as "positive neutrality," rather than the negative neutrality practiced by BMW and Daimler ([www.nooga.com](http://www.nooga.com), 4 March 2013).

In March 2013, the UAW stepped up its organizing drive by involving IG Metall far more explicitly in it. The UAW assigned four organizers to Chattanooga and produced a joint brochure from the UAW and IG Metall titled, *Co-determining the Future. A New Labor Model*. The professionally produced twenty-page brochure has the logos of the UAW and IG Metall on the cover, but there is no separate logo for the campaign as there was in Vance. The Detroit Allied Printing Trades Council union seal on the back cover indicates that this brochure was produced in the United States. The brochure includes the same article on "The 21<sup>st</sup> century UAW" that was used in the first issue of *Spark* from the Daimler organizing drive, but the remaining material is different. It includes a brief introduction to IG Metall, a letter from IG Metall Chair Berthold Huber urging Volkswagen employees to join the UAW, excerpts from Volkswagen's "Declaration on Social Rights and Industrial Relations" and the "Charter on Labour Relations within the Volkswagen Group," an article from the head of IG Metall's international affairs department praising codetermination, and brief statements from seven Chattanooga employees in support of unionization. The last page provides contact information. IG Metall Chair Berthold Huber's message was also sent separately in the form of a stand-alone letter to all 2,350 Volkswagen employees.

The question of a works council became a much bigger issue at Volkswagen than it had been at Daimler because of the more prominent position of the

works council at Volkswagen. Management has relied on the integration of the works councils into the firm's decision-making structure as a means to secure and retain employee buy-in, particularly for contentious decisions, such as layoffs and investment decisions. UAW officials were all-too-willing to embrace creating a works council in Chattanooga as the means for securing the unionization of the plant. UAW president Bob King stated that he believed that "the German co-determination system ... is completely consistent with the UAW's 21<sup>st</sup> century model of unionism" (UAW, "News from the UAW," 18 March 2013).

The head of personnel at Volkswagen, Horst Neumann, revealed in March 2013 that VW had entered talks with the UAW about establishing a works council in Chattanooga. Neumann said that the company might release a plan for a Chattanooga works council in May or June and would then open talks with the UAW in the second half of the year. Neumann's comments surprised many on both sides of the Atlantic because VW representatives had previously stated that they would only accept a representation election as the means to decide the question of unionization in Chattanooga. Neumann said that VW wanted Chattanooga employees to have a works council because it would enable the company to hear their views. Neumann explained that VW changed its position because attorneys had advised the company that it could not create a works council without first having a union. UAW president Bob King issued a news release stating that he read Mr. Neumann's comments "with great interest." Neumann, however, said it was unclear to him whether King really wanted a works council, or simply saw it as a means to get into Volkswagen. King was not the only person to react to Neumann's comment. Tennessee Governor Bill Haslam made public a statement that expressed skepticism about collective employee representation: "I've talked to a number of employees in Chattanooga, and they are very comfortable with the way things are now. I would hate for anything to happen that would hurt the productivity of the plant or to deter investment in Chattanooga." The head of the Chattanooga Area Chamber of Commerce, Ron Harr, said, "We really don't understand any need for having a union" ([www.nooga.com](http://www.nooga.com), 21 March and 30 May 2013; Reuters, 20 March 2013; *Times Free Press*, 20 March 2013; UAW, "News from the UAW," 18 March 2013).

In April 2013, UAW leaders travelled to Volkswagen headquarters in Wolfsburg to meet with VW management, works council officials and union representatives. UAW Region 8 Director Gary Casteel commented, "We have great admiration for VW's integrity, and their business model and philosophy as it pertains to their workforce." The discussions established the parameters

for more substantive negotiations. Back in the United States, anti-union forces began to make their presence known. Mark Mix, president of the National Right to Work Legal Defense Foundation (NRWLDLDF), whose office is in Northern Virginia outside of Washington, D.C., expressed concern that the UAW was pressuring Volkswagen to “cut backroom deals” that would lead to union recognition at Volkswagen without an employee vote. Mix offered to provide free legal assistance to any VW Chattanooga employee who felt intimidated by UAW organizers ([www.nooga.com](http://www.nooga.com), 30 May 2013; and *Tennessean*, 6 April 2013).

Meanwhile, VW Chattanooga management made a surprise announcement: Passat sales had not kept up with expectations so the company had to lay off 500 employees. Management would restrict the layoffs to temporary contract employees who had spent less than a year on the job. The announcement came as shock, because workers and the public had only heard glowing reports from VW to this point. Plant president Frank Fischer said projecting sales is, “always like looking in a crystal ball.” He assured employees that the job cuts were unrelated to reports that VW officials in Germany were considering opening negotiations with the United Auto Workers about creating a works council for the Chattanooga plant (*Times Free Press*, 19 April 2013).

The organizing drive gathered pace over the summer of 2013. Bob King continued to sing the praises of a works council. He said that he thought, “one of the reasons Volkswagen is arguably the most successful company in the world is that in every single one of their facilities, with the exception of Chattanooga to this point, they have employee representation.” King insisted that a works council “would absolutely work” in Chattanooga, adding, “What’s really interesting is that everybody is represented in the works council – union members, nonunion members, blue-collar and white-collar workers,” but he was short on specifics. When asked how a contract would differ at a US workplace with codetermination, King replied, “That gets to areas that we’d eventually have to do with the company. ... We’ll have to see;” Gary Casteel added, “It’s kind of a fluid question” (*Automotive News*, 24 June 2013; and *Times Free Press*, 16 May 2013).

IG Metall International Affairs Director Horst Mund participated in some events, urging Chattanooga employees not to be the “odd man out” at Volkswagen by not unionizing. Gary Casteel told Volkswagen employees, “We’re very close ... the question would soon be how, not if,” VW would recognize the UAW. King and Casteel praised Volkswagen as, “an extremely honorable company.” When asked about the actions of Tennessee politicians, Casteel replied:

“I would hope that Governor Haslam and Senator Corker understand the Volkswagen system, and really work together with the IG Metall [and the] works council to make this a great facility, and get new product. ... I’ve reached out to Corker, and talked to his staff about the possibility of a meeting to discuss how we work together. He has not responded, twice. ... I don’t think that there’s one politician that has commented on the Chattanooga situation, from the Governor to the Senator, that has taken the time to understand Volkswagen’s culture and philosophy and success factors.” (Automotive News, 24 June 2013)

King answered a question whether he thought the UAW would be the collective bargaining agent of the Chattanooga VW employees within a year by saying, “I’m an optimist.” Casteel added, “There’s factually no reason it can’t” (*Automotive News*, 24 June 2013).

Political entrepreneurship was an important catalyst to the organization of the anti-union forces. In May, Matt Patterson, senior fellow at the Competitive Enterprise Institute (CEI), a right-wing lobbying organization based in Washington, D.C., launched an “educational campaign” called the “Keep Tennessee Free Project.” The multi-pronged project had a modest budget to start: \$4,000 to cover May through August. One prong was placing anti-union pieces in local and national media outlets. Patterson placed 63 items in *Forbes* magazine, the *National Review*, the Chattanooga *Times Free Press*, and several local radio and television outlets. A frequent motif was the US Civil War. Patterson equated the UAW with the “Union” army of the North that the Confederate Army of Tennessee defeated in the Battle of Chickamauga. A second prong was organizing anti-union forces. Patterson brought together local free-market activists, including Students for Liberty, and Tea Party representatives. A third prong was an anti-union public relations campaign. This included renting a billboard with the message, “Auto Unions ATE Detroit. Next Meal Chattanooga?”. The final prong was holding “information sessions” in Chattanooga. The CEI held its first session titled, “A Public Forum: Chattanooga, UAW and Free Markets” on July 18. Speakers included Patterson, former head of manufacturing at the Chattanooga plant Don Jackson, and a historian who recounted the troubled history of the VW Westmoreland plant. In August, Matt Patterson found a more lucrative backer: Grover Norquist, president of the Washington, D.C., advocacy group Americans for Tax Reform (ATR). Norquist made Patterson the Executive Director of a special project within ATR, the Center for Worker Freedom, that would con-

tinue to work against unionization at VW and elsewhere. Inside the plant, Mike Burton, a paint shop employee in his mid-fifties, began to organize the anti-UAW workers. Burton raised over \$ 100,000, mainly from local businesses and VW employees. He used the money to produce anti-UAW flyers, build a website, set up a Facebook page and develop a YouTube video. (*Automotive News*, 22 February 2014; and *In These Times*, 13 November 2013).

Interested parties on both sides continued to deploy arguments for and against unionization. Back in Germany, Deputy Chair of Volkswagen's Wolfsburg plant works council, Stephan Wolf, who also sits on the company's supervisory board, told reporters that the board would not authorize adding a second line to the Chattanooga plant to produce a suburban utility vehicle (SUV) until it had a works council. Senator Bob Corker quickly rejected Wolf's assertion as, "totally and absolutely false," adding, "I know for a fact that at the highest levels of VW, they're aware that if the UAW became involved in the plant, it would be a negative for the future economic growth of our state. ... It has already created some obstacles to us." Corker complained about the UAW organizing drive: "I don't know how they can say they're the new UAW when the same people ... are in leadership," he continued, "I'm not trying to influence what the employees do" (Competitive Enterprise Institute, Press Release, 28 June 2013; *Automotive News*, 24 June 2013; and *Times Free Press*, 19 July 2013).

