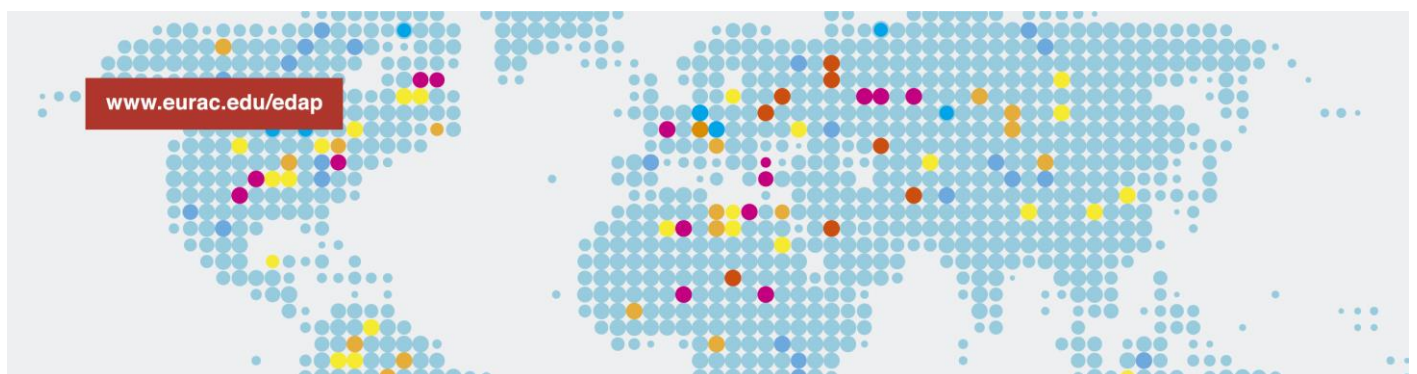


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# Could European Governance Ideas Improve Federal-provincial Relations in Canada?

Donna E. Wood



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## Abstract

Over the past seventeen years Canada has decentralized many social programmes, moving responsibility from the federal government to 13 provinces and territories through bilateral federal-provincial agreements. In contrast, the European Union (EU) has moved in the opposite direction, building pan-European approaches and establishing new processes to facilitate multilateral collaboration among the 28 EU member states. This has been done through a new governance approach called the Open Method of Coordination (OMC). Using a detailed case study – employment policy – this paper explores whether Canada could learn from OMC governance ideas to re-build a pan-Canadian dimension to employment policy and improve the performance of its intergovernmental relations system. Concrete lessons for Canada to improve decentralized governance are suggested: consolidating the different bilateral agreements; using benchmarking instead of controls in fiscal transfers; undertaking research, analysis, and comparisons in order to facilitate mutual learning; revitalizing intergovernmental structures in light of devolution; and engaging social partners, civil society and other stakeholders. Post-devolution Canada is not doing badly in managing employment policy, but could do better. Looking to the EU for ideas on new ways to collaborate provides a chance for setting a forward looking agenda that could ultimately result not only in better labour market outcomes, but also improvements to one small part of Canada’s often fractious federation.

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## Key words

Governance - Intergovernmental Relations - Federalism - Comparative Politics - Social Policy.

## Table of contents

1. Introduction .....	5
2. Historical Perspective .....	7
2.1 Devolution in Canada .....	7
2.2 The European Social Dimension .....	10
3. Comparing EU and Canadian Tools and Techniques for Coordination and Collaboration .....	12
3.1 Strategic goals/common objectives/guidelines/indicators/targets.	13
3.2 Monitoring, reporting and multilateral surveillance .....	17
3.3 Information Exchange, Research and Mutual Learning .....	21
3.4 Actors, Institutions and Dialogue with Social Partners/Experts/Civil Society .....	24
3.5 Conditional Grants .....	30
3.6. Summary Comparison of the European Union and Canada.....	33
4. Potential Transferability of European Ideas in Employment Policy to Canada .....	35
4.1 Strategic Goals/Common Objectives/Guidelines/Indicators/Targets	35
4.2 Monitoring, Reporting and Multilateral Surveillance .....	36
4.3 Information Exchange, Research and Mutual Learning .....	38
4.4 Actors, Institutions and Dialogue with Social Partners, Experts/Civil Society. ....	40
4.5 Conditional Grants .....	41
5. Conclusions .....	42
6. Bibliography .....	44

# Could European Governance Ideas Improve Federal-provincial Relations in Canada?

Donna E. Wood

## 1. Introduction

Federal-provincial relations in social policy in Canada have changed dramatically over the past seventeen years. Fiscal arrangements have been recast, with the cost-sharing levers of the past replaced with block or conditional transfers. Many policy areas — for example social assistance and labour market — that once had a significant federal dimension are now the prime responsibility of provincial governments, with programmes shaped and reformed to suit each province's particular needs and circumstances. Federal leadership has diminished, with limited guarantees that Canadians will receive similar programmes from one province to another. Unilateral, bilateral, interprovincial or regional approaches to social policy governance are increasingly chosen as pan-Canadian, multilateral collaborative solutions are viewed as either unnecessary or unattainable.

In contrast, over the past decade the European Union (EU) has been building substantially closer ties in social policy, with member states increasingly bound together in an ever-evolving quasi-federal governance structure. Initially formed in 1950 with six nations, the European Union has step by step, area by area, put institutional structures and processes in place to facilitate joint decision making, cooperation and collaboration as an alternative to conflict and war.<sup>1</sup> In the EU the logic of ever-closer economic integration has compelled member states to also strive for greater coordination of their social policy efforts. But here member state autonomy trumped their willingness to give the EU-level more powers, resulting in the development of a new form of governance — the Open Method of Coordination (OMC) — as a way of setting European-wide goals while respecting differences among member states. This EU governance approach — adapted now to govern relations between 28 member states — has particular salience when searching for mechanisms to facilitate multilateral collaboration between Canada's often fractious 14 federal/provincial/territorial governments.

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<sup>1</sup> Ingeborg Tömmel and Amy Verdun, *Innovative Governance in the European Union: The Politics of Multilevel Policymaking*. (Boulder, Lynne Rienner, 2009)

The purpose of this paper is to systematically compare Canadian and EU approaches to employment policy<sup>2</sup> governance. Not only is this the policy domain where the OMC governance approach is the most highly developed in the EU, it is also the area where over the past seventeen years Canada has significantly decentralized. While a number of Canadian authors have suggested that Canada look to the EU for governance ideas through the OMC<sup>3</sup>, to date no detailed comparison in a defined policy area has been undertaken. This assessment of employment policy governance - focused primarily on activities in 2010/11- is meant to begin to fill that gap.

A qualitative, comparative case-study methodology was used to undertake the research. On the European side 20 individuals living in Europe were interviewed in London and Brussels in the fall of 2010 – five European Commission officials, six member state officials, two Canadian officials, and seven individuals representing business, unions, academia and civil society. Information relating to European programming was also obtained through a review of government documents and European Commission reports easily accessible on public websites, plus a review of the vast secondary literature on the OMC. In Canada more than 50 interviews were undertaken with Canadian federal and provincial policy-makers and stakeholders – mostly in Ottawa, Alberta and New Brunswick – in the course of various projects done between 2003 and 2011. In addition, government reports, websites and secondary sources were reviewed.

This working paper assumes that readers have a basic knowledge or understanding of Canadian federalism and European integration and the power dynamics in each.<sup>4</sup> Part 2 provides an overview of employment policy in Canada and the European Union and the key parameters of each system. Part 3 describes and compares in pragmatic detail the tools and techniques used to facilitate coordination and collaboration across their constituent units. Part 4 assesses whether OMC approaches might be transferred to the Canadian context. Part 5 concludes.

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<sup>2</sup> The analysis is scoped to focus on programs that assist people to prepare for, find, and keep a job and that assist employers to secure the staff they need. Employment standards or health and safety at work are not examined.

<sup>3</sup> Jane Jenson, “Canada’s New Social Risks: Directions for a New Social Architecture”, *Canadian Policy Research Networks* 2004, at [http://www.cprn.org/documents/31815\\_en.pdf](http://www.cprn.org/documents/31815_en.pdf). Denis Saint-Martin, “Coordinating Interdependence: Governance and Social Policy Redesign in Britain, the European Union and Canada”, *Research Report No. F/41, Social Architecture Series, Canadian Policy Research Networks* 2004, at <http://www.cprn.ca/doc.cfm?doc=716&tl=en>. Bruno Théret, “Canada’s Social Union in Perspective: Looking into the European Mirror”, in Sarah Fortin, Alain Noel and France St-Hilaire eds.), *Forging the Canadian Social Union: SUFA and Beyond*, (Montreal, Institute for Research on Public Policy, 2003). Peter Graefe, Julie Simmons and Linda White, *Understanding and Evaluating New Intergovernmental Accountability Regimes: Canada in Comparative Perspective*, (University of Toronto Press, Toronto, 2010).

<sup>4</sup> For more information on the Canada-EU comparison, 56(2) *Canadian Public Administration* June 2013 dedicates an entire issue to comparing Canadian and EU approaches to social policy governance. Included in this is an analysis of employment policy extracted from this working paper. An earlier version of this research appeared as a policy paper on the website of the Canada-Europe Transatlantic Dialogue in August 2011, see <http://labs.carleton.ca/canadaeurope/wp-content/uploads/sites/9/CETD-Brief-Using-European-Governance-Ideas-August-26-final.pdf>

## 2. Historical Perspective

### 2.1 Devolution in Canada

There is no mention of labour market policy in the division of powers under the British North America Act, and hence from the country's beginning both federal and provincial governments have been involved. Provincial governments are responsible for education (including training) and social services (including last resort social assistance). Although the federal government has responsibility for overall macro-economic policy, post-confederation most policy instruments relating to human resource development were considered to be under provincial jurisdiction. As a result, the various employment centres, labour exchanges, relief measures, and vocational and technical education programmes established before the Second World War were set up by provinces and supported by federal conditional grants.<sup>5</sup>

Over time, these provincially delivered employment services came under increasing criticism, with failings attributed mostly to divided jurisdiction and joint administration. There was also federal-provincial wrangling over federal relief funds. Concerned over the mobility of labour and capital in a federal state, pressure built on the federal government to intervene directly in the labour market. However, it took the extraordinary conditions of the Depression and the inability of cash strapped provinces and municipalities to provide adequate relief to the unemployed to convince provinces and all political parties to agree to a constitutional amendment to the British North America Act.<sup>6</sup> By the end of the 1930s, all provinces had agreed to strengthen federal jurisdiction in labour market policy to allow the Government of Canada to run a contributory Unemployment Insurance (UI) scheme and a national employment service. At the time, it was felt that these two functions were inextricably linked, with an efficient employment service providing the foundation for the Unemployment Insurance scheme.<sup>7</sup>

In the 1950s and 1960s the federal unemployment insurance programme was expanded. At the same time the federal government also began to develop active measures for individuals who were not eligible for unemployment insurance, such as youth, aboriginal persons, older workers, recent immigrants and others. Over time many provinces also started to offer

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<sup>5</sup> John, Hunter, "The Employment Challenge, Federal Employment Policies and Programs 1900-1990", Public Affairs, Government of Canada, 1993.

<sup>6</sup> In 1933, nearly a quarter of the country's labour force was unemployed and an estimated 15 percent of the population were on some form of relief (Banting, 2005: 97).

<sup>7</sup> This interpretation has recently been confirmed by the Supreme Court of Canada, which in *Confederation des syndicats nationaux vs. the Attorney General of Canada* on December 11, 2008 confirmed that active employment measures fall within the legislative authority of the Government of Canada. See <http://lexisnexis.ca/documents/Arvida-en.pdf>.

active measures using provincial funding, perceiving gaps in federal programming or a need to strengthen areas of importance for provincial economic growth. Of particular concern was to ensure access to active measures for a growing provincial social assistance caseload. This responsibility was not transferred to the federal government with the 1940 constitutional amendment.

As a result, a patchwork of programmes arose. Some provinces (especially Québec and Alberta) actively disputed federal leadership in the policy domain because they viewed labour market training as an extension of their head of power related to education. In 1996 Ottawa agreed to devolve responsibility for active measures for Employment Insurance (EI) clients to provincial and territorial governments. It has taken over 14 years for devolved Labour Market Development Agreements (LMDAs) to be signed with all jurisdictions. When the federal Conservatives assumed power their 2007 federal budget outlined a new labour market training architecture that “clarified roles and responsibilities and recognized that provinces were best placed to design and deliver this [labour market] programming”.<sup>8</sup> They also provided new funding to support employment programmes for people not in receipt of EI benefits, and offered to explore the feasibility of transferring federal youth, older worker and disability programming.<sup>9</sup> The first two promises have since been fulfilled. There has been no action to date on the promise to transfer programming for other client groups.

