

The Commission As Stimulator of Interest Representation- Two Cases

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The European Commission receives all manner of assiduous interest group attention, particularly in those areas, which have grown substantially in the period since the early 1980s, where it makes important decisions and regulates key areas. There should be no mystery, therefore, why national and transnational agricultural lobbies and groups like employers' associations and chambers of commerce spend substantial resources following and interacting with the Commission. This kind of interest representation is obviously of great importance, and most of it looks very much like what occurs within national states. Groups with stakes in specific decisional outcomes try to shape and influence these outcomes. From the Commission's point of view listening to these groups is a fundamental task, indeed in many such areas, like agriculture, it is a mandatory one. The study of this -standard - kind of interest representation is as old as the Commission itself, even though much more work is needed, in particular about the degree to which interest group focus upon the Commission and other Euro-level instances actually increases a group's stake in European integration.

Stopping the investigation at this point is unfortunate, however. The European Commission is a very unusual institution, whose job is not simply to administer what has been decided elsewhere. It is also mandated to "oversee the treaties" which contain a substantial amount of vague and general language. Another dimension of its charge is to promote greater integrative momentum. This concern may be the most important one to the small number of high-level Commission civil servants who see themselves as much the promoters of European integration as its administrators. The Commission itself is an "interest group" in favor of more integration, an agitator and a planner for a more European future. One can phrase this in a noble, "Monnet-like," way to justify the Commission's activities as being in all Europeans' interests. Or one can be more down-to-earth and see the Commission as an ambitious institution trying to expand its mandate and increase its role. This is probably closer to the reality.

The fact is that the Commission in general, and its particular administrative divisions, have good reasons to promote interest group activity and mobilization at Brussels level. Such things may enhance Euro-level political culture and commitment which then may promote further

integration. Quite as important, however, the Commission has quite specific interests in expanding its own role and importance, particularly in those policy areas where its mandate is limited and hazy, but legally plausible. The Commission, when it is functioning properly and has the space to act, should always be probing the “edge of the European envelope” to bring more things within its purview. This means that it will want to stimulate and, perhaps even shape, European-level interest group activity through the use of its own resources. The causal logic here is roughly the mirror image of that anticipated by neo-functionalists. The European Commission seeks to shape and sometimes even stimulate ex novo interest groups to reflect and advance its own policy and institutional goals, in addition to functioning at the center of Euro-level interest groups arising on their own because the Commission already has substantial power.

There is considerable evidence that the Delors’ Commissions and its Santer successor have been very active at such things. Assessing the success/failure, significance/insignificance of such Commission activity in different areas is important. Success and significance could mean any number of things, but outcomes which increase the policy and decisional weight of the Commission over time would confirm and elaborate some of the less grandiose claims of neo-functional theory. They might also illustrate flaws in the “inter-governmentalist” vision. And, to the degree to which the “multi-tiered governance” perspective is more comfortable such results might also be useful. And, of course, the opposite conclusions would be appropriate should these kinds of “Commission interest stimulation” activities prove to be good stories without significant consequences. In any event, and whatever the theoretical implications, understanding a little-known dimension of the European Commission’s action may add to the broader understanding of the Commission as a complex of complex organizations.

Commission stimulation of Euro-level interest expression should be conceptualized more historically. In the first period of European integration (the “Common Market” years) interest groups of all kinds, excepting those in areas where the “Community” had direct powers of decision, worked through national political arenas, for obvious reasons. The post-war boom years involved the consolidation of relatively self-contained national political economies where national economic regulation was the goal and “pluralist” or “neo-corporatist” systems of interest intermediation were either the reality or a realistic aspiration. The EU existed primarily as a

transnational provider of needed economic services to these self-contained national systems. Moreover, the transnational EU political system that developed after the Luxembourg Compromise (1966) reinforced the propensity of interest groups to use their resources nationally, because member state governments were by far the key actors in EU decision-making processes.

The setting began to change in the 1980's, with the "1992" program to complete the Single Market. In this context interest groups whose fate was tied directly to the market - primarily business - had a much easier time following the changes, and much stronger incentives to do so (i.e. to survive and thrive in a trans-nationalizing world). But groups whose power was contingent upon law and political influence in national political economies had developed clear patterns and habits for investing their available resources at national levels. For them, reallocating at least some of resources to transnational level was a much more difficult problem. The first case examined in this paper reviews Commission efforts at "seduction" directed towards labor which has had difficulty in shifting resources and perceptions from national to European level, have had important consequences. Sometimes, as in the family-policy childcare area discussed in the second case, such efforts may even involve attempts to create interest expression and mobilization almost out of whole cloth. Both cases involve social policy matters in which DG V (Employment and Social Affairs) has been very important.

In an abstract sense the consequences of these "interest seduction" efforts may vary considerably. In some cases Commission seduction will succeed to the point where the interest structures that emerge may well "capture" the Commission agencies which solicited their emergence, such that the regulators and decision makers become "prisoners" of the regulated. This, of course, is a classic occurrence at national state level. Commission work may, in contrast, promote new European level interest groupings which, as they expand and define themselves, escape the Commission's control and influence. Here the Commission is providing seed resources for the founding of autonomous European interest groups and thereby enhancing Euro-level "pluralism" and density of interest expression. Next, Commission efforts may themselves "capture" interest groups and distort their relationships with constituencies, in essence creating "Brussels lobbies" for the Commission's goals and agenda rather than true representative bodies. In such cases the Commission deploys its resources to foster interest representation which it then

tries to instrumentalize for its own purposes. The labor case, as we will see, may come close to this. In other cases Commission efforts may succeed at increasing information circulation and knowledge about the complexity of Euro-level policies while failing to consolidate solid European level interest representation in the area in question, as seems to have happened in the family policy childcare area. This might perhaps be considered as a form of public relations activity.

1. Beware Friends Bearing Gifts - The Case of Euro-Level Unionism

The development of European level trans-national unionism is an interesting, but far from straightforward, story. The forms of European integration have militated strongly against national unions choosing such a course. The EC/EU cannot guarantee basic trade union rights. Social policy in general remains the virtually exclusive prerogative of EU member states. This gives unions solid incentives to concentrate on familiar national channels and practices. The institutional structures of the EC/EU militate in the same direction. Influencing national governments to promote favorable decisions in the Council of Ministers is likely to be more effective than working at trans-national level. These acts reinforce chronic obstacles to transnational union action like institutional variation, cultural diversity, language and conflicts of interest, both perceived and real, among national unions. Despite these obstacles a thickening network of transnational union activities has recently been developing, largely within the framework of the European Trade Union Confederation (ETUC). Culminating a slow effort to create a trade union organization in response to European integration, the ETUC was founded in 1973¹ but remained a weak Brussels lobby until the later 1980's when renewed integration brought new challenges. Eventually, changes in the ETUC's leadership, organization and capabilities gave it increased visibility and importance. The ETUC became a genuine participant in European policy formation in a limited area, and its significance grew to its constituent organizations, the national confederations and sectoral federations, for whom stakes in Europe had been raised. Moreover, awareness of the ETUC and the relevance of European action began to filter down to national unions. A European trade union structure with some potential for serving as the vehicle for a European labor movement has come into being.

Herein lies the puzzle. Strategic logics ought to have kept European unions strongly focused on their national political economies and led them to seek to influence European

integration through national political systems. Yet the unions have, to a limited degree, acted otherwise. The answer, we think, lies largely in initiatives taken by European political institutions, principally the Commission but also the Parliament. These initiatives helped alter the earlier setting in which national union movements lacked strong reasons to devote major resources to European-level unionism. In effect, European institutions provided serious incentives to European unions to reconceptualize their strategic interests. But these incentives were not offered primarily to realize some abstract vision of a European labor movement. European institutions had their own purposes, not always those of the unions. The ETUC had to provide something in exchange. European unions have thus “Europeanized” more than expected. But they have done so largely in response to what European-level policy makers have offered them. These offerings, while well-meaning, have had important consequences for the ways and means of union Europeanization.

The Tentative Europeanization of Trade Union Structure

The pattern of investment in Europe by what came to be called the “social partners” was asymmetrical in the Common Market period. Business, with a lot at stake, formed the Union of Industrial and Employers’ Confederations of Europe (UNICE), a year after the Rome Treaty while the European Trade Union Confederation (ETUC), did not happen 1973.² There was insufficient support for Euro-level action among the new ETUC’s members for it to do much more initially, however, than to become a modest liaison and lobby for national union confederations.³ Moreover, the ETUC’s original inclusiveness created internal diversity that made it hard to decide and implement common policies. The ETUC’s early attempts at exerting outward influence thus tended to be confined to the rarified and small Brussels arena, largely dissociated from the union members it nominally represented, a pattern that was encouraged by European institutions themselves.⁴ The new Confederation initially had high hopes for proto-corporatist initiatives, but it quickly withdrew from most in 1978 after concluding that neither employers nor governments were interested in serious commitments.

Stimulus and Reponse

“1992” brought tremendous new momentum and, more important, new efforts by European institutions to promote Euro-unionism. The European Commission’s new activism first

took the form of promoting “social dialogue” between the European organizations of unions and employers. Jacques Delors succeeded in making social dialogue an explicit Community objective in the SEA’s Article 118B. The initial “Val Duchesse” discussions began conflictually in 1985 and did not get very far.⁵ None of the parties had a mandate to negotiate. This was an asset to UNICE whose objective was to avoid European level regulation and bargaining.⁶ On the union side ETUC wanted Euro-level regulation, whether through legislation or negotiation, but it was primarily a -- quite weak -- organization of national Confederations.⁷

After early breakdown, social dialogue was launched again in 1989 in the glow of the Social Charter. As before, however, the contradictory purposes of the organizations made discussion frustrating and produced few results. The Commission was very eager to make it work better this time, however and this meant working out a new strategy. Because preventing serious talk was UNICE’s most important reason for being there was little to be gained from trying to persuade it to be more reasonable. Moreover, the large imbalance of resources already available to employers meant that UNICE was unlikely to change on its own.⁸ On the other hand, ETUC really wanted European-level labor market regulation and if it could get it through Euro-level bargaining, so much the better. But ETUC was very weak. The stakes and resources of each of the social partners were different, therefore. The Commission thus decided upon an asymmetrical approach, seeking first to to strengthen and encourage ETUC to become a stronger European actor. The Commission recognized that European-level unionism was unlikely to be strengthened if this depended upon resources generated from its national constituents alone, however. Offering Euro-level resources might help. A stronger ETUC, partly dependent upon Commission resources would also be a good ally for the Commission in broader political matters. Most important, a more effective ETUC might give pause to UNICE about its nay-saying posture.

Delors took the lead first in his speech to the ETUC Congress in Stockholm in 1988 when the Social Charter was previewed.⁹ Later the same year his speech to the British TUC’s Bournemouth Conference prodded a major, and theretofore anti-European, constituent of the ETUC to new European commitments. Delors also went out of his way to contact and engage important unionists in private. Delors’ staff and DG V systematically encouraged ETUC, in particular by supplying money to fund ETUC’s internal activities. The Commission underwrote

ETUC meetings in Brussels and elsewhere (travel, translation) to the tune of several million ecu per year. It was also quite generous to the European Trade Union Institute (ETUI), the ETUC research arm, funded an organ called AFETT (set up in 1986) to train unionists about new technologies. In 1989 it began providing subsidies to ETUC activity on health and safety through the Trade Union Technical Bureau (TUTB). In 1990 it added support of the European Trade Union College (ETUCO), a new creation to train to engage in European level activity. The costs of such activities, small in absolute terms, allowed ETUC to hire new officials and administrators, build a larger, more autonomous, headquarters organization and expand its capabilities. Supplying EC/EU money for these various Commission-funded ETUC activities also involved new Commission contact with and influence on ETUC thinking.

