

Revised Title:

Nourishing European Interest Groups : The Delors Commission and Labour

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Prepared for the ECSA Conference, Charleston, SC,  
11-14 May 1995, Revised October 1995

## INTRODUCTION

European integration has progressed in two stages. The goal of the first, from the 1957 Rome Treaties until the early 1980s, was to build a "common market" compatible with EC/EU national models of economic development. National social policy and industrial relations systems remained at the heart of national sovereignty during this stage. In consequence, little transnational trade unionism and social policy came into being. The situation meant that trade unionism became ever more firmly nationalized.<sup>1</sup> The major goal of the second stage, which began in the 1980s, was to build a "single market" out of national markets earlier interconnected by the common market. Single market policies had very different implications for matters of industrial relations and social policy. Whether and how these implications have brought "spillover" towards the Europeanization of industrial relations and social policies and the consolidation of transnational unionism at European level are the questions this paper will ask.

From its beginning European integration has been largely about controlling economic internationalization.<sup>2</sup> Over time, and particularly recently, EC/EU member states have sacrificed important dimensions of their policy autonomy to a new "Europe." Integrating Europe has involved much more market building than market correcting, however. More often than not pieces of national sovereignty have been "marketized" at European level rather than transferred to Eurolevel institutions. European institutions have acquired no significant fiscal powers, for example. The proposed Economic and Monetary Union (EMU) will constrain everyone to rigid price stability without recourse to residual domestic tools. In particular, the policy levers that once allowed European nations to prioritize full employment have been lost.

The new single market was certain to impact differentially on key producer groups. Capital was encouraged to "Europeanize" further and use the EC/EU as a staging area for action on the world scene. Moreover, it was quite obviously in the interests of capital to let the single market undermine national union movements, thereby gaining more of the labor market flexibility that firms desired. Moreover, the European political system was constructed such that it was easier to block the Europeanization of new policy areas than to promote it. This was particularly true in industrial relations and social policy where EC/EU member states only reluctantly and very selectively allowed pooling of sovereignty. Europe's institutional setting also made European processes more open to powerful interests desirous of stopping regulatory action than to those hoping to promote.<sup>3</sup> It seemed, therefore, that any likelihood of new Euro-level unionism and social regulation became even less likely in the single market because business, whose power was growing for other reasons, would have large resources to block it.

Unions faced a more threatening context. The prerogatives that nation states retained to protect workers, consolidated in a period when governments had great control over the parameters of economic policy, were becoming too weak to counteract the loss of these parameters to Europe. Unions found themselves, particularly after 1985, in a difficult strategic dilemma. As organizations they had spent nearly a century enracinating themselves in their national setting. Their traditional tools and discourses were profoundly national. Yet the globalization of economic flows, including that contrived politically through European integration, made these traditional tools ever less effective. The most apparent result nearly everywhere was a relative decline in the power of unions. To counteract this decline unions had to decide where to focus their action. They were certain to focus dwindling resources where they might make the biggest difference, at national level. This was because of

tradition, habit and dense institutional networks, to be sure, but also because, given the nature of the EC/EU's treaty-constitution, national governments had the largest portion of political power at European level. Thus while it might have made sense, in the abstract, for European unions to invest in building new forms of transnational unionism to counteract transnational capitalism, concretely they were much more likely to hunker down to fight at national level.

The mid-1980s political decisions to regenerate European integration were thus likely to erode the national resource bases of European union movements without compensation, other things being equal, enhancing labor's already apparent downward spiral at national level. This paper will tell a different story, however. By 1995 EC/EU processes had promoted a European trade union movement of some weight and consistency along with the tentative beginnings of a European system of industrial relations. These accomplishments have flowed only partially from the "spillover" dear to "functionalist" theorists of European integration. For the most part they have been produced by political work by actors in the European system.

The lead in pushing the "1992" program was taken by the European Commission. And the particular Commissions in Brussels after 1985 were led by President, Jacques Delors, who had once been a trade unionist and who had a record for promoting negotiated industrial relations practices in his native France. The Delors Commissions were thus certain to be aware of the likely consequences for national social and industrial relations regimes of the "1992" policies and might well use what resources they had to preempt the dangers they foresaw. The Commission had its own interests in involving both labor and capital more deeply in European social integration. One of Jacques Delors' favorite lines was that new European integration would provide better foundations for a "European model of society" where the harshness of markets was limited by humane policies and contractual negotiation of social solidarity. Beyond such lofty purposes, promoting policies that would make the "social partners" more committed to integration was also a way of garnering new political support for the Commission itself which might then be used to influence a European political system with strong tendencies towards intergovernmentalism.<sup>4</sup> Thirdly, Europe, as opposed to European nations, lacked a genuine mass political culture. Without transnational actors with stakes in European outcomes beyond the national governments which traditionally manipulated the intersection between EC/EU and national politics to their advantage, it would be difficult to create such a culture.

The Single Market program would change the settings faced by capital and labor. On their own the "social partners" were likely to evaluate these changes and choose paths of action which would negate Euro-level progress. The Commission's only option was to intervene politically to change the nature of the debate. What occurred, in fact, was the development of a Commission strategy to create "path dependent" matrices of choice to move the social partners towards such Commission goals. It would do so, short step by short step, by proposing policy that could lead labor and capital to see their own goals in more European ways. Thus in the relatively modest ways we are about to outline, some new Europeanization actually did happen.

Part One of this paper, after reviewing the general policy legacies of European integration in the social and industrial relations policy areas, will reconstruct the Commission's efforts to create this path dependence towards greater Europeanization. Since success at these complex maneuvers was contingent in the first instance upon providing incentives to European trade unionism to take the EC/EU more seriously, Part Two will survey the new movement towards transnational union action which occurred. Part Three will review the tentative industrial relations results of this in some detail.

## I. Europe and Social Matters

The setting for European integration, in the wake of World War II, was characterized by talk about "nevermore war amongst us," Marshall Plan urging toward new European economic cooperation, and, above all, the Cold War. The strategists of integration came to believe that transnational unity of purpose could best be created by concentrating on specific areas.<sup>5</sup> After some trial and error<sup>6</sup>, they chose the trade-market area.<sup>7</sup> Although the 1957 Rome treaty talked about many things, the new common market zeroed in on three central matters, creating a customs free zone, a common external tariff, and a Common Agricultural Policy (CAP).<sup>8</sup> The Community thus began as a narrowly trade-oriented adventure. Its originators hoped, however, that once Europe had begun to cooperate on trade-market matters, the policy interdependence between these and other areas would promote "spillover,"<sup>9</sup> hopes partly nourished by deliberately built tension between the EC/EU's original mandate and the

institutions set up to implement it. The European Commission in particular was endowed, in theory, with capacities to promote a broadening of the EC/EU mandate.