Late August 2013 was a moment of decision. UAW leaders traveled to Wolfsburg to meet with Volkswagen management and the top figures of the enterprise works council. A month earlier, the UAW had announced that it had authorization cards from a majority of the Chattanooga plant's employees. The UAW leaders asked for card-check recognition. VW management refused. They told the UAW leaders that they were, "concerned about antagonizing Republican politicians in Tennessee." With good reason: A Tennessee state document summarizing the \$ 300 million in subsidies included the proviso, "The incentives described below are subject to works council discussions between the State of Tennessee and VW being concluded to the satisfaction of the State of Tennessee." A few days later, Jonathan Browning, the head of Volkswagen Group of America, declared that, "We've been very clear that the process has to run its course, that no management decision has been made and that it may or may not conclude with formal third-party representation." The only restriction would be that Volkswagen would only bargain with the UAW if the union won a majority in a formal NLRB-supervised recognition election (*Automotive News*, 22 February 2014; and *Tennessean*, 2 April 2014).

On September 6, the UAW issued a press release confirming a meeting on August 30 in Wolfsburg with Volkswagen management that “focused on appropriate paths, consistent with American law, for arriving at both Volkswagen recognition of UAW representation at its Chattanooga facility and establishment of a German-style works council.” The union statement stressed, “Ultimately, however, it’s the workers in Chattanooga who will make the decision on representation and a works council.” The press release concluded by pointing out: “VW workers in Chattanooga have the unique opportunity to introduce this new model of labor relations to the United States, in partnership with the UAW.” Concurrently, Volkswagen management laid out its position. VW Chattanooga CEO Frank Fischer and Human Resources head Sebastian Patta distributed a brief letter of their own to the Chattanooga workforce. The letter affirmed that:

“The Volkswagen Group respects the employees’ right for an employee representation on plant level at all locations worldwide. This certainly also applies to the Chattanooga plant. In the U.S. a works council can only be realized together with a trade union. This is the reason why Volkswagen has started a dialogue with the UAW in order to check the possibility of implementing an innovative model of employee representation for all employees.

By now there is a very lively discussion in the Chattanooga plant regarding a labor representation. In respect to this please allow us, the plant management, to give one important note: Every single team member takes his or her own decision and this will be respected by us.

Furthermore we jointly want to prevent any attempt of influence from outside driving a wedge into our great team. We are a strong team. And only as a strong team we achieve top performance and top quality which make our cars in the U.S. successful.”

The last paragraph was both an indirect reference to the actions of the Competitive Enterprise Institute and a recognition that outside opinions were only going to get louder now that it was public that the UAW and VW had held talks about recognition and a works council. Senator Bob Corker led the way. Corker was dismayed when he saw the letter from VW Chattanooga management indicating that the company was talking to the UAW:

“For management to invite the UAW in is almost beyond belief. ... I’m a little worried Volkswagen could become a laughingstock in many ways. ... We’ve talked to management, and to me it’s beyond belief that they’ve allowed this to go that far and displayed this kind of naivety that the UAW is somehow different than they were years ago. ... There’s plenty of unions other than the UAW. Why would they choose one that created such a mentality in these plants of us-versus-them? ... I’m discouraged and I do hope that they will pull back from this.” (Associated Press, 11 September 2013).

Corker claimed that, “There is a lot of dissent within the company. I don’t think it, I know it. Candidly, one board member got very involved and forced this letter to go out. ... Many people thought it was a dishonest letter.” Corker added, “I know that it’s created tremendous amounts of tension within the company.” Corker recalled that top Volkswagen leadership, including chief executive officer Martin Winterkorn, “agreed on the front end” when they chose Chattanooga, “they would have nothing to do with the UAW” (Reuters, 11 September 2013; and *Wall Street Journal*, 13 September 2013).

UAW Region 8 director Gary Casteel responded to Corker’s criticism of the UAW, saying that it was “spoken from a position of ignorance. It’s ludicrous to think that Chattanooga benefits from being the only outlier in this system.” Casteel added that the UAW would be willing to meet with Senator Corker and Governor Haslam at any time to discuss the matter. In Germany, VW supervisory board vice-chair and enterprise works council Chair Bernd Osterloh also rejected Corker’s criticism. Osterloh asserted that, “VW has only acquired its global strength because workers are tied into corporate decisions. We will continue the talks in the U.S. to set up a German-style works council with the UAW and all politicians that are open to this” (Reuters, 13 September 2013; *Times Free Press*, 11 September 2013).

The UAW pressed onward. On 13 September 2013, UAW president Bob King said, “We have a majority of VW workers who have signed union authorization cards saying they want to be represented. The United Auto Workers would like Volkswagen AG to voluntarily recognize the U.S. union. Doing so would eliminate the need for a more formal and divisive vote. ... An election process is more divisive. I don’t think that’s in Volkswagen’s best interests. I don’t think that’s in the best interests of Tennessee.” A week later, Gary Casteel said, “We’ve got a majority. The company is not disputing that. We want to keep things positive” (Reuters, 13 September 2013; and *Times Free*

*Press*, 25 September 2013). King made it clear that he saw Volkswagen as a first step: “If we complete Volkswagen and get an agreement there, that will help with all the other transplants.” Nonetheless, Volkswagen’s position that unionization could only happen with a recognition election remained unchanged (*Automotive News*, 10 October 2013).

The anti-UAW forces continued to step up their activities. Senator Bob Corker focused his attack on the UAW. He said success for the UAW in Chattanooga would damage the area “for generations to come. ... It’s not that I’m anti-union. I am very, very anti-UAW. The UAW’s been a very destructive force in our country. I can’t imagine a company in America, left to their own accord, voluntarily associating themselves with the UAW.” Anti-UAW employees circulated an anti-union petition, gathering over 600 signatures. Opponents grew in number and focused their criticism on the card check process. Former head of manufacturing at VW Don Jackson, who was an outspoken critic of the UAW, opined, “The only true way to find out where the [workers] lie is a secret ballot. ... I see them in the community, at church, and people tell me all the time they don’t want the union.” Some workers complained that they did not know that signing a card authorizing a recognition election could also be used by the UAW as a vote in favor of the union in a card-check process (*Automotive News*, 21 October 2014; *Wall Street Journal*, 13 September 2013; and WRCB TV 4, 17 September 2013).

In September 2013, the National Right to Work Legal Defense Foundation, became the third national anti-union organization to get involved. The NRWLDF sent two lawyers to Chattanooga to help anti-union employees write up press releases. They also filed an unfair labor practice complaint with the regional office of the NLRB in Atlanta on behalf of eight Chattanooga employees against both Volkswagen and the UAW. The complaint alleged that UAW organizers misled employees into thinking that the union recognition election cards would only be used to call for a secret-ballot election. It also asserted that some cards were no longer legally valid because they had been signed over a year ago, and that the UAW made it excessively difficult for workers who wanted their cards returned to them by requiring the workers to retrieve the cards at the union office. The complaint also contended that Volkswagen violated the National Labor Relations Act when Bernd Osterloh said that the company would not expand production unless a works council was formed at the Chattanooga plant (*Automotive News*, 22 February 2014; and *Times Free Press*, 25 September and 5 October 2013). The complaint was eventually dismissed, but filing it alone created an opportunity for the NRWLDF to suggest improprieties regarding the organizing drive.



In October and November, leading Volkswagen officials, including works councilors, engaged with US politicians to see if a compromise could be reached. The first set of meetings was preparatory. On October 28, VW's head of government relations Thomas Steg, newly elected head of the VW Global Works Council Frank Patta, and VW government relations specialist Ariane Kilian met in Chattanooga with Governor Haslam's chief of staff Claude Ramsey and the city's Chamber of Commerce president Ron Harr. The Germans then flew to Washington to meet Todd Womack, Senator Corker's chief of staff ([www.nooga.com](http://www.nooga.com), 23 December 2013). On 15 November, Bernd Osterloh met with Bill Haslam and Bob Corker. Corker's spokesperson called the meeting "candid;" Haslam's spokesperson described the discussion as "frank" and "a very good conversation." Osterloh made two points, which he summarized in an interview after the discussion. First, he said that, "It's important to note that the issue for us is works councils, not unions." It is US law that dictates, "if I want to transfer authority to a works council, I need to work with a union." That having been said, if the UAW moves forward, Volkswagen would only accept a recognition election. It is up to the workers in the Chattanooga plant to decide whether they want a union, Osterloh said. Volkswagen would be neutral. Second, Osterloh made it clear that the decision about producing a second vehicle in Chattanooga, "will always be made along economic and employment lines. It has absolutely nothing to do with the whole topic about whether there is a union there or not." Governor Haslam said that he pointed out that Volkswagen has stressed maintaining competitive labor costs and the need to attract a greater number of suppliers to the Chattanooga region. He continued, "Well, it's hard to imagine a scenario in which labor costs are helped by the UAW coming in, and I know that bringing suppliers close would be more difficult." Nothing further came of the discussion (Associated Press and *Times Free Press*, 15 November 2013).

