# The Diffusion Thesis?  EU governance in the social policy field

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## Abstract
The paper examines European Union governance in the social policy field, looking in particular at the following sub-issue areas: health and safety policy, the social dialogue process, and the European Employment Pact (EEP).  The quality of governance in these sub-issue areas is assessed using the indicators suggested by Wolfgang Wessels's fusion thesis: binding outputs, institutional growth, procedural differentiation, the presence of intermediary groups, and the transfer of competencies.  This paper suggests that the fusion thesis needs to be complemented by further indicators in order to assess the quality of governance.  These further indicators are: the articulation of common objectives and values at the EU level, the spread of common objectives and values both downwards to the member state level and upward to the global level, and the implementation of policies with common objectives. These indicators assess the level of diffusion in a policy area, defined as the spread of policy objectives and instruments from the center to other areas, in this case from the EU to member states and to the global level.  The 'diffusion thesis' acts, therefore, as both an extension of, and as a supplement to, the fusion thesis.  The paper illustrates that different levels of both fusion and diffusion exist in the sub-issue areas of social policy.  Health and safety policy has a high degree of fusion, but recent framework directives illustrate that diffusion may be much lower than might be expected. The social dialogue exhibits high levels of both fusion and diffusion, but only along narrow, issue-specific bands.  The EEP possesses low levels of fusion but high levels of diffusion. EU governance in the social policy field indicates that integration cannot be captured by measuring binding outputs, or even by the proliferation of actors and institutions at the EU-level, but must be accompanied by an assessment of normative indicators and their application in member states.

## Introduction: Complexity and Coherence

The European Union's agenda for policy-making in the social field is growing and deepening, as demonstrated by the extension of QMV in successive treaties, the institutionalization of the social dialogue, the inclusion of an Employment Title in the Treaty of Amsterdam, and a new European Social Agenda approved by the European Council in Nice. Initiatives such as the Luxembourg Process on employment and single market reforms concerning pensions add further flesh to the bones of Treaty provisions and high-level statements.

A catalogue of social policies at the EU level gives some hint of the increasingly complexity of EU governance in this field. Exploring specific sub-issues of EU governance in the social policy field—health and safety legislation, the social dialogue process and the European Employment Pact and associated 'processes'—enriches our understandings of specific modes of EU governance, namely governance by harmonization and framework directives, by negotiation, and by the open method of coordination. How do the modes of governance in these sub-issue areas compare to the 'Community method' of governance (Wallace 2000)? Perhaps most interestingly, why do we see such variance *inside* the social policy field, with different sub-issues diverging widely in their institutional and decision-making structures?

This paper suggests that complexity and variance across issue areas may be explained by the tension between the need for efficiency and the desire for democratic forms of decision-making (Scharpf 1999). The proliferation of modes of governance has occurred as policy-makers confront the dual challenges of creating common EU rules, thus limiting competition on the basis of specific social policies, and ensuring democratic oversight, thus legitimizing these rules. Sub-issue areas have created different institutional configurations to answer the dual challenge contained in projects involving positive integration (Scharpf 1988; Scharpf 1996).

A second theme to be explored may be termed 'coherence.' Recent Commission working papers on European governance suggest that improving coherence—the convergence of national and EU institutions and policies towards similar goals, values and outcomes—is one of the main objectives of a review of EU policies (Communities 2000; Lebessis and Paterson 2000). Coherence is complicated, however, by the sharing of competency. In the social policy field responsibilities "are not neatly divided between country and European arenas, but rather…waver between the two" (Wallace 2000, p. 43). Coherence, then, may be interpreted along several dimensions—inside a policy area, across policy areas where policy-making is interdependent, and also across member states, and between EU and global-level institutions.[1] How do the various modes of governance in the EU social policy field attempt to achieve coherence?

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[1] Other authors have described such questions as ones of 'congruence' between EU and member state governance (Eising and Kohler-Koch 1999). Still others have talked about the goodness of 'institutional fit.'

This paper will suggest that coherence is achieved by the diffusion of common objectives and values from the EU to other levels of governance. The diffusion of common objectives and values, or the *process* of diffusion  is marred, however, by varying levels of implementation across member states, and the weaker diffusion to the global level. Diffusion in the social policy field must be seen, therefore, as a long-term project, especially along its *outcome* axis.

The two themes, and challenges, of complexity and coherence could be said to be universal for all areas of EU governance. The strains of institutional complexity and the demand for coherence despite the proliferation of actors and the involvement of multiple levels of governance stretch across policy areas. This paper concentrates, therefore, on answering the question 'why are different forms of governance used in EU social policy, and among different sub-issues of social policy?' The answer, as suggested by this opening section, is contained in the need for both democratic and legitimizing forms of governance at the EU level, and the desire for greater coherence both in terms of objectives and outcomes across levels of governance. Importantly, resolving the tensions of positive integration and coherence have resulted in different divisions of competency, decision-making, oversight and implementation between EU and national levels in the social policy sub-issue areas to be examined.

## Theories of integration and EU governance in the social policy field (or, coming out of the closet about my 'theoretical orientation')

Empirical examinations of modes of governance in the EU have theoretical implications, whether these are explicit or not. A working *definition* of governance as the structured ways and means in which divergence preferences are transformed into enforceable policy choices (Eising and Kohler-Koch 1999) may seem theoretically neutral, but the *method* used to identify and assess the quality of governance will have theoretical biases and implications.

An examination of EU governance in the social policy field indicates that no one theory of integration holds at all times. Such an observation is common sense at best, and an unnecessary statement of the obvious at worst, but permits movement towards a set of far more interesting propositions. These propositions relate to the refinement of theories of integration that are suggested by this study.

