

**OF WHAT USE IS THE NEW INSTITUTIONALISM? AN ANALYSIS OF THE
INSTITUTIONALIZATION OF THE SOCIAL DIALOGUE**

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ABSTRACT

The inclusion in the Treaty on European Union (TEU) of the "social dialogue provisions" giving employer and trade union representatives a privileged role in the elaboration of EU social policy represents a noteworthy change in policy-making procedures in this area. This paper tests new institutionalist hypotheses on institutionalization by applying them to this change. The new institutionalist perspective fails to provide an adequate explanation of institutionalization in general, and of the institutionalization of the social dialogue in particular. By relying on such variables as "critical junctures," "path dependency," "leadership" or "the role of ideas," new institutionalist analyses leave institutions behind and resort to a grab bag of explanations proponents of almost any theoretical perspective could use. One is left wondering what is new and what is institutionalist about new institutionalist explanations for institutional change and institutionalization.

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I. Introduction and Argument.

The inclusion in the Treaty on European Union (TEU) of the "social dialogue provisions" giving employer and trade union representatives a privileged role in the elaboration of EU social policy represents a noteworthy change in policy-making procedures in this area. This change raises questions for students of European integration in particular and for proponents of the new institutionalism in general. Why was the social dialogue institutionalized at that particular time (1991) and in that particular form? Can new institutionalist theories account for this change? If these changes do signify that a particular form of interest intermediation - tripartite bargaining among representatives of EU employers and trade unions and the Commission - has been institutionalized, then the new institutionalism, if it is to be of any use at all, should be able to explain what happened at Maastricht in this domain. Moreover, existing theories applied to the study of policy change or institutional development in Europe are not particularly helpful in explaining institutional change within established EU institutions. The neo-functionalist concept of spillover, for example, fails to account for the timing and particular character of institutional change. Liberal intergovernmentalism, on the other hand, focuses too much on the role of states, while the multi-level governance approach fails to specify which actors, at which levels, will be causally important, and has little to say about institutional change in general. Multilevel governance approaches are

good at describing particular institutional configurations, but are less able to explain why they change.¹ It would seem, then, that the new institutionalism would be a good place to start when analyzing institutional change. As will be shown, however, the new institutionalist perspective fails to provide an adequate explanation of institutionalization in general, and of the institutionalization of the social dialogue in particular. By relying on such variables as "critical junctures," "path dependency," "leadership" or "the role of ideas," new institutionalist analyses leave institutions behind and resort to a grab bag of explanations proponents of almost any theoretical perspective could use. This may not be wrong; in fact, since most outcomes worth explaining are overdetermined, it may be the only reasonable course to pursue. Yet it leaves one wondering what is new and what is institutionalist about new institutionalist explanations for institutional change and institutionalization.

II. The New Institutionalism and Institutional Change

New institutionalist studies of institutional change focus on how and why institutions evolve, on the processes of institutional reproduction, and of institutionalization.² Institutionalization can be defined as "the process whereby social processes, obligations, or actualities come to take on a rulelike status in social thought and action" (Meyer and Rowan 1977, 341). Powell argues that when institutionalization occurs, practices and structures are taken for granted; they are not questioned or compared with alternatives (Powell 1991, 194). Zucker claims that "institutionalization operates to

1. See the criticisms in Pierson 1996 and Aspinwall 1998:157-158.

2. Scholars seem to agree that there are three types of new institutionalism: historical, sociological, and rational choice. See Hall and Taylor 1996, Koelble 1995.

produce common understandings about what is appropriate and fundamentally, meaningful behavior"

(Zucker 1983, 5). Hannan and Freeman contend that we know that

a form is institutionalized when no question arises in the minds of actors that a certain form is the natural way to effect some kind of collective action... The capacity to mobilize members and other resources to begin unions, firms, and other kinds of organizations increases greatly when controllers of resources take the question of organizational form for granted (Hannan and Freeman 1989, 56-57).

In other words, institutionalization implies that all the participants in a political process understand and accept the rules of that process, and that struggles over the framework within which politics takes place have been settled.

Why does institutionalization occur? Each school of the new institutionalism accounts for institutionalization in different ways.