The closing months of 2013 brought turnover in some key positions. Detlef Wetzel became the new Chair of IG Metall in November 2013, succeeding the retiring Berthold Huber. Wetzel, who had served previously as vice-chair, earned a reputation for reversing membership decline in IG Metall by placing a greater emphasis on recruitment. Wetzel was quick to make it clear that IG Metall remained committed to organizing German-owned plants in the United States, saying, "Low wages and union-free areas; that's not a business model that the IG Metall would support. ... If companies – from VW to ThyssenKrupp – entered those states in order to be free of unions, meaning not to acknowledge a fundamental pillar of any democracy, then we're in North Korea. That cannot be accepted" (Reuters, 13 November 2013).

As 2013 drew to a close, Jonathan Browning stepped down as head of Volkswagen Group of America. The company had a disappointing 2013; Volkswagen sales fell by 5.2 percent. Michael Horn replaced Brown. Berthold Huber – who had stepped down as Chair of IG Metall a month earlier but remained President of IndustriALL – sent a letter dated December 18 to the employees at VW’s Chattanooga plant advocating once again for the UAW and a works council. The letter read:

“You will soon have an opportunity to decide about collective representation for your interests at the Volkswagen plant in Chattanooga. I recommend that you choose to have a democratic voice in your workplace and vote for union representation by the UAW. ...

If you vote for union representation, you will establish your own local in Chattanooga. In the next step you can then elect a works council. ...

Through the works council you will become a part of the [VW] Group World Works Council. ... In Group World Works Council you will receive first-hand information about the company’s global strategy and development and can suggest ways to build on the company’s success.

Dear colleagues, union representation is a necessary precondition for the election of a works council according to US labor law. Therefore, IG Metall recommends that you vote for union representation through the UAW. ...

IG Metall has developed excellent relations with the UAW. On behalf of IG Metall I would like to assure you of our support and cooperation.

As president of IndustriALL Global Union, the world wide federation of manufacturing industry unions representing almost 50 million workers worldwide, I wish you much success in building a democratic voice for workers in Chattanooga and gaining more influence over your working and living conditions and the directions of your plant.”

The timing and contents of Huber’s letter indicated that the UAW had failed to persuade Volkswagen management to accept a card-check procedure. On 15 January 2014, the UAW confirmed an election was near by releasing a “Media Background Sheet on Codetermination,” which stated that the repre-

sentation election would be held on February 12 to 14. Twelve days later, the Volkswagen Group of America (VWGOA), the US subsidiary of Volkswagen AG (VWAG), and the UAW signed an “Agreement for a Representation Election,” which was the result of negotiations begun in Germany back in September 2013. The immediate objectives of the Agreement were to specify the procedure for a union recognition election and to flesh out the structure and roles of a union local and a works council if the UAW were to receive a majority of the votes. The unstated objective was for the UAW and VW to present a compelling common document that could stand up to internal and external scrutiny, and garner a majority vote (UAW, News from the UAW, 15 January 2014; and Volkswagen Group of America and the United Auto Workers, “Agreement for a Representation Election,” Chattanooga, 27 January 2014).

The Agreement for a Representation Election has 15 pages of text plus two “exhibits.” One exhibit was a page in length and the second was four pages. The Agreement begins with several “whereas” paragraphs that provide the understandings and commitments of the UAW and VW. These include Volkswagen Group of America confirming that it “recognizes, supports and has adopted the principles affirmed in VWAG’s Global Labour Charter on Labour Relations ... and Declaration on Social Rights and Industrial Relations at Volkswagen Group.” Among these are a commitment to “employee participation and co-determination through the establishment and operation of a vibrant employee works councils (sic) and the participation of such works councils in the Volkswagen Group Global Works Council, in a manner consistent with all relevant U.S. labor and employment laws” (pp. 1–2). The Agreement also states that VWGOA has informed employees at the Chattanooga plant that a works council “modeled upon those at plants of the Volkswagen Group in Germany and other countries, modified and adapted to comply with United States laws and customs, is in the common interest of VWGOA and its employees” (p.2). The UAW, for its part, “acknowledges, supports and shares VWGOA’s commitment to the development of an innovative model of labor relations at the Chattanooga Plant, including the establishment of a works council, in which a lawfully recognized or certified bargaining representative would delegate functions and responsibilities ordinarily belonging to a union to a plant works council that engages in co-determination with the employer” (p.3). The UAW also committed to a secret ballot for the recognition process (p.4).

The Agreement then set out the specifics for the recognition election between February 12 and 14 and the pre-election campaign period. It also codifies a bargain that the UAW and VW had reached when the organizing

campaign began. In particular, the UAW would agree to forego home visits to employees. In return, the company would provide the names and home addresses of the employees and permit UAW representatives to address employees in the plant at a voluntary gathering that would last no more than an hour (pp. 6 and 9). VWGOA also agreed to give the UAW a room at the plant to meet with employees and space in non-work areas to set up tables and distribute literature. The UAW agreed not to approach or speak with employees who did not come up to the table (p.9).

The UAW also agreed to forego picketing (p.7). VWGOA committed to provide appropriate training to supervisors and managers, “with respect to the election and VWGOA’s position concerning the election, the Dual Model and VWGOA’s positions concerning neutrality and the right of Employees to decide whether they wish to be represented by the Union” (p.9). UAW leaders thought this language was necessary because there were still several line managers who had previously worked at Toyota, who were unshakable opponents of unionization. They hoped that this language would contain their ability to influence employees.

The Agreement also set out “Post-Election Obligations.” Should the UAW win, the UAW and VWGOA “shall establish the timing and details for the establishment and functioning of the Dual Model” (p.9). The UAW shall “delegate to a Works Council to be established by VWGOA at the Chattanooga Plant certain issues, functions and responsibilities that would otherwise be subject to collective bargaining” (p.9). Exhibit B, titled “Dual Model, Including Works Council,” spells out the specifics for a works council and the local union’s relationship to it. The language in Exhibit B is extremely important. In Germany, the Works Constitution Act (*Betriebsverfassungsgesetz*) is the law that spells out the duties and parameters of works councils. The United States does not have a comparable law, so the specifics about works councils must be spelled out in a collective bargaining agreement. Consequently, the authors of the Agreement envisioned Exhibit B and the first collective bargaining agreement between the UAW and Volkswagen as the documents that would serve the functional equivalent of a Works Constitution Act.

Exhibit B states, “The Dual model is based on the Volkswagen Culture of cooperative labor relations, which is practiced by companies in the Volkswagen Group all over the world. The Dual Model is intended to adopt the practices of the Volkswagen Group culture to the fullest extent possible, in a manner consistent with all applicable US labor and employment laws” (p.2). Exhibit B then details the division of labor between the works council and the union under the Dual Model. It starts with a general description:

“Under the Dual Model employees are represented by a union for collective bargaining with their employer. They also participate in and receive representation by a Works Council that plays an important role in the day to day operation of the plant. In the Dual Model, the respective roles and responsibilities of the union and the Works Council would be established through collective bargaining between the Company and a Union. ...

The Dual Model is conceived as a model of labor relations that would allow for development and establishment of a robust Works Council through collective bargaining between the Company and a legally recognized/certified labor union that represents a unit of employees. Under this model, the Union and the Works Council would each have defined roles and responsibilities, which would be established and defined through collective bargaining. ...

A Works Council is intended to offer a voice for all plant employees (except employees employed in supervisory and/or managerial capacities as those terms are defined under the National Labor Relations Act). All employees (other than supervisors and managers) (including both hourly and salary employees) would have the right to participate in Works Council elections regardless of whether they are represented by or belong to a union.” (p.2)

The exhibit then describes the authority and role of the works council. It would “operate on the basis of authority delegated to it by the Union and Employer and in compliance with U.S. labor and employment laws to carry out assigned roles.” Specifically, the works council would:

- Represent the interests of employees in the day to day running of the plant, including dealing with complaints and suggestions and cases where there is a need of individual support and advice.
- Serve as a contact for management for all intra-company issues concerning the topics and tasks assigned to the Works Council under the collective bargaining agreement.
- Communicate to employees concerning the Works Council’s activities and conveying information given by the Employer to it.
- Initiate discuss and/or negotiate ideas and other intra-company needs with management.
- Act in a respectful and non-discriminatory manner in the interests of all employees.

- Conduct its activities in a manner that ensures compliance with regulations and the adherence to the applicable laws.
- Carry out operational management and guideline setting with respect to designated matters, in accordance with the direction of the parties. (p.3)

Exhibit B states that the collective agreement would “provide for delegation of specific responsibilities to the Works Council” (p.3). It then follows the German model by stating that “each delegated topic would be assigned to the Works Council with a particular ‘participation right,’ either Information, Consultation or Co-Determination.”

Exhibit B ends with a concession to the fact that codetermination is a novel conception in the United States. It states that the works council will start with a smaller range of topics and then gradually expand the scope. To start the works council would focus on:

- a. Topics where a high need for involvement is readily apparent; these include work organization, especially agreements on shift calendars and scheduling of overtime;
- b. “social issues,” such as health and safety; and
- c. participation in the implementation of a grievance procedure (p.4).

Exhibit B suggested the same approach be taken when it comes to participation rights. At first, the Works Council would only be permitted the rights on information and consultation. Co-determination would come later (p. 5).