On first glance, EU governance in the social policy field closely resembles the state of decision-making described by the 'garbage can' model (Mazey and Richardson 1996). While individual sub-issue areas of social policy making have developed some stable decision rules, the policy-making process in social policy at the EU level is still highly unpredictable with uncertain agendas and complex decision-making coalitions (Mazey and Richardson 1996, pp. 42-42). Decision making in the social policy field cannot be described with one label, such as 'intergovernmentalism' (Moravcsik 1997; Moravcsik 1998) or 'supranationalism' (Sandholtz and Stone Sweet 1998), but rather varies between sub-issue area and even during different aspects of the policy-making process. It is thus more fruitful to orient the discussion to a process-oriented theory that,

ultimately, avoids assigning responsibility to one or the other levels of governance and that remains open-ended. This is because governance in the social policy field sits, at present, at an awkward divide between both member states and the EU, and between modes of governance that are largely regulatory, and yet have redistributive consequences.

This study of governance in the social policy field has been greatly influenced by Wolfgang Wessles's fusion thesis. The term 'fusion' is used in this theory in a precise way—to delineate administrative fusion of the national and EU levels. The interaction and mutual influence of EU and national institutions leads to the 'Europeanization' (or 'EU-ization' perhaps more accurately) of national institutions (Rometsch and Wessels 1996). The theory is more subtle, however, than may first appear as it recognizes that such an analysis must accommodate variation both between government institutions or departments, and between member states. The fusion thesis posits two distinct forms of institutional and policy growth. **Horizontal fusion** creates "an institutional set up on the European level bringing together core actors from several institutions, networks and bodies" in a form of "collective governance." The other form is **vertical fusion**, in which member states "merge their national resources with EC instruments." (Rometsch and Wessels 1996; Wessels 1997; Linsenmann and Wessels 2001). According to Wessels and others, fusion is identifiable using the following indicators: binding outputs, scope enlargement of public policies, transfer of competencies, institutional growth and procedural differentiation and the growth in the number of intermediary groups and access points.

Research in the social policy field, especially on the European Employment Pact (EEP) and the use of the open method of co-ordination (OMC) in EU-level employment initiatives, suggests the importance of other indicators. These indicators are: the articulation of common objectives and values at the EU level, the spread of common objectives and values both downwards to the member state level and upward to the global level, and the implementation of common objectives. Taken together these indicators suggest **diffusion**, in which member states articulate problems and objectives in common at the EU level and use EU-level institutions to provide policies or guidance that are then transmitted and implemented at other levels of governance. Diffusion thus spreads policy objectives from the center to other areas, in this case from the EU to member states and the global level.

The diffusion thesis view of the articulation in common of values and objectives, and the spread of these values, thus extends the fusion thesis view of structural growth and differentiation in the EU (Wessels 1997, p.267). The diffusion thesis acts, therefore, as both an extension of, and as a supplement to, the fusion thesis. Importantly, by identifying indicators, the fusion and diffusion theses suggest ways of measuring complexity and coherence in governance that, because they are embedded in a process-orientated and open-ended theory of integration, orient the investigation beyond the supranational versus intergovernmental theoretical debate. The chart below sets out the variables that may be associated with the fusion and diffusion theses which will be used

to orient subsequent sections which explore three sub-issue areas of EU governance in the social policy field.

*Qualities of Governance and their indicators*

| Quality of governance | horizontal fusion: the institutional set-up | Vertical fusion: the merging of national and EU resources | Diffusion: The spread of common values and objectives |
|---|---|---|---|
| Indicators | -institutional growth -procedural differentiation -bringing together core actors -creation of binding outputs | -transfer of competencies to the EU level -presence of common intermediary groups or core actors at the different levels of governance | -articulation of common objectives and values -spread of objectives and values to other levels of governance -implementation of policies with common objectives |

What follows is an examination of several sub-issue areas in the social policy field—health and safety, the social dialogue process and the European Employment Pact (EEP). This analysis will examine each sub-issue area by assessing how fusion and diffusion work together to define the quality of governance in that sub-issue area, as well as suggesting how the sub-issue areas resolve the demands for efficiency and legitimacy. Although the fusion thesis was originally designed with a "macropolitical approach" in mind, the indicators it identified are relevant to a sub-issue area analysis (Wessels 1997, p. 267). One of the overarching themes of the fusion thesis, namely the identification of the enlarging scope of public policies conducted at the EU level, cannot be assessed unless all of these sub-issue areas are considered against the backdrop of EU governance writ large. The concluding section will thus return to the macropolitical perspective, and explore the differentiation between modes of governance in the social policy field, and between social policy and other areas of EU rule-making and enforcement.

## Health and Safety: governance by harmonization

*Horizontal and Vertical Fusion: the institutional set-up and competencies*

The improvement of living and working conditions has been a central goal of the EU since its inception. Given the importance of health and safety standards to the coal and steel industries, the industrial base of the EU's largest member state (Germany), and the technical and therefore largely apolitical nature of health and safety standards, the issue would seem to have been ripe for legislation from an early date. However, there was no explicit basis in the Treaty of Rome that permitted Commission involvement in health and safety. The Social Action Plan of 1974 identified health and safety as one of its priorities, and included an Action Programme for Health and Safety (OJ 74/C13 1). Using Article 100 (Approximation of Laws for the proper functioning of the common market), and under unanimity decision-making rules, several directives were passed regarding occupational exposure to asbestos, lead and noise. The success of legislation in this area, unlike other areas of social policy in the 1970s, was an indication of the

unwillingness of member states "to permit labour market competition on the basis of lower health standards" (Addison and Siebert 1997, p. 11). The European Foundation for the Improvement of Living and Working Conditions was established by the Council in 1975, with the aim of promoting and establishing the improvement of living and working conditions.