## The Two Stages

The first Commissions took this endowment so seriously that the member states reacted against them. The decisive intervention of General de Gaulle in the mid-1960s, made just as the new Commission began to flex its muscles, stopped things cold.<sup>10</sup> The outcome was the "Luxembourg Compromise" (1966) which would govern EC/EU institutional life into the mid-1980s.<sup>11</sup> The Rome Treaty had foreseen flexibility in Council decision making, including majority voting in the Council of Ministers. But from "Luxembourg" onwards each EC/EU member could invoke "national interest" on matters which it regarded as essential. This implied unanimity on all controversial issues. For the next two decades the common market was an intergovernmental operation. General de Gaulle, despite his strident gallo-centrism, spoke for other EC/EU member states. The EC/EU had reached a post-war boom equilibrium. European national economies thrived within a Keynesian-welfare state framework as they entered the consumerist era. The EC/EU's customs-free zone and common external tariff gave them the space needed to regulate themselves, strike viable domestic political deals and trade with one another while being reasonably well insulated from the outside world, particularly the US.

In the early 1970s, after the first, "Common Market" phase of implementing the Rome Treaty, there was a brief rekindling of energies. Plans were set out to "widen" EC/EU by including the British, Danish, Irish and Norwegians, and "deepen" by giving the Community larger budgetary powers, new foreign policy coordination (in European Political Cooperation), and movement to Economic and Monetary Union (EMU). Enlargement occurred in 1973 (without the Norwegians)<sup>12</sup> and the Community acquired its own limited sources of revenue. But broader ambitions in EMU, regional and social policies were frustrated.

The deep causes of this lay in changing economic circumstances. The oft-told tales of European stagflation after the first oil shock in 1973 - high inflation which employment-destroying deflation could not root out - provides necessary background. Productivity, profit margins, and investment levels declined while European industry began to lose competitive advantage. In response to a worsening economic situation, EC/EU member states retreated in dispersed order towards particular national solutions, leading to growing divergence of economic policies and growing disparity among EC/EU economies. Growth levels fell to half what they had been in the 1960s, international trade expanded less, while intra-EC/EU trade expansion actually stopped.

In this context the EC/EU began a downward spiral while the EC/EU institutional system came to a standstill. The European action that did occur, emanating intergovernmental, not supranational, sources, largely involved new coping mechanisms. The European Monetary System, evolving out of the failed "snake" of the early 1970s, was a Franco-German effort to limit damage from the collapse of the Bretton Woods system and changed US outlooks about the international monetary system. The European Council, periodic summits of heads of state and governments to coordinate general policy lines in the newly difficult period, was another such product.

Social policy was one of the neglected dimensions of European integration in this first stage. The social provisions of the 1958 Rome Treaty were limited.<sup>13</sup> Issues of employment and remuneration were considered national in essence, excepting only equal pay compensation between men and women enshrined in Article 119 of the treaty.<sup>14</sup> Free mobility of labor had to be a counterpart to free movement of goods and capital, and this led, in time, to a small body of rules governing workers' rights to move across EC/EU territory, residence, and equal treatment concerning hiring and firing, remuneration and other conditions of work.<sup>15</sup> The treaty enjoined national social security program differences from limiting worker mobility, leading to the first social legislation (in 1958) and litigation through the ECJ.<sup>16</sup> The major "social" clause was Article 118, which spoke of the need "to promote improved working conditions and an improved standard of living for the workers," but established no instrument beyond the "functioning of the common market" for so doing. Moreover, the Commission acquired little power beyond "cooperating" with the member states by "conducting studies, issuing opinions, and organizing consultations."<sup>17</sup> None of this mattered unduly in a period marked by the overriding concern to produce jobs via expanding trade and economic growth. Broad matters of "social citizenship" remained the responsibility of individual member states. The Common Market thus grew

in coexistence with as wide a variety of social policy and industrial relations regimes as it had members.

Social matters were nonetheless part of the brief renewal of interest in integration in the early 1970s. Preliminary guidelines for a "Community social policy program" were set out in 1971 followed, ultimately, by a Social Action program in 1974<sup>18</sup> in which member states pledged to adopt extensive measures over three years.<sup>19</sup> The burst of new activity was brief.<sup>20</sup> Economic difficulties and rising unemployment stimulated new preoccupation with national economic policies and resistance to European solutions. Growing pains from the expansion of the Six to Nine in 1973 led to chronic budgetary conflicts paralyzing Community decision-making. National governments increasingly subverted those measures which had been adopted while very few new social measures got through the Council of Ministers.<sup>21</sup> Proposals for workers' participation (the Vredeling Directive of 1980) were stopped, as well as a number of regulations on working time (on part time and temporary work in the early 1980s).<sup>22</sup>

After the period of "eurosclerosis," generally regarded as the low point of EC/EU history, European integration was renewed in the mid-1980s. The first cause of this was that the diplomatic context changed. Member state turned toward closer economic policy convergence and renewed commitment to European solutions to deep economic problems.<sup>23</sup> Because of this there was new space for the European Commission to play its accelerator role. The appointment of a new Commission in January, 1985, led by President Jacques Delors, brought political entrepreneurs to use this new space. The new Delors Commission quickly devised the June, 1985 White Paper on Completing the Internal Market as a tool to relaunch European integration. The "1992 program" turned out to be an agenda-setting coup. The White Paper fell into the traditional EC/EU's trade-market core, tapped deep sources of Community legitimacy and played to the political neo-liberalism of the moment.

Member states quickly renegotiated parts of the Rome Treaty to implement the new program, eventuating in the Single European Act (SEA, signed in 1986, ratified in 1987).<sup>24</sup> The SEA linked "1992" to a change in EC decision-making procedures, so that the Luxembourg compromise gave way to decisions by "qualified majority" for most White Paper areas.<sup>25</sup> Henceforth on single market issues member states might have to accept legislation they did not desire. Finally, the Commission advanced an extended list of EC "competences" - new areas in which the Community acquired a legal basis to act - in research and development, the environment, foreign policy cooperation and "economic and social cohesion" (regional policy).