The Election Agreement included two more items worth noting. First, the UAW and VWGOA agreed, “to advise one another of their planned communication activities and shall seek, as appropriate, to align messages and communications” (p.6). Second, the Agreement addressed the question of competitiveness. It read:

“The parties recognize and agree that any such negotiations for an initial collective bargaining agreement and any future agreements shall be guided by the following considerations: (a) maintaining the highest standards of quality and productivity, (b) maintaining and where possible enhancing the cost advantages and other competitive advantages that VWGOA enjoys relative to its competitors in the United States and North America, including but not limited to legacy automobile manufacturers.” (p.11)

This language on competitiveness was consistent with comments that Bob King had made since he was elected in 2010 about the 21<sup>st</sup> century UAW, but this clause proved particularly problematic in the recognition election effort.

If the best description of Daimler management's position regarding unionization was negative neutrality, then Volkswagen management's position could be called positive neutrality. Volkswagen managers stood by their commitment to coordinate communication with the UAW and to let the employees decide the question of union representation through a secret ballot. Volkswagen gave the UAW opportunities that most unions never get in an organizing drive: a list of employee names and addresses, a room in the plant, space in non-work areas and an opportunity to speak to the employees at the plant for an hour to make the case for unionization. In the case of Daimler, the company's tilt against unionization was sufficient to block the UAW, even when it had assists from IG Metall and the Daimler World Employee Committee. In Chattanooga, Volkswagen management's decision to tilt in favor of unionization triggered opponents from both inside and outside of the plant to spring into action.

On February 3, Volkswagen Group of America officially filed a petition with the National Labor Relations Board asking for a union recognition election. Familiar critics resurfaced. Don Jackson complained, "Volkswagen wants the works council so badly they don't care how they get it." Senator Corker opined, "While I care about Volkswagen, what I care most about is our community and about our households being able to progress and have a great standard of living," he said. "I'm concerned about the impact of the UAW on the future efforts to recruit business to our community. The work rules and other things that typically come with the UAW would drive up costs. It would make the facility less competitive." Mike Burton declared, "When you see what the UAW did in Detroit, you have to worry about what it will do here." NRWLD president Mark Mix expressed concern about "backroom deals" between the UAW and Volkswagen. Matt Patterson wrote, "Unions are a big driver of government. Unions are very political, the UAW is one of the most political. If they help elect politicians who pass huge government programs, that requires taxes." Mike Cantrell, a VW Chattanooga employee who had taken a lead in the organizing drive especially objected to Patterson's role: "He's making money by coming into our community from Washington and telling me and my co-workers what's best for us. What does he know about the auto industry?" (*New York Times*, 29 January 2014; and Reuters, 3 February 2014).

New opponents joined the fray. The editorial board of the *Wall Street Journal* penned a scathing editorial titled, “Pyongyang, Tennessee,” that attacked IG Metall Chair Detlef Wetzel for his remarks from November 2013, and accused him of backing the unionization drive in Chattanooga in order to “reduce the competitiveness of US plants” (*Wall Street Journal*, 28 January 2014). Grover Norquist’s Americans for Tax Reform began direct attacks on the UAW for making political contributions. Returning to a familiar tactic, the ATR’s Center for Worker Freedom rented eleven additional billboards around Chattanooga to post anti-UAW messages. One read “UNITED AUTO OBAMA WORKERS. The UAW spends millions to elect liberal politicians including BARACK OBAMA.” A second had a picture of an abandoned factory. The caption read, “Detroit. Brought to you by the UAW.” They also bought newspaper ads and radio time for anti-union messages. Gary Casteel’s response to the billboards was, “From my experience, billboards are a waste of money.” He then added, “Never have we seen this much activity from outside, third-party groups” (*Times Free Press*, 6 February 2014; and *Washington Free Beacon*, 4 February 2014).

The Agreement for a Representation Election incensed anti-union employees. Mike Burton protested, “There are going to be two team meetings of 500 to 600 workers each and we won’t even be able to take the podium for equal time. That’s wrong.” Burton immediately sent letters to VWGOA management asking for access to the employee contact list and the plant equal to that of the UAW to discuss alternatives to unionization with employees. Volkswagen management refused, pointing out that the anti-union employees were not an “entity.” In response, Burton, assisted by local labor lawyer Maury Nicely, filed papers to form a non-profit organization called Southern Momentum. Southern Momentum made the same set of requests and VWGOA management rejected them again. Mike Burton’s response was, “We’re looking into whether this is legal.” Burton also complained that, “This is the shortest campaigning period that we’ve ever heard of.” Burton was right about this. The maximum length of a union recognition campaign is forty days and employers normally prefer a longer period. It can be shorter if the union and the company agree, which is what happened here ([www.nooga.com](http://www.nooga.com), 3 February 2014; Reuters, 3 February 2014; *Wall Street Journal*, 4 February 2014; and two letters from Mike Burton to Frank Fischer, dated 3 February 2014).

The question of access quickly escalated as an issue. Governor Haslam sent a letter dated February 4 to VWGOA CEO Frank Fischer, expressing his concern:



“It is our understanding ... that the Company is allowing the UAW to use Company facilities to advise and attempt to influence employees to vote in favor of union representation, while at the same time denying similar facilities to Volkswagen employees and groups in opposition to UAW representation. This distinction favoring the UAW at the expense of employees opposed to unionization is of concern to us. We expected the Company to assume a position of neutrality that would provide an “even playing field,” if you will. It is of such concern that I felt it necessary to speak on behalf of those Tennessee citizens who are employees at the Chattanooga facility. While many will choose to differ on the advisability of union representation, there should be a general consensus that the manner in which the Company administers and oversees this process is critical not only to the Company, but also to the general perception and acceptance of any result by the employees and the community in which they live and work.”

Fischer did not change the policy. On the same day, Gary Casteel gave the first UAW presentation at the plant to Volkswagen employees. When he started to speak, approximately 100 anti-union employees left the room. Those who stayed for the hour-long presentation were not permitted to ask questions. Gary Casteel responded to the controversy, pointing out, “The UAW is the only one up for election.” Southern Momentum organized its own meeting at a local hotel on February 8. The anti-union employees in the plant attempted to take advantage of implicitly misleading details in the UAW’s campaign literature comparing wage rates at the domestic producers to those at Volkswagen. Casteel countered that pay was not the central focus of the Chattanooga organizing campaign, having a voice at work was (News Channel 9, 6 February 2014; [www.nooga.com](http://www.nooga.com), 6 February 2014; *Times Free Press*, 5 and 6 February 2014; and WDEF News 12, 5 February 2014).

On February 7, Governor Haslam criticized Volkswagen once again at a breakfast sponsored by the Knoxville Chamber of Commerce. Haslam said, “The state of Tennessee put a whole lot of money in that plant,” and repeated the claim that auto suppliers had told him that they would not come to the Chattanooga area if the UAW organizes the plant. Senator Corker, in contrast, said, “During the next week and a half, while the decision is in the hands of the employees, I do not think it is appropriate for me to make additional public comment” (*Knoxville News Sentinel*, 7 February 2014; and *Times Free Press*, 7 February 2014).

Both sides stepped up their campaigns over the weekend. Gunnar Kilian, General Secretary of the Volkswagen Group works council, and Frank Patta, General Secretary of VW's European and world works councils, talked about the benefits of being a part of Volkswagen's works council network. The pro-UAW employees also issued a statement calling on the Americans for Tax Reform to stop their campaign against the UAW. Volkswagen worker Eric Delacy was quoted saying, "Lobbyists from Washington who are funding this campaign don't understand that when they pack up and move on to the next fight, we'll still be here. This is our community, and our workplace – and we should be making the decisions about our future. These outside special interests should leave the vote to those that it actually matters to – the workers and their families." UAW opponents were meeting in another part of Chattanooga. Don Jackson alleged that voting in the UAW would make it less likely that Chattanooga would get a second vehicle to produce, although when asked, he said, "I don't know that for a fact, but it's just economics." Opponents made much of the UAW's decision in 2013 to increase dues from two to 2.5 hours per month. This would come to \$ 600 a year for a typical worker (Talking Union Blog, 10 February 2014; and *Times Free Press*, 9 February 2014).

Workers with Southern Momentum mounted a new criticism. In a statement, Mike Jarvis zeroed in on the UAW's promise on page eleven in the election agreement of "maintaining and where possible enhancing the cost advantages and other competitive advantages that VWGOA enjoys relative to its competitors." Jarvis pointed to this as evidence that, "the UAW has already sold us out." Sean Moss, a fellow Southern Momentum adherent, complained, "We're not even unionized and the UAW is already starting to bargain away our rights behind closed doors. How many more backroom deals have they done behind our backs?" (*Times Free Press*, 10 February 2014).