The Single European Act (SEA) of 1986 introduced the option of decision-making using qualified majority voting (QMV) for the first time in the Community, and to health and safety legislation in particular. Member States were charged by Article 118A of the SEA (now Article 137) to "pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers, and shall set as their objective the harmonization of conditions in this area" (ECSC-EEC-SEA 1987). Article 100A(3) of the SEA (now Article 95) requires the Commission "to take as a base a high level of protection" (ECSC-EEC-SEA 1987). The enlargement to Greece, Spain and Portugal in the 1980s, and the desire to reduce competition on the basis of heath standards as the single market progressed, explains the inclusion of a Treaty basis for health and safety. The more developed member states wanted to maintain and export their higher standards to the new members and did not view health and safety standards as a permissible basis for competition in the renewed European market.

Following the SEA a spate of new legislation was created, the most important being the framework directive of 1989 on Health and Safety at Work (Communities 1989). The directive resulted in fundamental legislative changes in several member states regarding the duties of employers to protect the health and safety of workers (Hamalainen, Husman et al. 2000, p. 10). Both the framework directive and subsequent legislation on machinery and display screen equipment go "beyond the regulatory philosophy and practice even of advanced Member States like Germany," introducing such innovative aspects as worker information and psychological factors in the assessment of the working environment (Majone 1993, p. 167). The 1993 Maastricht Treaty and the 1997 Amsterdam Treaty enlarged the scope of EU-level health and safety policy by including references to public health at high levels of health protection.

The main actors in the creation of health and safety standards are national experts who meet in Brussels, and who are chaired by experts from successive EU Presidencies. Importantly, these experts include not only members of government ministries, as significant numbers of experts come from research and development departments of industry and certification bodies (Eichener 1992, pp. 19, 28). These experts inform the Commission, which then prepares legislative proposals. Regulation in this area is thus delegated to specialized groups of experts with technical knowledge. Oversight is given to the European Parliament, which has co-decision in this area, and legislation is approved by QMV in Council.

*Diffusion: values, objectives and implementation*

The promotion of common health and safety standards has been described as a process of "maximalist harmonization" (Streeck 1996, p. 77) in highly technical areas that prevent competition on the basis of lower standards and which have a "regulatory slant" (Lange 1993, p.10). The technical, economic, and decision-making power of Germany, supported by other member states including the Benelux countries and Scandinavian member states with high health and safety standards, have ensured that social dumping on the basis of health and safety standards would be actively opposed through EU-level legislation. These factors would seem to indicate a high level of diffusion with regards to health and safety standards across EU member states, and indeed even upwards to the ILO where the Council has approved Commission involvement in cases that come "within the exclusive competence of the Community," such as those on the use of asbestos and chemicals at work, although the Commission's involvement has not been uncontested (Frid 1995, p. 295).

There are two factors, however, that dampen diffusion. Firstly, although member states have agreed to articulate problems and objectives in common with regard to health and safety at the EU level, some of the resulting legislation leaves much scope for variance between member states, and levels of implementation remain low. Secondly, much of the resulting EU legislation sets only minimum requirements and uses general technical requirements (and not specific values), such as in the case of the Display Screen Equipment Directive (Communities 1990) (Eichener 1992, p.25). Negotiations for an amended directive on noise also set minimum levels and allow member states to operate within a band of acceptable noise levels. Implementing legislation varies vastly between member states, with countries having detailed legislative structures (Belgium, France, Germany, Luxembourg, Portugal, Spain), framework legislation (Finland, Ireland, Italy, Sweden, UK), or general obligations that are then fleshed out in greater detail by national authorities (Denmark, Netherlands). According to detailed country reports, implementation of the framework directive on health and safety varies widely in the EU, "being available to 25-100% of working people, depending on the country" (Hamalainen, Husman et al. 2000, p. 82).

The European Commission has "seemed to ignore the *de facto*-implementation problems" both because of the lack of across-the-board standards, and because the Commission does not possess the capacity to monitor implementation at the firm level (Eichener 1992, p. 53). Despite the existence of EU-level governance structures that facilitate agreement and the vertical fusion of national-level experts with the EU decision-making process, actual levels of diffusion, especially with regards to implementation, seem to remain weak. The potential for enforcement, and the statement of agreed-upon norms in health and safety at the EU level, offer hope of progress in improving diffusion in this sub-issue area.

*Summary of the quality of governance in Health and Safety*

| Quality of governance | horizontal fusion: the institutional set-up | Vertical fusion: the merging of national and EU resources | Diffusion: The spread of common values and objectives |
|---|---|---|---|
| Indicators | -procedural differentiation: yes, QMV -bringing together core actors: yes, policy-making by expert communities -creation of binding outputs: yes- directives | -transfer of competencies to the EU level: yes, clear delegation of authority to EU level -presence of common intermediary groups or core actors at the different levels of governance: yes, national experts formulate EU policy | -articulation of common objectives and values: yes, health and safety as a common goal -spread of objectives and values to other levels of governance: yes, to both national and global levels -implementation of common objectives: varies greatly |

## Social Dialogue: Governance by negotiation

*Horizontal and Vertical Fusion: the institutional set-up and competencies*

The formal inclusion of social partners in EU decision-making had been a goal of the European Commission since the 1970s. The Social Dialogue as a method of governance had its genesis in Jacques Delors's idea of a "social dimension" for Europe which would involve labour market actors in decision-making regarding the workplace. The 1986 SEA gave the Commission the mandate to develop the social dialogue, resulting, for example in DG V consultations with professional groups on education, training and labour market issues that began in 1989 (Ross 1995, pp. 43,45). During the negotiations of the 1991 IGC the Commission put forward two proposals to involve the social partners—labour and employer representatives—in EU decision-making and legislation. The first was a non-paper that permitted the Commission to recommend that framework agreements become legally binding across the EU. The second was a Commission proposal that would lend the threat of EU-level legislation, proposed by the Commission and negotiated by the member states using a traditional Community method of debate and bargaining, to motivate the social partners to negotiate such framework agreements (Ross 1995, p. 150). Tripartite negotiations and the role of social partners had been established practice in several EU member-states (Germany, Denmark, Sweden, Austria) and had experienced a resurgence or birth in the 1990s in many others (Belgium, Spain, Ireland, Italy, Greece, Finland, Portugal, Netherlands) (Pochet 1999, p. 11).[2] Further, several member states were eager to augment the social dimensions of the Community in light of EMU and institutional reforms (Lange 1993, p. 8). Member states

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[2] Although Austria, Finland and Sweden were not in the European Union during the 1991 IGC negotiations it is worthwhile to note their corporatist and social democratic labour-employee relations, and their familiarity with tripartite negotiating structures. Their national level institutions facilitated an ease of adaptation to the social dialogue upon accession.

in favour of a more robust social dimension were Belgium, France, the Netherlands, Germany, Italy, Denmark, while opposing them was the UK (Ross 1995, p. 150).