The SEA was not an obvious great leap forward towards new EC social policy activity. The preservation of unanimity rules over most social and labor law innovations gave member states the power to veto large innovations. There were a few new openings, however. The SEA allowed qualified majority on directives on health and safety issues (in a new Article 118a) because health and safety regulations might be used as non-tariff barriers to competition.<sup>26</sup> Next, the Community's and Commission's new commitments to economic and social cohesion in Article 130A provided substantial new openings for regional development policy. Finally, in a new Article 118b Commission promotion of "social dialogue" between capital and labor at European level was encouraged.<sup>27</sup> And the European Parliament's new "cooperation" powers over Single Market legislation were more than footnotes, since the Parliament's Social Democrat-Christian Democrat majority would become a major public advocate and lobbyist for a larger EC social policy role.

#### Social Policy and "Social Partners"

The public and political success of "1992" was very great,<sup>28</sup> enhancing the stature of the European Commission and allowing it to undertake an ever broadening entrepreneurial role. The new political capital it accumulated was very quickly reinvested following what Delors and his staff called a "Russian Doll" strategy.<sup>29</sup> The Commission hoped that rapid movement towards completing the internal market would raise new concerns about connected issues, including social policy, making new initiatives possible. In this logic, however, that social and industrial relations policy matters had a relatively low priority.

"Market building" took precedence over "market correcting." It was essential to make sure that the "1992" program was implemented legislatively and financially. This led the Commission, after ratification of the SEA in 1987, to propose the first Delors budgetary package. In its tripartite complexity it involved getting enough new money from member states to make the Single Market

happen in ways that would limit intergovernmental financial squabbling, mild reforms to the CAP and "reform of the structural funds." This last dimension was an important new step towards subsidizing modernization in backward regions to remove the temptations of low wage cost development strategies and social dumping.<sup>30</sup> The next "doll" was Economic and Monetary Union (EMU), placed on the table (at French urging) immediately in 1988 after the Delors package was finally passed. The idea of pooling monetary and economic policy sovereignty was a huge step towards full European integration probably necessitated by the existence of a genuine Single Market. It was certain to bring controversy among member states and difficult negotiations. Jacques Delors himself undertook the task of structuring debate through a Committee of central bankers and economists that he chaired which produced the "Delors Report" in 1989. The proposals that resulted became the negotiating papers on EMU at Maastricht in 1991.

Only after the initiation of these two programs did the Commission turn towards serious "market correcting." The 1989 Community Charter of Basic Social Rights for Workers was the centerpiece of the Delors Commissions' new social policy program. The Social Charter, which drew on policy legacies from the 1970s and early 1980s, was first broached in 1987 under the Belgian EC/EU Presidency.<sup>31</sup> Delors then advertised the idea of a bill of social rights to the 1988 Stockholm Conference of the European Trade Union Confederation (ETUC), implying that these rights should be enforceable.<sup>32</sup> The Economic and Social Committee (ECOSOC) and the European Parliament next debated the question of an enforceable bill of social rights for citizens, and not only workers<sup>33</sup> while the Commission simultaneously worked on a its own program (announced in the "Marin Report" - after EC/EU Commissioner Manuel Marin).<sup>34</sup>

The Commission's ideas turned out to be much less grandiose than labor and others had hoped. The Social Charter of May, 1989 was a "solemn commitment" on the part of member states - only eleven, given furious British opposition - to a set of "fundamental social rights" for workers. The list of 30 items listed included rights to freedom of movement, employment and remuneration, improvement of living and working conditions, freedom of association and collective bargaining, vocational training, equal treatment for men and women (including measures to enable men and women to reconcile occupational and family obligations), information, consultation and participation for workers, workplace health and safety, protection of children and adolescents, and the rights of the elderly and the disabled. Every worker was to have a right to adequate social security and those without subsistence because of inability to participate in the labor market should have sufficient resources, although only "according to arrangements applying each country." However, the Charter's bottom line was that action would occur only in those areas where a case could be made that the EC/EU's existing treaty base allowed European initiatives.<sup>35</sup> The followup to the Charter was an Action Program, dated November 24, 1989, listed a range of measures to be proposed by the Commission within the areas where the Community was constitutionally empowered to act.<sup>36</sup> Delors himself was initially skeptical about the Action Program, fearing, as it turned out quite correctly, that much of the legislation would not get through the Council of Ministers. Jean Degimbe, the Director-General of the Commission's social policy division (DG V) and Patrick Venturini, Delors' social policy advisor, were the major advocates in overcoming the Commission President's resistance.

Ultimately, by January 1, 1993 47 different instruments would be prepared and submitted to the Council of Ministers.<sup>37</sup> Of the nine most juridically and politically contentious legislative proposals presented in Table 1 three were meant to regulate "atypical" (part-time and short contract) work, and only one passed the Council.<sup>38</sup> A directive on Working Time proposing minimum rest time and a maximum regular work week, limiting night and shift hours and imposing new health and safety rules upon employers passed in watered down form. Another directive on "pregnant women" to prevent firing, stipulate minimum levels of remuneration for maternity leave and protect health and safety during pregnancy also passed in somewhat diminished form. The Council approved obligating employers to inform employees of the conditions of their employment contract.<sup>39</sup> A directive was also quickly passed updating an earlier 1975 measure on collective layoffs (plant closures) and dealt with employer obligations to provide timely information of a certain kind about such matters, including transnational information. Next came a directive, still on the table in 1995, covering the employment and working conditions of workers "posted" temporarily in another country in the context of "provision of services."<sup>40</sup> Finally, perhaps the most significant proposal involved establishment of "European Works Councils" in transnational firms, to which we will return.