Active employment measures in Canada today are a combination of federal and provincial programmes,<sup>10</sup> some charged to the Employment Insurance (EI) account (funded solely by employer and employee contributions) and some funded through federal general tax revenues. Provinces also dedicate an undetermined amount of own-source provincial resources to these activities. This varies from one province to another depending on the priority placed on the policy domain and the size of the social assistance caseload.<sup>11</sup> In 2011/12 annual federal funding allocations to employment programmes were estimated at over \$3.4 billion Cdn (€2.5b), of which \$2.8 b Cdn (€1.95) is managed by the provinces. Eighty per cent of federally-funded programmes are provincially designed and delivered, 10 per cent are under aboriginal administration, and 10 per cent are under sole federal control. Notwithstanding devolution, the pan-Canadian institutional mechanisms that bring governments together on active measures remain the same. The Forum of Labour Market Ministers (FLMM) set up in 1983 and then formalized in 1993

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<sup>8</sup> Canada. Department of Finance, *Budget 2007: Aspire to a Stronger, Safer, Better Canada*. 2007, at <http://www.budget.gc.ca/2007/plan/bptoc-eng.html>, 4.

<sup>9</sup> Donna Wood and Tom Klassen, “Bilateral Federalism and Workforce Development Policy in Canada” 52(2) *Canadian Public Administration* 2009, 249-270.

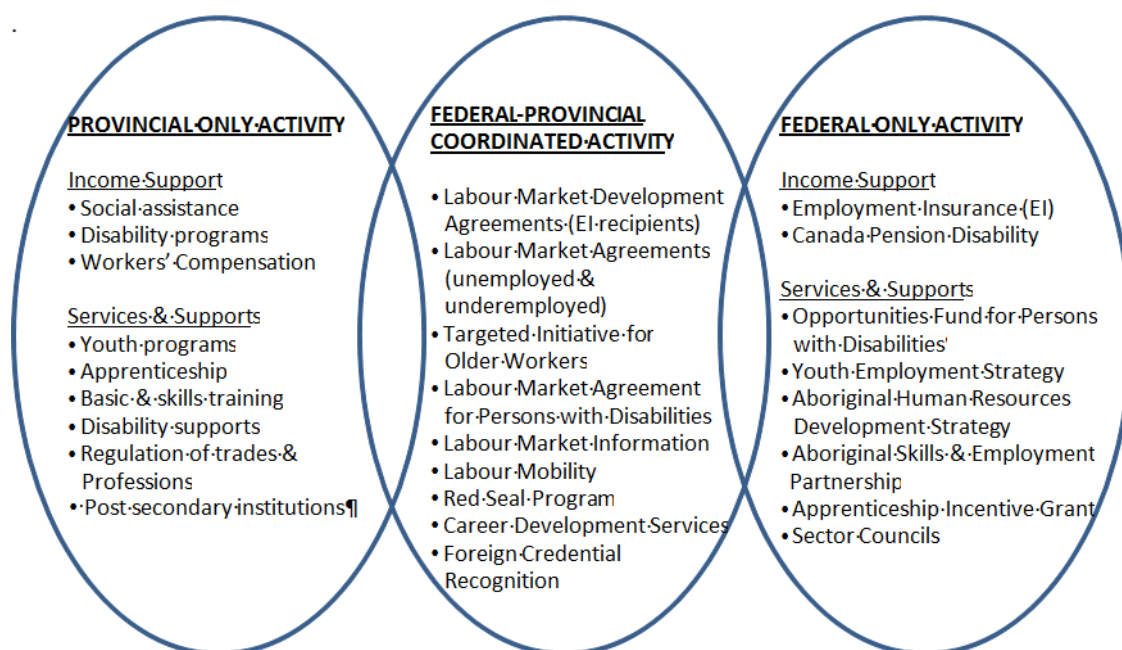
<sup>10</sup> Unlike many European countries local governments in Canada (except in Ontario) do not manage or deliver employment or social services programs.

<sup>11</sup> It is noteworthy that there are more social assistance (SA) recipients requiring employment supports - estimated at 1.2 million (Stapleton 2011) - than there are Employment Insurance recipients, (648,960) (Statistics Canada 2010).



to promote federal-provincial cooperation on labour market issues remains virtually unchanged, with a modest, rotating, provincially managed secretariat. Figure 1 presents a picture of current federal-provincial arrangements in Canada, including related provincial-only and federal-only programming. This analysis focuses on the middle part of the diagram.

**Figure 1: Federal-provincial Arrangements for Labour Market Programmes in Canada Post-Devolution**



On balance, policy-makers in provincial and federal governments in Canada interviewed feel relatively satisfied with the new arrangements that they have put in place. They believe that devolution has improved the effectiveness of labour market programming and that provincial governments (and their regional and local offices) have the necessary leadership and capacity to provide their citizens and employers with the labour market services they require. However, others feel that devolution has resulted in a governance deficit.<sup>12</sup> Although there may be some consultation and negotiation between federal and provincial officials behind closed doors, it is federal executives in consultation with federal politicians who continue to make most of the central decisions. Post-devolution, there is no over-arching pan-Canadian framework collectively developed and agreed to that binds the

<sup>12</sup> Ian Dawkins, "Insuring Prosperity: SME Perspectives on the Employment Insurance System" *Canadian Federation of Independent Business* 2009, at <http://www.cfib-fcei.ca/cfib-documents/rr3089.pdf>. Advisory Panel on Labour Market Information, *Working Together to Build a Better Labour Market Information System for Canada* 2009, at [http://www.imt-lmi.ca/eng/pdf/final\\_report\\_pdf-eng.pdf](http://www.imt-lmi.ca/eng/pdf/final_report_pdf-eng.pdf). Donna Wood and Tom Klassen, "Improving the Governance of Employment and Training Policy in Canada" paper prepared for the *EI Task Force of the Mowat Centre for Policy Innovation* 2011, at <http://www.mowateitaskforce.ca/>.

whole together, or a public process that allows for input from federal and provincial legislators, stakeholders, or the public at large. Overlap and duplication with respect to some programming (for example for youth and disabled persons) still exists. There are significant information gaps, parallel but separate fragmented universes, and non-user friendly information as each jurisdiction reports separately on its activities or, in many cases, does not report at all.

## 2.2 The European Social Dimension

Ever since the beginning of European integration, there has been a demand for a social dimension in order to ameliorate social or economic dislocation from the functioning of the internal market. The legal basis for Community action in employment policy was contained within the general objectives of the Treaty of Rome, which included provisions to promote employment, improve living and working conditions, ensure equal pay for men and women, and facilitate the free movement of workers.<sup>13</sup> In 1957, the European Social Fund (ESF) was established to provide member states with Community contributions for projects aimed at achieving these objectives.

The completion of the internal market in the late 1990s coincided with a recession and rising unemployment in Europe. In 1993, the Commission under then President Jacques Delors developed and published an influential White Paper on Growth, Competitiveness and Employment.<sup>14</sup> Stimulated by this paper, the European Employment Strategy (EES) began to take shape, and in 1997 the objective of a high level of employment became a specific priority for the EU and a separate employment chapter was included in the Amsterdam Treaty. As member states came to realise that improving competitiveness while preserving the European welfare model might require common responses, they became willing to consider the use of 'soft' policy instruments such as voluntary coordinated action, exchange of best practices, benchmarking, codes of conduct and comparative analysis to promote convergence of their labour market policies. Member states saw substantial spillovers from one country to the other - if employment and social policies in one state got it wrong it could slow growth in the Union as a whole - and that dialogue could provide answers to problems that member states themselves might not have thought of.<sup>15</sup>

To support the European Employment Strategy the 'Open Method of Coordination' (OMC) was developed as a new governance technique.<sup>16</sup> Noteworthy is the selection of the words 'open' (not closed, allowing access)

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<sup>13</sup> Raj Chari and Sylvia Kritzinger, *Understanding EU Policy Making* (Pluto Press, London, 2006)

<sup>14</sup> European Commission, "Growth, competitiveness, employment: The challenges and ways forward into the 21st century." *White paper COM (93)700*.

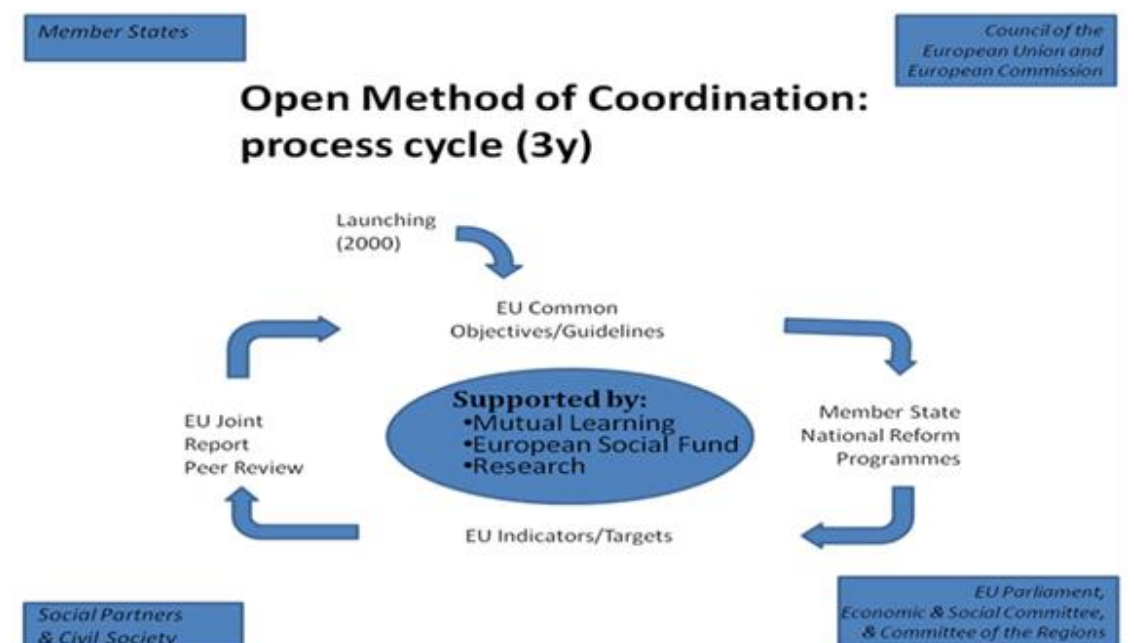
<sup>15</sup> Donna Wood, "Ties that Bind: Comparing Modes of Governance in Employment Policy in Canada and the European Union", in Laursen, Finn (ed), *The EU and Federalism: Politics and Policies Compared*, (Ashgate, UK and USA, 2011)

<sup>16</sup> There is no 'one' OMC in the European Union - it operates in different ways in different policy areas.

and ‘coordination’ (to work or act together) to describe the approach – both British civil servants and European poverty officials interviewed took credit for the terminology and technique. The OMC is guided by the EU’s principle of subsidiarity: that action should be taken, wherever appropriate, at the lowest level of government at which a given objective can be achieved. The employment OMC is the responsibility of employment ministers from all 27 member states, who meet under the banner of the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO). They are supported by officials on the Employment Committee (EMCO), as well as the European Commission and Eurostat.

The OMC is a cyclical process in which mutually agreed objectives (political priorities) are first defined by EU Heads of State. Then the EPSCO Council set goals and guidelines as well as indicators that will be used to judge progress towards those goals. The European Commission provides support. Next, each member state determines its own strategies and national plans to attain these goals and translates these into individual, national social policy plans. Peer review takes place on the basis of national reform programmes that are prepared by each member state and document their efforts to meet the EU objectives. Through a mutual learning programme member states undertake research and allow for peer-review processes that may include study visits to member states focused on specific problem issues. This entire process benefits from funding from the ESF, used by member states to implement specific programmes that match overall EU objectives. Other EU institutions and civil society actors have clearly defined ways to influence the process. Figure 2, adapted from Vanhercke,<sup>17</sup> illustrates the OMC cycle:

Figure 2: The Open Method of Coordination process cycle



<sup>17</sup> Bart Vanhercke, “Benchmarking Social Protection and Social Inclusion Policies through the European OMC: Panacea, Failure or Good Governance?”, presentation to *Europa Policy Workshop: Using European Ideas to Open up Canadian Federalism*, December 7, 2010 Edinburgh.