Financial support from European institutions also strengthened European trade union structures at sectoral and company level, particularly through the 15 existing European Industry Committees - small- transnational coordinating committee in particular sectors.¹⁰ Commission and Parliamentary support for EIC efforts in the preparation for “European Works Councils” in MNCs was very significant. This first involved major infusions of EC/EU money to organize meetings of worker representatives of MNCs pending adoption of a 1991 directive on EWCs and, then, after it became clear that the Directive would be tied up in the Council of Ministers, the Commission decided to fund EIC efforts to prepare EWCs proactively. The meetings that quickly proliferated then were financed by a new budget line set up by the European Parliament in 1992.¹¹ The money amounted to more than four times the total of all existing EIC budgets combined and quickly became a major factor in EIC organizational and resource growth.¹² The meetings thus financed typically resulted in the establishment of permanent “trade union committees” committed to preparing and seeking management agreement to proposals for the establishment of EWCs, in essence the beginnings of European trade union structures at company level.

The broader context was the post-1985 relaunch of integration. The Single Market presented threats and opportunities to unions. Strident union warnings about “social dumping” beginning almost immediately after the announcement of the “1992” program. The trans-nationalization of markets which was the purpose of “1992” stimulated a new willingness among unions, increasingly on the defensive in their national contexts, to look to trans-national strategies.

These two processes - the coming of the Single Market and the willingness of the Commission and other European players to provide incentives and encouragement for the development of more European unionist activity - created new opportunities for those trade unionists who were committed to building the capacity for European level action.

The resources and help provided by European institutions intersected with the work of these pro-Euro-level union activists to help shape what unions did to respond to the new European setting. It is more than symbolic, for example, that serious efforts to rethink ETUC did not really begin until after the 1988 ETUC Congress, when the confluence of impulses toward change from the Commission and from within ETUC became clearer. Delegates then urged that the ETUC be given "increased means to become a united and coherent force" for "a true social and contractual European policy," through "strengthened structures and increased membership, enhancing efficiency both in terms of finances and staff," and increased cooperation among an increased number of industry committees. That this implied the delegation of increased authority to the ETUC was made explicit.

The 1988 Congress authorized the preparation of broad reform proposals to be put to the next Congress in 1991. A working group on ETUC organization, chaired by Johan Stekelenburg, president of the Dutch Confederation of Labor (FNV) then produced a report ("For a More Efficient ETUC") adopted at the end of 1990. The report's justifications for ETUC organizational changes mainly had to do with the EC/EU -- the Single Market and associated increases in EC/EU competences plus changes likely from prospective Inter-Governmental Conferences. It recommended that the ETUC "become a genuine confederation with appropriate competences and tasks," implying "the transfer of some competences from national to the European level" including "not only setting priorities but also executing them," to "coordinate collective actions, build up international trade union countervailing power and organize solidarity through actions promoting common objectives." The Report proposed changes in policy-making structure, in particular by establishing a new Steering Committee and enhanced power for the ETUC leadership.¹³ It also urged an increased role for the EICs.

The 1991 Congress then considered the report. It proclaimed higher priority to European transnational union action and emphasized the ETUC's function as the organizational vehicle for

such action, including the formulation and implementation of joint strategies in collective bargaining and the representation of joint interests in the EC/EU legislative arena. It also selected a new leadership. Finally, the EICs were made ETUC member organizations on a footing more closely approximating that of the national confederations The ETUC, until then an organization of national confederations, would become one with a dual membership base consisting of cross-national sectoral as well as national intersectoral organizations.¹⁴

Congress ratification of these changes was far from indicating a broad consensus for transforming the ETUC into a "supranational organization," however.¹⁵ Deciding what competences to be transferred from national to European level was left to the Executive Committee, where obstacles to a stronger ETUC were rooted in the diverse structures and interests of its national constituent bodies. Quite as important, the ETUC's financially strapped members were in a difficult position to provide it with more resources. Even after the Congress it would thus remain a small organization, therefore, its six-member secretariat backed by a staff of 30. Resource poverty was even more true for the EICs.

On the heels of the 1991 Congress, however, a new critical juncture, again involving the intervention of European institutions, changed the situation. The October 31 Agreement and its incorporation two months later into the Maastricht Social Protocol put the issue of the ETUC's negotiating authority on the agenda more quickly than had been anticipated. The central actor was the Commission. It had long been clear that UNICE would only deal under constraint, and the Commission had been seeking ways to provide it by making bargaining at Euro-level a lesser evil to UNICE. But to what? One answer was EC/EU legislation. The Action Program played an important part in making the connection. Beginning in later 1990 the Commission produced a substantial number of pieces of legislation, in the process consulting regularly with the "social partners." While employers could anticipate that much of the legislation would not pass the Council, some might, and UNICE did not like what it could project from this. Once some social legislation passed that the precedent it might encourage a broader political dynamic in which the Commission would be further encouraged and perhaps even the treaty broadened and to UNICE even the threat of this was a serious matter. From its point of view, however well-designed EC/EU legislation might be, it was bound to be more constraining than no legislation or a

bargained agreement on the same matters.

The Commission's strategy of brandishing the threat of legislation bore fruit in the Maastricht negotiating year of 1991. Early on the Commission tabled an ingenious "negotiate or we will legislate" gambit, part of proposed new social clauses whose broad goal was to expand the EC/EU's competencies in social policy by granting it new areas to work in and new possibilities for qualified majority decisions. The Commission's paper included a clause that would allow the Commission to announce its intention to "act" in a specific area, after which the "social partners" would have a short period to propose negotiating an agreement in place of actual legislation. Were this negotiation to succeed the Commission could then submit it to the Council which might then give the bargain full legal status. The Commission reasoned that if its competencies and QMV had been expanded in the social policy area the social partners would conceive new interests in Euro-level negotiating. For UNICE negotiating would be a way of watering down and perhaps "flexibilizing" what might otherwise be strong EC/EU legislation. For the ETUC it would open paths to European level collective bargaining.¹⁶

This proposal, which COREPER and the member states originally buried, ended up at the core of the Maastricht Social Protocol, the product of the complexities of intergovernmental bargaining. On October 31, 1991, after assiduous Commission work, the "social partners" agreed to repropose the Commission's "negotiate or we will legislate" idea. UNICE signed, apparently, because it saw an opening to hedge its bets. If more social legislation might come after Maastricht then UNICE preferred to change tactics because bargaining plus employers' bargaining strength could mean considerable watering down. But this was a fall-back position. UNICE also reasoned that the October 31 proposals were extremely unlikely to be accepted at Maastricht. The British, adamant about refusing any change in the treaty's social provisions, had announced their willingness oppose any such proposals even if it prevented agreement on everything else. UNICE could thus feel free to engage in "low cost talk."

An unexpected turn of events at the very last minute at Maastricht, when the eleven decided to go ahead without Britain on the Social Protocol, exposed the risks UNICE had taken.¹⁷ The Social Protocol was an extraordinary culmination of the process begun so inauspiciously at the Val Duchesse social dialogue meetings of 1985. The social dialogue

structure provided the Commission with a forum in which to launch its initiative. But before doing so it had already enlisted the support of the ETUC in what amounted to a coalition to push UNICE into accepting the role of collective bargainer at the European level which it had until then resisted. This was a sharp reminder, if any were needed, that while the issues concerning the relationships between trade union structure and strategy can be debated within trade unions, they cannot be decided by unions alone but are as much determined by the structures and strategies of the state and market actors with whom the unions interact. In the case of the Social Protocol, it was the Commission's initiatives that were decisive in opening an opportunity for ETUC to become a negotiating body at the European level -- an opportunity which a newly installed ETUC leadership was eager to exploit.¹⁸

The support the European Industry Committees then received from European institutions was a second order effect of the Social Charter and Social Protocol. Originally the Commission began funding the EIC-organized preliminary meetings of workers in anticipation of passage of the European Works Council Directive contained in the Action Program. When it became clear in 1991 that the Directive would not pass the Council unless the Treaty were changed, the European Parliament introduced a specific budget line to continue these meetings - some 14 million ecu. Besides bolstering EIC legitimacy this also put much greater financial resources at their disposal than their dues provided.¹⁹

Action under the Social Protocol itself, which had further organizational and strategic ramifications for ETUC, was delayed because of the unanticipated difficulties of ratifying Maastricht. The first proposal, in 1993, was on European Works Councils,²⁰ a matter with a long EC/EU history of the "information and consultation of workers" in multinational corporations.²¹ Failure to get a negotiated agreement on EWCs led eventually to a legislated Directive in 1994 which mandated EWCs in all multinationals above a certain size and with a European presence. The Commission used the Social Protocol once again in early 1995, this time on parental leave, also an issue with a long history.²² The social partners reached agreement in the early fall of 1995 on the "first European bargain," officially signed in December of that year. The Italian Council Presidency then gave it legal force with a Directive (96/34/CE) in June, 1996.²³ Substantively, the measure made very modest progress. By the time it was proposed, the right it guarantees (and

often considerably more) already existed in all but three of the 14 countries covered. But it did establish the political precedent of negotiated legislation under the Social Protocol. With this accomplished, the Commission explored possibilities for using the procedure for some left-over Social Action proposals on “atypical work,” with a negotiated accord reached as we wrote this paper.

Gifts From Friends and the Shape of Euro-Trade Unionism

The 1991 ETUC Congress was an important milestone in the process of establishing Euro-level unionism. The changes it made, combined with the linkages to national constitutencies being created by the new units established prior to the Congress (TUTB and ETUCO), and expanded by the linkages begun by the EICs through the formation of trade union committees in multinational companies, began putting into place a new multi-level structure. At the top level, the most important process has been the establishment, after much controversy, of procedures for ETUC conduct of negotiations under the Social Protocol. The ETUC’s organizational resources have also been strengthened.²⁴ Significant developments occurred as well on sectoral and local levels. The EICs remained small and unevenly effective but their status and resources have been strengthened.²⁵

All in all, then, ETUC, no longer a “head without a body,” extended its scope downward to draw national and local union officials into transnational activities of various sorts. This has nonetheless been largely a top-down process, driven by the interplay of actors in European institutions and European level trade union organizational activists. Each had their own stakes in a particular European union structure. The intervention of national level trade unionists and their members was small. As one observer suggested, the story of the Europeanization of labor has been one of “structure before action.”²⁶ It might also be seen as one of structure before strategy.

The top-down process of exchange between Euro-institutions and Europeanist union activists by which the structure developed has quickly posed fundamental strategic issues. The ETUC's aspirations are great. It has consistently articulated an expansive vision of its role. It wants to mobilize and orchestrate the resources of unions throughout Europe and bring them to bear on the course of European integration, going beyond “Brussels lobbying” to become a player in European level policy deliberations and bargainer negotiating binding agreements at the top of a

multi-tiered European industrial relations system.

Bargaining?