Historical Institutionalism.³ Some historical institutionalists focus on the opportunities for institutional change created by crises, when everything "comes up for grabs" and political actors are searching for answers to the new problems they face. History is thus divided into "normal periods" and "critical junctures," when major institutional change is possible. Although established institutions are usually stable, crises can bring on abrupt institutional change, because they present leaders with an opportunity enact new plans and realize new ideas by embedding them in the institutions they establish.

Other historical institutionalists argue that change *within* institutions can occur if broader socioeconomic or political change makes existing institutions more salient (Thelen and Steinmo 1992, 16). Socioeconomic or political change may also prompt actors to use old institutions for new ends. Piecemeal change can result from specific political battles or the ongoing strategic

3. Much of this summary comes from Thelen and Steinmo 1992, 15-17.

maneuvering within institutional constraints. Institutional change can also result from deliberate political strategies to transform structural parameters in order to win long-term political advantage (Thelen and Steinmo 1992, 17).

Finally, some historical institutionalists bring in "ideas" as an explanatory variable.⁴ Institution builders construct the institutions they do because of the ideas or, in Hall's term, "policy paradigm" they share. According to Hall, elites can "learn," and change either the instruments and means they employ to pursue their goals, or the goals and ends themselves (Hall 1993).

Sociological Institutionalism. In attempting to account for institutional change, sociological institutionalists have focused on institutional isomorphism and the diffusion of ideas and norms. Institutionalization is seen as a constraining process that forces actors or organizations to "take on the formal and substantial attributes of organizations within which they interact and upon which they depend" (DiMaggio and Powell 1983, 147). This is known as institutional isomorphism. In this view, institutional isomorphism can be brought about through the coercive action of a state, through mimetic processes in which one organization recognizes the success of another and attempts to copy it, or through normative processes in which an organization adopts the "conventional wisdom" that certain forms are more "modern, appropriate, and professional" (Scott 1987:504).

Sociological institutionalists also argue that new institutions arise because they enhance the legitimacy of the organization and its participants. We can expect the institutionalization of institutional forms and practices that are widely valued within a broader cultural environment (Hall and Taylor 1996, 949). Practices emerge out of a network, where participants in a given domain

4. See Hall 1986, 1993; 1989, ed.; Sikkink 1991.

discuss common problems, how to interpret them, and how to solve them. This, in turn, leads to the development of shared cognitive maps (Hall and Taylor 1996, 950).

Rational Choice Institutionalism. Rational choice institutionalists argue that institutions are designed to help individuals overcome collective action problems, and to provide them with the rules, procedures, and enforcement mechanisms that can improve the stability of expectations and thus help resolve some of the problems of collective action.⁵ As Hall and Taylor note, they argue that an institution survives "primarily because it provides more benefits to the relevant actors than alternate institutional forms" (Hall and Taylor 1996, 945). Institutions change because these actors attempt to change them, based on their expectations about how change will help them maximize utility, not because of the spread of shared norms or because of institutional isomorphism.

This conception of institutions, as Pollack (1996) notes, is clearly functionalist. The "rationally *anticipated* effects of given institutions ... explain actor preferences for certain types of institutions" (Pollack 1996, 433; emphasis in original). In reality, however, several different institutional outcomes could satisfy utility maximizers and Pareto optimality criteria. This is where rational choice institutionalists introduce ideas. In the rational choice institutionalist perspective, ideas serve as a focusing device, facilitating the selection of one best equilibrium. Ideas "help actors achieve their desired ends" (Garrett and Weingast 1993, 178).

Rational choice institutionalists encounter difficulties explaining institutional change because they see institutions as reflecting an equilibrium among all actors in a field. The founders of institutions try to "lock in" or institutionalize particular sets of rules and choices to prevent future defection. Hall and Taylor note this dilemma and raise an interesting question. Once this

5. See, *inter alia*, Riker 1980, Shepsle 1989, North 1990, Williamson 1975 and 1985; Moe 1984 and 1987.

equilibrium is achieved, why would anyone change it? Pollack, who calls himself a rational choice institutionalist, provides three reasons: a change in the policy environment; a change in the actors, or in the relative power of the actors; or an improvement in the quality of information (Pollack 1996, 438). Any of these changes may open up a "policy window" through which "policy entrepreneurs" may lead the concerned actors (Pollack 1996, 438-439). It would seem that change, e.g., the institutionalization of a particular "way of doing business," would result from conscious decisions about new structures and rules. These decisions, in turn, could be influenced by material and ideal incentives the policy entrepreneurs provide.

In general, it is possible to divide new institutionalists accounts of change into two schools. The first school focuses on formative periods, critical junctures, when policy makers can deliberately plan institutional change, or when actors can solve collective action dilemmas. These institutional wonder years are followed by periods of institutional consolidation and inertia, where path dependency dominates institutional evolution.

The second school considers institutional evolution a never-ending process. Once established, an institution is strongly influenced by changes in its environment and new ideas. Instead of disappearing in response to these changes, however, institutions evolve through learning (Olsen and Peters 1996).

The problem with new institutionalist accounts of institutional change is that they tend to focus more on the establishment of certain organizational forms or of norms and rules of conduct, and less on the institutionalization of processes. More seriously, however, these accounts rely heavily on exogenous, non-institutional, or systemic variables to explain change: general

socioeconomic change, leadership, and ideas. These explanations bring in these variables as *dei ex machina*, however, on a "per need" basis. There is no institutionalist logic in their choice.

Let us examine the role of ideas first. As important as shared ideas and cognitive maps may be they must still be translated into policy. Ideas themselves cannot cause outcomes, as several scholars have noted.⁶ It is therefore one thing to claim that ideas (as well as institutions!) matter. It is another to explain how those ideas take a particular concrete form at a particular time, or to specify how ideas mattered given the overdetermined nature of dependent variables and the importance of other independent variables.

As Hall and Taylor state, historical institutionalists in particular "seek to locate institutions in a causal chain that accommodates a role for other factors... and posit a world that is more complex than the world of tastes and institutions often postulate by rational choice institutionalists" (Hall and Taylor 1996, 942).⁷ This acknowledgement of the complex nature of causality is laudable. It does make it hard to disprove new institutionalist arguments, because it is quite easy to conclude that everything matters at some point and to sort out the complex combinations of variables.

The final problem with the all new institutionalist conceptions of institutional change is that institutions often drop out of the picture altogether. These explanations are institutionalist only in the middle of a process. At first, there is a critical juncture, or socioeconomic or ideational change, or changes in the actors or their relative power, or in the information available to them, then institutions are created and have various predicted effects, leaving their own "imprint on political

6. See Majone 1992, Yee 1996, Jacobsen 1995, Radaelli 1995, and Blyth, 1997.

7. See also Immergut 1998, 19, for an elaboration of this point.

outcomes" (Thelen and Steinmo 1992, 9). They either persist, for good or ill, or are modified, depending on the same types of changes, the punctuation of equilibrium, etc. If institutions matter only in the middle of this process, however, the theoretical coverage provided by the new institutionalism *strictly speaking* is quite limited, indeed.⁸

III. Maastricht and the Protocol on Social Policy

Attempts to establish some form of tripartite bargaining in the EC date back to the late 1960s, when the Commission and the trade unions pushed for the establishment of the Standing Committee on Employment (SCE). From 1974-1978, the Community held a series of "Tripartite Conferences" to bring representatives of the trade unions and business together with Commission and national-level officials to discuss macroeconomic problems facing the member-states. The Tripartite Conferences, although corporatist in form, resulted in a few watered-down recommendations for increasing economic growth, promoting full employment, etc. The trade unions, who had hoped for more, ended their participation in 1978.⁹

Nevertheless, neither the trade unions nor the Commission abandoned the goal of promoting a dialogue between the social partners and improving their participation in the EC's decision-making processes. Along with his attempts to restart European integration in the mid-1980s, Jacques Delors, president of the Commission, also insisted that the social partners be involved more formally in

8. Moreover, although this issue is not addressed specifically in this paper, there is a certain institutional optimism embedded in these explanations. Institutional conceptions of institutional change focus more on the creation of organizations, formal structures, and practices, and less on their institutionalization (or lack thereof). New institutionalists emphasize the emergence and establishment of authoritative institutions, and on the benefits they provide, such as calculability, widened time horizons, stabilization of expectations, information, *inter alia*. Seldom does a new institutionalist focus on institutional decadence or decay; rather, the emphasis is placed on the establishment and continuation of institutions, even if these may be put to different uses than those intended by their founders.