Compared to 16 other policy areas, Laffan and Shaw<sup>18</sup> assess the institutionalization of coordination processes in employment policy through the OMC as very strong. The degree to which the OMC has been effective in transforming the outcomes of member state employment policies has been studied extensively and there are mixed views on its impact.<sup>19</sup> However, there is general agreement that the OMC has reframed employment policy from being strictly a national member state responsibility to now also include a complementary European dimension that is an improvement over the previous 27 uncoordinated approaches.<sup>20</sup>

### 3. Comparing EU and Canadian Tools and Techniques for Coordination and Collaboration

From the preliminary analysis offered above, it appears that the EU might offer approaches to reduce the governance deficit in employment policy in Canada. In order to gain a deeper understanding of how the EU tools and techniques are used in practice, how this compares to Canadian practices, and the barriers that might exist to the transference of EU ideas to Canada, the following organizing framework (adapted from steps in the OMC process) has been adopted:

1. Strategic goals/common objectives/guidelines/indicators/targets
2. Monitoring, reporting and multilateral surveillance
3. Information exchange, research and mutual learning
4. Government actors and institutions and dialogue with social partners, experts and civil society
5. Conditional grants

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<sup>18</sup> Laffan, Brigid, and Shaw, Colin, *Classifying and Mapping OMC in Different Policy Areas. New Modes of Governance Project*, Reference No. 02/D09, Sixth Framework Programme of the European Commission, 2005.

<sup>19</sup> Claudio Radaelli, "The Open Method of Coordination: a New Governance Architect for the European Union?" *Rapport 1, Swedish Institute of European Policy Studies* 2003. Kerstin Jacobsson, "Soft Regulation and the Subtle Transformation of States: the Case of EU Employment Policy" 14(4) *Journal of European Social Policy* 2004, 355-70. Caroline de la Porte and Patrizia Nanz, "The OMC: a Deliberative-Democratic Mode of Governance? The Cases of Employment and Pensions" 11(2) *Journal of European Public Policy* 2004, 267-88. Caroline de la Porte and Philippe Pochet, "The European Employment Strategy: Existing Research and Remaining Questions" 14(1) *Journal of European Social Policy* 2004, 71-8. Susana Borrás and Kerstin Jacobsson, "The Open Method of Coordination and New Governance Patterns in the EU" 11(2) *Journal of European Public Policy* 2004, 185-208. Susana Borrás and Greve Bent, "Concluding Remarks: New Method or Just Cheap Talk?" 11(2) *Journal of European Public Policy* 2004, 329-36. Diamond Ashiagbor, "Soft Harmonization: The Open Method of Coordination in the European Employment Strategy" 10(2) *European Public Law* 2004, 305-32. Jonathan Zeitlin, "Conclusion - the Open Method of Coordination in Action. Theoretical Promise, Empirical Realities and Reform Strategy", in Jonathan Zeitlin, and Philippe Pochet (eds.), *The Open Method of Coordination in Action - the European Employment and Social Inclusion Strategies*, (Peter Lang, Brussels, 2005). Kluve, Jochen et.al., *Active Labour Market Policies in Europe, Performance and Perspectives*, (Springer, New York, 2007). Charles F. Sabel, and Jonathan Zeitlin, "Learning from Difference: the New Architecture of Experimentalist Governance in the EU" 14(3) *European Law Journal* 2008, 271-327.

<sup>20</sup> Kerstin Jacobsson, "Soft Regulation and the Subtle Transformation of States: the Case of EU Employment Policy" 14(4) *Journal of European Social Policy* 2004, 355-70.

### 3.1 Strategic goals/ common objectives/guidelines/indicators/targets

#### European Union

All EU strategic directions have their origin at the *European Council* – that is from the heads of state of each of the 27 governments, the President of the European Council, and the President of the European Commission. Their collective mutual desire to build a common market and to grow the union – both in terms of expanding membership and extending competence – is the energizing force behind the entire EU project. One respondent described the different roles in the EU as “The Commission proposes, the Council imposes”. This high level interaction provides a rallying point and driving force for all of the policy discourse in the EU. Regular contact between political leaders (at least four times a year) ensures a common understanding of the challenges they all face, an opportunity to work through different approaches, and a chance to build trust ties.

It is also at the level of ‘summit’ meetings between Europe’s top political leaders that the areas of EU-wide policy interest are identified, including employment. From the perspective of those interviewed for this research, employment is such a high priority as European citizens care strongly about unemployment matters, and expect all their governments to take action, both on a pan-European basis and within each member state. Since Europe is operating in a common labour market, has a common currency, and a common economic destiny, coordination and convergence in employment is of key importance. One respondent described the OMC as providing a framework – the right and left borders – to bind sovereign member states together without losing their autonomy over employment policy.

Since the European Employment Strategy (EES) started in 1997, agreement between member states (assisted by the European Commission) on common objectives, guidelines, indicators and targets has been the key motivating force that drives all activity. It provides the political direction necessary to keep momentum going and propel forward movement. In the view of Commission and member state officials, the approach has worked well as having objectives, guidelines, indicators and targets focuses policy-maker and politician minds. Townsend<sup>21</sup> suggests that when there are few incentives for recalcitrant players to move to action, hard targets act as a trigger that prompt political leaders to review their actions in the context of imminent threat of failure. “In this case the interesting question is not around whether the goal will be met, but rather how the discourse will move players to action”<sup>22</sup>.

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<sup>21</sup> Thomas Townsend, *Application of the Open Method of coordination in Federal/Provincial/Territorial Policy Forum*, Government of Canada, Mission to the European Union, 2005, 13.

<sup>22</sup> *Ibid.*

In March 2010 *Europe 2020* – a new strategy for jobs and growth – replaced the *Lisbon Strategy* as the EU’s overarching strategy. The EES is an integral part of *Europe 2020*.

1. Proposed by the European Commission, *Europe 2020*’s five headline targets constitute shared objectives to guide all EU actions. Each member state is expected to translate these into their national targets. Three relate directly to employment policy, including raising to 75% the employment rate of women and men aged 20-64; reducing the school drop-out rate to less than 10% and increasing the share of 30-34 year olds having completed tertiary or equivalent education to at least 40%; and reducing poverty, by aiming to lift at least 20 million people out of the risk of poverty and exclusion.
2. Ten integrated EU-wide guidelines were adopted in July 2010 by the *Economic and Financial Affairs Council (ECOFIN)* – the economic, finance and budget ministers in the member states. Guidelines 7-10 specifically relate to employment policy. At their meeting in October 2010 the *EPSCO Council* detailed how member states should use the guidelines, and what each heading means.
3. There are also seven flagship initiatives. *Inclusive growth* is intended to 1) raise Europe’s employment rate 2) help people of all ages anticipate and manage change through investment in skills and training 3) modernize labour markets and welfare systems and 4) ensure all the benefits of growth reach all parts of the EU. In November 2010 the Commission released “*An Agenda for new skills and jobs: A European contribution towards full employment*”. This outlined 13 specific actions.
4. This work is initiated by the Commission and coordinated with member states through *EMCO*, a Treaty-based Committee of officials that reports to *EPSCO*. The indicators for achieving the guidelines and targets are collectively agreed to on an annual basis. Data gathered through the indicators is all publicly available. Officials noted that statistics are important as the knowledge base is of key significance. In 2009 with eight guidelines, there were 72 indicators, broken into indicators for monitoring and indicators for analysis. Detailed information on all of this is all available on the EES website.<sup>23</sup>
5. At a delivery level the EES guidelines are further operationalized on a pan-European basis through the network of the Heads of Public Employment Services (*HOPES*) consisting of representatives from each member state. In addition to the guidelines, the heads have also developed a complementary Public Employment Services vision for 2020 that nests under the overall *Europe 2020* and European Employment Strategy.

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<sup>23</sup> See <http://ec.europa.eu/social/main.jsp?catId=477&langId=en/>

## Canada

Although strategic priorities in Canada may from time-to-time be identified at a high, collective multilateral federal-provincial level, in recent years this has not occurred. With the failure of constitutional reform in the late 1980s and early 1990s, most Canadian Prime Ministers and Premiers have preferred to focus on non-constitutional, low-key administrative approaches to managing the federation. Since becoming Prime Minister seven years ago, Stephen Harper has called only one First Ministers' meeting, in January 2009. Post-devolution the only areas where First Ministers or Premiers have asked their Employment Ministers for collective deliverables relates to developing a common framework to recognize foreign credentials and improving labour mobility. Instead unilateral and bilateral approaches have prevailed.

None of the Canadian officials interviewed in the late 2000s for this research saw a compelling need for an overarching and comprehensive pan-Canadian federal-provincial employment strategy agreed to by both orders of government. In 2006 Premiers through the *Council of the Federation* (that is without the Government of Canada) developed and released a strategy to improve post-secondary education and skills training in Canada. A key conclusion was a need for additional federal investments. In 2006 and 2007 the Government of Canada responded by investing additional funding in provincial employment programmes. In 2009 Premiers hosted a best practices symposium on labour force participation. Three years later there is no evidence of any follow up on this interprovincial initiative.

Multilateral federal-provincial activity in employment matters occurs only on defined issues, not on the system as a whole. These include labour market information, labour mobility, the Red Seal programme (to facilitate the transferability of trade certification across Canada) and the recognition of foreign credentials. For example, a recent activity involved the 2009 release of a *Pan-Canadian Framework for the Assessment and Recognition of Foreign Qualifications* as a public commitment by Canadian governments of their vision for improving qualification assessment and recognition practices.<sup>24</sup>

All 14 governments in Canada are deeply involved in the employment policy domain, with most aspects governed by *unilateral* federal action followed by *bilateral* federal-provincial agreements. For example, the LMDAs were based on a public federal offer made to all provincial and territorial governments in 1996. There are four key federal-provincial funding agreements<sup>25</sup> governing different client groups:

1. *Labour Market Development Agreements (LMDA)* cover EI clients and also outline provincial responsibilities for the national employment service. They are indeterminate in length and are in place in all 13 jurisdictions.

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<sup>24</sup> See [http://www.hrsdc.gc.ca/eng/workplaceskills/publications/fcr/pcf\\_folder/PDF/pcf.pdf](http://www.hrsdc.gc.ca/eng/workplaceskills/publications/fcr/pcf_folder/PDF/pcf.pdf).

<sup>25</sup> In Budget 2013 the federal government signalled that they wish to change the parameters of these agreements, and assume more control, see <http://www.budget.gc.ca/2013/home-accueil-eng.html>.

2. *Labour Market Agreements (LMA)* are for unemployed people not eligible for EI benefits and low-skilled employed workers. These agreements are scheduled to terminate in 2014. They are in place in all 13 jurisdictions.
3. *Labour Market Agreements for Persons with Disabilities (LMAPD)* provide funding for employment services and supports for disabled persons. These are in place in all 10 provinces, but none of the 3 territories.
4. *Targeted Initiative for Older Workers (TIOW)* agreements provide labour market adjustment services for unemployed older workers. These agreements are due to expire in 2012, and as of 2010 are now in place in all jurisdictions.

Some of these agreements are more significant than others. For example base funding for the LMDA is \$1.94 b Cdn annually (€1.4b), LMAs \$500 m Cdn (€359 m), LMAPD \$218 m Cdn (€156 m) and TIOW \$35 m Cdn (€25 m). Each order of government on its own determines its overall objectives/directions in employment policy, and then tries to incorporate these when negotiating the more defined federal-provincial agreements. From a federal perspective the objective of federal-provincial agreements is to achieve federal goals as required by their constitutional responsibilities or what they think Canadians want from their federal government; to ensure a measure of similarity in programming across Canada; and to reduce spillover effects from one province to another. From a provincial perspective the goal is to secure federal money for provincial programming and priorities and reduce spillover effects, while at the same time protecting and promoting provincial jurisdiction.

Here is an example of how this works in practice. Every federal department is expected to develop a Report on Plans and Priorities. Human Resources and Skills Development Canada (HRSDC) — responsible for employment policy — has identified “a skilled, adaptable and inclusive labour force and an efficient labour market” as a key goal. Their plan contains five performance indicators as well as defined targets for this broad goal. These highlight federal/provincial/territorial partnerships (and agreements) as essential to the Department’s success. The LMA is identified as having a ‘robust accountability framework’ with ten performance indicators but no targets. In contrast the LMDA portion of the plan identifies three performance indicators, plus pan-Canadian targets. Likewise the LMAPD and TIOW agreements each have their own accountability provisions, which may or may not include indicators and targets. All of these priorities, goals, targets and indicators are decided in the final analysis by the Government of Canada through the bilateral federal-provincial negotiation process. Each bilateral agreement is largely similar from one province to another, with some containing a ‘me too’ clause that allows for jurisdictions who sign early to receive equal treatment if jurisdictions that sign later get what is perceived as a better deal. However, there are significant differences between the four agreements, including accountability and co-financing provisions.