In October of 1991 the EU-level social partners, ETUC (trade unions), UNICE (employers), and CEEP (public enterprise), met in order to agree on how the role of the social partners could be strengthened in the EC Treaty, and to draft proposals for social legislation that were eventually incorporated into Article 118 of the Maastricht Treaty (Falkner 1999, p.88). The innovation of QMV in the Community method of decision making, and the threat of Commission legislation under QMV which would reduce veto opportunities and on such issues as working conditions, spurred the employers confederations to develop an alternative governance structure (Falkner 1999, pp. 89,94). The Social Dialogue as a method for EU-level decision making was institutionalized in Articles 3 and 4 of the Social Agreement which was annexed to the Protocol on Social Policy. The UK, while a signatory to the Social Protocol, was not a member of the Social Agreement until the Labour government of Tony Blair signed-on to the Agreement in 1997.[3]

The Social Dialogue Articles in the Social Agreement outline two distinct processes. The first gives the Commission the task of promoting the consultation of management and labour at the EU level during the formation of social policy proposals (Article 3). The second permits management and labour to inform the Commission of their wish to negotiate at the EU level to produce binding agreements under explicit time limits. These agreements are implemented either by corporatist arrangements in the member states, or by a Council decision agreed upon by QMV or unanimity, depending on the issue (Article 4) .

The Social Dialogue thus represents the creation of corporatist structures at the EU level and empowers a whole new set of actors, namely unions and employer confederations. The process under Article 4 rests on the existence of national-level social partners that are both willing and able to enter into negotiations as a collective. Vertical fusion of national labour and employer representatives into EU-wide coalitions is required, but only on in issue-specific cases. The governance by negotiation created by Article 4 of the Social Agreement is autonomously conducted by EU-level social partners, with no role for national governments, and with only technical and legal support from the Commission, if requested. The Parliament does not have any formal role in the Social Dialogue.

In practice the Social Dialogue method has shown mixed results. The drawn-out process of negotiations on European Works Councils (EWC) was marred by British partners reluctance to negotiate, and was eventually legislated through a Council Directive (Falkner 1999, p. 92). A 1996 framework directive on parental leave guaranteed three months leave after the birth of a child. This legislation represented a significant improvement for working mothers in member states with low standards, such as Ireland, and even resulted in changes for employers from more advanced member

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[3] The legal nuances between the EC Treaty, the Social Protocol and the Social Agreement are complex. For a detailed discussion see (Addison and Siebert 1997; Deakin 1997).

states like Sweden, which were now required to allow mothers time off before birth, and not simply afterwards. The framework agreement on fixed-term work of 1999 was an agreement at "a very low level" from a union standpoint, that does not set "a definite European minimum standard" but leaves "the level of protection to the discretion of the member states" (Ahlberg, Bercusson et al. 1999). Despite the desire for provisions that would oblige employers to have "an objective ground for offering workers a fixed-term contract instead of an open-ended one" there are no such limitations in the directive (Ahlberg, Bercusson et al. 1999, p.31). The social partners did not abandon the process, despite low levels of agreement on substantive issues, because of uncertainty regarding Commission intentions to legislate should the talks have broken down, and concerns that another failure would have jeopardized the continued existence of the Social Dialogue method (see Clauwaert in Ahlberg, Bercusson et al. 1999)

*Diffusion: values, objectives and implementation*

The Social Dialogue empowers national social partners to negotiate at the European level. The process encourages the formation of EU-level coalitions of employers and workers, and supports the development of social partners in member states where the corporatist tradition is weak (Greece, Portugal) or has been rejected as a method for developing national legislation (UK). This organizational and practical development may be described as a form of vertical fusion, with national-level governance delegated not the EU proper, but to EU-empowered structures that operate under the guidance of the Commission and under the threat of EU legislation. In addition, there exists a normative process that encourages the Social Dialogue method, thus diffusing the objective of social partner negotiation across the EU and member states.

The process of normative diffusion was given a huge boost by the Delors Presidency, which named and developed the social dimension as an objective for EU legislation. In Delors's view, the social dialogue was a method of reconciling the liberalization of the Single European Market (SEM) initiative with solidaristic views of social organization. Negotiating among social partners was a means to active, flexible forms of organization and policy-making at the EU level that, fundamentally, retained social and national legitimacy (Ross 1995, p. 243). The use of EU-level bargaining led by the social partners was "accepted as a principled idea with high normative validity...even by those member states whose economic interests in a narrow sense were against strengthened social regulation and whose national political system had no corporatist culture" (Falkner 1998, p. 202). This is because of the legitimacy leant to negotiations conducted by social partners. Despite the difficulties of promoting social partners to negotiate at the EU-level on logistical and efficiency grounds, the policy outcomes of the process are seen as acceptable given the broad consultation and participation the process engenders.[4]

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[4] Importantly, the Social Dialogue process privileges organized workers over the unemployed and also gives only a minor and non-binding oversight role to national and EU Parliaments. There may thus be other legitimate interests that do not have equal or even guaranteed access to the process. Still, the outcome of the Social Dialogue is largely seen as legitimate because of broad union and employer

Despite the success of diffusion regarding the normative importance of including social partners in social governance, there are two caveats to this assertion. One is the importance of national governments in enabling the process. The ability of the UK to opt-out of the Social Agreement under the Conservative leadership of John Major illustrates that workers and employers may have their access to EU-level institutions curbed or prevented by national governments.[5] The second caveat concerns the diffusion of values regarding the right of association, the right to strike and the right to impose lock-outs, all of which are covered by ILO legislation but which member states have refused to translate into EU legislation. While this second caveat concerns issues which go well beyond a consideration of the Social Dialogue, the limitations placed on EU-level legislation, whether by the Community method or social partner negotiation, indicate that levels of normative diffusion are tested by the enforcement capabilities of the levels of governance which are empowered to act on various sub-issue areas.