The first strategic dilemma was posed by the scope of ETUC's ambitions for the Maastricht Social Protocol. The most enthusiastic Europeanizing trade unionists hoped that social dialogue would develop into genuine Euro-level collective bargaining, but these enthusiasms were not completely shared. The ETUC leadership, expecting Maastricht to be ratified sooner than it actually was, convened a conference on "European Collective Bargaining -- ETUC Strategy" in June 1992 where it staked out a large new bargaining role for itself. In reaction German and Nordic participants opposed this claim, proposing instead a "bottom-up" approach to Euro-level bargaining according to which national unions first had to be strengthened before national collective bargaining could be coordinated and an "independent European trade union counterforce" developed at sectoral level. Any intersectoral bargaining role for ETUC should wait until some time in the future. According to the Germans, collective bargaining accordingly had to be distinguished from the negotiation of agreements on legislation contemplated in the Social Protocol. The ETUC might negotiate such agreements, but only when given case-by-case mandates. The Nordics would not go even that far, rejecting negotiated European labor market regulation altogether and insisting instead upon legislation.²⁷ The outcome of the controversy was a set of guidelines for ETUC negotiations exclusively within the framework of the Social Protocol constraining ETUC to proceed under strict supervision by its affiliates. The leadership's supranationalist ambitions thus ran up against strong resistance from national actors.

A second phase of controversy, in the context of successful bargaining in 1995 about parental leave, was over using the Social Protocol to promote sectoral as well as intersectoral negotiating, a debate triggered when the employer organization for commerce, Eurocommerce, declared that it was not bound by the parental leave deal because UNICE did not represent it. The corresponding EIC, EURO-FIET, therefore felt it necessary to negotiate a separate agreement. In response, the ETUC Secretariat renewed efforts to establish authority over sectoral negotiations, which the EICs staunchly resisted. The Secretariat was supported by most national confederations, with the notable exception of the DGB.²⁸ Although the Council of Ministers' adoption of the parental leave agreement as a directive made the issue moot, the Secretariat

essentially gave up in the face of strong EIC opposition.

In both phases of this controversy over the ETUC's bargaining role the Secretariat had to settle for less than it initially desired. By 1996 it was left with a role as bargainer in intersectoral negotiation under the Social Protocol, a process of negotiated legislation which is collective bargaining only in a very special sense. Getting to this point involved national affiliates and their member unions being drawn into taking European level activity more seriously than ever before. It is less clear, however, that ETUC is any closer to realizing its broader vision of a multi-level European industrial relations system where cross-border collective bargaining would play a significant part in regulating the European labor market. The potential for this through Social Protocol negotiations is limited as long as the employers will not negotiate except "under the shadow of law." Moreover, the range of subjects over which that shadow can be cast is narrowly circumscribed by the constitutional limits of the EC/EU's legislative authority. Finally, even within those narrow limits everything ultimately depends upon the initiative of the Commission, currently disinclined to propose new legislation.

What about the company level? There the 1994 EWC directive has offered new possibilities, but not without considerable ambiguity.²⁹ The directive does not impose great obligations on management, either qualitatively or quantitatively.³⁰ Even if EWCs were set up in all covered companies and there was a union presence in all of these (neither likely), they would provide company level cross-border representation for only a small portion of the European labor force.³¹ And even with union involvement in all this, employers could still prevent any metamorphosis of EWCs into collective bargaining institutions by minimal legal compliance with the directive's terms.³²

To be sure, EWC meetings could also create a dynamic to make European-level company bargaining happen despite employer intentions. Although central management typically prepares the information about a company or group as a whole it has to provide, employee members normally cannot count on getting it at the individual sites they represent. Moreover, management has to explain and justify decisions it would otherwise not have to. Probably more important, the meetings make possible cross-border communication among employee members (especially in prior meetings without management present) which would be difficult if companies were not

obliged to cover the costs of overcoming barriers of distance, time, language, and information-gathering. Once such communication is established, it can be continued and expanded, sustained by a cross-border network that would probably not otherwise exist. The information thereby exchanged -- beyond what management provides -- could enable union comparisons between different sites to be compared, ultimately facilitating new cross-border strategic coordination among unions.³³ Under these circumstances, TNC managers could find it increasingly difficult to unilaterally implement company-wide "human resource management" strategies. This could prompt them to use EWCs to legitimate or even secure "framework agreements" on some company-wide workplace issues, such as organization and training. Even if wages are kept out of the purview of EWCs, it is a short step from such workplace issues to pay systems.³⁴

EMU - The Gift That Keeps on Giving?

Such complex strategic situations are unlikely to emerge for until EWCs have been widely established and experimented. The most immediate dilemmas are likely to come from EMU. The single currency will have a major impact on unions, since it will eliminate exchange rate changes as a means for adjusting to shifts in the relative economic position of different regions. Once that mechanism is eliminated, all the adjustment has to take place through the labor market except insofar as the adverse impact of changes can be cushioned by fiscal mechanisms. With a budget corresponding to little more than one percent of Community GDP and no current prospects for increase, fiscal federalism in the EU will be minimal.³⁵ This leaves two likely adjustment processes. Labor can move from adversely to favorably affected regions or there can be a reduction in labor costs in the former relative to those in the latter. Given Europe's low level of transnational labor mobility the burden of adjustment thus will fall almost entirely on labor costs, wages and social charges.³⁶ Unions in affected areas will bear the brunt in terms of wage reductions or low increases plus cuts in non-wage costs that erode the financing of bargained or statutory social benefits. The variations in unions' capacities to resist such pressures in different member states implies that regions with stronger unions would lose competitiveness to regions with weaker unions, putting stronger unions under pressure to accept cuts to restore their regions' relative competitiveness. The potential for a vicious circle of labor cost dumping or competitive internal depreciations which cumulatively lowers aggregate income, demand, and

employment throughout the Community is crystal clear.³⁷

Monetary union will thus create a wholly new situation. To some this should make “the development of a related [i.e. European] structure for collective bargaining . . . necessary and unavoidable,” forcing national unions over the threshold to Europeanized collective bargaining strategies.³⁸ Others argue, on the contrary, that while monetary union makes such Europeanization necessary, it also makes it impossible.³⁹ No matter how centralized, national or sectoral trade unions which could dampen wage competition within labor markets separated by national currencies would be reduced to regional trade unions within a single European labor market in direct competition with each other.⁴⁰ Creating a currency area too large for “an effective wage cartel” would thus eventually create a highly decentralized European wage bargaining structure.

EMU’s built-in restrictive macroeconomic policy regime accentuates its dangers. With unemployment at Great Depression levels and governments locked by TEU (and even more by its subsequent interpretation) into policies that can only make it worse, trade unions are under enormous pressure to save jobs wherever they can, not just nationally or sectorally but in individual companies, straining solidarities even within the latter. Under these circumstances, the prospects for constructing common cross-border cross-company collective bargaining strategies, not to speak of mobilizing the bargaining power to implement them effectively, seem extremely slim.

The Political Arena - Paying for The Gifts

The daunting strategic dilemmas posed to unions by EMU underline the deeper story that we have been telling. Ultimately the possibilities for building up trade union counter-pressure in the European market arena envisioned by the ETUC rest on the trajectory followed by European integration. How to change that trajectory to create more favorable conditions is undoubtedly the most fundamental strategic challenge facing the ETUC and its member unions. The problem is that ETUC has, in important ways, already committed itself to the trajectory now in place. This commitment was the price ETUC paid, over time, for its “gifts from strangers.”

The ETUC’s response to the Maastricht Treaty conveyed the flavor of its difficult position. Given the fact that “the economic and monetary integration of the European economies

is happening anyway . . . what is required is the empowering of democratically-accountable institutions so as to regain at the European level those powers to manage our economies which have increasingly been lost at the national level.”⁴¹ ETUC also accepted the belief that needed political integration could be achieved only as a result of "spillover" from successive installments of economic integration. In one ETUC official's words "...just as internal market integration led inevitably on to economic and monetary integration, and that on to greater political integration, . . . so we were convinced that all this would have to lead on to Social Union. And indeed we did get the social protocol.”⁴²

The "...indeed we did get the social protocol" is revelatory. The gaps between the ETUC's "spillover" hopes and the actual course of integration since the mid-1980s have thrown the dilemmas of relying on the "economic approach" to political integration into sharp relief. The ETUC's quest for a "social dimension" has achieved mixed, if not meager, results. It failed to achieve its basic goal, to get the principle of an enforceable set of social rights established in the Social Charter. ETUC did make a small breakthrough into the European constitutional politics arena with the October 31 Agreement and the Social Protocol which made possible the EWC directive, the parental leave and atypical workl agreements plus passage of a few additional items.

The ETUC achieved these modest successes in the EC/EU's highly segmented policy arena largely through the social dialogue mechanism where it could be part of alliances, often led by the Delors' Commissions, with member state support. These political constellations have virtually disappeared in the post-Maastricht period, however, while simultaneously the ETUC and labor within the member states were being shut out of the arena in which decisions shaping EMU were being made.⁴³ Here the ETUC's tradeoffs for "gifts from strangers" were most apparent. ETUC supported EMU while criticizing its design, a has which left it in a state of high ambiguity, if not paralysis. Lobbying for a "kinder, gentler" EMU has gone nowhere. ETUC tried, for example, to lobby for the package of Euro-financing for infrastructure and job creation proposed in the 1993 Delors White Paper (which in 1994 became the "Essen" process) which member states did not want.

By the mid-1990's, after a deep recession and as the convergence criteria began to be

taken seriously by different EC/EU governments it had become clear that EMU and the Single Market were consolidating a high unemployment, low growth regime in Europe that was likely to last well into the future. The “growth and stability” pact decided at the 1996 Dublin European Council put this regime on paper. In such an extremely restrictive macroeconomic environment, it is hard to imagine that any amount of upward harmonization of labor standards could offset the effects of mass unemployment. Instead labor standards are increasingly threatened and efforts to create a European labor movement undermined. In its latest form, therefore, the ETUC's strategy of political integration through economic integration - a "realistic" compromise profoundly etched in ETUC's "soul" by its dealings with European institutions during the heydays of post-1985 exaltation, has put European unionism in a very difficult bind. The ETUC has consistently joined in criticisms of EMU.⁴⁴ But despite such criticisms, it still reasons that monetary union is in itself needed, even if it has been formulated in negative ways, for example.⁴⁵

The ETUC's present position, therefore, is not to reject EMU but to remedy its flaws, even though the ETUC leadership is quick to recognize that it has achieved very little remedying to date. But EMU may well be exacting increasingly severe social costs that are unacceptable from a labor perspective. If so, how much further can the ETUC go on supporting it, however critically? And if it withdrew its support, what would the consequences be -- would it derail EMU or make no difference, demonstrating the European labor movement's political weakness?

2. Europe in childcare policy: the performance of an actor without a role

...The Community has no powers in the domain of family policy. The word 'family' does not occur in the Treaty on European Union. The Member States alone are competent in this domain and free to organize family policy as they deem fit...⁴⁶

Discussing EU family and childcare policy sounds like a fruitless endeavor, since, according to this citation, there is not likely to be any. In the light of our particular interest in Commission efforts to generate Euro-level interest group representation this turns out to be not quite true, however. The distinction is often made between “hard” and “soft” politics in European matters. European institutions, the Commission in particular, have tried to “incite,” “inform” and

“animate” policy debate in the family policy and childcare realms, particularly in the decade of the Delors’ Commissions (1985-1995). Europe has thus done a significant amount of “soft” politics in the family policy and childcare area, via networking, informing, solemnly declaring and officially recommending. In some instances the eventual result has been “hard,” with Community legislation and other mandatory measures. In all this, however, there is another narrative of Commission efforts at creating Euro-level interest representation. Here, however, in contrast to the case of Euro-level unionism, Commission-level incentives to external groups were less important than Commission efforts to shape European policy discourses which themselves might mobilize external groups.