At the provincial level, each of the 13 provinces/territories develops its own objectives, indicators and targets for employment policy in its jurisdiction. If federal money is on offer, a key objective is to secure this funding under conditions that meet provincial needs. For example, Alberta Employment and Immigration (AEI) have outlined their strategic labour market directions in their *Skills Investment Policy Framework (2003)* and labour force strategy *Building and Educating Tomorrow's Workforce (BETW) (2006)*. Their key goals are that Alberta is able to meet its labour force requirements and attract and retain workers. Given federal responsibility for immigrants and aboriginal persons, they cannot achieve success without cooperation with the Government of Canada. Through the business planning process Alberta sets 15 indicators and five overall outcomes, some of which correspond to the federal indicators.

This segmented approach to programming leads to gaps and overlaps, and a degree of incoherence. For example, both orders of government are heavily vested in youth and disability programming. Provinces have asked the federal government to transfer responsibility to them for these remaining programmes (Council of the Federation 2012) but Ottawa does not agree. HRSDC is also responsible for supporting Aboriginal Agreement holders who deliver the federal Aboriginal Skills and Employment Training Strategy (ASETS) programme<sup>26</sup> across Canada. Service Canada regional offices provide the necessary support to implement ASETS programmes and services, despite the fact that it is provincial governments that now have the expertise in this area. The degree to which aboriginal programming is coordinated with provincial programming varies from one jurisdiction to another — there is no overall pan-Canadian strategy or attempt to coordinate between government and aboriginal organizations.

### 3.2 Monitoring, reporting and multilateral surveillance

#### European Union

Ever since the European Employment Strategy was implemented, each member state has been expected to take the European-level guidelines, indicators and targets, integrate these into national planning processes, and outline how this is to be done in a document called a *National Reform Programme* (NRP). Each member state is expected to develop this in consultation with their national and regional social partners and then release it publicly.

These NRP's from each member state provide the basis for an annual EU-wide *Joint Employment Report*. In 17 pages the 2009 report basically provided a high level summary of what the various member states had

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<sup>26</sup> The federal government has constitutional responsibility for Indians and land reserved for Indians. They directly manage over 80 employment service contracts with Aboriginal Agreement Holder organizations from across Canada. For more information see [http://www.hrsdc.gc.ca/eng/employment/aboriginal\\_employment/strategy/index.shtml](http://www.hrsdc.gc.ca/eng/employment/aboriginal_employment/strategy/index.shtml).

accomplished in light of the key EES priorities, and some of the difficulties encountered. It suggests a way forward and challenges for the future. In addition to this annual routine monitoring and reporting, evaluations of the European Employment Strategy have been undertaken from time to time – all of this material is available on the EES website.<sup>27</sup> Each year for the past 22 years the European Commission has released an *Employment in Europe* report. The 2010 report highlighted in detail the impact of the economic crisis on EU labour markets.

Following their review of each member state NRP, the European Commission develops country-specific recommendations that are agreed to by the EPSCO Ministers' Council and then published. 'Naming and shaming' pits member state governments and their administrations against the EU institutions and is steadfastly resisted by member states concerned to avoid politically awkward criticism and perceived interference from 'Brussels'. In the view of Begg, Erhel and Mortensen<sup>28</sup> the tendency to 'blame avoidance' weakens the system as a whole and this particular approach as an integration technique.

While officials interviewed for this research agree that member states do not like targeted 'naming and shaming' and that they also find it hard to be constructively critical with each other, in their view multilateral surveillance is a very useful process. In fact, there is a desire to make it more hard-hitting in the future, in order to ensure that employment ministers retain control of the process and are not dominated by the EU economic ministers.

Every year since the EES started officials from all member states meet together with Commission officials in a two-day multilateral surveillance workshop where the employment programme aspects of each country's National Reform Programme are discussed, defended and compared one to the other. It is through this process and the frank discussion that it generates that member states can foresee any recommendations for action that might be forthcoming. In some cases they welcome recommendations on where they should focus their efforts for improvement.

Eurostat also monitors performance and compares member states with one another in regards to the EES indicators that they have all collectively agreed to. From time to time Eurostat will publish themed reports on specific issues, but otherwise all the data collected on the indicators is publicly available to any European citizen or stakeholder group that wishes to access it. The indicators set by the Heads of the Public Employment Services are gathered through a special administrative system that they have collectively set up.

The entire EU OMC process is, in effect, an elaborate *benchmarking* exercise, given that it covers all the key elements of the benchmarking process: common objectives, guidelines, indicators, targets, data collection

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<sup>27</sup> See <http://ec.europa.eu/social/main.jsp?catId=101&langId=en&moreDocuments=yes>.

<sup>28</sup> Iain Begg, Christine Erhel and Jorgen Mortensen, "Medium Term Employment Challenges", *Centre for European Policy Studies Special Report* 2010, at <http://ec.europa.eu/social/main.jsp?catId=101&langId=en>.

and reporting. In order to undertake benchmarking there needs to be acceptance by the organizations being judged of the indicators that will be used, good statistical capacity to actually capture the data required (so that units cannot hide behind incomparable statistics), and a process to institutionalize the entire data collection and reporting process. The interviews carried out for this project indicated general acceptance of all of these processes in the European Union, and a willingness to be compared to other member states, including the publication of ‘league tables’ that rank performance on specific issues from best to worst. Comparison facilitates dialogue and fosters improved performance. One respondent noted that “extreme regionalism and an unwillingness to be compared is dangerous and counter-productive in the globalized world we now live in”. Academics are more ambivalent, suggesting that underperforming member states are cautious and wary about the indicators selected and how the comparisons are presented.

## Canada

In Canada each province is expected to develop an annual plan under the LMDA and LMA. Recently each provincial LMA plan has been consolidated on a HRSDC managed website<sup>29</sup> such that a search of 13 different provincial websites is no longer necessary. Unlike the European Union, the only pan-Canadian report that is produced on employment policy is the annual *EI Monitoring and Assessment Report*; however this provides little information on how services have changed under the LMDAs and cautions readers that interjurisdictional comparisons may be misleading due to differences in programming and labour market conditions. Dawkins noted that this report was “vague to the point of being useless”.<sup>30</sup> On the basis of this report he concluded that the active programmes funded by the EI account were “directly causing the problem which they seek to alleviate by taxing job creation”.

Since LMA agreements in Canada are bilateral between the Government of Canada and each provincial jurisdiction, reporting is also bilateral. On the HRSDC website one can now view each province’s report under the LMA and LMAPD agreements; however the reports demonstrate a wide variety of reporting styles and do not provide adequate information to allow a reader to understand the programmes on a Canada-wide basis nor for comparisons to be made. The pan-Canadian report on the LMAs that HRSDC committed to release in October 2009 was finally released in August 2011. However, there is no comparative analysis. There are no reports at all on the Targeted Initiative for Older Workers. It is therefore very difficult for Canadians to determine the results achieved for the almost \$2.8 b Cdn (€1.95) provided by the

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<sup>29</sup> See <http://www.rhdcc-hrsdc.gc.ca/eng/employment/partnerships/lma/index.shtml>.

<sup>30</sup> Ian Dawkins, “Insuring Prosperity: SME Perspectives on the Employment Insurance System” *Canadian Federation of Independent Business* 2009, at <http://www.cfib-fcei.ca/cfib-documents/rr3089.pdf>, 12.

Government of Canada to provincial/territorial governments for employment programmes.

There is also limited reporting on employment programme results from Statistics Canada. The one exception to this is when employment policy touches up against education policy. Since 1996, in cooperation with Statistics Canada, provincial Ministers of Education have reported on Canada's and each province's performance on the OECD's Indicators of Educational Systems through the pan-Canadian Indicators Programme (PCEIP). This demonstrates that provincial governments can come together to develop common indicators, especially when a lack of Canadian participation in international reporting might appear embarrassing overall.

Other than these education-related matters there is no multilateral reporting on employment policy in Canada because, unlike the European Union, there is no multilateral agreement on overall objectives, guidelines, indicators or targets that would allow multilateral surveillance and reporting to take place. For Canada, the idea of 'naming and shaming' is not on the table due to a lack of information and credible indicators that would allow judgements to be made. Officials interviewed for this research suggest that Canadian provinces do not like to be compared to each other, citing that the differences between them are so large that comparisons are meaningless.

Some bilateral surveillance of provinces by the Government of Canada does occur due to the presence of the defined federal-provincial agreements. However, there are no real sanctions. Although the agreements state that federal funding will be withheld from provincial governments if audited statements are not provided, evidence of sanctions being applied against provinces that do not fulfil the terms of the agreements could not be identified.

The reasons for this reluctance to report and compare are found in the very nature of Canadian federalism. Provincial willingness to collectively participate in pan-Canadian projects perceived as being under provincial jurisdiction is usually only possible if federal money is on offer. In that case a key balancing act is the trade-off between 'light reporting' (as desired by provinces in order to respect provincial autonomy) and accountability for the federal dollars being transferred. Graefe and Levesque<sup>31</sup> suggest that provinces view transparent reporting as dangerous; by drawing attention to problems they could provide the federal government with a window for agenda-setting. Provincial governments have little taste for the production of one national report, further ensuring that little reporting is done at all and that what is done is done in such a way to make comparisons impossible. Graefe, Simmons and White<sup>32</sup> conclude that trying to enforce accountability

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<sup>31</sup> Peter Graefe and Mario Levesque, "Accountability and Funding as Impediments to Social Policy Innovation: Lessons from the Labour Market Agreements for Persons with Disabilities" 36(1) *Canadian Public Policy* 2010, 45-62.

<sup>32</sup> Peter Graefe, Julie Simmons and Linda White, *Understanding and Evaluating New Intergovernmental Accountability Regimes: Canada in Comparative Perspective*, (University of Toronto Press, Toronto, 2010).

through public reporting leads to minimalist compliance, forms of gaming, and intergovernmental axe grinding. They urged governments to abandon the current approach and turn instead to institutions and processes aimed specifically at innovation and policy learning.

### 3.3 Information Exchange, Research and Mutual Learning

#### European Union

The European Union has put extensive processes in place to facilitate information exchange and mutual learning around the European Employment Strategy, and ensure that member states meet to discuss their programmes. Two of the key mechanisms are the European Employment Observatory (EEO) and the Mutual Learning Programme.

Since 1996 the European Employment Observatory<sup>33</sup> has been contributing to the EES by providing information, comparative research, and evaluation on employment policies and labour market trends, and ensuring that this information is available for decision making to EU member states, the Commission, stakeholders and the public at large. Although started by the member states, the EEO is now primarily a tool of the Commission. The Commission uses consultants to provide the secretariat support to the EEO, and in 2011 the contract was held by GHK Consulting working out of Birmingham and Brussels. A renewal RFP was let in February 2013.

GHK provides coordination and support to networks of independent thematic experts, independent national labour market experts (SYSDEM) from each member state, as well as officials from employment ministries and public employment services throughout the EU. GHK's tasks include: coordinating the SYSDEM experts as they produce quarterly reports on labour market activity in their respective member state, assess their respective *National Reform Programme* and undertake thematic reviews; coordinating policy and practice reviews and thematic seminars for Commission staff; producing a monthly newsletter on current and relevant issues; and scanning the literature. They also facilitate the twice-yearly meetings of the European Employment Research Dialogue. Although some of the work of the EEO is confidential to the Commission, most activity is generally available and posted on the EEO website.<sup>34</sup> For example, the website reviewed for this analysis noted seven EEO events between January and June 2010 (with reports and speaker presentations available) as well as reviews of individual countries by SYSDEM experts, newsletters, quarterly reports and the results of thematic reviews.

GHK Consulting also supports the Mutual Learning Programme (MLP), launched at the beginning of 2005 and incorporating the Peer Review Programme from 1999. MLP helps EU member states to learn from each

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<sup>33</sup> The EEO covers not only the EU 27 countries, but also Norway, Iceland, Croatia, Turkey, the Former Yugoslav Republic of Macedonia (FYROM) and Serbia.