Table 1: The Most Important Social Action Program Measures

Proposal	Introductory Date	Result
Atypical Work 1 - Working conditions	June 1990	none
Atypical Work 2 - Distorsion of Competition	June 1990	none
Atypical Work 3 - Health and Safety (qualified majority)	June 1990	Adopted June, 1991 (91\383\EEC)
Working Time (qualified majority)	September 1990	Adopted November 1993 (93\104\EEC)
Pregnant Workers (qualified majority)	November 1990	Adopted November 1992 (92\85\EEC)
European Works Councils in Transnational Corporations	February 1991	Adopted September 1994 (94\45\EEC)
Explicit Employment Contract	January 1991	Adopted October 1991 (91\533\EEC)
Regulating cross-border detachment of workers providing services	August 1991	none
Updating of 1975 directive about collective layoffs	October 1991	Adopted August 1992 (92\56\EEC)

Source: Annex 3 of EC Commission, Green Paper on European Social Policy (Brussels:EC, 1994)

Major action program legislation was limited in scope. Moreover, only proposals whose treaty base was Article 118a (health and safety- voted by qualified majority) or Article 119 (equal treatment) had much of a chance of getting through Council. Of the bulk of those remaining some brought little new (often updating existing instruments), or involved health and safety matters (nine further directives, plus other measures, presented in Table 2)) or were targeted on specific groups (a directive on access for the handicapped, one on protecting young workers plus a number of reports and recommendations).<sup>41</sup> Moreover, it was usually the case that intergovernmental bargaining about potentially passable measures weakened the impact of those measures that were passed. In general,

excepting health and safety measures, which rapidly became a strong grid of transnational regulations, the added regulatory value to what existed before produced by the Social Charter and Action Program was modest.<sup>42</sup>

Table 2: Health and Safety Directives Proposed under the Action Program

Directive	Date Proposed	Result
Minimum Standards at Temporary or Mobile Workplaces	August 1990	Adopted June 1992
Workplace Signage (H+S warnings)	February 1991	Adopted June 1991
Minimum Standards in Extractive Industries- Drilling	February 1991	Adopted November 1991
Minimum Standards in Extractive Industries- Mining	March 1992	Adopted December 1992
Protection Against Asbestos	June 1990	Adopted July 1991
Minimal Standards of Medical Care Aboard Ships	July 1990	Adopted April 1992
Minimal H+S Standards on Fishing Boats	December 1991	pending
Minimum H+S Standards in Transportation	January 1993	pending
Minimum H+S Standards Concerning Physical Agents	March 1993	Pending
Minimum H+S Standards Concerning Chemical Agents	May, 1992	Pending
Proposal to Create a European	October 1991	Pending

Source: Annex 3 of EC Commission, Green Paper on European Social Policy (Brussels:EC 1993).

The Commission's new social policy activism had additional goals. It was important to mobilize political resources for the Commission itself and the "social dimension" was meant to calm some of the fears which the Single Market aroused in the European labor movement and, in the process, to help the Commission acquire labor support for its strategies. Moreover, to the degree to which EC/EU action failed to fulfill the early promise of the Social Charter, the Commission might then count on a substantial mobilization of indignant voices (including the Socialist and Christian Democratic blocs that dominated the European Parliament) to spread the message about "Social Europe" far and wide in the media and the member states. But perhaps the most important goal for the future was to create growing public pressure for a future change in the European agenda to allow greater Community activism in social policy. This, in turn, would ultimately be helpful when the time came to propose changing the Treaty.<sup>43</sup>

The flurry of Social Charter action did not stand alone. The SEA had also included a new Article 118B stating that "the Commission shall endeavour to develop the dialogue between management and labour at European level which could, if the two sides consider it desirable, lead to relations based on agreement." The launching of "social dialogue," Delors' first social policy step, in January, 1985 predated this.<sup>44</sup> Delors, who personally presided major social dialogue occasions, was a devoted promoter of confidence-building discussions of the social dialogue kind and had a long record in the area in France. Jean Degimbe, the General Director of the Commission's DG V (Social Affairs) who played a central role in institutionalizing social dialogue, came out of a Belgian social policy environment where constant discussion occurred. Both believed that over time social dialogue would lead the leaders of labor and capital to develop new trust in each other. Whatever the immediate achievements, eventually this new trust could help transform the actors themselves into agents with the will and power to deal with one another.

As of 1985 there was considerable distance to travel. The initial "Val Duchesse" discussions among UNICE (the Union of Industrial and Employers Confederations of Europe), the European Trade Union Confederation (ETUC), and the public sector employers' association (CEEP, the Confederation Européenne des Employeurs Publics), began conflictually and did not get very far. The slim production was mainly "common opinions" about new technologies and about macroeconomic policy.<sup>45</sup> Neither the ETUC nor UNICE, both essentially Brussels lobbies based upon confederated national organizations that were themselves built upon sectoral organizations, were formally empowered to negotiate. This kind of organizational constraint was not a particular problem for UNICE because its declared central objective was to avoid European level regulation and bargaining.<sup>46</sup> On the union side the problem was more complicated. ETUC wanted Euro-level regulation through legislation. But like UNICE, it was also a - quite weak - organization of national Confederations. Since two of its most important constituent organizations, the German DGB and the British TUC, themselves had no statutory capacity to negotiate it was quite difficult to imagine ETUC itself officially bargaining, even though a breakthrough to European-level bargaining on important matters would have been a tremendous victory for labor.

After fizzling very quickly after 1985 social dialogue was launched again in 1989 in a new context of Social Charter élan. A new "steering group" (supplemented by a smaller "Ad hoc" group) was convened to talk about education, training and the evolution of the EC/EU labor market. It would also be consulted about forthcoming legislation. Discussions revealed the same contradictory purposes as earlier. UNICE was willing to talk far into the night, but its major goal was to frustrate the Commission's legislative goals and prevent any possible bargaining from occurring.<sup>47</sup> ETUC, in contrast, wanted as much concrete EC/EU legislation as could be generated and was willing to welcome real bargaining in the right circumstances. This made for frustrating general discussion which reached few conclusions.

By 1990, however, the strategic setting had begun to change. The EC/EU's decision-making powers were growing apace as a result of the single market program and as they did interest groups, even those like labor most bound to the nation state and capital which wanted Europe to stay out of industrial relations areas, had to make adjustments. The Commission's own efforts to prod these

adjustments forward was probably more important, however. With the Social Action Program it opened an extensive campaign to provide incentives (favorable Eurolevel policies, regulations and support) that might seduce and/or constrain the social partners to Europeanize further, perhaps even to bargain on important issues at European level.

## II. European Institutions Help Change the ETUC

Developing strategy and tactics to get Euro-level social partners talking to one another in serious ways was not a simple matter. To begin with, the campaign had to be asymmetrical. UNICE's major reason for existing was to block serious European-level industrial relations action, whether legislative or negotiated. Thus the Commission sought first to strengthen and encourage ETUC and national union movements to become stronger European actors. Delors had taken the lead in this, first of all in his speech to the ETUC Congress in Stockholm in 1988 (when the Social Charter was previewed).<sup>48</sup> His speech to the British TUC's Bournemouth Conference later in the same year presenting pro-Europeanism to a British trade union movement theretofore profoundly antipathetic to it, was another step. Bournemouth killed two birds with one stone by giving the TUC a new set of issues to use against the British government (perhaps to cause new trouble for Prime Minister Thatcher) and by thereby showing the TUC the utility of pro-EC/EU positions, prodding a major constituent of the ETUC to new European commitments. Beyond such public events, Delors went out of his way to take unionists seriously in private.