The lack of EU-level legislation, and thus enforcement, in key areas questions the robustness of value diffusion on even the most basic of worker rights. Those areas which remain outside of the Social Dialogue and QMV method of decision making and which continue to be subject to unanimous decision-making, such as social security and access to employment promotion schemes, exist under much weaker conditions of diffusion. The identification of narrow bands of vertical fusion between national level institutions and the EU with regards to worker and employer representation, and the diffusion of the value of social partner method for developing legislation on specific issues, should not be writ large on the social policy process, or on worker rights in the EU.

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participation and because national structures also have difficulties with the representation of the unemployed and Parliamentary oversight, especially when negotiations are to be conducted autonomously.
[5] In an interview with John Major he stated his reasons for rejecting the Social Agreement were internal structural ones, and his concern for the "seventeen million people [who were] unemployed right the way across Europe" who would suffer from employer reluctance to create new jobs in light of "extra burdens" (interview with John Major, October 2000).

*Summary of the quality of governance in the Social Dialogue*

| Quality of governance | horizontal fusion: the institutional set-up | Vertical fusion: the merging of national and EU resources | Diffusion: The spread of common values and objectives |
|---|---|---|---|
| Indicators | –institutional growth: yes, new representative bodies empowered at the EU level<br>–procedural differentiation: yes: negotiation<br>-bringing together core actors: yes, formation of EU-level worker and employer coalitions<br>-creation of binding outputs: yes, still much national variation, and some negotiations have failed | -transfer of competencies to the EU level: yes, not to the EU institutions but rather to the social partners<br>-presence of common intermediary groups or core actors at the different levels of governance: yes, national level groups empowered at the EU level | -articulation of common objectives and values: yes, common use of social partners<br>–spread of objectives and values to other levels of governance: downwards to member state, but not to global level<br>–implementation of common objectives: much discretion left to member state level, so common implementation seems weak |

## European Employment Strategy:  The open method of coordination (OMC)

*Horizontal and Vertical Fusion:  the institutional set-up and competencies*

Concerns about employment rates in Europe, especially in relation to other large dynamic economies (read: the United States!), have been voiced in an incredibly rich context in the EU, beginning with the Delors White Paper "Growth, competitiveness and employment" in 1993 (Communities 1993).  The discussion of job creation was held in concert with discussions about competitiveness, productivity, gender equality and union participation.   The Essen Council meeting in 1994 identified priorities for an EU employment policy that should be followed-up by national action.  These priorities included investment in human resources, the organization of work (working time, wages, social security), and targeting groups such as women and the long-term unemployed (Communities 1994).   The discussion of such a broad range of issues occurred parallel to convergence towards EMU and a "renewed attention to negotiated structural reform" (Foden and Magnusson 1999) headed by the social partners, regional actors and national representatives with regard to the distribution of cohesion and structural funds (Hooghe 1996).

The European Employment Strategy (EES) is the title given to the three parallel and inter-connected processes designed at the Luxembourg, Cardiff and Cologne summits of 1997, 1998 and 1999, and the methods of reporting on employment, structural reform and macroeconomic policies refined at the Lisbon Summit of 2000.   The 1997 Treaty of Amsterdam, which entered into force in 1999, includes a Title on Employment which underpins the EES and which provides a legal basis for its processes.  Articles 125-130 of that Treaty call for a "coordinated strategy for employment," using common guidelines and the EU Commission as a monitor of progress.

The Luxembourg Process initiated in 1997, and reinforced in the Employment chapters of the Treaty of Amsterdam, calls for the creation of EU-wide employment guidelines that emphasize priorities and goals for employment policies but not specific policies. Member states then submit annual National Action Plans (NAPs) which outline how the EU employment guidelines are being addressed in the national policy context. The NAPs are reviewed by the Council and the Commission, and they produce a Joint Employment report which reviews both member state and EU-wide progress (Hodson and Maher 2001, p. 4). Recommendations to member states may then be issued, if agreed upon, in the Council. The Title on Employment also called for the creation of an Employment Committee with advisory status, charged with promoting co-ordination (Article 130).

A proliferation of various compositions of the Council, and of Committees, is a feature of the EES and the Luxembourg Process. The Broad Economic Policy Guidelines for the EU are adopted by ECOFIN. Labour and Social Affairs Ministers[6] co-ordinate the production of their respective national NAPs. The European Council reviews the NAPs and produces the Joint Employment Report, and meets once a year under the mandate of discussing progress on employment and social policies. The Economic and Social Affairs Committee, the Committee of the Regions, the Economic and Finance Committee, the Economic Policy Committee of ECOFIN and the specially- created Employment Committee are all to be consulted in the process. Institutional complexity creates horizontal fusion between policy areas by inducing overlapping webs "of institutional interrelationships" (Hodson and Maher 2001, p. 10). Institutional complexity increases interactions between policy fields and EU and national actors, but with a corresponding reduction of transparency.

The emergence of EU governance in employment has thus been part of a broader enrichment of EU-level scope and involvement in macro and micro-economic policy making, with a resulting rise in the kind and numbers of actors involved, but with a limited transfer of formal competencies to the EU level.