<sup>34</sup> See <http://www.eu-employment-observatory.net/>.

other's experiences and enhances the transferability of good practice. It also encourages stakeholder dissemination of information about the EES and its implementation. Every year six Peer Review processes are organized on a specific topic hosted by a EU member state. Once selected, the review is advertised to all other member states which, if interested, will send an expert from within their responsible government department plus an independent expert. The second part of the MLP is twice-yearly EU-wide Thematic Review Seminars focusing on key challenges or policy priorities, involving social partners and civil society. All of these MLP activities are funded by the European Commission. Full information is available on the MLP website.<sup>35</sup>

In addition to these two processes, the European Commission's DG of Employment, Social Affairs and Equal Opportunities funds other EU agencies that undertake research related to employment, including EUROFOUND (to contribute to the planning and design of better living and working conditions in Europe) and CEDEFOP (to help promote and develop vocational education and training in Europe).<sup>36</sup> The Commission also directly hosts other events – most of them open to stakeholders – on a variety of issues. Presidents of the EU often host events to highlight EU activities during their six month term; for example in October 2010 the Belgium presidency hosted an event focused on the role of social partners in employment and poverty.

There are also a wide variety of networks. For example, for academics there is *RECWOWE* (Reconciling Work and Welfare in Europe), a Network of Excellence that brings together researchers from 29 partner universities and research institutes in 17 European countries.<sup>37</sup> Private providers also have their own separate network. Many meet up every year at *Employment Week*, an annual exhibition for politicians, civil servants, business leaders, unions, civil society, regional and local authorities, academia and practitioners to come together to discuss the major social and economic issues surrounding employment. The event coincides with the publishing of the Commission's annual *Employment in Europe* report, providing a forum for discussion of the report.

In 2005 Casey<sup>38</sup> argued that the peer review procedure in the EU had tended to be exclusive, involving a narrow 'epistemic' community and had had scarcely any impact on other actors believed to be key to the working of the EES – social partners, civil society organizations and sub-national governments. An academic consulted for this research agreed, suggesting that those involved were not necessarily representative of the policy community in member states, and evidence was lacking on the results achieved for the

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<sup>35</sup> See <http://www.mutual-learning-employment.net/vision-and-goals/>.

<sup>36</sup> See <http://www.eurofound.europa.eu/about/index.htm> and <http://www.cedefop.europa.eu/EN/about-cedefop.aspx>.

<sup>37</sup> See <http://recwowe.eu/>.

<sup>38</sup> Bernard Casey and Michael Gold, "Peer Review of labour market programmes in the European Union: what can countries really learn from each other?" 12(1) *Journal of European Public Policy* 2005, 23-43.

significant investment of public funds in the European Employment Observatory (EEO) and the Mutual Learning Programme (MLP).

Writing in 2009 Zeitlin<sup>39</sup> drew a different conclusion. In his view mutual learning is one of the most widely recognized findings about the OMC's national influence. On the basis of the interviews undertaken for this research, many civil servants would agree with this latter perspective, citing the MLP as the most effective part of the OMC. In their view it is especially effective for smaller member states, providing an opportunity for them to see their problems in a broader perspective, reframing the debate and shifting the policy paradigm. For example, before the EES some member states focused just on unemployment, now the key issue is employment. They used to try and get older workers out of the labour market, now they are trying to keep them in. Before the EES many never considered integration of their tax and transfer systems. When asked whether the OECD did not already provide this perspective, respondents identified that OECD recommendations can be ignored, whereas Council recommendations cannot. As EU member states all work within the same EU institutional context, the OMC process permeates each member state to also include sub-national participants as well as non-government stakeholders. This does not necessarily occur through participation in OECD reviews.

## Canada

On a pan-Canadian basis the *Forum of Labour Market Ministers (FLMM)* is responsible for information exchange, research and mutual learning. As most of their activities occur out of public view, it is difficult to assess what they have accomplished. In 2002 Alberta hosted and organized a multi-stakeholder conference to review the experience with the LMDAs over the first five years<sup>40</sup> (Lazar 2002). Since then 'best practices' workshops have been held in Victoria in 2007 and Halifax in 2009 on selected aspects of labour market policy; however both of these workshops were only open to government officials. The FLMM Labour Market Information working group has hosted four forums related to labour market information — in 2004, 2005, 2007 and 2008 — that were open to external stakeholders; however no information on upcoming forums is available. From time to time the federal Foreign Credential Recognition (FCRP) programme has hosted conferences and workshops for provincial staff as well as larger stakeholder groups in order to develop and strengthen Canada's foreign qualification capacity. Federal officials also noted that sometimes they host events on defined subjects and invite provincial government staff as well as experts and stakeholders. However, there is no defined process for these events nor is the information about them made available except to those invited.

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<sup>39</sup> Jonathan Zeitlin, "The Open Method of Coordination and Reform of National Social and Employment Policies", in Martin Heidenreich and Jonathan Zeitlin (eds.), *Changing European Employment Regimes and Welfare Regimes*, (Routledge, London and New York, 2009).

<sup>40</sup> Harvey Lazar, *Shifting Roles: Active Labour Market Policy in Canada under the Labour Market Development Agreements: A Conference Report*, Canadian Policy Research Networks 2002.

Canada does participate in OECD activities and, in these instances the federal government solicits provincial participation on a project by project basis. For those provinces that are engaged, they are fully engaged. However, there is little sharing of overall OECD plans and priorities, nor are special efforts made to disseminate OECD results from other countries to provincial governments. Other than the pan-Canadian educational indicators project, OECD work does not stimulate extensive federal-provincial collaboration within Canada, nor do Canadian provinces engage extensively with the international community.

The federal government has also, on its own, tried to forge mutual learning processes with either some or *ad hoc* provincial government involvement; however, these efforts have met with limited success. Until 2009, the federally-funded Work and Learning Knowledge Centre of the Canadian Council on Learning (CCL) brought more than 90 organizations together in a consortium focused on workplace learning. An evaluation of the CCL identified a lack of engagement by provincial and territorial governments in its work as the most significant challenge to its long-term success (EKOS, 2008). Many provinces, especially Québec and Alberta, refused to support the agency's work, viewing a federally-funded agency on learning as an intrusion in provincial jurisdiction. Lack of coordination with provinces is no longer a problem since the CCL has since closed due to termination of federal funding.

HRSDC also provides funding to the Canadian Labour Market and Skills Researcher Network, linking over 100 academics doing labour market policy research across Canada with each other and federal government departments. However, there is no evidence of provincial government engagement in their work. This network is, however, quite active with a current research agenda, working papers posted, quarterly newsletters, monthly research reports "Labour Market Matters", and annual conferences. This information is all available on their website.<sup>41</sup>

### 3.4 Actors, Institutions and Dialogue with Social Partners/Experts/Civil Society

#### European Union

Overseeing the OMC work in employment policy in the EU is the Employment, Social Policy, Health and Consumer Affairs Council (EPSCO), composed of employment, social protection, consumer protection, health and equal opportunities ministers from each member state. They usually meet around four times a year. The Council work is supported by the Employment Committee (EMCO), a treaty based expert group made up of two civil servants per member state as well as the European Commission. The chair of the committee is always a member state official and the post is held for two years, aided by a support team from within the Commission. They meet up to nine times per year. Member state participation is at the Director level, with

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<sup>41</sup> See <http://www.clsrn.econ.ubc.ca/home.php>.



individuals considered as leaders in the subject area from their country. They are often supported by subject experts from their country's permanent representative office in Brussels.

Ministers and civil servants in the European Union are expected to pay attention to the European Employment Strategy, and their constant engagement in the iterative processes of the OMC at both the European and national level provides the mechanism. Officials identified a close working relationship between EMCO committee members and EPSCO ministers, moderated through their country's permanent representative's office located in Brussels. This reduces the need for detailed supervision of EMCO activities by more senior officials within their home Ministry. Although the European Commission may act in its own interests, it is held in check by a need for member state agreement to its actions. By its very structure and lack of capacity to provide financial incentives it can provide the 'honest broker' role that the Government of Canada cannot. Regularity of contact between officials and Ministers from all member states and with the European Commission ensures that participants gain a strong sense of the problem to be solved and facilitates coming to agreement on the diagnostic. The opportunity to debate ideas and see how the problems play out in different member states is a crucial part of the process of consensual convergence in the EU and building trust ties is key.

Under EMCO there are two technical working committees, an ad hoc group plus a quantitative indicators group. Funding for member state officials' travel costs is covered by the Commission; however, member states pay for their officials' time and accommodation. All attend on a regular basis; not only do they appreciate the opportunities for mutual learning they fear that if they do not attend decisions will be taken impacting their country without their involvement. Details on EPSCO ministers' decisions and the operation of EMCO (including the name of the member state representative on the committee) are available on the website of the European Commission's Directorate-General for Employment, Social Affairs and Equal Opportunities.<sup>42</sup>

The EMCO committee publishes an annual work plan, and coordinates its work across sectors, especially with the EU committees responsible for economic matters and social protection/social inclusion. Supporting EMCO in each member state is the Heads of Public Employment Services (HOPES) network. Their work involves one representative (or more) from each member state, supported by Commission officials. Essentially the HOPES network is the delivery wing of the European Employment Strategy while EMCO is the design wing. Since 1998 the Heads have met twice a year. Like EMCO they have an annual work programme.

Despite the availability of Qualified Majority Voting in the EU, the EPSCO Council, the EMCO committee, and the HOPES network generally operate by consensus. If a member state strongly objects to a conclusion they will table

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<sup>42</sup> See <http://ec.europa.eu/social/home.jsp>.

an objection in Council. It is a nested process, with the workings of EMCO going to Council, with the exception of opinions that make suggestions on specific issues. Anything agreed unanimously in EMCO is generally endorsed by the Council. Commission officials note that with expansion of the EU to 27 member states the EMCO committee process of almost 60 members has become more challenging. Being consensus driven has made the committee more cautious and often un-ambitious. At the Council level this often results in language such as “as appropriate”, as well as footnotes explaining particular member state circumstances or concerns.

The European Parliament is expected to give an opinion on the guidelines underpinning the European Employment Strategy, and issues an annual progress report. With the Lisbon Treaty the Parliament has gained more influence, but is still not an influential player in employment matters. However, they cannot be ignored. There is also a structured process for the Council and the Commission to consult regularly with the Economic and Social Committee (a EU-wide advisory body representing employers, trade unions, farmers, consumers and other interest groups that collectively make up ‘organized civil society’) and the Committee of the Regions (a EU-wide advisory body composed of representatives of Europe’s regional and local authorities).

European social partners have a treaty-based mandate to be consulted on the EES, and meet with EMCO twice a year. Four groups are specifically named to represent business and labour<sup>43</sup> on all EU matters. In 1998 and 2001, the EES Employment Guidelines called for the mobilization of all actors at regional and local levels, bringing civil society as well as regional and local governments into the process. Civil society has a different status than the social partners and their views are organized through the Social Platform, an alliance of NGO’s active in the social sector.<sup>44</sup> Civil society representatives believe that the OMC has provided them with a ‘seat at the table’ that governments would not otherwise have offered. Social partners and civil society representatives have recently started to meet with EPSCO Ministers before their quarterly meetings. Financial support to facilitate this participation has now been subsumed under PROGRESS, the new Programme for Employment and Social Solidarity.<sup>45</sup>

Social partners and civil society involvement is part of the EU’s long tradition of consulting with stakeholders and involving them as experts in policy-making. Given the European Commission’s lack of capacity to act directly, what they do instead is consult. In fact, wide consultation and dialogue with civil society is now a duty of the EU institutions, as it is expected to improve the quality of outcomes, build consensus, and

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<sup>43</sup> Business Europe; CEEP- European Centre of Employers and Enterprises providing Public Services; ETUI- the European Trade Union Institute; and UEAPME representing small business.

<sup>44</sup> See <http://www.socialplatform.org/>.

<sup>45</sup> Jonathan Zeitlin, “The Open Method of Coordination and Reform of National Social and Employment Policies”, in Martin Heidenreich and Jonathan Zeitlin (eds.), *Changing European Employment Regimes and Welfare Regimes*, (Routledge, London and New York, 2009).

strengthen ownership and acceptance. The Commission also funds the operational costs of 25 European umbrella organizations or networks working in a wide variety of fields, giving these actors a significant stake in the EU process. While academics may question whether this elaborate EU structure has resulted in improved policy making or increased legitimacy of the EU, none of the member-state officials interviewed questioned the value of consultation with social partners and civil society, or EU-wide funds allocated to accomplish this.