Commission micro-level actions were quite as important. The Commission (mainly the Delors' staff and DG V) systematically encouraged ETUC to take itself more seriously, and, in consequence, be taken more seriously by its own constituents and by employers. It thus funded the bulk of ETUC research on health and safety by underwriting the establishment of the Trade Union Technical Bureau (TUTB), for example.<sup>49</sup> The Commission had the space to fund a great deal of the ETUC's internal educational activities under various treaty provisions. It had earlier been quite generous to the European Trade Union Institute (ETUI), the ETUC research arm and had also funded an organ called AFETT, designed to train unionists about new technologies. In 1990 it added support of a new organism, the European Trade Union College, to this panoply of underwriting activities. ETUCO was to train unionists to confront the substance of new European level regulation. The costs of such activities, although small in absolute terms, were considerable additions to the ETUC's resources. ETUC could therefore hire on numbers of new officials and administrators and build a larger, more autonomous, headquarters organization. The Commission also underwrote the considerable costs of trade union organizational get-togethers in Brussels and elsewhere (travel, translation) to the tune of several million ecu per year.

In and of themselves, the ways and means of handing out EC/EU money for these various Commission-funded ETUC activities involved new avenues of Commission contact with and influence over ETUC thinking. More generally, the Commission carefully opened and nourished privileged networks of communication between itself and ETUC. Delors himself knew many of the lead operatives of ETUC and was willing to devote part of his precious time to cultivating them further. His social affairs advisor, Patrick Venturini (a major architect of the Social Charter and Action Program) was a former researcher for the French CFDT who had long-standing and easy contacts with ETUC leaders (of whom a number were from the CFDT, including Jean Lapeyre, a key ETUC operative and Deputy General-Secretary after 1991, with whom Venturini was in frequent communication by telephone). Until his death in 1991 François Staedelin, another former CFDT operative, also served as President of the EC/EU's Economic and Social Committee, an important locus for informal cross-national union contact. Delors and Venturini had easy contact with ECOSOC, therefore, and through it indirectly to ETUC. The Director-General of DG V, Jean Degimbe, a Belgian for whom constant discussion between labor and capital was second nature, also courted ETUC unionists. His Director for Industrial Relations, Carlo Savoini, who gave out the Commission's money, was an ex-Italian unionist with his own wide range of union contacts.<sup>50</sup> The Commission's general logic began with recognition that European-level unionism was extremely weak. It was unlikely to be substantially strengthened if its sources of new strength were its national constituents alone, however. Using Commission and other resources as incentives might help a great deal, therefore. If these incentives worked and if ETUC could be strengthened it might discover new self-interest in the promotion of Eurolevel bargaining.

The employer side of the equation was not neglected, but since UNICE and its backers would only develop willingness to deal under constraint, the Commission's approach had to be different. UNICE existed, among other reasons, to deflect any pressures towards European level labor market regulation and bargaining. The Commission thus had to find ways to change UNICE's point of departure. This would be difficult as long as UNICE existed in a setting where unions were unable to muster their resources on European level and no strong reasons for reconsidering UNICE's commitment to blockage came into being. Slowly, over time, it became clear that bargaining at Euro-level had to make a lesser evil to UNICE. Something more dangerous to employers had to present which would make them choose bargaining as a course that would be less harmful, but what?

One possible answer was EC/EU legislation. Here the Action Program played an important role in making the connection. Beginning in later 1990 the Commission produced and passed a substantial number of pieces of legislation on to the Council. In the process of so doing it "consulted" regularly with the "social partners." While employers could anticipate that much of the legislation would never pass, some of it would. Moreover, there was always the chance, once some social legislation did pass, that the precedents would encourage further spillover and more legislative activity. It might then be conceivable that a broader political dynamic could be set in motion, leading to an atmosphere in which interests would stand behind further legislation, the Commission would be further encouraged and perhaps even the treaty broadened. Given the diversity of industrial relations regimes within member states and UNICE's constant preaching about the need for maximum flexibility, the threat of legislation, even in limited areas, was a serious matter. From its point of view, however well-designed EC/EU legislation might be, it was bound to be more constraining than no legislation or...a bargained agreement on the same matters.

### Pumping Up ETUC

The ETUC's adjustments to the new European setting occurred partly for "functionalist" reasons. The large policy changes contained in the "1992" program and other Community initiatives inevitably touched ETUC's national constituents who, in turn, expected new things from ETUC. The adjustment process was undertaken quite as much, however, because European institutions like the Commission and the European Parliament tried to seduce and prod ETUC to respond. This section will review ETUC responses across a range of different areas. It is important to remember first that we will be describing very recent processes, many if not most, open-ended. European institutions, the Commission in the first instance, have clearly and consciously tried to mobilize and shape labor responses to their policies. If, in retrospect, there appears to be a larger strategy in this, in fact what emerged was most often the product of successive short term decision-making and political contexts. The same is true of ETUC and union responses. Changing Europe and the tactical workings of European institutions created situations in which labor had to make new choices, which it did from its preferences of the moment. Very often both sides were also venturing onto unknown territory, unsure of what would happen and ahead of their respective mandates to act.

Two small changes which began prior to the Maastricht year of 1991, the creation of the Trade Union Technical Bureau (TUTB) in 1988 and the European Trade Union College (ETUCO) in 1990 illustrate the larger pattern. For both stimuli came initially from European institutions, the Commission and Parliament, aimed at making the most of the space created by the SEA. And in both cases the ETUC's strategic and organizational repertory was enlarged by new instruments supported by these same institutions. The TUTB and ETUCO stories demonstrate step-by-step cooperation and exchange between ETUC and the Commission, each acting simultaneously in its own interests, with causal arrows moving in both directions and with definite consequences for larger logics .

The creation of TUTB was a product of new EC/EU activity in workplace health and safety. ETUC had lobbied for European-level preventive occupational health and safety action since the end of 70s,<sup>51</sup> and its efforts intensified when the SEA made health and safety subject to qualified majority.<sup>52</sup> It was thus natural for the Commission to draw on ETUC for support in the area. Article 100A of the SEA was designed primarily to support the single market by preventing member states from using technical standards, including in health and safety, as barriers to the free movement of goods. Harmonization of health and safety requirements, rather than mutual recognition, was a political prerequisite because mutual recognition might have involved an unacceptable lowering of national standards for member states with higher levels of regulation. But creating common standards had been

so painstakingly slow in earlier years (because of unanimity decision rules and the sheer volume of regulation) that the Community had already adopted a "new approach" to health and safety regulation to accelerate European standardization.