*Diffusion: values, objectives and implementation*

The instruments used in this process include drawing up guidelines at the EU level, writing annual national reports (the NAPs), exchanging information and best practices, benchmarking as a way of comparing progress, the use of pilot projects, monitoring of national practices by the Commission, and non-binding recommendations approved by the Council. The Lisbon Summit of 2000 identified the use of these instruments as a new governance method for the EU—the open method of co-ordination (OMC) (Union 2000). OMC is a way of "spreading best practice and achieving greater convergence towards the main EU goals" (Hodson and Maher 2001, p. 3). OMC relies

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[6] Title of national ministries vary greatly across the EU. In the four member states I am examining more closely in my own work, for example, the respective ministries are: the Ministry of Employment and Solidarity (France), The Ministry of Labour and Social Security (Greece), the Ministry of Industry, Employment and Communications (Sweden), Department of Trade and Industry (UK).

on member states to submit to the recommended guidelines, and uses the Commission to monitor and the Council to make recommendations. This form of policy-making has been described as "soft co-ordination" or "soft law" as the instruments are not legally binding on the member states, and only the threat of negative publicity and 'shaming' serve to sanction member state behaviour (Cram 1997, p.4).

The goal of coherence across policy fields is articulated in Article 126 of the Employment Title: "Member states, through their employment policies, shall contribute to the achievement of the objectives referred to in Article 125 in a way consistent with the broad guidelines of the economic policies of the Member States and of the Community adopted pursuant to Article 99 (2)" (1997). Employment policies "must be compatible with the broad guidelines of the economic policies of the EU, namely the EMU" (Blanpain 1998) as articulated by the Broad Economic Policy Guidelines and the Stability and Growth Pact. The implicit message of Article 126 is that policy-making to raise employment levels *cannot* be achieved as a result of initiatives that require large-scale government spending or endanger near-to-balanced budgets, or that endanger price stability by permitting large or rapid wage increases. Coherence across policy fields, namely between the economic and social fields, is thus embedded in the policy process at the EU level by the articulation of common policy goals in the employment guidelines, and by referencing these guidelines to commitments in the fiscal and macro-economic fields.

The 1999 employment guidelines aimed to promote employability, youth employment, entrepreneurship, adaptability of business and their employees, and equal opportunities for men and women (Union 1999). All EU member states submitted reports that addressed how national policies were working to fulfill these guidelines. In 2000 the NAPs were streamlined to report on four "pillars": employability, entrepreneurship, adaptability, and equal opportunities and co-ordinated with the benchmarks set by the Lisbon Summit for the EU in 2010 in terms of employment rates and female employment rates. The 2000 Joint Employment Report noted, for example, that "the promotion of lifelong learning is receiving an increasing response in all Member States," and that "all Member States are giving more emphasis to providing better opportunities for disadvantaged unemployed persons to re-enter the labour market." Individual reports all provide detailed guidance to each member state on its work on the "four pillars" (Union 2000).

The articulation of common values through the EES and EMU is the clearest indicator of normative diffusion across national and EU-level institutions. The acceptance of the "sound money, sound finance paradigm" indicates the spread of common values across EU member states, most clearly amongst those states who comprise the Eurozone. Normative diffusion has implications for the social policy field, namely that labour market policies are increasingly viewed through the lens of EU-wide criteria and in reference to macro-economic considerations at the EU level, rather than in national and political contexts (Goetschy 2000).

Linsernmann and Wessels posit that OMC creates "a European space for discussion, decision-making, and ranking" that is open to a broad range of actors, and that will "reinforce fusion processes in both dimensions [horizontal and vertical fusion]" (Linsenmann and Wessels 2001, p. 15). This may be an overly-optimistic reading of OMC, however, if one interprets OMC as a means for member states to keep full control over the benchmarking and information-sharing process and de-politicize the creation of objectives and policies for employment creation. Actors who remain focused on the national level will see their policy options reduced by the effects of EU guidelines and targets. Parliaments and political parties are rendered largely passive in the present institutional structure, reinforcing the de-politicized nature of the Luxembourg Process. Social partners are also cut out of the Luxembourg process in the objective-formation phase, although they are called upon to provide input into the formation of national action plans (Foden and Magnusson 2000; Goetschy 2000).

Questions regarding the leadership and co-ordination of macro-economic policy making are raised, as are legitimacy concerns. The Luxembourg process privileges the Council over other EU institutions as it assigns an over-all coordinating role to the Council. Legitimacy concerns are answered by pointing to the oversight function of national representatives in the Council, and by noting that OMC does not involve an out-right transfer of competencies to the EU level. The suggestion seems to be that despite "an EC gloss...[OMC is] firmly under control of the member states themselves" (Hodson and Maher 2000, p. 144). However, such an assessment does not indicate which actors are involved *at the member state level*. The involvement of social partners in the formulation of NAPs is one means of addressing legitimacy concerns, but their involvement will vary considerably between member states (Foden and Magnusson 2000). The importance of the social partners as regards increasingly legitimacy must also be questioned given their relative importance in an institutional context of multiple specialist committees.

The Luxembourg process serves to invigorate the vertical fusion of national employment strategies with EU-level governance structures through innovative new instruments embodied in the OMC that emphasis normative diffusion. However, the process also contains elements that dampen vertical fusion by removing decision-making from the contested level of national politics and placing increasing control for the macro-economic policy mix and the development of objectives for policy-making in the hands of a limited number of actors. EU governance in employment has the contradictory outcome of policy coherence and normative diffusion alongside vertical fragmentation of EU institutions from national contexts.

*Summary of Governance in Employment Policy*

| Quality of governance | Horizontal fusion: the institutional set-up | Vertical fusion: the merging of national and EU resources | Diffusion: The spread of common values and objectives |
|---|---|---|---|
| Indicators | -institutional growth: yes, proliferation of Councils and specialist committees -procedural differentiation: yes, emergence of OMC -bringing together core actors: weak, process largely conducted by specialist ministries of the national governments -creation of binding outputs: no, soft co-ordination only | -transfer of competencies to the EU level: mixed, EU oversight and recommendations only. -presence of common intermediary groups or core actors at the different levels of governance: weak, social partners complain of complexity of guidelines (Foden and Magnusson 2000) | -articulation of common objectives and values: yes, through the employment guidelines and linkage to S&G Pact and BEPG check -spread of objectives and values to other levels of governance: yes to state level, not to global level -implementation of common objectives: to date, the spread of common policy orientations has uncertain outcomes |

## Conclusion:   Summary Observations and future research

### *The limits of fusion: Refining the fusion thesis*

The fusion thesis is a valuable investigative tool for examining the growth of EU governance. Most vitally, it provides the researcher with a set of indicators that may be used to assess the quality of governance. This paper suggests that narrow bands of fusion exist in the EU, which bring together national and European administration in certain policy areas. This observation highlights the application of the fusion thesis to the study of individual policy fields in addition to its use on a macropolitical scale. Sectoral analyses that are rooted in a macropolitical awareness also aid in assessing the direction of what Hooge and Marks have called the bigger "project" of the EU towards neo-liberalism or more regulated forms of capitalism (Hooghe and Marks 1999).

The difficulties with using the fusion thesis are suggested by attempts to map the development of increasingly complex social policy-making at the EU level. In order to resolve concerns about legitimacy, legislation has been delegated from purely Community forms of decision making to expert communities (health and safety), national worker and employer groups coalesced at the EU level (Social Dialogue), and to national employment ministries (EES). This has meant an increase in the policy scope and institutional complexity at the EU level, which results in a proliferation of actors and the decline of transparency. However, the problem with EU governance is not transparency, for from a comparative perspective with national governments it rates very highly for access to documents, press releases, and statements of its intended goals and working practices. The problem is that transparency does not resolve fragmented and dispersed responsibility, which ultimately renders democratic oversight and control increasingly difficult. As Wessels and Rometsch have put it "fusion becomes also confusion" since we are increasingly less able to make individual institutions and actors accountable for

their actions; fusion is associated with complexity, heterogeneity and the opaqueness of the decision-making process (Rometsch and Wessels 1996, pp. 364-365). Institutional fusion at the EU level is accompanied by higher procedural complexity, ultimately reducing transparency and accountability (Rometsch and Wessels 1996, p. 365).

Institutional complexity also raises questions regarding the ability of the indicators suggested by the fusion thesis to adapt to new modes of governance. Where should the researcher place OMC on the scale of transfer of competencies? Where should OMC initiatives be placed on a scale of binding outputs? Also, where do we place policy failures or lacunae? How may we indicate where agreement has been prevented or stale-mated, for example in temporary employment contracts or on issues of worker information and consultation? How does the researcher retain sensitivity to national contexts and measure implementation and enforcement?

This paper has suggested that normative diffusion is an additional element that should be investigated by the researcher. Further, this paper suggests that the national implementation of common policies is a necessary addition to a theory that is, to date, more concerned with EU-level outputs.

## The diffusion thesis and EU governance in the social policy field
### Normative diffusion

EMU and the fusion of monetary policy institutions in the Eurozone was proceeded by the common acceptance of a "sound finances and money paradigm...[that became] part of [the] economic beliefs of national policy-makers as a 'collective identity'" (Linsenmann and Wessels 2001, p. 13). The creation of a common 'cultural frame' and a 'common discourse' indicate the importance of the growth of common values in pushing policy transfers to the EU level, even if the transfer of competencies is not as clear and absolute as in the past (Hodson and Maher 2001, pp. 2, 13). As common objectives or dilemmas in the social policy field are identified, such as increasing female participation and financing aging populations, the creation of a common discourse becomes increasingly likely. The identification of common objectives is the start of an iterative process among key élites that creates normative diffusion over time in the context of the collective identity forged by the experience of EMU. Normative diffusion has not yet happened, however, in the case of social security (benefit levels, kinds of benefits, duration of provision) which remains under unanimous decision-making rules at the EU level. What may push diffusion in this area of social policy, and are states outside of the Eurozone to be removed from the extended process of normative diffusion?

The three sub-issue areas examined in this paper suggest that diffusion is promoted by the existence of highly specialized expert communities (health and safety), Commission entrepreneurship (the promotion of social partner involvement at the EU-level in the Social Dialogue), and by the economic dialogue that surrounds EMU (EES). The role of élites, whether they be epistemic communities, labour "insiders," EU-level bureaucrats or national ministries, is key to all three processes. When underpinned by institutional mechanisms such as QMV decision-making rules or OMC, or by related and pre-existing EU-level policies, élites are able to develop common EU objectives and

values and spread these to other levels of governance, most notably downwards to the member state level. The European Social Agenda, articulated at Nice, states that "all existing Community instruments bar none must be used" to deal common challenges such as labour mobility, population ageing, social cohesion, enlargement, and the social dimensions of globalization (Communities 2000). Policy élites have identified, therefore, the variety of instruments open to them at the EU level that enable normative diffusion on a range of challenges.

Normative diffusion also suggests that common objectives and values are being spread upward to the global level. The White Paper on European Governance identified the need for coherence in international policy-making (Communities 2000, pp. 12-13). In the social policy field this means assessing the harmony of global level policies that are created by the WTO and ILO with EU governance. With regards to the ILO, suggestions have been made to transpose ILO legislation, which is signed at present by individual member states, into common EU legislation enforceable by the ECJ. With regards to the WTO and ILO, the proposal for a Social Clause in the WTO that embodies the "five freedoms" articulated by the ILO[7] and supported by all EU-member states have met with fierce resistance from developing countries. Prospects for wide-spread normative diffusion are very weak on the global level. Clarity regarding the tensions created by membership in global institutions with weak social mandates alongside membership in regional and national institutions that wish to protect social rights and redistributive policies are a necessary part of increasing transparency.