The European Commission has also established 40 European Sectoral Social Dialogue Committees in key sectors (e.g. transport, energy, agriculture, constructions etc.). These are expected to work with social partner representatives from each member state on issues such as occupational health & safety, vocational training, equal opportunities, mobility, working conditions etc. While EES functions more on a generic basis, social partners prefer activities at the sector level. Member state officials did not view the EU-wide Sectoral Social Dialogue Committees as influential. This reflects the reality that, despite the establishment of elaborate consultation processes, decision-making in the EU is still executive dominated.

## Canada

The Forum of Labour Market Ministers (FLMM) set up in 1983 and then formalized in 1993 promotes inter-jurisdictional cooperation across Canada on a wide variety of labour market issues. There are five active federal-provincial working groups: 1) labour mobility 2) foreign qualification recognition 3) workforce development 4) effective employment services and 5) labour market information. A career development group was recently dissolved. Post-devolution there have been fewer Ministerial meetings, and until 2010 Ministers had not met since June 2003.

The FLMM is co-chaired by the federal government and a lead province where the lead rotates every two years on an east-to-west basis. A modest, provincially-managed, secretariat provides support, with funding provided by contributions from the Government of Canada as well as from a levy on each provincial government. All logistical (travel, accommodation and meeting room) costs are funded by each jurisdiction and provincial representatives sometimes find themselves unable to attend meetings due to other provincial priorities or provincial travel freezes. As a result, much of the work is managed through teleconferences held among Senior Officials (at the level of Assistant Deputy Minister) 6-8 times per year. Decisions also require Deputy Ministers' review before being forwarded to Ministers. Two FLMM working groups maintain websites, and an overarching FLMM website providing information on all activities has recently been launched.<sup>46</sup> However, without the regularity of Ministers' meetings there is no energizing force that propels

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<sup>46</sup> See <http://www.flmm-fmmt.ca/english/view.asp?x=1>

forward movement on activities or makes deliberations available to public view.

Given the lack of funding and turnover in provincial staff that provide the FLMM secretariat, it has been unable to develop strategic policy capacity on a pan-Canadian basis.<sup>47</sup> A key recommendation of the Advisory Panel on Labour Market Information (LMI) – set up by FLMM Ministers – was to adjust the FLMM governance structure by including an enhanced secretariat and a renewed relationship with Statistics Canada and the Council of Ministers of Education Canada in order to enhance labour market information.<sup>48</sup> There has been no government response to this report or subsequent action.

Provinces and territories have developed institutional structures to coordinate their work on education matters through the Council of Ministers of Education Canada (CMEC). In this case Ministers meet twice a year and their work is coordinated by a permanent secretariat consisting of over 60 staff located in Toronto.<sup>49</sup> Over the years there have been many attempts by the federal government to transform CMEC into a federal-provincial forum or for the federal government to have a more formalized role; however provinces have consistently rebuffed these efforts (Cameron 2005). It is often challenging for CMEC to coordinate their work with the FLMM given that the former is an interprovincial forum while the latter is federal-provincial.

On a pan-Canadian basis there are few non-government players involved in employment policy that can bridge between federal-provincial governments. Many organizations that used to undertake research, provide expert advice, information and a bridge between policy-makers, stakeholders and citizens have closed, from the Canadian Labour and Business Centre (in 2006) to Canadian Policy Research Networks (in 2009) to the Canadian Council on Learning (in 2010). Parliaments in Canada, either national or provincial, play a very limited role. There are no parliamentary or legislative committees that monitor federal-provincial activity, and federal committees responsible for subject areas (for example human resources) have no ability to tell provincial governments what to do. Their recommendations are hardly noticed. In the early days of EI reform the legislation required that the annual EI Monitoring and Assessment Report be tabled with Parliament; this has since changed so that now it is done at the discretion of the federal Minister. Although it is publicly released every year as an accounting of the changes on a pan-Canadian basis out of EI Reform; media coverage is non-existent. Without easy-to-use information on elements of Canada's employment programmes, it is very difficult for non-government actors to engage with the sector.

The FLMM is has not fostered linkages with business, labour, training and employment agencies, or even representatives of aboriginal organizations that are now responsible for active labour market programmes for aboriginal

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<sup>47</sup> Donna Wood and Tom Klassen, "Bilateral Federalism and Workforce Development Policy in Canada" 52(2) *Canadian Public Administration* 2009, 249-270.

<sup>48</sup> Advisory Panel on Labour Market Information, *Working Together to Build a Better Labour Market Information System for Canada* 2009, at [http://www.imt-lmi.ca/eng/pdf/final\\_report\\_pdf-eng.pdf](http://www.imt-lmi.ca/eng/pdf/final_report_pdf-eng.pdf).

<sup>49</sup> See <http://www.cmec.ca/Pages/Default.aspx> for details.

people across Canada under the Aboriginal Skills and Employment Training Strategy (ASETS). When the federal government was fully in charge of active employment measures, it increased the involvement of business and industry by establishing the Canadian Labour Force Development Board in 1991 and a series of provincial boards. These corporatist boards were largely abandoned a few years later as the lack of peak labour and business organizations in Canada (unlike European models from where this model derived) made it impossible for the boards to reach consensus.<sup>50</sup>

In part, because of the failure of the national boards, the Government of Canada established national sector councils and related organizations. These bring together business, labour and professional groups to address skills development issues and implement solutions in key sectors of the economy – in 2011 there were 37 Sector Councils and related organizations in operation, funded by the federal government and coordinated through the the Alliance of Sector Councils (TASC)<sup>51</sup> out of Ottawa. Since Sector Councils have no formal linkages with either the FLMM or provincial governments, this significantly limits their legitimacy from a provincial perspective, as well as their ability to facilitate information exchange and mutual learning on a cross-Canada basis. Lack of connectedness with provinces will not be a problem for sector councils in the future, as starting in 2011, Ottawa began withdrawing federal funding support.

The Canada Employment Insurance Commission provides a means for business and labour to directly influence EI programme policy. The commission has four members – the chairperson and vice-chairperson are senior Government of Canada officials, while the other two Commissioners represent the interests of workers and employers. Largely selected by the federal government, since they are prohibited from holding any other office or employment, they are, in effect, full-time civil servants. These two representatives, without staff or other resources, have to date played a marginal role in EI policy-making.

While there are many pan-Canadian as well as provincial organizations that express an interest in employment and training issues on a pan-Canadian basis, there is no ongoing or permanent institutional process or structure to mobilize them or even bring them together to share common interests. These groups were shut out of the initial decision to offer devolution to the provinces and many initially objected to what was characterized as the ‘balkanization’ of the Canadian labour market; however, post-devolution their views have become muted. Today most focus their attention on individual provincial governments which now substantially control the employment system. Each province decides how it will receive input from non-government stakeholders and the degree to which these processes are institutionalized. Some provinces (e.g. Québec, Newfoundland and Labrador,

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<sup>50</sup> Andrew Sharpe and Rodney Haddow (eds.), *Social Partnerships for Training Canada's Experiment with Labour Force Development Boards*, (Kingston: School of Public Policy, Queen's University, 1997)

<sup>51</sup> See <http://www.councils.org/about-tasc/overview/>.

Saskatchewan, Manitoba and Ontario) have put formal advisory boards in place while in others more *ad hoc* arrangements prevail.

### 3.5 Conditional Grants

#### European Union

The European Social Fund (ESF) is the EU's main financial instrument to support structural reforms in employment, education and training programmes in EU member states. The ESF is one of the EU's two structural funds<sup>52</sup>, set up in 1957 to reduce differences in prosperity and living standards across EU member states. It originated as a re-training fund for human resources, training and educational activities, and social inclusion. Given its longevity, it has strong constituencies among beneficiaries, implementers, politicians and community service providers. Over the period 2007-2013 75 billion Euros (about 10.7b €/14.4b Cdn annually) will be distributed to EU member states and regions to achieve ESF goals. Projects are targeted at groups vulnerable to unemployment and social exclusion. Poorer member states, including post-enlargement the newer member states, receive a larger share in relation to their population – over three-quarters of the funds available.<sup>53</sup>

In June 2010 the Commission and member states held broadly advertised consultations on future directions for the ESF. However ultimately the overall ESF strategy and budget – as well as how it is distributed between member states – is negotiated and decided between the EU Member States, the European Parliament and the Commission at a high political level and is not the purview of the EPSCO Ministers or the EMCO Committee. EU funding for the ESF requires the approval of all of the member states. Once the budget has been established, seven-year Operational Programmes are planned by each member state together with the European Commission, spelled out in bilateral agreements between the Commission and each member state. The funds operate according to a series of EU-wide guidance documents (called Community Strategic guidelines), and legal regulations, adopted in 2006. These are designed at the European level (with input from member states and civil society) and projects must be in line with the overall EU 2020 objectives.

The ESF is implemented through a wide range of organizations within each member state, including national, regional and local authorities; educational and training institutions, as well as non-governmental organizations including the voluntary sector, social partners, industry and professional associations, and individual companies. The ESF is based on the principles of co-financing, shared management and partnership. Co-financing comes from member state or private financing and may vary between 50% and 85% of the total cost of interventions. The partnership principle means that each member state must

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<sup>52</sup> The European Regional Development Fund is used mainly for 'hard' projects like roads, bridges etc.

<sup>53</sup> Harvey, Brian 2008, *EAPN Structural Funds Manual 2009-2011*, European Anti-Poverty Network, (3rd edition, Brussels, 2008)

design and deliver ESF funds with their regional authorities, social partners and civil society organizations. This European requirement has contributed significantly to the maturation of local and regional partnerships on employment policy matters across Europe.

The key actor in each member state is the managing authority – the body established for ensuring the roll-out of projects, selection, monitoring, evaluation, reporting, information and publicity. Over the years there has been a shift in power from Brussels to the member state, although the Commission still plays a role in discussing and adjusting member state priorities. In practice this happens through a system of ‘desk officers’ responsible for a cluster of countries. They follow developments in each country and check on the implementation of guidelines and regulations through bilateral meetings with member state managing authorities (Harvey 2008). Each member state has monitoring committees to provide strategic oversight of the ESF projects and check that the programme’s money is allocated and spent for the intended purpose. These requirements are all detailed in the European regulations.

Since social and employment policy is by and large a responsibility of each EU member state, when compared to the spending undertaken on social programmes using own source funds (especially in those member states considered as net contributors to the EU), the ESF plays a marginal, supportive and supplementary role, not a primary one. The role of the European Union vs. that of the member states was described in *Progress: the EU programme for employment and social solidarity 2007-2013* in the following way:

*Member states have the main responsibility for employment and social policy. The EU’s role is to be a catalyst for change and modernization. The EU budget in this area compared to national welfare budgets reflects this balance. For example, in 2003 Germany’s social benefits expenditures alone totalled €489 billion. France spent €402 billion, Italy €281 billion and the UK €161 billion compared to the EU’s financial contribution of around €10 billion per year.*<sup>54</sup>

This view was reinforced by many of those interviewed for this research. While useful, those from the more prosperous EU member states expressed the view that they would be willing to give over their share of the ESF to other member states more in need. However, in other member states the ESF plays a much more substantive role. For example, in some of the new member states (and even older ones like Italy), without European funding their Public Employment Service would not exist at all.<sup>55</sup>

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<sup>54</sup> European Communities, *Progress: the EU programme for employment and social solidarity 2007-2013*, (Brussels, 2007), 4

<sup>55</sup> Mariely Lopez-Santana, “Understanding the Reallocation of Activation Powers in Western Europe and the United States: Multilevel Framework”, presentation at *Comparing Modes of Governance Conference* University of Victoria October 14-15, 2011, at [http://web.uvic.ca/jmc/events/sep2011-aug2012/2011-10-modes-of-gov/papers/2011-Modes\\_of\\_Gov-Panel\\_C-Mariely\\_Lopez-Santana.pdf](http://web.uvic.ca/jmc/events/sep2011-aug2012/2011-10-modes-of-gov/papers/2011-Modes_of_Gov-Panel_C-Mariely_Lopez-Santana.pdf).