Under the "new approach" directives were aimed at specifying "essential requirements" that goods had to meet in order to be freely traded within the single market. It was left to European standardization bodies (initially CEN and CENELEC) to formulate the detailed technical standards and also to adapt them readily to changes in technology. While the "new approach" made harmonization more efficient, however, it made its legitimacy more doubtful, for CEN/CENELEC were private bodies (composed of national standardization bodies also typically private) dominated by the manufacturers. Other interested parties, such as workers or consumers, had no voice.<sup>53</sup> The fact that the standards, European or national, are "voluntary" -- binding only on the bodies' members without the force of law -- did not solve the legitimacy problem either, since conformity to the standards gave products the presumption that they met the requirements of the directives, which obliged the member states to allow such products to be freely imported and sold unless they could prove that they did not in fact meet the directives' requirements.<sup>54</sup> From unions' point of view there were real problems, since the standards once set determined in practice how health and safety matters of concern to workers were settled.

The ETUC expressed its concerns about this often in the first years of the Delors Commissions.<sup>55</sup> A response culminating in the establishment of the TUTB occurred in the context of the preparation of two closely related directives, the Machinery Directive, under 100A, and the Framework Directive, under 118A, adopted within days of each other in June 1989. The issue of union participation in standardization was given new urgency by the large scope of the machinery directive.<sup>56</sup> A 1987 ETUC survey, financed by the Commission, showed that unions had some rights but few resources for influencing national standardization and no role whatever at international level.<sup>57</sup> This, plus discussions with affiliates, provided the basis for an ETUC demand that unions be given stronger rights and more resource to influence standardization at European level. It proposed that these rights be exercised through a new unit within the tri-partite Advisory Committee on Health and Safety (ACSH) established specifically to deal with "new approach" directives.<sup>58</sup> It also called upon the Commission to finance a "technical tool" to assist the workers' group in ACSH.<sup>59</sup> There was a debate within the ETUC as to whether that tool should itself be attached to the ACSH or independent to provide the ETUC with its own technical expertise on the range of European health and safety issues and work with national affiliates. It ultimately opted for the latter.<sup>60</sup>

European institutions supported the option, largely for their own reasons. DG III, responsible for the internal market, was concerned with legitimating and further Europeanizing standardizing institutions to forward the "new approach" directives under its jurisdiction.<sup>61</sup> ETUC's quest for technical capacity fitted those objectives. The Commission needed to mobilize support for the Machinery Directive in Parliament, and provision for union involvement in shaping standards would clearly serve that end. The Parliamentary Committee report on the directive pointed out the unions' lack of technical resources for influencing standardization and recommended that the Community finance such resources. But for union involvement in European standardization to occur, CEN, as a private body, had to accept it, but it was initially reluctant.<sup>62</sup> It had earlier refused to set up a tri-partite committee on standardization like the ACSH which DG III proposed together with DG V's health and safety unit. The DG III standardization unit accordingly backed the idea of giving ETUC its own technical capacity because it might overcome CEN resistance to union participation by depriving it of the pretext that the unions lacked the necessary competence. Moreover, strengthening the capacity of the unions' European level organization to participate in the process was expected to encourage the manufacturers to do the same, thereby contributing to the Europeanization of the process.<sup>63</sup>

Support for the idea also came from within DG V, shepherding what became the Framework Directive through the legislative process.<sup>64</sup> Some in DG V saw the directive as an opportunity to stretch further the boundaries of health and safety policy. In this, they naturally had the support of the ETUC, which had proposed something much more far-reaching than the initial draft of the directive, providing ammunition for those in DG V who wanted to go further.<sup>65</sup> They in turn had a stake in making ETUC as effective as possible by equipping it with the resources needed to lobby persuasively and mobilize its member confederations to build support within the member states. At the same time, they rejected the initial ETUC suggestion that technical support for unions be provided within ACSH

on the ground that it would mean financing technical support for companies which did not need it, demonstrating clear Commission recognition of the imbalance in resources available to unions and employers . 66

Before either ETUC or the Commission made a formal proposal, however, the Parliament took the initiative to settle the issue, accepting the recommendation of its machinery directive committee and establishing a line in the 1989 budget authorizing funds to give ETUC new technical competence. Budgetary issues such as these are among the few where Parliament has the final power of decision and the committee's recommendation that it use its power this way reflected the influence of the Danish labor movement. 67 The vote in favor of the budget line in turn reflected the strength of the support for the social dimension provided by the coalition of Socialist and Christian Democratic MEPs.

Once the budget line was voted, the ETUC formally set up the TUTB. Small as its staff is, the TUTB has become an active and respected advocate of union views on health and safety issues.68 It provides the technical basis for positions taken by the workers group in the ACSH ( which a member of the ETUC Secretariat coordinates even though the ETUC is not formally a member).69 The TUTB has also achieved the more difficult feat of penetrating the standardization process and participating directly in it, at least in the preparation of those standards which have high priority from a union perspective.70 Finally, the TUTB has been building up a network of experts on technical issues from the ETUC's national members and their affiliated unions, simultaneously extending an awareness of the ETUC and the services it can provide and Europeanizing national level union officials by drawing them into European level activity. 71

The creation of the TUTB offers a particularly clear case of the construction of European level interest organization through the interplay between European institutions and organizational actors. The ETUCO story is slightly different. The 1988 Stockholm ETUC Congress gave a mandate to the ETUC Executive Committee to prepare a proposal on a "European Trade Union Academy" to organize "trade union training and education at a truly European level."72 The idea of doing this had been bruited about for some, but the decisive initiative came from ETUC's Austrian affiliate, the ÖGB. 73 The Secretariat document proposing ETUCO noted that employers organizations and multinational companies were way ahead of unions in providing about education about Europe to company executives. The main groups targetted for ETUCO were full time trade union officials and workplace representatives for whom "completion of the internal market has either explicit or implicit implications. " ETUCO courses would educate such people on European matters, European institutions and their workings, problems posed for union movements by the Single Market plus new possibilities for unions which European level change opened. 74

ETUC's resources were limited, so it would use existing national union training facilities as much as possible. Fees nonetheless had to be kept lower than remaining costs, and this was where the Commission came in. DG V and the Delors staff quickly seized upon the ETUCO idea and helped ETUC refine it. They also decided that it would be highly desirable to provide EC/EU funds, including payment for translators, as start-up costs, upwards of one million ecu. ETUCO courses began modestly in 1991 but quickly produced significant results in bringing together unions from different national settings around common European matters.75 As the need for European-level union activists and leaders has become less abstract, particularly with the passage of the European Works Council Directive in 1994, ETUCO's role has grown larger.