9. On the SCE and Tripartite Conferences, see Gorges 1996, 120-130.

social policy making. In 1984, Delors announced that no new social policy initiatives would be undertaken unless sanctioned by a social dialogue, which was officially launched in 1985. Article 118b of the Single European Act enjoined the Commission to "endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it desirable, lead to relations based on agreement." In May 1988, Delors, in a speech to the European Trade Union Confederation (ETUC), began his push for the development of the "social dimension" of the Internal Market. Eleven of the twelve member-states signed the Social Charter, a list of "fundamental social rights" in 1989.

In spite of the hopes of the trade unions and Commission, however, progress from 1984-1990 was slow. The social dialogue produced few tangible results: a series of joint opinions on education retraining, labor mobility, but no binding commitments. As a result, the Commission and its allies in the trade unions and national governments began to press for a deepening of Community policy-making authority, an extension of qualified majority voting to cover social affairs, and for an institutionalization of the role of the social partners¹⁰ in EC policy-making. In preparation for the intergovernmental conference to be held at the end of 1991, the Commission submitted draft treaty articles expanding EC social policy-making authority. The Commission also wanted to institutionalize procedures for consulting the social partners on social legislation, and asked the social partners to form an *ad hoc* working group on their role.

10. The European Trade Union Confederation (ETUC), the European Center of Public Enterprises (CEEP), and the Union of Industrial and Employers' Confederations of Europe (UNICE).

At its meeting in Brussels on 31 October 1991, the *ad hoc* social dialogue working group reached agreement on the Commission's proposals.¹¹ The Commission incorporated this agreement in its final proposals submitted to the European Council at Maastricht in December 1991. Unable to convince the United Kingdom to amend the social policy provisions of the Treaty of Rome directly, the member-states, including the United Kingdom, signed a Protocol on Social Policy to append to the Treaty on European Union. Within the Protocol is an Agreement on Social Policy, commonly called the "Social Chapter." The Social Chapter includes the provisions for an increased role for the social partners agreed to in October 1991, but it amends that agreement somewhat by introducing a provision requiring the Commission's endorsement of proposals agreed to by the social partners before they can be submitted to the Council.

The agreement reached among the social partners calls for the Commission to consult employers and trade unions jointly before proposing social policy or industrial relations legislation, to establish whether the legislation is necessary or appropriate. If the social partners agree that a measure is necessary, the Commission will consult them again on its content, and they will have an opportunity to provide their opinions or recommendations. During the second consultation, the social partners may decide to adopt an EC-level collective agreement or other joint position on the topic concerned. The social partners will have nine months to reach agreement on a proposal, but this period may be extended. The Commission may use this alternative as the basis for a new

11. Within days, however, the CBI asked UNICE to clarify the agreement's terms, and announced several conditions that had to be met in order for it to be able to support the proposal. The CBI said that it would refuse to accept the results of EC-level negotiations as binding in national law should the social partners submit a vetted proposal to the Commission for legislative action. The deputy director-general of the CBI emphasized that his organization lacked the mandate to negotiate on behalf of its members and that any agreement requiring it to arrive at binding agreements would be opposed. See "CBI calls for clearer plan on EC law checks," *The Guardian*, 6 November 1991; "CBI may withdraw from European pact," *Financial Times*, 25 November 1991.

proposal, although it is not obliged to do so. The social partners may then either choose to implement the measure, with or without amendment, through national agreements according to local procedures and practices. For measures falling under Article 118a (employment, the right to work and working conditions, social security, work-related accidents and illness, health and safety at work, the right to collective bargaining). and with the social partners' agreement, the Commission staff may forward the agreement to the College of Commissioners and Council of Ministers. The Council of Ministers will still approve any new laws.

If the social partners decide to seek EC legislation, the measure may still be implemented nationally by collective agreement, provided business, the trade unions, and the member-states concur. The member-states will be obligated to guarantee that any agreement meets the required deadline and achieves the required results.

IV. Why the Social Agreement?

Why was the social dialogue institutionalized in this particular form at this particular time? New institutionalists highlight several causes of institutional change: the possibilities for institution building during critical junctures; the diffusion of ideas; leadership; institutional isomorphism; broader socio-economic change; maneuvering within existing institutions. Can they account for the institutionalization of the social partners' role in social policy-making enshrined in the TEU? Let us look at the variables.

Critical Junctures. Was the EU in a critical juncture? It does not seem that there was any crisis in the EU at the time to which one can point. One might argue that the approaching Maastricht summit represented, for the proponents of these changes, a window of opportunity. They knew that another chance to amend the TOR was not going to come around for a while, and were determined

to strike while the iron was hot. But the institutionalization of the social dialogue can hardly be considered an instance of institution building during a crisis.

Institutional Isomorphism. Institutional isomorphism occurs when organizations adopt the "best practice" in order to compete effectively with other organizations. While certain allowances should be made for the nature of the EC, let us accept for a moment that it is an organization in competition with others (member-states?). If tripartite bargaining represents the "best practice," it was not practiced very frequently in the member-states. Few EC members at the time ranked high on indices of national-level macrocorporatism. Indeed, the most corporatist European states joined the EU *after* Maastricht.

The Role of Ideas. From the Tripartite Conferences to the beginnings of the discussion on the social dimension of the Internal Market through the Social Charter to the TEU, the idea that the EC level representatives of labor and employers should participate in some way in social policy making gained ground. The inclusion of the "social dialogue" provisions in the Maastricht Treaty represents the arrival of an idea whose time had come in the minds of the European institutions, some EC level interest groups, and a majority of the member-states. Falkner's brief but thorough account of the positions of the member-states at the Maastricht summit makes clear that "at a still early point of the IGC's negotiations ... only the UK was opposed to any extension of Community competences and majority voting" (Falkner 1998, 87). At the very least, the spread of the idea and ideal of social partnership was a prerequisite to the institutionalization of the social dialogue.¹² It seems that major

12. On the importance of cultural systems of meaning and symbolic structures in the process of institutionalization, see Jachtenfuchs 1995, 119.

participants in Community policy-making had developed a common set of expectations that the social partners should be included, as a matter of European law, in policy-making.

Yet three caveats are in order. First, the social dialogue provisions were subject to different interpretations. While most interested parties agreed about the desirability of social partnership in general, the form of this partnership remained in dispute until mid- to late-1991. Nor, at least at first, did the social partners agree on a common interpretation of what they finally accomplished. In an exchange of letters in the *Financial Times* newspaper shortly after the agreement among the social partners was signed in October 1991, the secretaries general of UNICE and the ETUC traded arguments over its meaning.¹³ Zygmunt Tyskiewicz, the secretary general of UNICE, argued for a narrow interpretation of the agreement, and said that in spite of impressions in the media, there was "no support for a side extension of collective bargaining over social and employment directives." UNICE sought to limit the potential of the Community to intervene in this area. Moreover, he emphasized that UNICE did not support an extension of qualified majority voting in social matters.¹⁴ Emilio Gabaglio, the general secretary of the ETUC insisted, however, that every draft of the treaty on political union included such an extension, and insisted that the agreement reached between the social partners opened the door to flexible implementation at the local level.¹⁵

Second, as Lange argues, the social dimension itself meant (and still means?) various things to member-states and the Commission (Lange 1993, 7). Free market liberals tend to believe that the

13. Zygmunt Tyskiewicz, letter to the editor, "EC intervention in collective bargaining should be limited," *Financial Times*, 12 November 1991; and Emilio Gabaglio, letter to the editor, "A breakthrough in moves on EC social policy," *Financial Times*, 22 November 1991.

14. Tyskiewicz, "Letter to the Editor," *Financial Times*, 12 November 1991.

15. Emilio Gabaglio, "Letter to the Editor," *Financial Times*, 22 November 1991.

social dimension should be market-making, that is, that it should reduce barriers to the free movement of labor. The Commission, EP, and some member-states argue instead for European-level reregulation so that European industry can compete internationally and to avoid threatened or actual social dumping. They also believe that a robust social dimension is necessary to retain popular support for integration. Finally, they contend that Europe cannot compete by "racing to the bottom." It must improve, not forsake, its system of high-quality, high skills production (Lange 1993, 7).

Finally, as important as the shared idea of social partnership may have been, it needed to be transformed into reality, a particular form or set of practices, at a particular time. Simply stating that the Commission, member-states, and the social partners agreed about social partnership this shared idea became the social dialogue provisions of the Social Agreement.