## Canada

In contrast to the European Social Fund, the \$2.8 b Cdn (€1.95) in Government of Canada funding provided annually to provinces and territories through the various labour market agreements is not considered marginal, but as absolutely necessary in order to provide employment support services in Canada. Before devolution some provincial governments in Canada played only a small role in employment policy, relying exclusively on federal action to provide employment services for their citizens. However, this varied from one province to another. For example, before devolution the province of Alberta offered career development and information services to all citizens, employment services to social assistance recipients, and second-chance training programmes to those considered as disadvantaged in the labour market. In contrast pre-LMDA the province of New Brunswick had very limited provincial infrastructure in place that provided employment programming or career services to New Brunswickers. Based on 2009/10 figures Wood (2010) estimated that federal contributions in Alberta represented approximately 50% of Alberta's total active labour market expenditures. This contrasts with New Brunswick where the provincial pot of money for employment services is relatively small, and the federal contributions constitute over 85% of total employment programme funding.

The total amount of funding to be transferred through the federal-provincial labour market agreements (LMDAs/LMAs/LMAPDs/TIOW), the distribution of money between provinces, and the funding formula for each agreement are all determined by the federal government. For example, funding for the LMDA was initially allocated to jurisdictions based on a standardized set of objective labour market variables, adjusted in relation to the overall impact of the 1996 EI reforms. LMA funding is distributed on a per-capita basis. The new funding that was made available in response to the economic downturn was distributed based on the jurisdiction's share of the unemployed. In neither the LMDA nor the LMA is a provincial contribution required. This contrasts with the Targeted Initiative for Older Workers and the Labour Market Agreement for Persons with Disabilities where provincial matching funds are required.

Unlike in the European Union, what is noteworthy about all of this is that there is no formal multilateral federal-provincial negotiation process open for Canadians to see with regard to how much federal money is on offer, how these funds are distributed between provinces, and the accountability requirements provinces must fulfill in order to receive the federal funding. Indeed there is very little public information available on any part of this process, and determining how much money is being transferred to each province requires a detailed review of different press releases issued over various points in time and searching for the different types of agreements.

In reviewing accountability provisions for the LMDAs and LMAs, on balance, Wood (2010) concluded that provincial and territorial governments had considerable flexibility in the actual management of federal labour market programmes. The key restriction comes from how the federal money is provided: that is, through defined funding envelopes with a requirement that



provinces account for each envelope separately without an ability to transfer funds from one envelope to another. The flexibility inherent in the current arrangements will likely change as a result of Budget 2013, where the federal government has started to be more prescriptive about how provinces are to use the federal allocations. The Budget also highlighted that it is the Government of Canada that makes the rules according to their priorities and available funds, announcing that they wish to “repurpose” the federal labour market funding on offer and renegotiate the rules currently in place through the LMDA/LMA and LMAPD agreements. At the time of writing this working paper, it is unclear what will result from these negotiations.

### 3.6. Summary Comparison of the European Union and Canada

Clearly Canada and the EU have significantly different approaches to governing employment policy in their territories. Table 1 below provides a high level summary of the analysis contained in Part 3 in order to allow easy comparison and facilitate consideration of the transferability of European governance ideas to Canada as outlined in Part 4.

Table 1: Comparing Employment Policy Governance in Canada and the European Union

Co-ordination Technique	Approach in European Union	Approach in Canada
<i>Strategic goals/common objectives/guidelines/ indicators/targets</i>	Employment considered as key priority area for EU-level action Nested, top-down driven multilateral process Component pieces collectively developed & agreed to	Employment not considered as collective national priority Fragmented and primarily bilateral process Some negotiation, but primarily Ottawa proposes & provinces react
<i>Monitoring, reporting and multilateral surveillance</i>	Extensive public reporting on easy to find EU-level websites linked to individual member states Comprehensive and regular multilateral surveillance involving all member states Data comparing member states publicly available	Limited reporting on pan-Canadian basis; requires search of each provincial site Some bilateral federal-provincial surveillance, no multilateral Interprovincial comparisons are rare; information lacking
<i>Information exchange, research and mutual learning</i>	Extensive pan-European coordination through third party organizations: <i>European Employment Observatory</i> and <i>Mutual Learning Programme</i> Conferences, academic networks and experts are part of a regularized, predictable exchange process Dedicated public websites, linked to Commission	No third party organizations to support pan-Canadian information exchange, research and mutual learning  Ad hoc workshops held from time to time on selected subjects. Mostly federal and provincial officials only Limited joint F/P/T sites means less public information
<i>IGR networks and dialogue with social partners, experts and civil society</i>	Highly structured IGR process, with Ministers meeting quarterly and senior officials 10-11 times per year on a routinized basis Information available on public websites Consultation with social partners and civil society at both EU and member state level is a duty. There are highly structured processes to connect Other EU institutions (including legislators) have defined roles European Commission pays for civil society, social partners, experts and government officials to meet regularly and facilitate bridging 40 EU-wide Sector Councils, mandated to connect with member states	Ministers' meetings are rare. Although officials interact regularly, business is mostly conducted out of public view Limited public information available Provinces and Ottawa consult as each decides. No process to consult on a pan-Canadian basis.  Legislators have no defined role, even in reviewing agreements Governments rarely fund bridging activities for stakeholders; officials are often unable to meet due to provincial travel restraints 37 Pan-Canadian sector councils; no defined provincial connections
<i>Conditional grants</i>	European funds supplemental to member state own resources Decisions taken jointly. Some stakeholder input; governments final decision-makers  Parameters outlined in bilateral agreements; heavily monitored by European Commission Co-financing is embedded, long-standing requirement	Devolved services could not run without four federal transfers Federal government decides on architecture & funding; no defined consultation process Parameters outlined in bilateral agreements; lightly monitored by Government of Canada Co-financing only required for smaller agreements

## 4. Potential Transferability of European Ideas in Employment Policy to Canada

The EU tools and techniques are now assessed in relation to whether it might be possible to transfer elements to the Canadian context. In that regard, experiences with other social policy sectors in Canada, where relevant, are brought into the analysis.

### 4.1 Strategic Goals/Common Objectives/Guidelines/Indicators/Targets

Canada and the EU have distinctly different approaches to setting strategic goals, common objectives, guidelines, indicators and targets in employment policy. In the EU, since employment has been identified as an area for coordinated community action, there is a defined, top-down, organized multilateral process through the OMC, with each step cascading into the next that then triggers participation and input from all governments and other players connected to the process. The European Commission is responsible for orchestrating all of this action. In contrast in Canada there is little multilateral action. When it does take place, sometimes it is only among the provinces, leaving the federal government on the sidelines or asked to join in later as the banker. In Canada it is a system of constant mutual *ad hoc* adjustment, governed primarily by bilateral federal-provincial agreements, as opposed to coordinated and coherent multilateral action.

Noel<sup>56</sup> notes the particular problems that Canada has had — especially post Meech Lake and Charlottetown — in reforming its multilateral institutions and practices. As a result, bilateral approaches prevail. Many maintain that bilateral arrangements can be more conducive to serious discussion, as only two parties are at the table. They can accommodate different provincial interests and circumstances. Others, however, see disadvantages. Ottawa may derive a tactical advantage from a bilateral format, as it enhances their ability to set the agenda and then “divide and conquer”.<sup>57</sup> They may engender resentment, regional jealousies or claims of unfair privilege from those not party to the arrangement. They can also result in a more decentralized nation, with substantially different programming in different parts of the country, undermining a sense of national purpose and common interest.

Given past experience, it is unlikely that employment policy in Canada in the future will be driven by First Ministers, that the current bilateral approach will be transformed through broad-based multilateral agreement, or that national targets agreed to by all will be deemed necessary. However,

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<sup>56</sup> Alain Noel, “Asymmetry at Work: Québec’s Distinct Implementation of Programs for the Unemployed”, paper prepared for the *Mowat Task Force on Employment Insurance Author’s Workshop* December 7, 2010, Toronto.

<sup>57</sup> Kenneth McRoberts, “Unilateralism, Bilateralism and Multilateralism: Approaches to Canadian Federalism” in Richard Simeon (ed.), *Intergovernmental Relations*, (University of Toronto Press, Toronto, 1985), 79.

there are some features of the EU approach that could be considered. Currently the arrangements are bilateral within a Canada-wide federal<sup>58</sup> framework. Canada could make the development of a renewed architecture governing employment policy a national process (i.e. a joint federal-provincial endeavour), or at a minimum provide an opportunity for provinces (and others, especially business, labour and aboriginal organizations) to have more robust input. The presence of four separate federal-provincial agreements for different client groups, each with its own distinct funding formula and accountability framework is not coherent. It is also challenging for provincial governments to manage.

For the federal government to give over some of their authority in this area to provincial governments would, in the view of many, not be in the Government of Canada's best interests. A successful multilateral process would require engagement from the province of Québec which, to date, has resisted such an approach not only in this particular policy area but in other areas. Likewise, other provinces would need to assess the advantages to be gained from a multilateral as opposed to a bilateral approach and the value of consolidating four agreements into one.

#### 4.2 Monitoring, Reporting and Multilateral Surveillance

Although under the LMDA and LMA agreements each province is expected to develop, share and release their annual plans, there is no requirement or expectation for these to be circulated among provincial governments, and no process like in the EU for provinces to review each other's plans. The idea of provincial governments having responsibility to each other (including like in the EU making recommendations for changes in programming) is foreign to the very nature of Canadian federalism. As a result the EU approach to multilateral surveillance is highly unlikely in the Canadian context. Not only do provinces not want to be told what to do by the federal government, they do not want to be told what to do by each other.

In Canada provincial governments do not feel a responsibility for promoting the interests of Canada as a whole; this responsibility seems to be born solely by the Government of Canada. Provincial governments view themselves first and foremost as accountable to their citizens, not to the wider Canadian community. However, an exception has already been noted in education, where provincial governments — with the assistance (but not direction) of Statistics Canada - have successfully developed Canada-wide indicators and reporting so that provinces (and Canada as a whole) can be compared internationally. In Wallner's view<sup>59</sup> the education sector demonstrates that pan-Canadian similarity can be achieved without the imposition of national

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<sup>58</sup> In this context 'federal' means that the framework has been developed by the Government of Canada. The term 'national' means the framework has been developed through a collaborative federal-provincial process.

<sup>59</sup> Wallner, Jennifer, "Beyond National Standards: Reconciling Tension between Federalism and the Welfare State" 40(4) *Publius: the Journal of Federalism* 2009, 646-671.

standards by the federal government through mutual voluntary cooperation among provincial governments.

But employment policy cannot be coordinated on an interprovincial basis. Not only does the Government of Canada have 'head of power' exclusive constitutional authority for unemployment insurance, they also control most of the funding. The paper has noted unevenness in provincial reporting; a lack of interest in developing pan-Canadian reports; and an inability to compare outcomes from one province to another. While other policy areas in Canada (e.g. health, education and child benefits) may experience challenges in reporting and comparing, there does not appear to be the same view that programmes cannot fruitfully be compared. Given that multilateral frameworks exist in these areas, in order to achieve pan-Canadian comparative reporting, multilateral frameworks appear to be a pre-condition.

Multilateral frameworks are essentially commitments to benchmarking. The Canadian based Forum of Federations has recently undertaken work with Australia, Canada, Germany, the European Union, Switzerland, Spain, and the United States assessing the potential of using benchmarking as an alternative to controls tied to fiscal transfers.<sup>60</sup> Not only is benchmarking being used in other federations, it is being used in the health and education sectors in Canada.

Fenna<sup>61</sup> suggests that "collegial benchmarking", with the central government taking on a role in facilitating cooperation, is preferable to coercive top-down approaches. He notes the challenges that exist in generating reliable and genuinely indicative data, in relating outputs to outcomes, and in identifying and incorporating practice improvements.

There do not seem to be many downsides to benchmarking as an alternative to detailed provincial reporting through the four current federal-provincial agreements. For federal officials comparative data in a credible pan-Canadian report would better reflect the outcomes achieved from federal investments and improve the profile of the policy sector, including recognition of the Government of Canada's role. For provincial officials being part of a benchmarking process would ensure the selection of indicators useful for their own internal reporting, as well as reduce the need for separate efforts on their part to report to Canada on the defined agreements. With comparable information mutual learning would increase, leading to improved performance. The key downside for all would be the time and effort required to develop and maintain the instruments, as well as a willingness to deal with fall-out when sub-standard performance on the part of individual provinces was exposed. Considerable political will would be required.

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<sup>60</sup> See <http://www.forumfed.org/en/global/thematic/benchmarking.php>.

<sup>61</sup> Alan Fenna, "Benchmarking in Federal Systems" Occasional Paper Number 6, *Forum of Federations* 2010, Ottawa, Canada.