The organizational reconfiguration of ETUC itself, consecrated at the ETUC's May, 1991 Congress in Luxembourg, was a larger, if similar, story. The first source of the Congress was the Single Market itself. Quite as important, however, were the Commission's more direct provision of incentives, presented in the mobilization around the social dimension described in Part 1. Since ETUC was a Confederation of national Confederations, it was logical that the motivation towards change would come from national union movements, in this case initially from the German DGB, which had grown dissatisfied with the effectiveness of the ETUC. The German industrial relations system, constructed around solid sectoral meso-corporatism, could conceivably be changed by Euro-level decisions, particularly those involved in the social dimension. A stronger and organizationally modified ETUC, within which the German voice would be powerful, could help assure that European decisions would not undercut the German context.

Ernst Breit, the DGB leader who was also President of the ETUC, initiated discussions in 1989 by approaching the three Italian Confederations. The DGB and the Italians then sent an official letter to Matthias Hinterscheid, long-time ETUC General Secretary, requesting a working group to rethink

ETUC organization to make the ETUC more effective and professional, endow it with more resources and define its goals more clearly. Hinterscheid tried to stop the initiative by refusing to respond. The Germans and Italians mobilized further national pressure, from the Dutch in particular, meeting further resistance from Hinterscheid, whose obduracy sealed his fate. Not only would ETUC change its structures at its next Congress, it would also change its peak leadership. The Executive Committee set up a working group to examine the ETUC's structure chaired Johan Stekelenburg, president of the Dutch Confederation of Labor ( FNV), at its December 1989 meeting. The Executive Committee adopted the Stekelenburg report in December 1990.

The report claimed that the ETUC needed organizational changes for a list of reason, most having to do with the EC/EU- the Single Market and associated increases in EC/EU competences.<sup>76</sup> The process of democratization in Eastern Europe was the only development on the list not directly initiated by European institutions.<sup>77</sup> The reorganization proposals also suggested incorporating the so-called "European industry committees" (EICs), sectoral trade union organizations (many affiliates of ICFTU internationals) in the ETUC's power structure.<sup>78</sup> Each of the 15 EICs would be given a seat on the ETUC Executive Committee, with voting rights on everything except financial and constitutional matters. Three EIC representatives were also to sit, on a rotating basis, on the ETUC Steering Committee, the Confederation executive board. Unions would thus be represented in the ETUC in two ways, through membership in their national confederations and through cross-national sectoral federations. This, in turn, would open up possibilities in the structure of European level trade union organization. <sup>79</sup> The sectoral industry committees, in time, might become a direct link between the ETUC and unions, bypassing confederations themselves, perhaps giving the ETUC new legitimacy and sources of support.

The German DGB was decisive in ensuring that the May, 1991 Congress followed the recommendations of the Stekelenburg Report, particularly in changing the General Secretary. L. Van Rens, author of the Stekelenburg report, was the most likely candidate at the outset, backed by the Dutch, the Nordic confederations and the TUC. Emilio Gabaglio, from the Italian CISL, was the Mediterranean candidate, backed also by the French and the DGB. What looked like a stalemate was decided in favor of Gabaglio by successful DGB efforts to swing Nordic votes in exchange for the creation of a Nordic second deputy general secretary's position.<sup>80</sup> The first Deputy General Secretary slot went to Jean Lapeyre, the French master of the Delors-Venturini-Commission connection, the second to a Finn..

#### ETUC After the 1991 Congress

The replacement of the ETUC's tired, routinized leadership, committed to a modest lobbying role, was important. Gabaglio and his new team were brought in to promote, and assume, much greater roles. The basic strategic issue the team has had to face is whether the ETUC can move beyond being a lobbying organization in the European policy arena to become a bargainer within a European industrial relations system. In reality this has involved two separate questions. The first is whether a European industrial relations system can be constructed at all. The second concerns the role that the ETUC could have in such a system.<sup>81</sup> The most important innovation of the 1991 Congress was the official inclusion of European Industry Committees (EICs) into ETUC's structures. This was a judicious change since in the medium term the definition of ETUC's role will depend on the evolution of Euro-level unionism at sectoral level.<sup>82</sup> The EICs, the principal form of Europe-wide sectoral union organization, are listed in Table 3. <sup>83</sup> EICs are organizations of unions rather than an organization of confederations -- i.e., a peak association like the ETUC -- and are closer to real bargaining issues. Since EICs are directly subject to their control national unions may be more willing to give them negotiating mandates than they have the ETUC. The EICs also provide a more acceptable instrument through which unions could engage in cross-national joint action vis-a-vis employers. Thus far, there is considerable variation in the extent to which the EICs' member unions are willing to give them mandates to negotiate, but as one source suggests, they could become the "bodies which might one day be the main union parties in European-level bargaining."<sup>84</sup>