Finally, with regards to variation between sub-issues in the social policy field, diffusion suggests that normative concerns with legitimacy will permit the proliferation of institutional and decision-making structures; the means for reaching decision making become as important as its outcomes, permitting an expansion of actors and institutional relationships permitted by the desire for common objectives or policies, and contained by both national oversight (EES), the highly specialized nature of participants (health and safety), and by the threat of legislation by the Commission (Social Dialogue).

## An agenda for future research
### Policy mix: you can't have it all!

It is idealistic at best, and misleading at worst, to proclaim price stability (the ECB), sound finance (the Stability and Growth Pact) and full employment (the European Social Agenda) (Union 2000, see Annex I) as goals of policy making without identifying their relative importance. Commission documents seem to read like a Christmas wish-list ("Santa, please bring greater gender participation for Greece, social inclusion for the UK, employment incentives to Sweden, and better employment rates to France..."), but the reality of the necessary limits placed on such ideal policies by fiscal realities is not addressed.

There is also an increasing awareness of the interdependencies of policy areas located at the EU level, but a difficulty in reconciling them both administratively because

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[7] the five freedoms are: freedom from slave labour, freedom from abusive forms of child labour, the freedom to form collective organizations, the freedom to bargain collectively, the freedom to strike.

of their different structures of governance, and in terms of priority. How does the macro-economic policy mix develop at the EU level, and will its application be the same across both institutional actors and member states? Who coordinates and leads this structure? Who may be said to be responsible for balancing the limited resources of the EU between various priorities (price stability, full employment, social justice, fiscal responsibility)? There is an increasing awareness of the interdependencies of policy areas located at the EU level, but a difficulty in reconciling them both administratively because of their different structures of governance, and in terms of priority. How does the macro-economic policy mix develop at the EU level, and will its application be the same across both institutional actors and member states? Who coordinates and leads this structure? Who may be said to be responsible for balancing the limited resources of the EU between various priorities (price stability, full employment, social justice, fiscal responsibility)?

Another way of exploring the issue of policy mix is to ask why employment and social goals have been expressed at the EU level at all. Given the overwhelming pre-occupation of the EU with economic and monetary policy making, and the weakness of the EU capabilities in the social insurance area beyond that for farmers, why assert goals such as full employment, and a 60% female participation rate by 2010? There seems to be a need felt in both member states and at the EU level to balance the economic project of EMU with an injection of social rights and objectives. The Employment strategy, social inclusion initiatives and the Charter of Fundamental Rights may thus be seen in a bigger-picture view as balancing policies to the SEM and EMU, as an attempt to inject more social democratic elements into the neo-liberal EU project (Hooghe and Marks 1999). The puzzle is that increased awareness of the interdependence of policy areas has not lead to clarity regarding who is supervising, or adjudicating between, these interdependencies.

As the EU takes on an increasing number of functions, especially in the economic field, a 'gouvernance économique' may emerge that also wavers between national and EU control (Linsenmann and Wessels 2001). With the increasing competence, instruments, and remedies available to the EU in the economic policy field, how will the interests and desired outcomes in the social policy field be balanced against economic objectives at the EU level? The European Employment Pact (EEP) straddles both the economic and social policy fields and is the clearest example of the synergies and interrelationships between economic and social policy making at the EU level. The location of partial oversight at the EU level indicates an attempt to de-politicize employment policies. Is this a desirable state of affairs relative to legitimacy concerns? How will the EEP be informed and guided by these two policy fields (economic and social)? Who (ie. what institution or set of actors) will be responsible for determining its policy objectives and instruments? These questions cannot yet be answered, but they are worth highlighting.

*A question of competencies: policy creep vs. "once-and-for-all"*
    The German desire to set competencies down at local, regional, national and EU levels by 2004 may not be possible given the simultaneity of policy making at several levels of governance, and given that input and leadership comes from different levels of

governance and different points in the policy process. As the EU increasingly mirrors the complexity and diversity of national administrations we cannot expect that one over-arching principle may be an adequate articulation of the rationale for the location of decision-making. The need for once-and-for-all settlements regarding where policy making should occur and how competencies may be divided does not allow for dynamic modes of governance such as OMC. Re-branding subsidiarity as "active subsidiarity...where this is understood as an obligation to respect common principles rather than to reach substantive results" seems to confuse the issue further (Lebessis and Paterson 2000, p. 39), falling victim to the separation of common objectives from common outcomes. It seems that the desire for transparency could be answered by a policy audit, say every two years. Legitimacy concerns could potentially be addressed by giving responsibility for the audit jointly to the Commission and the European Parliament, who would be given powers to question experts and decision-makers from national and EU levels.

There is, undeniably, and perhaps unsurprisingly, "a messy and ambiguous vertical division of labour between national and EU levels" in social policy governance that cannot be accommodated in a discussion of fusion, regardless of the sensitivity of its proponents to the existence of fragmentation (Wessels 1997, p. 279), nor easily accommodated in an assessment of normative diffusion. The question is thus whether such observations should lead to the adoption of a more de-stabilizing and fragmentary assessment of the direction of EU governance in the social policy field, or a postponement of judgement. At the domestic level, differentiation of forms of governance and the creation of new institutional structures may be interpreted as a sign of maturity (Eichener 1992, p. 99). The evolution of the body politic permits the growth of new forms of governance. This interpretation may not transpose itself quite so easily onto the EU structure as the EU is not embedded in a common culture or high degree of solidarity such as is the case at the state level. Will EMU push solidarity, and even redistribution, to the EU level? The more worrying problem may be that policies with implications for the social field are re-locating to the EU level in advance of the solidarity and community that enabled their creation, in the first instance, at the state level.

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