The beginnings of Europe’s role

Article 119 was perhaps the only significant exception to the rule that the Rome Treaty left social policy matters to member states. The Article states that “each member state shall during the first stage ensure and subsequently maintain the application of the principle that men and women should receive equal pay for equal work.” This became the basis of virtually all the Community’s subsequent efforts in the broad area of Equal Opportunities, as well as childcare and family policy.⁴⁷ Very little actually happened until the 1970’s, however. Then ECJ and Commission action began in the context of renewal of interest in further European integration which included a Social Action Program in 1974. Among its provisions was “action for the purpose of achieving equality between men and women as regards access to employment and vocational training and advancement and as regards working conditions, including pay...[and]...to ensure that the family responsibilities of all concerned may be reconciled with their job aspirations.”⁴⁸ The Program noted further that one cause of inequality between women and men was “the lack of adequate facilities for working mothers” and spoke of the need to give “immediate priority to the problems of providing facilities to enable women to reconcile family responsibilities with job aspirations.”

This was the first Community venture towards family and childcare policy. The burst of general social policy activity in the 1970s was brief, but openings for action under Article 119 were broader than those in other social policy areas of the Treaty, and legislation based on it was one of the few substantial products. From 1973 - when few member states had laws on equal

opportunities - to 1986 five Directives were passed. The first (75/117/EEC), was on "the approximation of the laws of the member states relating to the application of the principle of equal pay for men and women." It was immediately followed in 1976 by a second on "the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion." (76/207/EEC), which expanded Community purview beyond equal pay towards challenges to gender discrimination more broadly. Next, in 1978 there was a directive "on the progressive implementation of the principle of equal treatment for men and women in matters of social security" (79/7/EEC), including health insurance, health and safety at work, invalidity, old age, occupational diseases and social assistance. Finally in 1986 came one "on the implementation of the principle of equal treatment for men and women in occupational social security schemes" (supplementary pensions and other non-public social protection arrangements - 86/378/EEC) and Directive 86/613 which extended equal treatment to the self-employed (including agricultural work).⁴⁹

Simultaneously the ECJ (in the first *Defrenne vs Sabena* case, 43/75) issued a ruling on Article 119 which expanded possibilities for Community action on Equal Opportunities.⁵⁰ The ECJ announced that Article 119 was meant, first of all, to avoid situations in which Member States with equal opportunities legislation might suffer from competing with those which did not. It added "...this provision forms part of the social objectives of the Community, which is not merely an economic union, but is at the same time intended, by common action, to ensure social progress and seek the constant improvement of the living and working conditions of their peoples..." (ECJ, Case 43/75, para 8-10; Ellis, 1994). ECJ rulings also made Article 119 directly effective throughout the Community, thereby inviting individual suits. Any employee could invoke it against any employer. The Court also widened the definition of "pay" over time to include pay-connected entitlements (bonuses, sick pay and the like).⁵¹

The Directives and court decisions successively expanded the principle of equal opportunities. The equal treatment Directive (76/207/EEC) was particularly important because it elaborated the concept of "indirect discrimination." While the concept is not clearly defined in this or subsequent Directives, according to a 1991 Commission clarification it "...is presumed to exist once an apparently neutral measure in fact has a preponderant effect on workers of a given sex -

without there being any need to establish the intention to discriminate...”⁵² While the language here reveals the link to traditional concerns - workers are the category at issue - it is not difficult to see how reflection upon indirect discrimination might stretch to matters outside the workplace. Indeed, this is what happened. This body of Article 119 legislation and jurisprudence provided the legal underpinnings of Community endeavors in the areas of family and child care policies.

The existence of the “equality Directives” caused the Commission to establish an Advisory Committee on Equal Opportunities for Women and Men in 1981, while simultaneously strengthening its internal Equal Opportunities Unit (established in 1976 in DG V - Social Affairs).⁵³ The major initial task of the reconfigured Equal Opportunities Unit, through its legal staff, was to monitor the implementation of the equality Directives with an eye to bringing laggard member states to the ECJ.⁵⁴ It also was charged with preparing possible EC/EU legislation. After strengthening of the Equal Opportunities Unit, the Commission then produced the First Action Program on the Promotion of Equal Opportunities for Women (1982-1985) designed to serve as a mandate for the unit (Com[81] 758 final). This First Action Program brought initial Commission recognition of the connection between childcare and equal opportunities. Point A7 suggested extending “parental leave and leave for family reasons and at the same time to build up the network of public (childcare) facilities and services.”⁵⁵ The Commission defined its purpose to study “the evolution [of facilities and services] and then propose measures for maintaining and extending [them]. Pursuant to the Action Program the Commission also proposed Community legislation on parental leave and leave for family reasons in 1983 (Com(83)686 final; amended as Com(84)631 final). This Directive came as close to family policy legislation as any Commission action to that point, but it did not pass the Council of Ministers.⁵⁶

Reconciliation and its declensions

What was most interesting about the Commission efforts in the 1980s was their language and the ways in which it changed along with the European context.⁵⁷ Initially, “in the official point of view the problem of equal opportunities was mostly explained in terms of arrears...which could be bypassed if women would get a fair chance.” It took a bit more time for recognition to spread that “equal treatment on unequals only reproduced the existing inequality between women and men”⁵⁸ With the second Action Program of the Promotion of Equal Opportunities for Women

(1986-1990), prepared just prior to the first Delors Commission in 1985, the discourse began to shift. The Commission and the broader Community began to talk about “reconciliation,” and for nearly a decade moved towards more involvement in family policy and childcare areas.⁵⁹ Reconciliation was the “bridge” concept that allowed the Commission, and its ever more ambitious Equal Opportunities Unit, to slide towards new areas whose treaty base was shakier than the solidly grounded Directives of the 1970s. The logic of the concept was clear. In order for women and men to be equal in the labor market (remember, Article 119 talked about “pay,” so the Community’s expansion had already been significant) the “indirect” (i.e. non-market) relationships between them had to be reconciled. Family and work should be reconciled in ways that promoted greater equality in both realms for women. This notion of reconciliation thus pointed at power and inequality both in the work place and in the family unit. It was a clear shift away from the ordinary welfare statist vision of earlier periods. How far-reaching it could be can be seen in later remarks by one of the Advisory Committee's leaders, who noted that pursuing equal treatment in these welfare statist ways,

only reproduced the existing inequality between women and men. And since most women and men start their societal career from different starting points, it must be clear that a genuine equal opportunities policy has to start from the premise that in the long run the equality of women and men is fostered by a policy by which in the short and medium run unequals are treated in an unequal way and equals are treated equally...⁶⁰

These “insider” words expressed an unusual progressivism on gender inequality issues, far from the more traditional discourses on family wages, reproduction and the gender division of labor prevalent in Member State discussions or, indeed, in the day-to-day conversations of ordinary Europeans. Implied was a strategy of promoting “positive action” tous azimuts.

As different Commission and para-Commission equal opportunities teams were assembled, they tended to attract policy activists on the cutting edge of new conceptualization and politics.⁶¹ At the source of these efforts was the Commission’s DG V, trying to be an “animator” and agitator to open paths to future activity.⁶² Much of what DG V did initially was “soft.” It produced reports, monitored the workings of laws relevant to equal opportunities, published, networked and funded groups and activities. The emergence of new language about reconciliation in these activities was no accident, however. Because the Commission needed enthusiastic troops

for its animation campaigns it became a welcoming site for practically-minded feminists. The Equal Opportunities Unit of DG V gained more prominence as staff grew, budgets rose and publications multiplied. It acquired new capacities in the family and childcare policy area. One new approach after 1982 was to sponsor Networks in different sub-areas to research, publicize and organize on specific matters. Thus after preparatory work the Commission's Second Medium Term Action Program on Equal Opportunities made recommendations for action in the field of day-care facilities and set up an expert Network on childcare, the sixth such creation.⁶²

The Childcare Network was composed of 12 national experts, coordinated by Peter Moss, a British specialist affiliated with the University of London's Institute of Education. Moss' strongest commitments were to children's rights and the importance of early childhood education.⁶³ Thus while he understood the logics of the Commission's movement towards childcare matters via Equal Opportunities legislation and jurisprudence around Article 119 he saw childcare issues in a different optic. Still, given this point of departure, he assumed that one way to eliminate labor market discrimination would be to change gender roles in the care relationships in the family and in early childhood education. Were both male and female roles in these relationships to become more equal, particularly in the distribution of caring responsibilities, then labor market shifts could also ensue. Other members of the network shared many of these convictions. Beyond this, like most experts, they were convinced that their ideas about childcare were informed by solid science whose conclusions made their work in Europe very urgent. Policy experts are often advocates and activists, after all. They try to do politics as well as advise politicians.

The language of the Childcare Network's first large production, the Consolidated Report to the European Commission on *Childcare and Equality of Opportunity* illustrated the commitment of these experts.⁶⁴ Significantly, the first Chapter is entitled "Childcare, Gender and Inequality" and proceeds, while presenting data about women and men's work situation, to imply that gender discrimination in labor market is connected to the gender division of labor in the family. Subsequent chapters support this thesis, before the text turns, in Part 2, to a review of the history and contemporary situation of childcare services in Europe. In its first pages, the Report notes that

In its Second Action Programme, the Commission emphasises that "the sharing of family and occupational responsibilities, particularly the development of adequate childcare facilities...[is] a sine qua non for the promotion of true equality at work...The Network's starting point has therefore been to examine the current distribution of family

responsibilities, especially those concerned with the care of children; and to consider ways of promoting a more equal distribution, that does not disadvantage women...

The Network has considered the distribution of responsibilities between mothers and fathers. We accept the view that "caring for an bringing up children should be regarded as a joint responsibility of the father and mother." We agree, too, with the Commission that sharing between parents "is an essential part of strategies designed to increase equality in the labour market ...

The Report, however is not limited to sharing between parents and to the role of childcare services. It is also concerned with how employment can be adapted to enable parents, fathers as well as mothers, to combine and reconcile parenthood and employment. The issues - fathers' involvement in childcare, childcare services and employment adaptations - are closely linked; the achievement of equality require action on all three ... without proper sharing of childcare responsibilities, women with children will be at a major disadvantage in competing for jobs and may become heavily concentrated in the poorest quality jobs

Mothers, or indeed fathers, should also be able to combine employment and family responsibilities with minimum stress. Policies should be directed to increasing their 'job satisfaction' in both employment and parenthood. Finally, childcare services should be more than a place to 'park' children while their parents are out at work ... there must be a concern with quality as well as quantity, and with ensuring that services meet all aspects of children's needs...(Moss, 1988: pp. 3-4).