Table 3. European Industry Committees

Name	<sup>3</sup> Sector(s)	<sup>3</sup> Foun-	<sup>3</sup> Affiliates	<sup>3</sup> Members	<sup>3</sup> Staff	<sup>3</sup> Budget
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EGAKU: Euro Comm of Arts, Mass Media <sup>3</sup>Arts, media, entertainment <sup>3</sup> 1973 <sup>3</sup> 24  
<sup>3</sup> 100,000 <sup>3</sup> 1.5 <sup>3</sup> 1.0  
& Entertainment Trade Unions <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
AA  
AA  
ETUCE: European Trade Union Committee <sup>3</sup>Education <sup>3</sup> 1975 <sup>3</sup> 67 <sup>3</sup> 2,805,504  
<sup>3</sup> 1 <sup>3</sup> c.9.5  
for Education <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
AA  
AA  
CSTCE: Committee of Transport Workers' <sup>3</sup>Transport and transport facilities <sup>3</sup> 1958 <sup>3</sup> 89  
<sup>3</sup> 2,500,000 <sup>3</sup> 5 <sup>3</sup> ?  
Unions in the European Community <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
<sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
AA  
AA  
PTTI: Postal, Telegraph and Telephone <sup>3</sup>Communications<sup>3</sup> 1965 <sup>3</sup>67 <sup>3</sup> 1,900,000 <sup>3</sup>8  
<sup>3</sup>c. 8.0  
International-Euro- <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>[2 million SF]  
pean Committee <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
AA  
AA  
EFA: European Federation of Agricultural <sup>3</sup>Agriculture, horticulture, forestry, wine <sup>3</sup> 1958  
<sup>3</sup> 26 <sup>3</sup> 2,000,000 <sup>3</sup>4 <sup>3</sup> 9.0  
Workers Unions <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
AA  
AA  
MEF: Miners' European Federation <sup>3</sup>Mining and quarrying <sup>3</sup> 1991 <sup>3</sup> 28 <sup>3</sup> ?  
<sup>3</sup>2 <sup>3</sup> (Financed  
<sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> by MIF)  
<sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
AA  
AA  
ITUCMM: Contact Office Inter T.U. Comm <sup>3</sup>European Coal and Steel Community <sup>3</sup> 1952  
<sup>3</sup>15 <sup>3</sup> 400,000 <sup>3</sup>2 <sup>3</sup>  
Miners' & Metal- workers Free T.U. In the <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>  
Euro Communities <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup> <sup>3</sup>?

For the time being the EICs are more important as links between national unions and the ETUC, providing channels through which unions can lobby the ETUC as well as the Commission, a means for implementing policies agreed at the ETUC level, and, not least, a mechanism for building cross-border networks of national and local union officials and exposing them to European issues. However, the capacity of the EICs to act in any of these areas is severely limited by their resources. They tend to be very small operations, although larger than they were prior to 1991, with minimalist staffs.

The most important impetus for beefing up EICs has come from European institutions, the Commission in the first instance. After it became clear that the 1991 directive to establish European Works Councils (EWCs) would be tied up in Council the Commission decided to fund EIC efforts to prepare proactively for eventual EWCs. The meetings that very quickly proliferated were initially financed by the Commission until the European Parliament established a separate budget line for them in 1992.<sup>85</sup> 14 million Ecu were appropriated for 1992 and 17 million thereafter.<sup>86</sup> The funds, more than four times the total of all EICs budgets combined, quickly became the major factor in EIC organizational and resource growth. In effect, targeted EU financing reshaped much of the EICs' activity. Sectoral unions have come to spend the bulk of their effort anticipating EWCs.<sup>87</sup>

The coming of larger resources after 1991 have improved EIC operations. There has been a generational change in their leadership, for example, and relatively young, bright, and energetic new general secretaries or directors (they have various titles) have moved in.<sup>88</sup> In addition to providing fresh impetus to the EICs, this new cohort is beginning to create an EIC collective identity and common view of sectoral union strategy through frequent meeting among themselves informally as well as under ETUC auspices. Still, despite increased resources and organizational renewal EIC staffs remain small and overwhelmed with complex new tasks.<sup>89</sup> Beyond their specific unionist jobs (interacting with the ETUC, its other bodies, each other, and national unions), EICs also operate in the EC decision-making arena, where they deal with the Commission, ECOSOC, and Parliament, in sectoral social dialogue, and in the transnational company arena, where they mobilize unions from the companies' different national units in an effort to secure agreements on EWCs or similar arrangements. These arenas intersect substantially.

The EICs' roles in ETUC decision making and in EC level activities of the ETUC such as social dialogue meetings and lobbying are not yet completely clear. One EIC official claimed that ETUC wants to restrict EICs to matters directly concerning their sectors, whereas the EICs argue for a voice on general issues as well. This is certainly not the full story, and it may be that the relatively quiet role EICs have thusfar played in ETUC decision-making is more a function of officials from insufficiently staffed organizations being stretched too thin. In any event, the EICs have not participated in ETUC decision-making to the extent expected at the time of the 1991 Congress.<sup>90</sup> Within the broader EC/EU realm the EICs operate primarily within the ETUC structure, participating in ETUC decision-making about the positions to be taken on EU policy issues as well lobbying on their own in support of ETUC positions or sectoral issues.<sup>91</sup> The EICs' main concern here has been to give their members voice in the formulation of legislation affecting them.<sup>92</sup>

EIC officials often mention one important Commission obstacle. Commission General Directorates other than DG V are reluctant to consider union views, arguing that they are responsible only for the technical subjects in their bailiwick and not social implications, which belong to DG V. DG II, in formulating the second banking directive, thus rebuffed EURO-FIET pressure to address the social consequences of the sector's restructuring in anticipation of the single market. Similarly, DG I (external affairs and trade) refused to consider the demands by TCL (clothing, textiles, and leather products) to incorporate social clauses in EC application of the General System of Preferences.<sup>93</sup> A directorate's openness to EIC inputs is no guarantee that it will go along, however, as FIET found when it failed to secure restrictions on franchising practices even though DG XXII accepted responsibility for taking possible negative social consequences into account.

It is the internal patterns of politics of the Commission which is of interest here. Social and industrial relations policy matters are ghettoized administratively. DG V and a few others do what they can while everyone else refuses to touch social matters on the grounds that they are DG V's job. Over time this practice has helped reinforce DG V's internal Commission reputation for having been captured by unions and other interest groups. This is a convenient excuse for other DGs to wash their hands of the "social" matters in their own areas.<sup>94</sup> EICs have pursued various strategies to get around the problem. In addition to seeking support in other forums such as Parliament and ECOSOC and mobilizing national affiliates to pressure their own governments they have resorted to protests to Delors and, in at least one instance, public demonstrations. The most typical strategy has been to seek agreement with employers in their sector on a common position to be jointly put before the Commission and other EC institutions in successive stages of legislation.<sup>95</sup> Roundtables with representatives from several DGs as well as the social partners have met on particular issues.<sup>96</sup>

Despite these changes, the ETUC remains "primarily a lobbyist," according to insiders.<sup>97</sup> What has changed is its "self understanding" and its public position. The new Secretary General, Emilio Gabaglio, has made it "much more visible" -- as evidenced by the much greater extent to which it is noticed by the press -- and a more regular interlocutor with EC institutions, informally as well as formally. He has "introduced regular meetings with each new Council president and ministers to talk about priorities." We know too little about the ETUC's effectiveness as a lobbyist, however. Its role clearly grew after the SEA, particularly in the campaign for a social dimension, around the Social Charter and subsequent Action Program legislation. