



**NATIONAL RIGHT TO WORK LEGAL DEFENSE FOUNDATION, INC.**  
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Mark Mix, *President*

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Monday, November 17, 2014

Secretary Thomas E. Perez  
U.S. Department of Labor  
Frances Perkins Building  
200 Constitution Ave., NW  
Washington, DC 20210

Re: LMRDA Requires IG Metall and Group Works Council Disclosure

Dear Secretary Perez:

The U.S. Department of Labor is ignoring high-profile public activities by labor union officials that trigger Labor-Management Reporting and Disclosure Act (LMRDA) reporting requirements. United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) union officials, IG Metall (IGM) union officials and Volkswagen Global Group Works Council (GWC) officials have made agreements and coordinated actions to unionize employees at the Volkswagen plant in Chattanooga, TN, activities which clearly trigger LMRDA disclosure and reporting requirements.

When introducing the LMRDA, then-U.S. Senator John F. Kennedy promised the public that the LMRDA would among other objectives:

- Require comprehensive and detailed disclosure of union financial data to members, the press, and public and law enforcement agencies.
- Prohibit persons convicted of serious crimes from serving as union officers.
- Force full reporting by union officers on any personal conflict-of-interest transactions.
- Require public financial reporting of the operations of Shefferman-type middlemen; and prohibit the channeling of bribes and improper influence through such middlemen.

The LMRDA provides no exemption from reporting because the particular “labor organization,” “labor persuader,” or “employer” is headquartered outside of the United States. However, if the U.S. Department of Labor fails to act, UAW union officials, IG Metall union officials, Volkswagen Global Group Works Council officials, and Volkswagen may receive *de facto* immunity for their possible violations of the LMRDA’s criminal and civil protections.

The LMRDA unquestionably requires reports from all “employers,” “labor organizations,” and “labor persuaders.” Given their extensive involvement and organizing activities at the Volkswagen plant in Chattanooga, TN, the labor union IG Metall and the “employee

representation committee” known as the Volkswagen Global Works Council are, at a minimum, either “labor organizations” or “labor persuaders” or “labor relations consultants” as defined by the LMRDA.

29 U.S.C. § 402(i) states that “**labor organization** means a labor organization engaged in an industry affecting commerce and includes **any organization of any kind**, any agency, or employee representation committee, group, association, or plan **so engaged in which employees participate and which exists for the purpose, in whole or in part**, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization, other than a State or local central body.” [Emphasis added]

The term “labor persuaders” is not specifically defined by the LMRDA, but is common shorthand for any person qualifying under 29 U.S.C. § 433(b), which governs “Persuasive activities relating to the right to organize and bargain collectively; supplying information of activities in connection with labor disputes; filing and contents of report of agreement or arrangement.” That subsection requires detailed reporting from:

Every person who pursuant to any agreement or arrangement with an employer undertakes activities where an object thereof is, directly or indirectly—

(1) to persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing; or

(2) to supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding[.]

29 U.S.C. § 402(d) defines “person” to include one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under title 11, or receivers.

These statutes require IG Metall and the GWC to provide LMRDA disclosure reports because of the following activities in which they have engaged at the Volkswagen plant in Chattanooga:

1. Both organizations have actively engaged in an industry affecting commerce for more than a year. They have done so by providing support, assistance, campaign material,

manpower and advice to the UAW as it attempts to organize the Volkswagen workers. Obviously, the employer, Volkswagen of America, Inc., is a non-government entity actively engaged in an industry affecting commerce.

2. Both IG Metall and the GWC exist in whole or in part to deal with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.
3. As early as April 12, 2013, IG Metall and the GWC attempted to persuade Volkswagen employees in Chattanooga to join the UAW, a labor organization.
4. As early as April 12, 2013, IG Metall and the GWC attempted to persuade Volkswagen to voluntarily recognize the UAW and begin negotiation of a monopoly bargaining contract that would control the working conditions of the aforementioned employees.
5. On or about April 12, 2013, IG Metall, a GWC official and UAW published "Co-determining the Future. A new labor model," and distributed it to Volkswagen employees in Chattanooga. This publication included the following:
  - a. IG Metall has been intimately involved with the UAW's efforts to unionize Chattanooga Volkswagen employees; IG Metall's most important task in Germany is to negotiate collective agreements for its members;
  - b. IG Metall is supporting the UAW's efforts to unionize Chattanooga Volkswagen workers;
  - c. IG Metall and the Volkswagen Group Works Council have been cooperating with the UAW for a long period of time in order to support these efforts;
  - d. In recent years IG Metall has had its representatives visit Chattanooga in order to hold meetings with the UAW in the United States with the goal of unionizing the Volkswagen Chattanooga workers and others in the U.S., including visits by Mr. Frank Patta, General Secretary of Volkswagen European and World Group Works Council, and tele-meetings with IG Metall International Director Horst Mund;
  - e. Because in the United States only a labor union can negotiate with an employer to define the scope of work and other conditions, IG Metall has strongly recommended that the Volkswagen Chattanooga employees decide that the UAW should represent them;

- f. The UAW, the Volkswagen Works Council and IG Metall have been collaborating and strategizing for many years with a goal of unionizing the Volkswagen workforce in Chattanooga;
  - g. The Volkswagen Works Council and IG Metall have made substantial contributions to the efforts of the UAW to organize Chattanooga Volkswagen employees, including the aforementioned visits; Representatives from Chattanooga have been sent to Global Works Council meetings in Germany, including employee representatives from plants around the world who meet with the management of the Volkswagen Group, covering topics such as development of working conditions, cost structures, internal supplier relationships, development of company social benefits, new production technology, and health and safety issues. Between meetings, Volkswagen Group management informs the Global Works Council of planned transfer of work, scope of production and the location of significant company functions;
  - h. That employees should select the UAW so that they can collectively-bargain a legally-binding contract, and the UAW could also bargain a formal grievance procedure;
  - i. Without a union, employees cannot have a Works Council, and VW Chattanooga will remain stuck as the “odd one out” amongst all union-represented Volkswagen plants; and
  - j. Employees were urged to join the Leadership Council. The Leadership Council is the large group of Volkswagen workers dedicated to forming a UAW local and local works council in Chattanooga.
6. In September 2014, officials from UAW, IG Metall and GWC signed a “9 September Letter of Intent” (see enclosed “loi-english-version-092614”) that includes the following goals and intentions:
- a. to organize Volkswagen’s Chattanooga, Tennessee operations as a UAW-represented facility;
  - b. to begin the process of formation of a local works council that would participate with other works councils internationally to control employees’ wages and working conditions;
  - c. founding of a UAW-affiliated local union in Chattanooga;

- d. representation of UAW members in dealing with Volkswagen in Chattanooga
- e. seek a collective bargaining agreement with Volkswagen;
- f. provide help and advice to members (e.g., on employee rights, social legislation);
- g. develop contacts with other Volkswagen, GWC and IGM structures in the U.S. and around the globe;
- h. UAW, IGM and GWC each to provide personnel to work on joint UAW/IGM/GWC activities;
- i. establish a Joint Communication Plan among UAW, IGM and GWC; and
- j. obtain exclusive representation status over all Volkswagen employees and ultimately obtain voluntary recognition of the UAW by Volkswagen.

Every "labor organization" subject to the LMRDA must file Form LM-1 with the Office of Labor-Management Standards (OLMS) of the U.S. Department of Labor's Employment Standards Administration within 90 days of becoming subject to the LMRDA. Similarly, every labor persuader shall file a report with the Secretary within 30 days after entering into an agreement or arrangement described in 29 U.S.C. § 433(b).

The statute makes it mandatory that IG Metall and the GWC file appropriate LMRDA disclosure reports immediately. IG Metall and the GWC also need to file LM-2 or LM-3 reports with the U.S. Department of Labor. In addition to reporting, the LMRDA requires both IG Metall and the GWC follow the proscribed union democracy requirements. Nor, may IG Metall or the GWC have any officers or employees who have been convicted of certain crimes.

It is highly likely that the secret agreements and activities of IG Metall and the Global Works Council have triggered labor persuader rules that require disclosure on Forms LM-20 and LM-21, and the related Employer reporting on Form LM-10.

No matter what analysis the Department uses to review the actions of IG Metall and GWC regarding the VW Chattanooga employees, it must conclude that the two entities have triggered some of these LMRDA disclosure and reporting requirements.

As it stands now, American employees of Volkswagen do not know what inside arrangements exist among UAW, IG Metall, GWC, and VW regarding their coordination and persuader activities, such as bounties and future dues sharing. It is unknown if IG Metall complies with LMRDA-required union democracy rules. Nor do employees who are being targeted for UAW unionization by IG Metall know if any IG Metall officers are unqualified to be union officers due to criminal histories.

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I call on you to immediately use your authorized powers as Secretary to demand Labor Organization reports from IG Metall and the Global Works Council, and order an investigation to determine if union democracy exists and if additional disclosure reports, such as Forms LM-1, LM-20, and LM-21 should be filed by VW Germany, UAW, IG Metall and/or the Global Works Council.

The U.S. Department of Labor should not ignore employees' LMRDA protections.

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Mix", is written over a horizontal line.

Mark Mix

President  
National Right To Work Legal Defense Foundation, Inc.

09<sup>th</sup> of September 2014

### Letter of Intent


International Union United Auto Workers, UAW ("UAW"), IG Metall ("IGM") and the Volkswagen Global Group Works Council ("GWC") (collectively, the "Parties") have signed this letter of intent to jointly commit to cooperative efforts outlined in the attached document (the "Foundation Document") in order to organize Volkswagen's Chattanooga, Tennessee works as a UAW-represented facility and to begin the process of formation of a works council there.

The Parties further agree to develop and come to definitive agreement on detailed terms on the matters outlined in the Foundation Document, including provisions for the joint financing of the project described therein.

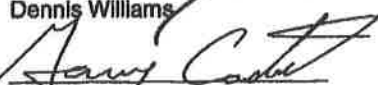
The Parties sign this Letter of Intent in a spirit of solidarity and in recognition of their joint commitment to real co-determination and effective worker representation at Volkswagen's Chattanooga facility and at Volkswagen facilities throughout the world, consistent with Volkswagen's Social Charter, its Charter on Labor Relations and Volkswagen culture.

In Solidarity

For International Union United  
Auto Workers, UAW



Dennis Williams



Gary Casteel

For Global Group Works Council



Bernd Osterloh



Frank Patta

For IG Metall



Detlef Wetzel

## FOUNDATION DOCUMENT FOR EFFECTIVE WORKER REPRESENTATION AND CO-DETERMINATION AT VOLKSWAGEN CHATTANOOGA

### Preamble

Consistent with Volkswagen's Social Charter, its Charter on Labor Relations and Volkswagen culture, International Union United Auto Workers, UAW ("UAW"), IG Metall ("IGM") and the Volkswagen Global Group Works Council (the "GWC") (collectively, the "Parties") jointly support and adopt twin goals for Volkswagen's Chattanooga plant: (1) providing workers a choice free of interference for effective worker representation by UAW at Chattanooga and (2) the establishment of an effective co-determination structure for Chattanooga workers. This Foundation Document is based upon the Parties' joint premise that – given a free choice and with the solidarity of both IGM as well as the GWC – UAW members and supporters at Chattanooga will organize and continue their trade union activities and, once having organized, these workers and all Parties will work together to establish appropriate co-determination structures for Chattanooga. The Parties further believe that worker representation and co-determination at Chattanooga must be fully integrated with worker representation and co-determination structures in place at most Volkswagen facilities throughout the world.

To carry out these goals, UAW, IGM and the GWC agree to the following program points, which they will further develop in the coming months:

### Founding of a Local in Chattanooga

- o UAW International Executive Board has chartered Local Union for Chattanooga
- o Local's initial goals will include the representation of its members in dealing with Company and organizing non-members to join the Local Union
- o Local's fundamental goal is to gain majority membership status so that UAW may seek exclusive representation status through company recognition
- o From Day One, Local's members will have full membership status with UAW, and the Chattanooga Local Union will thus establish normal UAW bylaws and elect a complete roster of Local Union officers from among those who choose to join the UAW

### Legal Protection

- o Section 7 of the National Labor Relations Act gives the "right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection..."
- o This basic legal protection includes the right to join a members-union, and for that union to deal with the employer, without regard to whether the union has majority support



- o A members-union that has majority support can bind all employees; a member-union that has less than majority support can only bind its members in dealing with the employer

#### Modalities of Membership (how does one become a member?)

- o Membership in a UAW Local Union is governed by Article 6 of UAW's Constitution
- o Article 6 simply requires that to be eligible for membership an applicant must be "an actual worker in and around the workplace"
- o Workers obtain membership in the members-union simply by signing a membership card affirming their union membership
- o UAW policy is that dues are not payable until a first collective bargaining agreement is negotiated and ratified by the Local Union membership

#### Examples of Activities and Tasks of the Local

- o Recruiting members
- o Maintain permanent contact with the members
- o General help and advice to members (e.g., on employee rights, social legislation)
- o Offering courses on national and international issues
- o Offering qualification measures on co-determination and the dual model
- o Boosting political presence of UAW/IG Metall in the region
- o Engaging in community/region through sponsorships, fundraising, volunteering
- o Public Relations (Volkswagen employees, local media)
- o Addressing topics brought up by employees/members
- o Offer further services, e.g. legal protection
- o Developing contacts with other Volkswagen, GWC and IGM structures

#### Staffing/Support by UAW, IG Metall, GWC

- o GWC provides information on Volkswagen
- o Closer linking to the GWC
- o IGM provides assistance in setting up UAW Local Union
- o Joint management and funding of IGM/UAW training program
- o Germany-US Internship program involving GWC, IGM and UAW
- o UAW, IGM and GWC each to have dedicated personnel on joint UAW/IGM/GWC activities, ideal would be a temporary representation in Chattanooga
- o Joint Communication Plan among UAW, IGM and GWC

#### Notice to the workers

- o UAW membership cards do not expire; members are free to resign membership at any time but absent resignation members retain membership
- o UAW's plan is for long term presence in Chattanooga, and the development of innovative representation structures and effective worker co-determination

- o UAW goal to obtain exclusive majority status and recognition of this by Volkswagen

#### Interpretation of the Letter of Intent

- o When interpreting this Letter of Intent, the German language version applies in the case of doubt.