Just days before the election, Republican state politicians threatened to withhold future state subsidies from Volkswagen, which would jeopardize any expansion at the Chattanooga plant, if the workers voted to unionize. On February 10, Tennessee State Senate Speaker Pro Tempore Bo Watson said:

"It has been widely reported that Volkswagen has promoted a campaign that has been unfair, unbalanced and, quite frankly, un-American in the traditions of American labor campaigns. ... I do not see the members of the Senate having a positive view of Volkswagen because of the manner in which this campaign has been conducted. The workers that will be voting, need to know all of the potential

consequences, intended and unintended, should they choose to be represented by the United Auto Workers. ... Should the workers at Volkswagen choose to be represented by the United Auto Workers, any additional incentives from the citizens of the state of Tennessee for expansion or otherwise will have a very tough time passing the Tennessee Senate.” ([www.nooga.com](http://www.nooga.com), 10 February 2014)

Tennessee House Speaker Beth Harwell agreed, adding, “And I hate that, because I want Volkswagen here, we’re so proud and honored to have them here.” House Majority Leader Gerald McCormick issued a statement:

“I encourage the employees of Volkswagen to reject bringing the United Auto Workers Union into the Plant and into our community. As you consider your vote, ask yourself this question – Will I be better off with the UAW? When you consider that question, I believe the answer will be NO! I wish the UAW had been willing to have an open and fair debate within the workplace. The fact that the UAW refused to allow all points of view to be heard and discussed demonstrates how they are unwilling to have an open, honest representation to ALL employees. The taxpayers of Tennessee reached out to Volkswagen and welcomed them to our state and our community. We are glad they are here. But that is not a green light to help force a union into the workplace. That was not part of the deal. To the employees of Volkswagen: You are leaders, and you are setting the course for the future of our community and our region. You have performed well. You have built the Car of the Year. You have good wages and benefits. All of this happened without the heavy hand of the United Auto Workers. I urge you to keep your voice and vote NO.” ([www.chattanooga.com](http://www.chattanooga.com), 10 February 2014)

McCormick and Watson also criticized the agreement between VWGOA and the UAW, saying that it unfairly advantaged the UAW. VWGOA personnel head Sebastian Patta countered VW was acting fairly. VW management chose a secret-ballot election over card check. Patta added, “Outside political groups won’t divert us from the work at hand: innovating, creating jobs, growing, and producing great automobiles. Volkswagen of America is committed to defending our employees’ legal right to make a free choice” (*Automotive News*, 10 February 2014; and *Washington Examiner*, 10 February 2014).

Tennessee House Democratic Leader Craig Fitzhugh Democrats responded with outrage, “In my 20 years on the hill, I’ve never seen such a massive intrusion into the affairs of a private company. When management and workers agree – as they do at Volkswagen – the state has no business interfering. Words have consequences and these type of threats could have a ruinous effect on our state’s relationships with not just Volkswagen, but all employers.” House Democratic Caucus Chairman Mike Turner was also dismayed: “This is an outrageous and unprecedented effort by state officials to violate the rights of employers and workers. ... Republicans are basically threatening to kill jobs if workers exercise their federally protected rights to organize. When the company says they don’t have a problem with it, what right does the state have to come in and say they can’t do it?” (*Automotive News*, 10 February 2014; and *Washington Examiner*, 10 February 2014).

The UAW’s Gary Casteel invoked the words of Bob Corker in an effort to silence the Tennessee state Republicans: “Other politicians should follow the lead of Senator Corker and respect these workers’ right to make up their own minds.” Casteel’s action backfired. Corker issued a statement on February 10: “I am very disappointed the UAW is misusing my comments to try to stifle others from weighing in on an issue that is so important to our community. While I had not planned to make additional public remarks in advance of this week’s vote, after comments the UAW made this weekend, I feel strongly that it is important to return home and ensure my position is clear.” Casteel reacted to the news that Corker was going to speak: “It’s unfortunate that Bob Corker has been swayed by special interests from outside Tennessee to flip-flop on his position on what’s best for Chattanooga’s working families” (*Automotive News*, 10 February 2014; and UAW, News from the UAW, 11 February 2013).

Corker released a carefully crafted statement after voting had already begun at the Chattanooga plant: “I’ve had conversations today and based on those am assured that should the workers vote against the UAW, Volkswagen will announce in the coming weeks that it will manufacture its new mid-size SUV here in Chattanooga.” The statement implied that Volkswagen would be more likely to invest in Chattanooga if the workers voted against union recognition, but it would also be accurate if Volkswagen intended to invest in Chattanooga regardless of the outcome of the vote, which is precisely what Bernd Osterloh months earlier had said was the case. Corker never disclosed with whom he had conversations. Corker’s statement received wide coverage. VWGOA CEO Frank Fischer released a statement in response, asserting that there was “no connection between our Chattanooga employees’ decision

about whether to be represented by a union and the decision about where to build a new product for the US market.” Gary Casteel also had a response: “Corker’s statement is in direct contradiction to Volkswagen’s statements. They have specifically said that this vote will have no bearing on the decision of where to place the new product.” Corker followed up his statement by doing interviews in multiple media outlets. He accused the UAW of being mainly interested in dues: “It’s all about the money for them.” He also echoed Governor Haslam’s statements, saying, “There’s no question that the UAW organizing there will have an effect on our community’s ability to continue to recruit businesses” (Reuters, 13 February 2014; and *Washington Post*, 14 February 2014).

President Barack Obama injected himself into the controversy. The President said that everyone was in favor of the UAW representing Volkswagen employees except for local politicians who, “are more concerned about German shareholders than American workers.” Obama’s statement was not particularly helpful because few seriously believed that local political opposition to unionization was rooted in concern for German shareholders, and it implied that unionization would increase costs. Corker reiterated his careful claim in response to Obama and others, adding, “Believe me, the decisions regarding the Volkswagen expansion are not being made by anyone in management at the Chattanooga plant, and we are also very aware Frank Fischer is having to use old talking points when he responds to press inquiries. ... After all these years and my involvement with Volkswagen, I would not have made the statement I made yesterday without being confident it was true and factual” ([www.nooga.com](http://www.nooga.com), 14 February 2014; and Reuters, 14 February 2014).

The atmosphere was tense when Retired Circuit Court Judge Sam Payne announced the results of the union recognition vote on the evening of Friday, February 14, while Volkswagen Chattanooga CEO Frank Fischer and UAW Region 8 Director Gary Casteel looked on: eighty-nine percent of the employees voted, 712 were against the UAW becoming their exclusive bargaining agent, and 626 were in favor. That translates into 53 percent against versus 47 percent for. Shortly after the announcement, Fischer and Casteel spoke to the media. Fischer tried to salvage what he could in his prepared statement: “They have spoken, and Volkswagen will respect the majority. ... Our employees have not made a decision that they are against a works council. Throughout this process, we found great enthusiasm for the idea of an American-style works council both inside and outside our plant. Our goal continues to be to determine the best method for establishing a works council in accordance with the requirements of US labor law to meet VW Ameri-

ca's production needs and serve our employees' interests." Gary Casteel thanked the company: "We commend Volkswagen for its commitment to global human rights, to worker rights and trying to provide an atmosphere of freedom to make a decision." In Detroit, Bob King said, "To lose by such a close margin is very difficult. ... We're obviously deeply disappointed. ... While we certainly would have liked a victory for workers here, we deeply respect the Volkswagen Global Group Works Council, Volkswagen management and IG Metall for doing their best to create a free and open atmosphere for workers to exercise their basic human right to form a union." Bernd Osterloh's reaction was not nearly as measured: "I can well imagine that an additional VW production site in the United States, provided one were to be built there, would not necessarily have to go to the south again. If the subject of workplace codetermination is not sorted out from the outset, we could hardly agree to approve it as employees." Senator Bob Corker, in contrast, said, "I'm thrilled for the employees and thrilled for our community. I'm sincerely overwhelmed. ... The UAW had all the advantages. Everybody but the UAW had both hands tied behind their backs." A spokesperson for Bill Haslam related that, "The Governor is pleased with the outcome and looks forward to working with the company on future growth in Tennessee" (*Detroit Free Press*, 15 February 2014; *Handelsblatt*, 19 February 2014; [www.nooga.com](http://www.nooga.com), 15 February 2014; *New York Times*, 15 February 2014; *USA Today*, 15 February 2014; *Wall Street Journal*, 14 February 2014; and *Washington Post*, 15 February 2014).

Why did the UAW lose? Reasons abound. First, although the UAW and VW forged a strong cooperative alliance, powerful proponents of adversarialism and anti-union remained both inside and outside of the Chattanooga plant. UAW leaders and Tennessee Democrats blamed Republican politicians and anti-unionism lobbying groups. Bob King said, "We also are outraged by the outside interference in this election. It's never happened before that a US senator, a governor and a leader of the State House of Representatives threatened the company and threatened the workers" (*Times Free Press*, 15 February 2014; *Washington Post*, 14 February 2014). Second, Southern Momentum member Mike Jarvis drew attention to the sentence on page 11 of the UAW-VW election agreement that committed the UAW to "maintaining and where possible enhancing the cost advantages and other competitive advantages that VWGOA enjoys." Jarvis said that he was able to persuade many employees to vote against the UAW, "Once we got people to realize they had already negotiated a deal behind their backs – they didn't get to have a say-so in it" (*Washington Post*, 14 February 2014). Southern Momentum founder Mike Burton offered a third explanation: "We don't need the UAW to give us

rights we already have. We can already talk to the company if we have any problems.” A fourth explanation was the strong opposition to the UAW among salaried employees and low-level supervisors in the plant. The latter were not eligible to vote, but they were in daily contact with the hourly workers. Some Chattanooga employees and pro-union community activists cite a fifth cause: the failure of the UAW to develop strong grass roots and to engage with the community. They complained that the UAW leadership’s focus on building cooperative relationship with VW management led the union to rely too heavily on succeeding through close ties with the company rather than on building up strong grass roots and community organizing through churches and other social organizations. Thus, in the final push, the UAW had neither a resilient network built up through grass-roots organizing nor the strong community connections needed to prevail in a contentious recognition election. Some blamed the loss on an anti-union southern mentality (*In These Times*, 15 February 2014; *Labor Notes*, January 2016).

Among these six explanations, the evidence from contemporaneous reports and open-ended interviews with VW employees, local and national UAW officials, IG Metall officials, German works councilors, and VW managers in Chattanooga and Wolfsburg suggests that the intense external political opposition and the language in the election agreement about preserving the competitive advantage were the most powerful causal factors. The loss exposed the price the UAW paid for relying excessively on a cooperative organizing strategy. Close cooperation with management cannot substitute for strong rank-and-file and community support. Trading away house calls for the employee list, plant access and two hour-long information sessions limited the UAW’s capacity to build up a strong grass-roots network. The failure to build robust linkages in the community compounded this deficiency. As a result, the UAW had neither an adequate network nor sufficient trust among the employees to counter effectively the rhetoric of the anti-union forces. It should also not be forgotten that VW management’s decision against using card-check recognition removed the simplest route to establishing cooperative unionism and a works council in Chattanooga.

Beyond the causal question, the most striking aspect of the case of Volkswagen Chattanooga is that union and management leaders were unable to create a cooperative relationship, even though this was the clear preference of both at the outset, because US labor law and the actions of third parties prevented them from doing so. This case shows why any sound model of employment relations must incorporate more than the strategic choices of the principal actors.

The lost recognition election knocked the relationship between VW and the UAW off kilter. In the months that followed, relations between the two have become progressively less cooperative and more adversarial.

Initially, the leaders of the UAW and VW both tried to hold together their cooperative relationship. On 21 February 2014, the UAW filed for an appeal regarding the recognition election. When asked about the basis of the appeal, UAW president Bob King replied, “It is extraordinary interference in the private decision of workers to have a US senator, a governor and leaders of the state legislature threaten the company with the denial of economic incentives and workers with a loss of product” ([www.nooga.com](http://www.nooga.com), 21 February 2014). Yet on 21 April 2014, the UAW leadership suddenly dropped the appeal. UAW leaders said at the time that they were concerned that the anti-union forces would use the appeal to their advantage by generating lengthy delays in the final certification of the vote. An additional reason for the move only came to light more than two years later. On 21 June 2016, Gary Casteel revealed that on 21 March 2014, the UAW and VW had reached in confidence what UAW officials call “the ten-point agreement.” Two of the points were that VW would recognize the UAW as a “members union,” allowing it access to the workplace, and that the UAW would not petition for a new recognition election in the next two years (Gary Casteel, letter to Volkswagen Chattanooga Employees, 21 April 2014; Gary Casteel, Statement, 21 June 2016; Neumann and King 2014).

UAW leaders still found themselves in a difficult position. Over 600 VW Chattanooga employees had voted in favor of unionization, but the union leadership had just committed privately not to hold a second recognition election for at least another two years. After weighing the options, UAW leaders decided to establish a local for VW Chattanooga employees. On 10 July 2014, fifteen VW Chattanooga employees signed a charter at a public ceremony to form Local 42, which would be a members-only local. The action was novel. The last time the UAW formed a local without prior certification as the exclusive bargaining agent was before the passage of the 1935 National Labor Relations Act. The local’s members would have the same rights as other UAW members, but they would not have to pay dues unless the UAW completed a collective agreement with VW. Forming the local created an entity with which VW management could interact. Gary Casteel, who had just been elected UAW secretary-treasurer, said that UAW officials did not anticipate the local getting formal recognition from Volkswagen, but that he “would fully expect that Volkswagen would deal with this local union if it represents a substantial portion of its employees” (Gary Casteel, letter to Volkswagen



Chattanooga Employees, 23 July 2014; *Detroit Free Press*, 10 and 11 July 2014; *Tennessean*, 11 July 2014).

On 14 July 2014, Volkswagen announced that the Chattanooga plant would make a sport utility vehicle alongside the Passat. The state of Tennessee had agreed to provide an additional \$262 million in support of Volkswagen's \$600 million investment. The decision was welcome news. There were discussions in Germany between Volkswagen's works council leadership and management about how to provide at least some semblance of employee representation for the Chattanooga plant. The idea surfaced to have Bernd Osterloh serve on the board of VWGOA. At first Osterloh accepted this solution, emphasizing that, "It is important that for us that our colleagues in the US know that we also care about the production site and the employment in in Chattanooga. ... After additional consideration, however, Osterloh decided against this solution and did not join VWGOA's board. This left the Chattanooga plant without a long-term or even a stopgap way to have anything resembling codetermination (Bloomberg Business Week, 17 February 2014).

By the end of August 2014, Gary Casteel announced that Local 42 had signed up "substantially more than 700 members," which constituted a majority of the permanent hires eligible to join a union. Local 42's recruiting success prompted anti-UAW employees to form their own union, which they called the American Council of Employees (ACE). Mike Burton, who spearheaded the anti-UAW movement, said that he had already collected over 100 signatures. His goal is to get at least 415 signatures, which would equal the 30 percent threshold specified in US labor law needed to trigger a new representation election that would have both ACE and UAW Local 42 on the ballot. When told about the plans to form ACE, Gary Casteel replied, "What does an anti-union union offer?" (*Times Free Press*, 21 and 27 August 2014).

Anticipation in Chattanooga ran high in November 2014. Mike Cantrell, the newly elected president of Local 42, sent a letter to his members. It read:

We are writing to update you on our progress toward being recognized as Volkswagen's bargaining partner. It is our understanding that Volkswagen this week will announce a new policy in Chattanooga that will lead to recognition of Local 42. ... Our expectation that Volkswagen will recognize Local 42 is based on discussions that took place in Germany last spring, between representatives of the UAW and Volkswagen (Mike Cantrell, Letter to UAW Local 42 Members, 11 November 2014).

Volkswagen's action was not quite what UAW and Local 42 leaders had anticipated. The company issued policy number HR-C20 with the title "Community Organization Engagement" (COE). Its purpose is to "allow eligible organizations the opportunity to engage in constructive dialogue with Volkswagen and its employees" (p. 1). The document set three levels of engagement based on the share of employees that belong to an organization. Level 1 is for organizations with membership greater than 15 percent of the workforce. Such organizations "are free to reserve and use space in the Conference Center for internal employee meetings on non-work time once per month, post announcements in company-designated locations, and meet monthly with Volkswagen human resources staff to present topics of interest to their membership." Level 2 is for organizations with a membership share between 30 and 45 percent. In addition to the opportunities available to Level 1 organizations, Level 2 organizations may use the plant's conference center for meetings once a week, invite external representatives of their organization to such a meeting once per month, post materials on a dedicated bulletin board, and meet quarterly with a member of the Volkswagen Chattanooga Executive Committee. Level 3 is for organizations with a membership share of 45 percent or more of the workforce. In addition to the level 2 opportunities, organizations qualifying for level 3 may use on-site locations for meetings on non-work time with staff or employees "as reasonably needed," meet bi-weekly with Volkswagen human resources staff and monthly with the Volkswagen Chattanooga Executive Committee. The COE document also states: "This policy may not be used by any group or organization to claim or request recognition as the exclusive representative of any group of employees for the purposes of collective bargaining" (Volkswagen Group of America 2014: pp. 1–4).

The COE falls far short of instituting German-style codetermination rights in Chattanooga, which was VW's original objective. Still, the VW Global Works Council now permits Local 42 to send an observer to meetings. The COE also does not grant the UAW leadership its objective, namely, collective bargaining rights. Volkswagen Chattanooga Human Resources executive vice-president Sebastian Patta explained the motivation behind the policy: "We recognize and accept that many of our employees are interested in external representation and we are putting this policy in place so that a constructive dialogue is possible and available for everyone" (*Detroit Free Press*, 12 November 2014). Volkswagen management saw the COE as fulfilling its commitment in the March 21 ten-point agreement to recognize the UAW and allow it access to the workplace, but UAW leaders did not agree. Gary Casteel responded cautiously:

We appreciate Volkswagen's effort to articulate a policy for how it will engage with UAW Local 42 and its members in Chattanooga. We have questions about this policy, which we'll work through in discussions with management, but this is a step forward... In the first conversations that occur, we will remind them of the mutually agreed-upon commitments that were made by Volkswagen and the UAW last spring in Germany. Among those commitments: Volkswagen will recognize the UAW as the representatives of our members (Gary Casteel, Statement, 12 November 2014).

Maury Nicely, ACE's lawyer, also judged the COE to be a positive development because it does not exclude ACE. Interim ACE president Sean Moss said the COE, "has helped pave the way for a flood of new members joining our organization" (ACE, News Release, 13 November 2015; *New York Times*, 12 November 2014). IG Metall Chair Detlef Wetzel praised the COE for "creating the precondition for the recognition of trade union representation," but he was also the most critical. He said, "We expect VW to show its true colors and recognize the UAW as its collective bargaining partner, once it proved that it represents the majority of workers." Wetzel explained that IG Metall has supported the organizing efforts of the UAW and other American trade unions for many years to guarantee trade union rights and make codetermination possible even in difficult political environments to prevent "social dumping" and competition between production sites at the expense of plant employees. He added that he could not comprehend putting the UAW, "in the same category with groupings [like ACE] that in the past had acted as resolute enemies of trade unions. ... There must not be any cooperation between Volkswagen and anti-union groupings and company unions" (IG Metall, Press Release, 13 November 2014).

The COE triggered a race between the UAW and ACE to become the first organization recognized for engagement with VW management. In mid-December 2014, Volkswagen announced that the independent auditor had verified that the UAW had signatures of more than 45 percent of the VW Chattanooga workforce. As a result, Local 42 leaders began meeting biweekly with VW plant management (*Salon*, 14 December 2014). Cantrell said Local 42's next objective was gaining recognition from VW for the purpose of bargaining (*Times Free Press*, 4 February 2015). The recognition of local 42 under the COE led Bob King's successor, UAW president Dennis Williams, to assert, "We think we have the right strategy. We believe we have the kind of relation-

ships in the South that can succeed” (*Detroit Free Press*, 16 December 2014). In mid February 2015, VW management announced that the independent auditor’s report verified that ACE had a membership of at least 15 percent of the labor force. It therefore qualified as a level 1 organization under the COE. VW management also began meeting monthly with ACE’s leadership (*International Business Times*, 17 February 2015).

A leadership challenge within Volkswagen briefly shook up the company. VW Supervisory Board Chair Ferdinand Piëch attempted to remove CEO Martin Winterkorn in April 2015. The attempt failed, in part because the works councilors and IG Metall officials on the supervisory board sided with Winterkorn. Piëch resigned from the board and former IG Metall Chair Berthold Huber became acting Chair. The failed coup stirred hopes at the UAW that Huber’s ascendance might finally lead to VW recognizing UAW as a bargaining partner. The UAW acted quickly. On 7 May 2015, the UAW leadership made a new push to get exclusive recognition at the VW Chattanooga plant. Gary Casteel presented a “Vision Statement for a Collectively Bargained Works Council in Volkswagen.” The statement resurrected the “Dual Model” of union recognition and a works council from the 27 January 2014 Election Agreement between the UAW and VW, including a blueprint for a works council that was based heavily on Exhibit B from the election agreement. Casteel claimed that Local 42 now had 816 members, which he said was a majority of the employees in the bargaining unit. Casteel said that in exchange for exclusive recognition using the card check procedure, the UAW would work with VW to implement the Dual Model (Associated Press, 7 May 2015; *Automotive News*, 7 May 2015; UAW, “Vision Statement for a Collectively bargained Works Council at Volkswagen Chattanooga: UAW Local 42 and International Union, UAW,” Detroit, 7 May 2015).

The hopes of the UAW leadership were quickly dashed. VWGOA spokesperson Carsten Krebs responded to the UAW Vision Statement by observing that meeting with Local 42 and ACE under the COE “has been a very effective way to start dialog with each of the groups and we intend to continue with the community organization engagement policy” (Bloomberg Business, 7 May 2015). UAW leaders continued to push VW to adopt the May 7 Vision Statement, despite the company’s initial rejection. Not to be outdone, ACE produced a works council proposal as well. VW did not alter its position, however ([www.nooga.com](http://www.nooga.com), 29 May 2015).

In August 2015, Local 42 asked Volkswagen again for card-check recognition and the company again refused. The Local’s leaders began to discuss what they could do to get beyond the impasse. One option would be to pro-

ceed with a recognition election for only a subgroup of the employees, for example, the skilled trades maintenance employees. Organizing a subgroup would gain a collective agreement for them and show other employees the benefits of unionization ([www.nooga.com](http://www.nooga.com), 4 August 2015).

In September 2015, the Volkswagen emissions cheating scandal first came to light. The scandal engulfed the firm in crisis and quickly led to the resignation of Volkswagen CEO Martin Winterkorn. Soon thereafter, the Local 42 leadership gave up on trying to persuade Volkswagen management to accept a card check procedure in exchange for creating a works council. The Local petitioned the National Labor Relations Board to have a representation election for a “micro-unit” of 164 skilled maintenance employees who repair the plant’s equipment. Mike Cantrell explained the decision: “A key objective of our local union always has been, and still is, moving toward collective bargaining for the purpose of reaching a multi-year contract between Volkswagen and employees in Chattanooga ([www.nooga.com](http://www.nooga.com), 23 October 2015). Gary Casteel put the decision in context from the perspective of the UAW:

Volkswagen’s [COE] policy in Chattanooga was a gesture and our local union has engaged accordingly. At the end of the day, the policy cannot be a substitute for meaningful employee representation and co-determination with management. The international union will provide ongoing technical assistance to the local union as it strives toward collective bargaining and its rightful seat on the Global Group Works Council (UAW Local 42, News Release, 23 October 2015).

Cantrell said that Local 42 still wished to establish a works council for all employees in the plant. Both Casteel and Cantrell asserted that the decision to organize the maintenance employees was unrelated to the Volkswagen diesel emissions scandal ([www.nooga.com](http://www.nooga.com), 28 October 2015).

Volkswagen Chattanooga managers quickly made it clear that they did not look kindly on this turn of events, but they did not challenge it at first. Plant CEO Christian Koch and personnel head Sebastian Patta sent a letter to all employees with a tone that was decidedly more negative than previous communications about the issue of unionization. They related that the company found “the timing of this development unfortunate, given the challenges we are facing as a plant, Brand, and Group.” They noted that there was no election agreement this time between the UAW and VW, and there was no

clear path to form a works council for the whole plant from a bargaining unit representing only the maintenance team. Nonetheless, they stated that they would “respect our employees’ right to petition and vote and will remain neutral in the process.” Koch and Patta informed the employees that, “Given the short timeframe and limited number of involved employees, the company does not plan to hold special information sessions or additional communication beyond that which is customary and required as part of the NLRB’s legal process” (Letter from Christian Koch and Sebastian Patta to VW Chattanooga employees, 23 October 2015). Gary Casteel said that the union was “fine with and unfazed by Volkswagen’s language” in the letter (*Times Free Press*, 31 October 2015).

Within two weeks, Volkswagen Chattanooga management had a change of heart. At a hearing on 3 November 2015, the company asked the National Labor Relations Board to reject UAW Local 42’s petition for a union recognition election of the skilled maintenance employees. VW management’s grounds were that “the maintenance-only unit requested in the petition is not consistent with our ‘one team’ approach at Volkswagen Chattanooga, our production system and organization design, nor long-established NLRB law” ([www.nooga.com](http://www.nooga.com), 3 November 2015). Breaking a plant into separate bargaining units runs against the postwar German practice of “unitary unionism” (Silvia 2013: 107–110). It would also complicate any attempt to set up a works council. UAW lawyers, in contrast, highlighted the differences between skilled mechanics and production workers. Volkswagen’s challenge led to a postponement of the recognition election to give the NLRB regional director time to make a decision.

On 18 November 2015, the NLRB regional director ruled in favor of the UAW and set the new dates of December 3 and 4 for the election. On December 1, Volkswagen management filed an appeal of the ruling, but the NLRB decided to proceed with the vote pending the appeal (*Times Free Press*, 1 December 2015). The recognition campaign for the maintenance employees proceeded with far less drama than the February 2014 election. There were fewer outside voices this time. IndustriALL president Berthold Huber and IG Metall federal executive committee member Wolfgang Lemb sent letters of support. Governor Haslam expressed concerns about the timing of the vote, given the emissions scandal. ACE posted a critical letter in the plant during the election that asked the skilled employees to vote “no.” Others stayed out of the election (*Times Free Press*, 3 December 2015).

The UAW won the union recognition election for the skilled employees decisively, 108 to 44 (i.e., a 71 percent majority), the first ever win at a foreign-

owned automobile manufacturer in the American South. Ray Curry, Gary Casteel's successor as UAW Region 8 Director, praised the workers: "Volkswagen employees in Chattanooga have had a long journey in the face of intense political opposition, and they have made steady progress. We're proud of their courage and persistence" (*The Detroit Bureau*, 7 December 2015). Curry urged Volkswagen to accept the election results. Gary Casteel downplayed the accomplishment by setting it in context: "To the overall grand plan of the UAW it's probably not monumental, but to those workers, it's a big deal" (Reuters, 4 December 2015). The statement from Volkswagen Chattanooga management was not conciliatory: "As has always been the case, Volkswagen respects the right of our employees to decide the question of union representation. Nevertheless, we believe that a union of only maintenance employees fractures our workforce and does not take into account the overwhelming community of interest shared between our maintenance and production employees." The company indicated immediately after the election that it would appeal to the National Labor Relations Board to have the vote set aside (*Detroit Free Press*, 4 December 2015).

On December 21, 17 days after the recognition election, the UAW filed an unfair labor practice charge against Volkswagen for refusal to bargain (*Times Free Press*, 21 December 2015). At year's end, Volkswagen formally appealed the election. Local business groups expressed support for this decision (*Times Free Press*, 9 January 2016). Martin Winterkorn's successor at Volkswagen, Matthias Müller, travelled to Chattanooga in January 2016. Müller told reporters he had not yet made up his mind about labor issues at the plant: "Surely we must take a few weeks to understand and relate to this very complex topic." Gary Casteel said he hoped that new leadership, "will provide an opportunity, soon, to reset the dialogue. We're hopeful Volkswagen will recommit to core principles like co-determination, adhere to federal law and begin collective bargaining" (Associated Press, 23 January 2016).

The UAW continued to apply pressure on VW to bargain. In February 2016, the UAW filed a new unfair labor practice petition, alleging that a fired African-American employee was the victim of discrimination. Gary Casteel did not hide the strategy behind filing the ULP: "If Volkswagen maintains this position, more and more charges will accumulate and the company will further damage its relations with employees. We remain hopeful that Volkswagen will comply with the law and move forward soon, in good faith" (Associated Press, 9 February 2016). On 23 February 2016, the executive council of the American Federation of Labor – Congress of Industrial Organizations issued a statement denouncing Volkswagen for refusal to bargain with the

UAW and demanding the company “make corporate social responsibility more than just a slogan and public relations strategy (AFL-CIO 2016).

On 13 April 2016, a three-person NLRB panel denied VW’s request to review the December election in a two-to-one decision. Gary Casteel issued a statement saying:

“We hope Volkswagen’s new management team will accept the government’s decision and refocus on the core values that made it a successful brand – environmental sustainability and meaningful employee representation. We call on Volkswagen to immediately move forward with UAW Local 42, in the German spirit of codetermination.” ([www.nooga.com](http://www.nooga.com), 13 April 2016)

The new IG Metall Chair, Jörg Hofmann, issued a statement affirming his union’s continuing support for the UAW: “Volkswagen employees in Chattanooga should have the same rights as other Volkswagen team members around the world. It is in Volkswagen’s own interest to accept the NLRB decision and not to contest it once again” (UAW Local 42, 14 April 2016). A week later, Volkswagen announced that it would appeal the decision in federal court. VW retained the Littler Mendelson law firm, which has a reputation for “union busting” (Wards Auto, 12 May 2016). Casteel responded caustically, reflective of the increasingly adversarial nature of the relationship:

“We reject the company’s claim that recognizing and bargaining with the skilled-trades employees would somehow splinter the workforce in Chattanooga. Recognizing clearly identifiable employee units is common in the US. Furthermore, Volkswagen plants all over the world – including in countries such as Italy, Russia and Spain – recognize multiple unions that represent portions of a workforce. So the company’s current argument against the National Labor Relations Board rings hollow. At a time when Volkswagen already has run afoul of the federal and state governments in the emissions-cheating scandal, we’re disappointed that the company now is choosing to thumb its nose at the federal government over US labor law. At the end of the day, the employees are the ones being cheated by Volkswagen’s actions.” (Wards Auto, 12 May 2016)



An external party once again weighed in on events at the Volkswagen plant in Chattanooga. In early May, Hillary Clinton expressed her support of the UAW by retweeting Gary Casteel's tweet: "By choosing to fight the NLRB, @Volkswagen is in clear violation of federal law," and later tweeting, "Volkswagen workers in TN are raising their voices for rights they deserve. VW should meet them at the table. -H" (*Times Free Press*, 6 May 2016).

In an effort to salvage the relationship, Volkswagen's new head of human resources, Karlheinz Blessing, offered to meet with Gary Casteel in Germany on May 11. Blessing had been an IG Metall official decades ago before switching to a management career in the steel sector. Blessing made it clear up front, however, that VW's position had not changed: "We can accept a vote of the entire workforce, but we cannot accept fragmentation" (*Wall Street Journal*, 1 May 2016). Casteel responded that he would meet with Blessing because, "The UAW would like to re-establish a trusting relationship with Volkswagen." Casteel added, "The company's contradictory statements and refusals to abide by US labor law make this difficult. ... When I meet with Dr. Blessing, I'll present him with the documentation of that agreement that was signed by his predecessor Dr. Neumann" in March 2014 ([www.nooga.com](http://www.nooga.com), 2 May 2016; *Times Free Press*, 2 May 2016). Both sides maintained their positions at the meeting; no progress was made (Casteel 2016).

The UAW leadership increased the pressure on Volkswagen. In late May, at the request of Gary Casteel, the IndustriALL executive committee unanimously passed a resolution calling on Volkswagen "to cease all of its attempts to invalidate the vote of Chattanooga skilled trades workers for collective bargaining, and immediately to begin negotiations," and for IndustriALL to initiate actions that "could lead to the eventual revocation of the Global Framework Agreement between IndustriALL and Volkswagen" if the company had not agreed by June 22 to begin collective bargaining with the UAW (IndustriALL, 2016). On June 21, the UAW made public the 21 March 2014 ten-point agreement. On a conference call, Gary Casteel said that "Volkswagen never fulfilled its commitments to recognize the union as a representative of its members. The unfulfilled commitment is at the heart of the ongoing disagreement between the company and the union." Casteel added that the "common thread" between Volkswagen's diesel emissions scandal and the labor dispute with the UAW "is a disregard for its corporate commitment and in our case a disregard for US law. We believe the company is better than this" (Associated Press, 21 June 2016).

Karlheinz Blessing's cutting response came at the annual Volkswagen shareholders meeting: "If the UAW wants to organize the American auto

workers at our plant in Chattanooga it has to do so by itself, like the IG Metall does it in Germany. The VW management board or the IG Metall cannot handle this for the UAW” (Reuters, 22 June 2016). The faint hope of a revival of cooperative employment relations was gone.

## 4 CONCLUSION

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What lessons can we learn from the cases of the United Autoworkers attempting to organize the US plants of BMW, Daimler and Volkswagen? First, the UAW on its own does not have the strength to organize workers in the southern United States. The three cases examined here illustrate this. The UAW has never undertaken a serious attempt to organize BMW in Spartanburg because success would not be possible without help from Germany and it was clear that such help would not be coming. The UAW was only able to win a recognition election for a bargaining unit with 164 skilled mechanics in Chattanooga in the wake of substantial help from IG Metall and Volkswagen's works councils. Evidence beyond the three cases examined here also substantiates the claim. The UAW has failed on numerous occasions to organize Japanese-owned facilities in the South, but was able to organize Daimler truck plants in North Carolina with the help of IG Metall and the Daimler works council. So, help from abroad is a necessary component of successful organizing of foreign-owned vehicle assembly plants in the Southern United States.

Second, the cases of MBUSI in Vance, Alabama, and VW-Chattanooga show that help from abroad is *not* sufficient for success in organizing foreign-owned vehicle assembly plants in the United States. The MBUSI case shows us that a resolute employer can successfully forestall unionization with an effective set of tactics. The combination of high wages and a position of negative neutrality with regards to unionization has proved sufficient to keep out the UAW, even when the autoworkers union has had substantial assistance from IG Metall, the Daimler enterprise works council and World Employee Committee.

Third, the Volkswagen case illustrates that organizing is difficult in the southern United States even when the UAW union has support from employee organizations from abroad and the company is open to unionization. Anti-union forces, both at the regional and national levels, intervened in the Chattanooga organizing drive. By all accounts the efforts of these groups had an effect. In a close vote, like the one in Chattanooga, external intervention by anti-union political forces can tip the balance between winning and losing. It is worth noting that Tennessee politicians and anti-union groups from Washington, D.C., hardly intervened in the organizing campaign of the Volkswagen Chattanooga skilled mechanics, which proved successful.

Fourth, incompatibilities between the organizational structure and jurisprudence of the United States and Germany make cooperation difficult. Specifically, the interpretation of Section 8(a)(2) requiring a workplace to have a union in order to have a works council and that the works council be a product of collective bargaining makes it very difficult to have a works council in the United States that is truly autonomous from a union. German works councilors may simply have to accept a second-best solution from their perspective, namely, a works council that is dependent on a union to a considerable degree.

Last but not least, the UAW leadership's decision to rely primarily on building a close relationship with Volkswagen management to achieve union recognition rather than on developing strong grassroots in the Chattanooga community proved to be a costly mistake because if left the union excessively dependent on the company. Consequently, when management refused to accept card-check recognition of the union after the February 2014 recognition election, UAW officials did not have a sufficient powerbase to force VW-management to change the decision.

Should German employee organizations continue to invest time and effort into the organizing drives in the southern United States? Based on the evidence presented here, the answer is yes, despite the modest results to date. On 18 November 2015, UAW and IG Metall leaders announced a new strategy for the southeastern United States (*Times Free Press*, 18 November 2015). The two unions plan to cooperate closely to organize German-owned auto parts suppliers. There are currently scores of German auto parts suppliers in the United States employing approximately 100,000. Most are located in the southeast. The cooperation agreement includes IG Metall sending a union official to work full time with the UAW on the organizing effort. Organizing drives at the German parts suppliers resemble most closely the successful organization of the VW Chattanooga skilled mechanics. The size of the workforce at the factories of individual German parts suppliers would be comparable in most instances to the size of the bargaining unit for the VW skilled mechanics. These smaller plants are less likely to attract the attention of state politicians and national anti-union groups because of the smaller size and, unlike the cases of BMW, MBUSI and Volkswagen, there are no state subsidies involved.

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Over the past three decades, all three German automobile producers (BMW, Daimler, and Volkswagen) have built production facilities in the United States. Despite the similarities among the firms when it comes to collective employee representation in Germany, the employee-relations practices of each firm differ markedly in the United States. In all three cases, however, the UAW failed to achieve union recognition. The Volkswagen case, in particular, illustrates the considerable challenge involved in trying to reconcile two quite different national systems of collective employee representation.

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