Leadership. In the past, the European Commission has often granted access to and attempted to institutionalize the participation of interest groups (preferably European-level, but not always) as a way of securing an alternative legitimacy for its policies to those of national governments. The successful inclusion of provisions regarding the participation of the social partners in the elaboration of Community social legislation in the social policy protocol is evidence of the importance of the Commission in driving the process of corporatization in the EC. The Commission has attempted to sustain and expand the Community political system by providing information to the social partners, forcing them to reevaluate their interests and priorities, and supporting the development of a Community/Union system of interest intermediation by providing a forum for conflict resolution. Further, the initiative for a reconsideration of the role of the social partners, and the framework proposal that eventually become the agreement, came from the Commission. Jacques Delors and

the Commissioner for Employment and Social Affairs, Vasso Papandreou played key roles in pushing the social dialogue and in encouraging employers and the trade unions to strike a bargain; it was their vision of a social Europe, and of the social partners' role in a post-1992 Europe, that served as a basis for an eventual agreement. The Commission has played this role since the early 1970s from the establishment of the Standing Committee on Employment through the Tripartite Conferences, and on to the social dialogue and the social policy protocol. Delors and the leadership of Directorate General V (Employment and Social Affairs) consistently pushed the social partners and, in the end, member-state governments, in order to realize this goal. Moreover, as Falkner notes, the Commission acted as a mediator between governments at critical moments during the intergovernmental conference (Falkner 1998, 89). It is obvious that this policy would not have been realized without the political entrepreneurship of Delors, Papandreou, and Commission staff.

Other Community institutions also promoted the social dialogue. In a communiqué issued at the end of its June 1988 summit in Hanover, for example, the European Council attempted to send a positive signal to the Commission and the social partners that it favored a revitalization of the social dialogue and good-faith negotiations. (EC Bulletin 6-1988, 165).

The European Parliament also pressed the Commission to step up the dialogue with the social partners. In July 1990, it adopted a report calling for the Community "to adopt a legal framework which enables the dialogue between the two sides of industry to develop so that European collective bargaining may be undertaken."¹⁶

Yet is this variable of "leadership" or "political entrepreneurship" a new institutionalist variable, strictly speaking? One could just as easily argue that the Commission, acting as a

16. Cited In Falkner 1998, 89.

bureaucracy should, sought to increase both its policy domain (expanded social policy) and its legitimacy. The Social Chapter, after all, includes a provision requiring the Commission's endorsement of proposals agreed to by the social partners before they can be submitted to the Council. The Commission has continued to insist that, while it was ready to act as a mediator and to respect the desires of the social partners, it would not abdicate its power to initiate policy. In 1990, for example, it stated that "it will be for the Commission to decide upon submission of (a proposal) to the competent Community decision-making bodies."¹⁷ In other words, the Commission does not consider itself obligated to abide by the joint opinions arrived at by the social partners or to translate these into legislative proposals for consideration by the Council of Ministers.

Moreover, the Commission would not commit itself to consulting only with the social partners alone. Thus, although the opinions reached in the social dialogue are meant to serve as the basis for Commission proposals, unless the Commission limits its consultations with interest groups to those participating in the social dialogue and agrees to base its proposals on opinions reached by the social partners, these opinions will represent but another recommendation the Commission *may* consider as it draws up legislation. The Commission has thus acted as we would expect a bureaucracy to act. It has promoted the participation of EC-level peak organizations of labor and capital while retaining for itself the right of initiative and the right to accept or reject the results of macro-corporatist bargaining.

Maneuvering within Existing Institutions. Both the trade unions and the Commission had obvious reasons for supporting the social dialogue provisions of the social policy protocol. In fact,

17. See for example, "Proposal for a Directive on Part-Time, Fixed-Term and Temporary Employment Contracts," Directorate General V, 16 February 1990.

their positions hardly changed at all. UNICE's, on the other hand, did. During much of 1980s, UNICE refused to participate meaningfully in the Social Dialogue. In fact, when the Commission asked the social partners to elaborate a proposal for amending the social dialogue to institutionalize their role in the development of social policy, UNICE balked and proposed instead to strengthen the social dialogue. Why, then, did UNICE change its position?

First, it is necessary to remember that UNICE itself is not a monolithic organization. Different national level federations pursue different interests. Broadly speaking, however, there are two camps within the organization. The first camp consists of employers from high wage, high regulation economies. For them, the cost of institutionalizing the social dialogue is quite low. The second camp's members comprise the representatives of employers from lower wage and/or lower regulation economies (Greenwood 1997, 106).