The Delors Commissions and family policy

The Delors Commission's entry point into the family policy discussion came as a result of a Communication on "Problems of social security - areas of common interest" (July 1986). The connection was made via demographic trends in the Community and their implications for the future, then being discussed widely in Member States. In its Communication the Commission suggested establishing high-level consultations of national officials involved in family policy.⁶⁵ The 1988 Copenhagen European Council accepted this recommendation.⁶⁶ In 1989 the Commission then wrote a specific Communication on family policy, in conjunction with Council discussion, (Com(89)363 final). This Communication used the setting of demographic alarm to introduce new official language. Its first part stressed the socioeconomic tendencies behind Europe's demographic changes, reviewing the decline of "typical" families, increasing female labor force participation, companies' search for new flexibility and the resort to atypical work,

often done by women. The resulting imbalances between female and male participation in family life were then highlighted as important in themselves, leading the document to suggest that it

would therefore seem advisable to examine the effects of different forms of work organizations and the status of workers on their family and social life, in particular the balance between work and family life. The problem of sharing family and occupational responsibilities and the care of children, particularly in connection with the integration or reintegration of people who have left the labour market, will...become more acute.⁶⁷

This stretching of the EC/EU's traditional trade and market mandate then led to the suggestion that the Community should become more involved in a key component of family policies: childcare facilities. The second part of the Communication was entitled "Recognition of the role of the family and action in its favour by the public authorities," and listed, among other things, a series of precedents that might allow the Commission and Community to become more active in such areas. The number of citations to the work of various members of the Childcare Network indicated the growing influence of the network's work. The conclusion of the Communication, justifying new Community action in the family and childcare policy areas, noted that

The legitimacy of Community interest is based not on ideology but on the acknowledgment and methods of a Community action at family level; the appropriateness of such Community interest is based less on ideological grounds but more on such objective facts as the economic role of the family, the importance of family as the touchstone of solidarity between generations, the irreversible desire for equality between men and women and the wish of women to have complete access to working life.

Repetition that ideology was not the center of new Community concerns, followed by several claims that some might interpret as "ideological," reveals some Commission discomfort. Family and childcare policy areas were clearly a tightrope for the Community.

Substantive suggestions included continuing action to inform and increase awareness, particularly through the production of regular information on demography and national policy measures concerning families (with greater use of the existing Network of experts). The Community should also begin taking into account the family dimension in the establishment of appropriate Community policies, a first step towards the "mainstreaming" of such matters.⁶⁸ Finally, there should be regular concertation at Community level, centering on

- (i) the impact of other Community policies on the family, notably on child protection;
- (ii) reconciliation between professional life, family life and the sharing of family responsibilities;
- (iii) measures taken in favor of certain categories of family, notably single parent and large families;
- (iv) attention to the most deprived families.⁶⁹

Reading the Commission's communication to the Council of Ministers and the Social Affairs Council's response is an interesting exercise. The Childcare Network advocated "reconciliation", so as to change in the gender division of labor in family caregiving. The Commission toned this down to "fit" its own mandates but at critical points also used it. The Social Affairs Council's response to the Commission Communication, while taking up some of the Commission's discourse significantly watered down "reconciliation."⁷⁰

The social policy focal point of the Delors Commissions, and of the social policy commitment in European integration more generally, was of course the 1989 Charter on the Fundamental Social Rights of Workers. Point 16 of the Charter began as follows.

Equal treatment for men and women must be assured. Equal opportunities for men and women must be developed.

To this end, action should be intensified to ensure the implementation of the principle of equality between men and women as regards in particular access to employment, remuneration, working conditions, social protection, education, vocational training and career development.

Measures should also be developed enabling men and women to reconcile their occupational and family obligation.

The last phrase is particularly interesting. The Delors Commission believed that existing treaty stipulations would allow European level action not only to equalize treatment between men and women in work and in the labor market, but also in the social conditions of family and child rearing that affected entry and position in the labor market. The 1989 Action Program included a number of proposals for Directives of importance to women and to the themes of "reconciliation," three on "atypical work," on on pregnant workers" and one on parental leave (which would eventually become the first measure to be successfully bargained by the Social Partners in 1994 - see below).⁷¹

In the pertinent "softer" sections of the "Action Program" there was a review of the

EC/EU's general involvement in equal opportunities matters which signaled the preparation of the Third Equal Opportunities Action Program (1990-1994). Also listed were a "recommendation concerning child care" and a "code of good contact on the protection of pregnancy and maternity." The Third Action Program itself contained a predictable list of goals on equality in pay and work, access to the labor market and broader anti-discrimination efforts (*Social Europe*, 3/91, pp. 161-760.⁷² The most important new program included was NOW (New Opportunities for Women), financed by the European Social Fund and designed to help women start out in small business and acquire training. NOW also involved considerable support for the development of childcare facilities and training in the childcare area.⁷³

In general, when childcare matters were raised in Third Equal Opportunities Program, they were couched in the reconciliation of working and family life discourse developed by the Equal Opportunities Unit and Childcare Network. The major paragraph is worth reading in this respect:

It has...become apparent during the course of recent years that the insufficiency of childcare provision constitutes a barrier to the occupational integration of women with children on the labour market and that, in order for such women to be properly integrated, considerable progress in the reconciliation of working and family life needs to be made. This situation also requires that men - as well as women - should be able to benefit from the full range of measures directed towards the reconciliation of working and family life and thus be enabled to take on a fair share of family responsibilities.

At least in its assigned area, therefore, the approaches of the Childcare Network had made breakthroughs. The Network's work itself was given a more precise mandate in the Third Action Program: to reinforce the NOW initiative, monitor developments, evaluate policy options, collect and disseminate information and establish criteria for the definition of quality in childcare services.

Perhaps the major result of the Third Action Program in the family and childcare policy area, which the Childcare Network influenced, was a Council Recommendation of 1992 on childcare (92/241/EEC). This was a classic example of "soft" action, a series of solemn commitments and injunctions without legislative constraint to make them effective. The "whereases" in the Recommendation's exposé des motifs give a good sense of the claims that the Commission had by 1992 assembled to justify activity in the childcare area. They began with

Article 16 of the 1989 Social Charter, the Third Action Program and the 1989 Commission Communication on family policies, then set out a range of sociopolitical reasons to support more action. The reconciliation vocabulary was important throughout the “whereas” introduction, including:

Whereas child-care methods, parental leave and maternity leave form part of a whole which enables people to combine their family responsibilities and occupational ambitions;

...

Whereas the reconciliation of occupational, family and upbringing responsibilities arising from the care of children has to be viewed in a wide perspective which also takes into account the particular interests and needs of children at different age levels, where it is important, to achieve this, to encourage an overall policy aimed at enabling such reconciliation to occur...⁷⁴

The actionable parts of the document reverted to more standard welfare state discourses, however. They underlined shortages and deficiencies in childcare provision in Member States, noted that better services could facilitate freedom of movement of workers and mobility in the European labor market, and concluded with reference ways the reformed Structural Fund policies (primarily NOW) contributed to equal opportunity. But reconciliation discourse had made inroads even in such welfare statist pronouncements. Areas of initiatives for Member States included the provision of daycare services, special leave for employed parents with responsibility for the care and upbringing of children, making the environment, structure and organization of work responsive to the needs of workers with children. Finally, Member States should promote initiatives to enable women and men to share their occupational, family and upbringing responsibilities arising from the care of children. Along with exhortation to Member States to promote best practice childcare, Article 6 also recommended that “...Member States should promote and encourage, with due respect for freedom of the individual, increased participation by men [...in childcare...], in order to achieve a more equal sharing of parental responsibilities between men and women and to enable women to have a more effective role in the labour market..”

Nested narratives, multiple motives

The Council Resolution on Childcare was the high point of a long story. The childcare network had spent five years working to legitimate its version of reconciliation discourse and

vocabulary. The work, ostensibly data gathering and presentation of expert opinion and analysis, was also advocacy work supported and encouraged by the Commission's DG V Equal Opportunities Unit. The Commission itself felt constrained to use a less progressive discourse, however, when it issued general social policy pronouncements. Over time, however, the Childcare Network's formulations "colonized" the Commission's general pronouncements when they concerned childcare per se, a success for the Childcare Network and the Equal Opportunities Unit.

There was more behind this modest story of success, however. Across a range of policy areas where Europe had tentative, limited standing to act - social policy, of course, but also industrial relations matters, the environment, industrial policy - the Delors Commission sought to mobilize support from existing and potential interest groups (including NGO's and social movements where they were important), experts, policy activists and intellectuals for new initiatives. The unspoken idea was to provide strong incentives to such groups and individuals, usually in the form of Commission encouragement, an official imprimatur and some financing to shape a new European focus and new activities. Through this approach of seducing interest groups and intellectual communities towards Europeanization the Commission obviously hoped to gain precious political support for its own actions. It also sought to use these groups to generate broader awareness and mobilization in policy areas where the Commission hoped to advance.⁷⁵ Something like this was going on in the childcare area.

It is possible to say more. Through a very complicated chain of events the reconciliation discourse made contact with the Commission's 1983 proposal for a directive on parental leave which resurfaced in 1994. Rather than leading to Community legislation, however, it became the arena for the EC/EU's first experience with Euro-level collective bargaining under the Maastricht Treaty's Social Protocol, which we have discussed earlier. After first testing the Maastricht arrangements with the European Works Council Directive the Commission then decided to try again in early 1995 on the issues of parental leave. In February 1995 Acting Director General of the Commission's DG V officially informed the social partners of the Commission's intention to act in the area of "the reconciliation of professional and family life" under the Maastricht Social Protocol and invited them to begin consultation procedures.

The Commission's initial paper "to seek the views of management and labour on the issue of reconciliation of professional and family life" began by noting that "reconciliation is a concept which is still developing within the EU."⁷⁶ The first context for such development was "equal opportunities: There will be no substantial progress towards greater equality between men and women until a comprehensive reconciliation policy is put in place for all workers. It will be instrumental in relieving women in particular from unreasonable and conflicting demands in their working and family lives." The second context was the changing labor market, where "enabling workers to reconcile their family lives with their work obligations will allow more women to become economically active." Next, in the family realm, "reconciliation aims to uphold family relationships and responsibilities...Men should be able to take a greater part in...caring commitments." The final context was that of training and education. "It is submitted, therefore, that a policy rooted in equal opportunities has developed into one focussed on quality. Quality of family life, quality of working life and quality of human resources."

The Commission's justification for reconciliation could have been borrowed directly from documents of the Equal Opportunities Unit and the Childcare Network, including an explicit invocation of the 1992 Council Recommendation on Childcare. "Reconciliation" was an opportune theme for negotiation. UNICE and business wanted to avoid Euro-level legislation, so UNICE was all in favor of reconciliation, as long as it was voluntary. ETUC wanted negotiations in principle and thought that success on this issue could help with its significant female constituency. Moreover, many Member States already had parental leave arrangements, which were often more generous than what the negotiations were likely to produce, thereby lowering the costs of bargaining for business.⁷⁷ The ultimate goal was a Framework Agreement, declaring the general desirability of parental leave and setting out minimum conditions. Specific agreements on parental leave would then be negotiated nationally by Social Partners to take into account particular national industrial relations and family policy practices. In some cases national legislation higher than the minimum conditions in the framework agreement would be enough.