### 4.3 Information Exchange, Research and Mutual Learning

The European Employment Observatory (EEO) and the Mutual Learning Programme (MLP) are the two key processes used in the EU for information exchange, research and mutual learning among the 27 EU member states. ‘Observatories’ seem to be more common in Europe than in Canada, providing an evidence base and a reference point for the collection of information on a particular topic. Their establishment is a result of the growing recognition that policy and decisions should be influenced to a greater degree by evidence. They provide a role for ‘experts’ in the policy domain that does not occur to the same extent in Canada. Many of those interviewed noted that these type of organizations have proliferated in the EU as a result of European Commission funding and their efforts to stake an enhanced role for themselves – if they cannot deliver programmes, then delivering knowledge is the next best thing.

Over the past fifteen years these types of organizations have also taken root to some degree in Canada. The most notable example is the Canadian Institute for Health Information (CIHI), established in 1994 with a vision “to help improve Canada’s health system and the well-being of Canadians by being a leading source of unbiased, credible and comparable information that will enable health leaders to make better-informed decisions”.<sup>62</sup> The Canadian Council on Learning (CCL) is another example. While CIHI continues, the CCL has been wound down. Yet gaps in information persist, as outlined by the Advisory Panel Report on Labour Market Information in 2009 and the OECD, which noted that in terms of post-secondary education Canada was unable to report figures for two-thirds of the information gathered by 39 other countries.<sup>63</sup> Every sector considers the extent to which information for evidence-based learning is required. Dedicated processes exist in the health and primary education sector in Canada in order to focus these efforts. Why is there a greater need for research and information exchange in health and primary education, but not in labour market or post-secondary education - areas of comparable significance to citizen well-being?

Likewise the EU Mutual Learning process is much more highly institutionalized in the EU than best practices learning in Canada. The volume of conferences and workshops in the European Union - with information available to the public through websites - is vast in comparison to the more limited ad hoc activity undertaken in Canada, organized primarily by federal and provincial officials to foster learning among themselves. European policy-makers and academics have identified the mutual learning process through the OMC as the most valuable aspect of the entire process, and have also noted the importance of involvement beyond the executive to include independent policy experts and other stakeholders.

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<sup>62</sup> Canadian Institute for Health Research, 2011 Learning from the Best: Benchmarking Canada’s Health System, Analysis in Brief at [https://secure.cihi.ca/free\\_products/learning\\_from\\_thebest\\_en.pdf](https://secure.cihi.ca/free_products/learning_from_thebest_en.pdf), 1.

<sup>63</sup> Gary Mason, “Behind the Political Decision to Cut the Lifeline: Tories Didn’t Like the CCL’s Message or Its Independence”, *Globe and Mail*, January 9, 2010.

Looking to the EU for best practice learning ideas along the lines of the European Employment Observatory and the Mutual Learning Programme would significantly enhance information exchange, research and mutual learning in employment policy in Canada. Like in the EU this could be done through the creation of a national agency, perhaps called the Canadian Labour Market Observatory. Responsibilities could include identifying, maintaining and disseminating labour market information; data gathering and analysis for comparative research across provinces; sharing best practices across jurisdictions; monitoring trends and policies across Canada and internationally; evaluating labour market programme results (both Canadian and internationally), and comparative research.

For a European-type Employment Observatory or Mutual Learning Programme to be established in Canada it would need to be a joint, collaborative undertaking, not a unilateral decision of the Government of Canada. In this respect the governance structure of any research or knowledge based institution is of key importance and here CIHI offers lessons, as provincial Deputy Ministers perform the Board of Directors role. But there are also lessons from the EU, especially the idea of using a private sector tendering process to provide secretariat services and organizational support, with content and direction provided by a collaborative intergovernmental process. A renewable contract would also ensure that the responsible organization does not take over authority that governments wish to retain under their control.

Another key consideration in enhancing Canada's capacity in this area would be in identifying how additional costs would be covered. In the EU this is clearly seen as a primary and legitimate role for the European Commission, given that member states agree to allocate the necessary funds to the Commission budget. In Canada, there would be no obstacles to using the federally-managed EI account for this enhanced information exchange, research, and mutual learning role. The more significant problem would seem to be that, post-devolution, a process to fully clarify federal-provincial roles and responsibilities has not been undertaken.

Again, looking to the EU may be instructive, especially as it relates to translating the EU principle of subsidiarity to the Canadian context. Devolution acknowledged that provincial governments are best positioned to design and deliver labour market programmes in Canada. However some issues are more efficiently accomplished on a pan-Canadian basis. Agreeing to assign the Government of Canada a revitalized and more robust role in knowledge exchange and mutual learning would require a consolidated multilateral discussion, a conversation often avoided in the Canadian intergovernmental context.<sup>64</sup> A conversation is also needed about the residual role of the federal government in direct delivery, especially as it relates to youth programming.

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<sup>64</sup> Herman Bakvis, Gerald Baier and Douglas Brown, *Contested Federalism: Certainty and Ambiguity in the Canadian Federation*, (Oxford University Press, Don Mills Ontario, 2009).

#### 4.4 Actors, Institutions and Dialogue with Social Partners, Experts and Civil Society.

Many aspects of the intergovernmental institutional structures set up in Canada and the EU to manage government to government interaction in employment policy are similar. Yet institutionalization in the EU is considerably greater. Information on all deliberations, plans, outcomes and participants in the sector – from officials through to Ministers’ – can be publicly tracked on a Commission website. This is connected to the related websites of the European Employment Observatory and the Mutual Learning Programme, as well as the larger Europe 2020 process. In the EU there is considerable engagement of Ministers, whereas in Canada this occurs instead at the Senior Official and Deputy Minister (DM) level. As a result there is considerably reduced transparency when Canada is compared to the EU.

Greater involvement by Employment Ministers at the EU level is due to the fact that EU Heads of State are more involved in intergovernmental relations, as compared to Canadian First Ministers. In Canada, the degree to which Ministers are involved varies from one sector to another, and the norm in health and education is at least one meeting per year, often two. There is no reason why meetings between FLMM Ministers could not occur on a more regular basis, supported by a more robust agenda as well as greater institutionalization of the entire FLMM. The forum remains largely as it was in 1983 and reflection on its operation and role given the significant shifts in governance that have taken place post-devolution is timely.

While there are many similarities between Canada and the EU with respect to intergovernmental processes in employment policy, there are stark differences in terms of actors involved beyond the executive. In the EU there are defined ways for the views of the EU Parliament and other institutions such as the Economic & Social Committee and the Committee of the Regions to be heard. One of the key governing principles of the EU is participation - EU institutions have a duty to consult with both social partners and civil society. Funded by the European Commission, there are extensive networks working on various aspects of employment policy in the EU, with information available to anyone interested in the topic through public websites.

On a pan-Canadian basis the employment sector has one of the least institutionalized processes for engaging with stakeholders - in fact, there is no pan-Canadian process at all. Some maintain that since Canada is comprised of 13 different labour markets, cross-Canada engagement is not required. The EU takes the exact opposite approach, believing that European member states form a single market of 500 million consumers and 20 million firms and that freedom of movement of people, goods, services and capital across Europe is paramount.

The engagement of actors beyond government executives is a key EU best practice that Canada should take note of. Another would be to create, like in the EU, a defined process for selected groups to meet with Ministers in advance of FLMM meetings. Indeed, there is no reason that both approaches



could not be used, significantly improving citizen and stakeholder participation in employment policy-making in Canada.

An interesting point of comparison relates to how sector councils are governed in each political system. The pan-European sector councils are deliberately expected to coordinate their activities with member state governments and sector councils within the member states (and indeed also at the sub-state level),<sup>65</sup> whereas in Canada arrangements for the national sector councils to connect with provincial governments and provincial sector councils are ad hoc. Undertaking deliberate attempts to coordinate Canada's federally-run Sector Council programme with provincial governments and provincial sector councils may be another EU area of best practice that Canada could learn from. However, the point is moot since it is unlikely that many national sector councils in Canada will continue to exist once their federal funding disappears.

How could any of this additional participation be funded? Like in the EU could travel funding for provincial officials to participate not come from a central as opposed to a provincial fund? More federal-provincial meetings might be perceived by Canadian citizens as a waste of money on 'junkets' for civil servants and politicians. It would also require a greater commitment of time and staff resources for what is often disparaged as a 'talkfest'. Government officials would also say that a more inclusive process that involved stakeholders would make the process even more complicated than it already is, slow things down and take away their power and control.

As a result of these considerations, many of the changes outlined in this section of the paper will not come from government officials but must come instead from those not currently inside the decision-making process in Canada, that is external stakeholders. This includes business, labour, education & training institutions, private employment service providers, municipal governments, aboriginal organizations, sector councils, parliaments, and other civil society organizations. The benefit to them is an improved capacity for their views on employment policy in Canada to be heard.

## 4.5 Conditional Grants

In both Canada and the EU to-day most employment programmes and services are the responsibility of the constituent units (not the centre). Spending allocations by the centre to fund employment programmes run by the constituent units play a much larger role in Canada than they do in the European Union. Indeed, in Canada, this is the primary role played by the centre with respect to employment policy, in contrast to the coordination and exchange role which the European Commission plays in the sector. This difference is based on significantly different historical trajectories, including

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<sup>65</sup> For example UK-wide sector councils have a defined agreement with the Scottish Government on how they will operate in Scotland.

the fact that pre-devolution employment services were funded and delivered primarily by the Government of Canada, with provincial governments playing a much smaller role.

In both processes of coordination and collaboration are required. In the EU this action is through joint decision making, whereas in Canada it is through voluntary negotiation. Benz<sup>66</sup> suggests that voluntary negotiation almost always requires financial incentives for governments to participate, as without this stimulus their attitude is often ambivalent towards cooperation. Certainly this has been the case in Canada with respect to employment policy.

In the EU under joint decision-making a collective process involving all the member states decides on the architecture that governs the ESF, the overall size of the transfer, as well as the formula for distributing the money. In making these decisions the EU also seeks input from those most impacted by the presence (or loss) funding, that is programme recipients in each of the member states. In contrast in Canada it is the federal Cabinet that decides on the overall architecture for provincial transfers, how much money is to be allocated, and the allocation formula to be used.

The key best practice that Canada might learn from the EU in terms of funding transfers relates to making it a national, as opposed to a federal process. Securing input from provincial governments, as well as other Canadian stakeholders would improve transparency and coherence, as well as improve how Canada's labour market programmes are designed and delivered.

## 5. Conclusions

Despite the significant social, political, constitutional and institutional differences between Canada and the European Union, this analysis demonstrates that there is potential for Canada to build on the current mostly bilateral relationship in employment policy to also incorporate an enhanced collaborative multilateral dimension. There is learning to be considered not only from EU multilevel governance best practices, but also from governance best practices in other social policy areas in Canada, especially from the health and education sectors. Current multilateral governance practices in employment policy in Canada when compared to the EU are not transparent, open or participatory. Coherence, accountability and effectiveness could all be improved. By comparing with other political systems and sectors, policy-makers can think about their practices and identify where there might be opportunities to improve. Examining the specific EU tools and techniques used in the Open Method of Coordination provides a useful mirror for assessing best practices in multilevel governance,

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<sup>66</sup> Benz, Arthur, "Types of Multilevel Governance: A Framework for Research", paper prepared for *ECPR General Conference Potsdam 2009*, Section "Territorial Politics", Panel 272 "Beyond Decentralization: Conceptualizing and Measuring the Interlocked State".

and a chance to reflect on what might and might not work in the Canadian employment policy context.

Some will say that improving multilateral governance in employment policy in Canada is not necessary as what is important is the governance that happens within each province in terms of how employment programmes are delivered to provincial citizens. As long as the bilateral federal-provincial arrangements work effectively, investing time and effort in multilateral collaboration is not necessary. But policy-makers from the European Union interviewed through this research – as well as the academics who write about it – believe that there is value to be added from complementary multilateral EU-wide action to support existing member state responsibilities.

Canadian provinces and the Government of Canada are inextricably bound by geography, history and politics into a collective entity – if “we are all paddling in the same canoe”<sup>67</sup> consideration needs to be given to ways to improve the processes and practices that govern their interaction. Post-devolution Canada is not doing badly in managing these intergovernmental relationships, but could do better. Nothing builds the capacity of an intergovernmental system like using it successfully. Looking to the EU for ideas on new ways to collaborate provides a chance for setting a forward looking agenda that could ultimately result not only in better labour market outcomes, but also improvements to one small part of Canada’s often fractious federation.

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<sup>67</sup> Indian proverb, told to the author.

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