Moreover, increasing attempts by national federations and large firms to represent themselves in Brussels had threatened to marginalize UNICE. One might say that it risked becoming an organization in search of a mission. Thus, it had something of an interest in seeing the importance of the Social Dialogue grow, as it would be ETUC's partner in the negotiations taking place under the provisions of the Social Agreement. In fact, UNICE has received a limited mandate from its members to bargain with the other social partners (Greenwood 1997, 107).

Second, employers may have sought to keep social policy measures off the Community's agenda by insisting on "more studies," a typical ploy for delaying legislation. UNICE claims it only wants the need for new policies to be clearly established and to see that their potential impact on business has been properly assessed. The agreement gives business the opportunity to prevent or slow down Community action by providing both social partners the right to veto a Commission

proposal. The social partners under any obligation to reach agreement, nor is there any plan for what to do should the social partners fail to agree. One can only assume that the normal legislative process would be followed should the Commission insist on its proposal. Yet the Council of Ministers will know that the social partners could not strike a compromise, and will, business hopes, be reluctant to accept proposals that social partners themselves do not support.

Third, business seems to have realized that the treaty on political union was likely to extend Community policy-making authority over social policy, and that they stood a better chance of forestalling undesirable legislation by negotiating with the trade unions within the framework of the social dialogue. The secretary general of UNICE, Zygmunt Tyskiewicz, for example, admitted that most business would prefer not to involve itself in such bargaining, but he argued that "given that the Commission is coming out with harmful directives. . . . We welcome the chance to offer ourselves as an alternative to the legislator."¹⁸

Fourth, UNICE also hoped to promote the passage of general, vaguely-worded legislation at the expense of the kind of binding, detail-filled social legislation favored by some trade unionists, Commissioners, and Commission staff.¹⁹ Moreover, unlike the ETUC, UNICE did not see such agreements being compulsory, but rather acting as broad guidelines to be applied locally. This would also work to industry's advantage: the more decentralized the negotiation, the less power the trade unions are likely to be able to muster.

The trade unions, on the other hand, believe that it will be more difficult for a member-state to block a proposal in the Council of Ministers once it has received the assent of the social partners.

18. "Tough talk on unions," *The European*, 18 October 1991.

19. "Business gives some ground on Euro-deals - but with riders," *Industrial Relations Europe*, November 1991.

The ETUC saw the acceptance of EC-level bargaining on general matters as another step to securing EC-level sectoral and company bargaining.²⁰ Thus, the accord may be considered proof of a degree of realism on the part of the trade unions, who acknowledged that the time was not yet ripe for the creation of Community industrial relations or collective bargaining law, and accepted decentralized, sectoral negotiations.

Although this discussion of political calculation has focused on UNICE, the institutionalization of the social dialogue can be expected to help the social partners in general in their dealings with their member organizations. As the official participants in the negotiations and as the Commission's preferred interlocutors, they are in a better position to demand increased authority and resources necessary to fulfill their roles and meet the demands placed on them. It seems unlikely that they were not aware of the potential benefits that would accrue as a result of these institutional changes.

Finally, it almost goes without saying that the political calculations of the member-states also played a key role at Maastricht. The problem for the researcher, however, is distinguishing between member-state preferences regarding the social dialogue provisions of the Social Protocol and their preferences regarding the Social Protocol in general, since they were voting not only on the former, but also on the extension of the Community's social policy-making authority and of qualified majority voting to new social policy domains. In other words, they had to vote on a package. Further research is needed in order to evaluate the impact of member-state preferences on the institutionalization of the Social Dialogue.

V. Conclusions

20."Union comeback," *The Economist*, 23 November 1991.

The institutionalization of the social dialogue is, like other outcomes, overdetermined: there are many variables that can account for what happened at Maastricht in 1991. Three seem particularly important: the widespread acceptance of the idea of social partnership, the role of the Commission and other EC institutions,²¹ and the political calculations of member-states and interest groups. If one accepts these variables as "new institutionalist," then one can put together a new institutionalist account of this change. The problem for the new institutionalism, however, is that practically anyone trying to account for this particular outcome could focus on the same variables. They are neither particularly new nor particularly institutionalist. One is forced to wonder about the utility of a theoretical framework explicitly centered on institutions if it cannot successfully explain institutional change without resorting to non-institutional variables in an ad hoc fashion.

21. Although I use the phrase "other European *institutions*," it is important to remember that these institutions are the instruments of *political actors* who are pursuing their own goals - both bureaucratic, political and ideal - through them.

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