A Framework Agreement was finally reached in December 1995. ETUC called it "the first European collective bargain." Reconciliation language was prominent throughout the "general considerations" which prefaced the deal. The ETUC won on two major matters. First, parental

leave was recognized as an individual right for women and men workers with natural or adopted children, to last a minimum of three months and to be taken at a point which could extend through the child's eighth year. Parental leave was non-transferable, so as to promote equal opportunities between men and women; fathers could not transfer it to mothers. The bulk of specific arrangements (how the three months was to be taken, whether eligibility was subject to a minimum seniority, specific conditions for adoption, notification times, justifiable reasons for employer postponement, the rules for small firms, etc.) were to be negotiated. National laws to safeguard the new right were to be passed to prevent victimization and ensure return to work for leave-takers. The second ETUC victory was provision for emergency (force majeure) leave in the event of family illness and accident. UNICE's big victory was that there were no minimum remuneration requirements. The agreement also stipulated that the negotiated minimum standards could not be used as an excuse to lower existing national standards. The Council of Ministers then passed a Directive (96/34/CE) which made the Framework Agreement official EC/EU law (EC JO, no.L 145, 19/6/96, pages 5-90).

The parental leave episode is illustrative of the general story to this point. The discourse of a small group of expert/advocates inside a slightly larger bureaucratic unit within the European Commission, itself a group of expert/advocates, had found its way to collective bargaining on European level as it had earlier found its way to the 1992 Council recommendation. How significant this was is difficult to evaluate. The parental leave deal was not a particularly good or eventful one for many European workers, who already had a better arrangement in place nationally. For those who had no such arrangements the deal was very positive, even though its minimum standards were...minimal. But whether these minimum standards would have included consecration of parental leave as an individual right, and whether the non-transferability of parental leave would have been included, without the long story that we have reviewed is doubtful.

Conclusions: Problems and Prospects of Commission Interest Group Stimulation

Our two cases of Commission interest group stimulation are completely different, of course. Indeed, this is what makes them interesting. In each the Commission used its resources to make something happen in the outside world, to provide incentives to external interests and actors

to mobilize and change their ideas. In the labor case this had considerable effect on the stimulation and shaping of Euro-level labor organization. In the family/child-care case, more one of trying to agitate and reshape the perceptions of outside interests than to work with existing interest groups to change their outlooks, the effects were less spectacular. Indeed, in the second case the major effect may have been the ultimate decimation of the groups inside the Commission at the origins of the Commission's initiatives.

The labor case began with a complicated puzzle. European integration has involved the creation of trans-national markets in a setting of national industrial relations systems. As this market construction progressed, it would seem logical, *a priori*, for unions, as central actors in these national systems, to follow their market adversaries and trans-nationalize themselves. Without this unions would be exposed to all kinds of new and threatening pressures. Yet a number of obstacles seemed to stand in the way. First, trade unions were deeply rooted in their national societies. Their resources were national as were their ideas about how to use them, and the payoffs from the national use of these resources, if dwindling, still seemed greater than foreseeable returns from a trans-nationalization which risked diluting national union power. Moreover, the cumulative differences between national economic structures, union organizational patterns, industrial relations systems and "cultures" (including languages) created further incentives for unions to "stay at home." These logics were reinforced by the institutions and strategies of European integration. The "economic approach" to integration militated powerfully in the direction of transnational liberalization and deregulation -- "market building" -- and discouraged the relocation of regulatory activities and social policies to European level. In addition, the intergovernmental character of policy decision making in European institutions made it rational for unions to try to influence those decision through pressure on national governments.

In short, European unions needed to trans-nationalize to follow market integration and capital, but faced a strong disincentives discouraging them from doing so. Despite this, however, there has been considerably more union trans-nationalization, largely through the growth and changing scope of the ETUC, than such an analysis would lead us to expect, and most informed observers anticipated. Hence our puzzle. A solution, we suggested, lay in large part in the ways

in which particular European institutions -- especially the Commission -- had set out to provide incentives to unions to invest more energy and attention at European level. These incentives favored the goals of those in the union movement who themselves advocated further Europeanization of union strategies. The confluence of these incentives and union actors receptive to them proved enough to produce a significant degree of union Europeanization.

The puzzle was not quite solved, however. The pattern of union Europeanization which resulted was, in fact, quite ambiguous for European unions themselves. The ETUC was strengthened and changed in response to both market integration and growing role of European legislation in regulating it -- some of which, in workplace health and safety, for example, is very important. This dynamic led to the Maastricht Social Protocol and its enticing promise of European level collective bargaining. Yet the products of the Social Protocol have been relatively slim. The parental leave agreement was a huge precedent for intersectoral bargaining at European level, but it was inconsequential in substance. Moreover, the EWC directive could, in the best of circumstances, foster a substantial development of genuinely transnational unionism if other, less felicitous, outcomes were easy to imagine. Moreover, apart from a recent accord on atypical work, there seems little likelihood that the precedent will be followed in any important areas.

Organizations, and industrial relations systems, are shaped in the interactions between different strategic actors at specific historic junctures. Thus particular interactions between national European Union movements, "Europeanizing" elements in and emanating from these movements and European institutions have played a central role in structuring ETUC, its goals and strategies. Perhaps the most significant effect of these interactions has been the commitment of the ETUC to the general vision of European integration held by the Commission and other institutional players. The tradeoff involved here merits further description. ETUC, prior to the "1992" period was a small and weak Brussels lobby. Those in charge of ETUC may have "gone native" in the rarified atmosphere of Euro-discourse, but it mattered little because ETUC was not very important. But changes in Europe after the mid-1980s meant that the ETUC became more important. As this happened it began to desire and claim roles broader than simple lobbying and in the process developed a much deeper commitment to what one might label the "European ideal." Beyond the details of structure and strategy that we have earlier explored, this may be the most

significant consequence of the fostering of ETUC by European institutions.

ETUC insiders decided in the later 1980's that the use of resources graciously offered by the Commission was an essential way to generate the new prominence and strength which they needed to promote their urgent messages about the importance for European unions of transnational organization and action. They could rely for additional support for their goals on their more "European" contacts in different national movements. The cost of these resources was significant ETUC support for the particular initiatives of those supplying them, particularly in the Delors' Commissions. In this exchange there was an implicit promise to the ETUC that the Commission's particular European strategies would lead to a real expansion in European social regulation and the foundation of a genuine European industrial relations system. The Commission was unable to produce anywhere near as much as it had promised, however. In the event, however, ETUC not only found itself restructured along lines that were only partly its doing and not always clearly to its advantage; it also had to commit, albeit often critically, to the deeper trajectories of European integration as they were sketched out from the Single Market through Maastricht.

This might have made some sense when it seemed, in the Social Charter period, as if the dam against European level social policy was about to give way to compensate for the liberalization brought by the Single Market. This did not happen. Committing to Maastricht turned out to be an even larger leap of faith. Economic and Monetary Union, as designed, is arguably inimical to the interests of European workers and unions. Yet all good Europeans - and the continuing need of ETUC for Euro-level resources means that ETUC has to be seen as such, have had to line up behind EMU, even if many good Europeans, including some of the more central architects of EMU itself, now do so with heavy hearts. EMU is already costing jobs and making it virtually impossible for governments to confront the consequences of these lost jobs. The future will bring more of this. Moreover, EMU is evidently a clear step backwards in the EC/EU's lifelong struggle to overcome its deep "democratic deficit" by removing policy options from member states and giving them to unelected and statutorily independent central bankers. Yet if EMU does not happen, beyond the likelihood of substantial monetary dislocations in the immediate, it will be a huge setback for European integration, perhaps enough of a setback to

change the directions which Europe has set over these past decades. ETUC, along with a good many other actors, has managed to put itself in a position of being damned if it does support EMU and damned if it does not.

The family-childcare policy case is very different, concerning, as it is, the construction of Commission efforts to mobilize outsiders who, for the most part, did not yet exist. In the early 1980s the Commission began institutionalizing its equal opportunities work in the small Equal Opportunities Unit within the Employment and the Labor Market directorate of the Social Affairs division (DG V) of the bureaucracy. This institutionalization created an enclave of administrators with their own interests in moving programs forward into new territories. Beyond this, the constitution of Networks, including the Childcare Network, further installed well-connected expert/advocates in the family and childcare policy areas who sought to broaden definitions of Equal Opportunities to include childcare and family policy matters. Everyone in this little Brussels-centered community wanted to involve policy intellectuals, social movements and interest groups favoring such a broadening in the Commission's activities. In time the "team" evolved particular ways of framing its concerns, the "reconciliation" discourse, as we have called it. Reconciliation was a useful vocabulary because it had a long history in debates about equal opportunities and was sufficiently plastic to admit different declensions. The discourse ultimately permeated policy, albeit in a small way, under the Delors Commissions.

Europe only began seriously to stretch its social policy ambitions after 1989. From that point it became permissible at least to discuss Euro-level action. Efforts thereafter were larger but the accomplishments modest. The ability of DG V, the Equal Opportunities Unit and the Childcare Network to introduce the reconciliation discourse into policy documents and proposals, in particular into the Council Recommendation on Childcare of 1992, was made possible by this changed atmosphere. On the matter of parental leave, where Euro-level collective bargaining became possible under the Maastricht Social Protocol, genuine policy action incorporating this discourse actually happened. The parental leave issue, where our two cases momentarily intersect, was thus a laboratory for a number of different experiments. The reconciliation discourse that the Commission enjoined to the Social Partners which, edulcorated, emerged in the 1995 negotiations is significant. ETUC, although an unusually enlightened union organization is, like most union

organizations, not easily open to discourses like the Commission's. Since unionism has been defined by a male blue-collar heritage which, in many countries presumed a male breadwinner model for the family, the Commission's notions of reconciliation implied new territory. The ETUC bravely embraced the word reconciliation and insisted upon contractualizing parental leave as an individual right which could not be transferred (off-loaded?) from men to women, but how far this went towards adopting the deeper logics of the reconciliation discourse is unclear. UNICE, the employers' negotiator, had no difficulty in being embracing all that was heartwarming in reconciliation as long as it did not involve obligatory new constraints and costs for its constituents.

In a context marked by renewed natalism and continually rising unemployment the discourse of "reconciliation" was progressive. It was redefined slightly and then presented as, first of all, a source of job creation in the "social economy" (services for children and the elderly), following recommendations in the Commission's 1993 White Paper on Growth, Competitiveness and Employment (which the Equal Opportunity Unit had influenced). DG V's reconciliation discourse thus became a legitimate policy vocabulary on European level. The extent to which it will permeate areas of European policy beyond parental leave remains to be seen, however. Prospects are not good, even though the Commission's new Medium Term Social Action Programme (1995-1997) promises further action on the atypical work and "burden of proof" directives (*Social Europe*, 1/95, p. 21). In general, the Commission has been backing away from new social policy initiatives.

The most significant innovation in the Fourth Program, however, was a shift towards "mainstreaming" equal opportunities matters in all areas of European-level policy, modelled on mainstreaming in the structural funds. Mainstreaming would mean that every measure proposed to the Council or taken by the Commission would have to take equal opportunities and reconciliation into account. A Commissioner-level committee to oversee mainstreaming is already in place. Genuine mainstreaming, however, must involve major changes in process and outlook in the most powerful administrative agencies of the Commission and Council, not to speak of its implications for member states. What will happen, therefore, is uncertain. The period of preparation and passage of the Fourth Program coincided with insitutional changes which cast very large new

shadows over the future of the Commission's work. First, the European Council intervened at the end of 1995 to cut the Unit's budget in half. Then the Director of the Equal Opportunities Unit during the "militant" period of the Third Program was abruptly removed. Next, all but two of Networks, including the Childcare Network, were terminated. Their work was set to be subcontracted to an outside agency, removing most equal opportunities concerns from Commission life altogether. In short, what looked to be a complete shutdown of the "reconciliation shop" happened.

The all-important budgetary matter is easiest to explain. Procedurally, earlier Action Programs had not gone before the European Council. The Fourth program proposal was the first, and the Germans, who had earlier objected to DG V's program proposals in the social policy area (particularly the poverty action programs) objected on budgetary and substantive grounds. Helmut Kohl was on a hunt for symbolic budget cuts, probably in preparation for the Union's next grand rendez-vous on budget in 1998-99 where a great deal will be at stake (the CAP and the structural funds, with enlargement of the Union in the works). The substantive discussion was about "subsidiarity." To paraphrase, the Germans announced that it should be none of the Commission's business messing about in affairs of member states. The removal of the head of the Equal Opportunities Unit, preparatory to the Unit's eclipse, was more difficult to explain. In the great scheme of things the removal of an upper middle-level administrator in the European Commission is a small matter and the prevailing lore about it is anecdotal, often personal, centering on career trajectories rather than principles. The future of the programs which the Director in question had run for several years was clouded and this may have played a role. Personal conflicts between the Director and her (new) superiors were an issue. The "low quality" of the Unit's work came out in some of our interviews. Finally, it is evident that the Unit's activity was too militant for the much more cautious period which is now upon the EC/EU.¹ One well-placed informant stated that the Unit had gotten "too far out." It was less the Fourth Program's proposals than the Third Program's practices which brought the Unit under fire. It is also clear that some parts of the activity of the Networks annoyed important member state figures.

¹ The Unit's papers and actions at the UN's Beijing Conference were widely noted and, in some circles, disliked.

Whatever the reasons for this small upheaval, it does imply that the EC/EU's future in the childcare area may change. The reconciliation discourse is likely to continue, since the vocabulary is common and easy to redefine. Perhaps it may persist with present meanings attached. Mainstreaming and "rights" will be the major focus of future efforts, however, and this represents a turning point. Moreover, both of these new approaches will undoubtedly be targeted more directly on employment and job-creation matters than earlier Commission action had been. DG V has been doing some serious rethinking over the past year, in particular about linking with and developing NGOs to play a greater role in Euro-level social policy matters. Quite as significant, the Fourth Action Program on Equal Opportunities has been "privatized," subcontracted out to a consultant called "Anima" with limited experience. This, plus the change of emphasis of Equal Opportunities action, probably means that Union activism on childcare matters, limited in scope though it has been, will be even more limited in the future.

1 The best source on the ETUC's early years is Corinne Gobin, Consultation et concertation sociales à l'échelle de la Communauté Européenne, Etude des positions et stratégies de la Confédération européenne des syndicats 1958-1991 (unpublished doctoral dissertation, Brussels: Université Libre de Bruxelles, 1996).

2. The ETUC was set up for all EFTA and EEC unions, open to Christian, Communist and ICFTU branches as well. It also gave limited representation to existing regional sectoral organizations - the European Industry Committees (EICs). The new Confederation was thus launched as a broad organization with a strong claim to being the sole representative of unions at the European level.

3 ETUC statutes established a triennial Congress composed of confederation and industry committee delegates as the ETUC governing body which would set broad policies and elect its officers. There would be a president, general secretary, deputy general secretary, plus an Executive Committee consisting of the leaders of all member confederations. The Executive Committee, meeting 4 to 6 times annually, would appoint four additional members of the Secretariat and seven vice-presidents who, together with the president and general secretary, formed a Finance and General Purposes Committee. This Committee, meeting more frequently, hammered out positions for decision by the Executive. Operationally, the ETUC was the Secretariat, which ran the organization with the aid of a very small staff (about 20). Membership dues yielded just over a half million U.S. dollars, barely enough to finance a Brussels office, located in the dingy downtown ICFTU building. The ETUC was thus dependent on supplementary support from its affiliates and funds the Commission came to supply for financing travel, meetings, and anything else it sought to do.

4. The Commission set up a "Social Partners" unit plus various sectoral tripartite bodies, the most important being the tripartite Advisory Committee on Safety and Health in 1974, providing a

forum for union input into proposals for workplace health and safety directives. Although the ETUC was not formally represented on it, it came to play an information and coordination role for the national trade union representatives in it. A tripartite Standing Committee on Employment, which still exists, was also created, along with sectoral counterparts (in addition to those left by the ECSC).

5. See Janine Goetschy, "Le Dialogue Social Européen de Val Duchesse," in Travail et Emploi, 1/91 for the antecedents of post-1985 "social dialogue." The two "avis communs" of the "new technologies and social dialogue" and "macroeconomics" groups of the Val Duchesse talks are reproduced in Annex 4 of Venturini, Un Espace social Européen, Op cit. A review of social dialogue including a compendium of joint opinions and other documents is provided in Social Europe 2/95.

6. On the employers' side, the UNICE Secretary General, Zygmunt Tyszkiewicz, could not have been clearer about disinterest in real negotiating, see "European Social Policy- Striking the Right Balance," European Affairs, Winter 1989.

7.

8. Although not directly at the disposal of UNICE, a small organization without significant financial support from the Commission, such company resources form a pool that can be tapped as needed.

9. Delors, in le Nouveau Concert, pp. 74-80.

10. Potentially the "bodies which might one day be the main union parties in European-level bargaining." EIRR 211, August 1991, p. 25.

11. The meetings brought together union representatives from multi-national corporations that were likely to fall under an eventual European Works Council law. The Parliamentary money came from Budget line B3-4004. 14 million Ecu were appropriated for 1992 and 17 million in subsequent years.

12. Although most of the money covered meeting costs, it also covered related EIC expenses, enabling them to hire additional staff, while adding very substantially to the very meager resources at their disposal for serving their constituents. They were thus able to gain a higher profile and legitimacy within ETUC as well as with their own member unions and, importantly, with the workplace level activists who attended the meetings.

13. The Finance and General Purposes Committee should become a Steering Committee, consisting of the president, general and deputy secretaries, and 15 members chosen by and from the Executive Committee, to frame issues to be decided by the Executive Committee. The President and General Secretary would be made full voting members of the Executive Committee, where all member organizations would continue to be represented, the authoritative policy-making body between Congresses. The Executive Committee would work from detailed proposals worked out in advance by the Steering Committee and a consolidated set of standing and *ad hoc* committees supporting the Secretariat.

14. Concrete proposals in this direction were limited, however. The EICs were to be given voting rights on the Executive Committee except on constitutional and financial issues (on the ground that the committees did not pay dues, inasmuch as their affiliates paid dues to the national confederations), and they were allotted three seats, rotated among them, on the new Steering Committee.

15 While the Italian and Belgian confederations pushed especially vigorously in a transformative direction, the Nordic confederations and the TUC opposed significant departures from the ETUC's established practices. The DGB, having brokered the changes aimed at re-energizing the ETUC, was itself barred from supporting genuine supranationalization by its own member unions, notably IG Metall.

16. The history of all this is discussed in George Ross, Jacques Delors, Chapters 3 and 6.

17. Briefly, the Dutch proposed a very diluted social policy proposal to the Maastricht negotiators at the last minute. Although this was designed to allow the British to sign on to the new deal without much compromise on social policy, John Major judged that he had to refuse it for domestic political reasons. With social policy then threatening any positive outcome from the talks, the Commission, aided by Helmut Kohl, threw the stronger Social Protocol text back onto the table and it was accepted by the eleven.

18 While the Maastricht Social Protocol reflected a clear effort by the Commission to join with the ETUC to overcome employer resistance to negotiations at intersectoral level, the Commission's commitment to bringing employers to the bargaining table at the sectoral level was more uncertain and ambiguous. Employer resistance to sectoral negotiations is facilitated by their European organizational structure at that level. The largest number of sectoral business organizations are industry rather than employer associations, and this is typically invoked to justify refusal to enter into social dialogue, leaving it to UNICE to discuss social dimension matters. UNICE has sought to reinforce the virtual monopoly of representation on such matters this gives them by confining social dialogue to discussion among European level inter-sectoral organizations, where it can count on blocking things.

19The EC/EU funds were renewed annually even after the EWC directive was enacted, at first until it was scheduled to come into force in September 1996 and now in order to support the EICs' services to EWC negotiators and members.

20.For the text see Commission of the European Communities, 8709/93 Presidency Note for Labor and Social Affairs Council, Proposal for a Directive on European Works Councils (Brussels, 6 October 1993).

21 The history stretched back to the 1980 Vredeling Directive that had been buried because of British obduracy and a lobbying barrage from the American Chamber of Commerce in Europe and UNICE. The Social Charter Action Program had also proposed a directive and the Council's unwillingness to pass it was the primary reason for its reintroduction under the Social Protocol.. For a particularly good account of the development of this Directive consult Guy Derégnaucourt, ed. Le Comité D'Entreprise Européen, (Brussels: Working Paper of the Observatoire Social Européen, 1991). See also Moniteur européen de la Participation, No. 6, 1993, "La participation dans les entreprises multinationales européennes," (Dublin: European Foundation for the Improvement of Working Conditions, 1993); Paul Marginson, Arend Buitendam, Christoph Deutschmann and Paolo Perulli, "The Emergence of the Euro-company: towards a European industrial relations?" in Industrial Relations Journal, 24/3, September 1993; Mark Hall, "Behind the European Works Councils Directive: The European Commission's Legislative Strategy," in British Journal of Industrial Relations, 30/4 December, 1992. Transfer, 2/95, has an extensive bibliography from different European sources on EWCs and related matters, pp. 320-328.

22 The first directive had been proposed in 1983 and blocked by the British. The directive is COM (83) 686 final. An amended version Com (84)631 final was submitted in 1984. Both are contained in the annexes to a special issue of Social Europe (3/91) on equal opportunities for women and men.

23.23. Commission of the European Communities, Proposal for a Council Directive on the framework agreement on parental leave concluded by UNICE, CEEP, and the ETUC, Brussels, 31 January 1996, COM(96) 26 final..The right is individual and non-transferable (to assure equal treatment of men and women). Additional provisions protect those exercising the right against discrimination, including the entitlement to return to the same or equivalent job and acquired rights, while enabling employers some variation in compliance under special circumstances. No provisions are made for income maintenance during leave, which is left to member states and social partners.

24The TUTB has expanded and sharpened its technical skills. Trade union education services have been rationalized by the integration of AFFETT with ETUCO, while ETUCO's general offerings have expanded considerably. The ETUC Women's Committee is more active The

European Trade Union Institute, ETUC's oldest arm, has been rescued from dusty obscurity by a new director launching new activities, including conferences, publications, and a quarterly journal (Transfer). ETUI now has a higher profile and more influence outside and inside ETUC. In general, the different units of ETUC are better integrated and new synergy is palpable.

25 They were renamed "Federations" at the 1995 ETUC Congress -- more a symbolic gesture conveying wish rather than reality. However, their per capita dues of some have recently risen to 3 to 4 times those to ETUC, providing more solid evidence of increasing member union commitment as well as decreasing dependence on European institutions for their resources, with the increasing strategic room for maneuver this permits.

26. Cite Turner in EJIR

27 Most Latin participants as well as the TUC supported negotiations by the ETUC. This division clearly corresponded incompletely to one between unions that were strong and weak, respectively, in their national contexts, with the weak unions looking to Euro-regulation to compensate for their lack of national resources.

28 The Secretariat's position revealed a tension between the ETUC's avowed support for cross-national bargaining at all levels, including the sectoral, and its stake in protecting its monopoly of representation of labor at the intersectoral level as well as the binding status of agreements reached there.

29.

30 Eligible TNC's need do no more than "inform and consult" once a year, while consultation is defined as no more than an "exchange of views." The Directive does not enjoin consultation on a continuing basis or give consultation force by requiring response to employees' views. It provides no mechanisms for suspending decisions until such a response is provided, nor any requirement to negotiate over anything about which the employees are informed. The quantitative scope of the directive is limited as well. The number of companies and hence the number of employees covered by the directive is uncertain, but the best available estimate reached prior to the British "opt in" put it at 1,150 companies with a total of about 12.8 million employees in Europe, just under 8 percent of the total EC/EU labor force.

31 Opportunities for excluding unions in setting up EWCs, though varied, are substantial. A few companies tried it with mixed success before the directive came into force, but union avoidance has not become harder since then, for nothing in it requires union involvement. Even if unions are not entirely bypassed, however, there is plenty of scope for limiting their influence in the negotiation, composition, and operation of EWCs. The consequences of whatever effect EWCs may have on employee relations in MNCs may of course extend well beyond them insofar as they affect employee relations in the MNCs' supplier companies. But they could run in quite different

directions, either diffusing higher standards of information and other practices to the suppliers or preserving a stratification between a privileged core of workers in the MNCs and supplier workforces with inferior standards.

32.32. The exceptions may not prove the rule, but they throw it into sharp relief. As far as we know, the Volkswagen and Thomson Consumer Electronics agreements are the only ones in which consultation is more meaningful, at least on paper, than an "exchange of views" after the fact. In VW, the Council or its executive committee has a right to comment on major planned changes -- in this instance cross-border transfers of vproduction -- and get a reply from management before the decision is made; Thomson has similar provisions. And in only one case, Danone (formerly BSN), has an EWC gone beyond consultation to negotiation. There several "joint texts" were agreed on, most notably one on "trade union rights," which have been described as the "first steps to a 'European collective bargaining system'." Hall et al. European Works Councils, pp. 21, 38.

33.

34 Negotiating with employee members of EWCs could have the additional benefit of strengthening "the company's European 'corporate identity'." Thus by reversing opposition to EWCs and using them for collective bargaining, TNC managers might find them useful for developing "company-specific Europe-wide regulation of industrial relations." This scenario would not necessarily lead to the Europeanization of collective bargaining, however. In the worst case, in fact, it could further weaken national level unions and industrial relations regulation without any offsetting European level gains. Whether there is a danger of "transnational microcorporatism" is unclear. Depending on their strength, national labor regimes have constrained TNCs, providing unions with resources to resist the construction of organization-specific employment systems that deviate from national patterns. Precisely because EWCs might be used to overcome resistance to such deviations, workers there might well put more trust in their national unions to protect their interests, particularly when the distribution of investment and jobs at different site is at stake. Such conflicts of interest could paralyze EWCs, making their atrophy more likely than transnational microcorporatism. On the other hand, where TNC managers are in a position to distribute "mutual gains" while spreading "best practice" among subsidiaries, they might be able to forge cross-border "productivity coalitions" through EWCs. TNCs might thereby gain employee support for decentralizing collective bargaining to company level at national subsidiaries at the expense of multi-employer bargaining by national sectoral unions, with one consequence being reinforcement of "common trends towards more decentralized company-specific forms" of regulation," further undermining national unions' ability to aggregate interests at more inclusive levels.

35. The 1977 McDougall Report recommended a budget of 5 to 7 percent of community GDP and the ETUC has been urging an initial increase to at least 3 percent. Philippe Pochet et Liliane Turloot, "Une construction inachevée," in Otto Jacobi and Philippe Pochet, eds. Union Économique et Monétaire et Négociations Collectives (Brussels: Observatoire Social Européen, 1996), p. 24. While central governments in the U.S. and Canada account for at least half of general government expenditures, the EU budget accounts for only 2 percent of such expenditures in the Community. Klaus Busch, "Le danger de dumping social et salarial," in Jacobi and Pochet, eds. Union Économique et Monétaire et Négociations Collectives, p. 39.

36. Ibid., p. 24; Tsoukalis, The New European Economy, pp. 173-74, 337.

37. Busch, 37

38. B. Keller, "Towards a European system of Collective Bargaining?" in R. Hoffman, O. Jacobi and B. Keller, eds., German Industrial Relations Under the Impact of Structural Change, Unification and European Integration (Düsseldorf: Hans Böckler Stiftung, 1995) quoted in Marginson and Sisson, "European Collective Bargaining: a Virtual Prospect?" p. 1.

39. Birgit Mahnkopf and Elmar Altvater, "Transmission Belts of Transnational Competition? Trade Unions and Collective Bargaining in the Context of European Integration," European Journal of Industrial Relations 1, 1 (March 1995), p. 102.

40. The obstacles posed by the resulting conflict of interests would thus compound those posed by diversity of language, culture, social security systems, and union traditions.

161. Declaration on the Treaty on European Union adopted by the ETUC Executive Committee, 5-6 March 1992, p. 3.

42. Peter Coldrick, "EMU Revisted," Hans Böckler Stiftung/Observatoire Social Européen Seminar, 8 December 1995, p.1.

43. Refer to committees of central bankers, finance ministers, and heads of government that have designed the ESCB behind closed doors

44. EMU is "unbalanced" towards the monetary at the expense of the "economic," that an independent ECB committed to price stability will not be able to take objectives like growth and employment into account, that the absence of new European level fiscal capacity to offset new

EMU constraints on members plus the lack of serious fiscal federalism to redistribute financing to states/regions unevenly hit by recessions will be socially disastrous. EMU has no provision for harmonization of taxation, especially of capital income, to avert “tax dumping,” the evisceration of capital taxation and a consequent aggravation of squeezes on the public sector and social protection. There has been a “mechanical” application of convergence criteria, especially for budget deficits, without adaptation in light of changed economic conditions (as allowed by the treaty).

45. EMU will prevent competitive devaluations and constraints by international financial markets, necessary components of the coordinated macroeconomic management of European economy. It also believes that EMU is needed politically to keep the integration process going and that if it failed Europe would be in an even worse situation. Concerns about Germany inform this: an independent ECB is a political price worth paying to keep Germany on board.

46. Teirlinck, 1994: 9

47. On Article 119 see Vogel-Polsky and Vogel 1991, Byre (1992, Chapter 8), and Hoskyns (1996, Chapter 3).

48. The Social Action Programme is in the *Bulletin of the European Community*, No. 10, 1974. The Social Action Program appears in the Council Resolution of 21 January 1974.

49. Useful brief summaries of all legislation in this area can be found in European Commission (1994, pp. 153-192).

50. (Hoskyns, 1996: Chapters 4-5)

51. For greater detail see Blanpain and Engels (1993: Chapter IV) and Weatherill and Beaumont (1993, pp. 544-560). The ECJ ruled in 1990, in the so-called Barber Case, that pensions fall within the equal pay for equal work principle.

52. See *Social Europe*, 3/91, p. 79. Indirect discrimination exists “unless it can be proven that a rule applicable to both men and women workers in fact prejudices many more workers of one sex than of the other” and is illegal “unless it can be justified with reference to reasons having nothing to do with sex discrimination.”

53. There is a brief review of these early activities in European Commission (1988).

54. The unit provides a very useful description of itself in “The Equal Opportunities Unit” (DG V/B/4) which is up-dated periodically.

55. There is a brief review of these early concerns in European Commission (1988).

56. The text of these actions are in *Social Europe*, 3/91, Annex.

57. Hoskyns (1996: Chapters 6-8) reviews the politics behind much of the renewal of activity.

58.(Boddendijk, 1991: p. 94).

59. Reconciliation was an old world, borrowed from the ILO which, in its original usage, meant providing women with various welfare state services so that they might participate in the labor market. See

60.Boddendijk, 1991: p. 95)

61. This was not unusual for the Commission. It happened in the early 1980s in the realms of technology and research and development policies, the environment (DG 11 was perceived from the outside as a "Green" enclave), in industrial relations, etc.

62. The Commission and the Equal Opportunities Unit were careful about keeping in constant contact with the Women's Rights Committee in the European Parliament.

63. The information in this paragraph is based on an interview with Peter moss, conducted by the author.

64.(Moss, 1988)

65.(Teirlinck, 1994: p. 9)

66. The French led the field in deploying natalist rhetoric (in the Commission's words later, "the French delegation mentioned the disturbing demographic situation in Europe and emphasized that Europe could not retain its political, economic and cultural position in the world without a renewal of its demographic dynamism."). *Social Europe*, 1/94, p. 121.

67. The Communication is available in *Social Europe*, 1/94.

68. "Mainstreaming" was a notion then gaining ground in the Commission to ensure that various market-controlling Community commitments be taken into consideration across the whole range of policies. In the early 1990s there was a rush to make the inclusion of environmental criteria, consultation with the Social Partners and Equal Opportunities issues obligatory in formulating all EC/EU policies.

69. The Communication is reprinted in *Social Europe*, 1/94, pp. 126-27. The Council's response is on pp. 128-29.

70.Among other things, the Observatory on Family Policies publishes an annual report on trends in national family policies. See also Dumon (1994: pp. 38-41). The Council agreed to limited Community involvement in information-gathering and circulation on key issues concerning families, "inclusion of the family dimension in the establishment of appropriate Community policies, for example in the freedom of movement of persons and equality between men and

women," and a much more intensive exchange of information at Community level concerning the impact of Community policies on family, measures to implement equal opportunities (particularly on access to the labor market, plus the possibilities of limited action on family matters) (*Social Politics*, 1/94, pp. 128-29).

71. Of these only one of the three concerning atypical work passed. The only significant Directive passed in the immediate family policy/ childcare area was on the "Protection at work of pregnant women or women who have recently given birth," proposed in September 1990. The Council resolution (October 1992) watered down the Commission's proposal, particularly in the realm of compensation, but nonetheless granted the right to a minimum of 14 weeks paid maternity leave, with the level of pay at least equivalent to sick pay (*Social Europe*, 3/91, pp. 148ff.). Despite the watering down, passage of the Directive was very important in a number of member states where such protection was minimal. An earlier proposal from 1988 on "the burden of proof in the area of equal pay and equal treatment for women and men" which had been folded into the Action Program also remained on the Council table

72. For the key texts see *Social Europe*, 3/91.

73. NOW would allow the Commission, in structural funds areas, to support the provision of childcare facilities, particularly in zones of industrial concentration, the operational costs of childcare facilities related to vocational training centers and vocational training for childcare workers. *Women of Europe*, supplement 34, 1991 contains a good review of these matters.

74. The Council Recommendation on Childcare (31 March 1992) is reproduced in *European Community Acts on Equal Opportunities* (Brussels: DG V/A/3, Equal Opportunities Unit; document reference V/2162/94).

75. The best example of this is to be found in the Commission's multipurpose work with ETUC in social dialogue. By providing ETUC with recognition and substantial funding it hoped to gain labor support for other Commission initiatives, strengthen labor's commitment to Europe and prod both labor and the employers towards Euro-level bargaining (Martin and Ross, 1994).

76. This is available in Director-General of Commission DG-V, Reconciliation of Professional and Family Life, internal document (Brussels, autumn 1994).

77. For a summary of parental leave provisions in place in 1992 see the Childcare Network's 1992 Annual Report, p. 15.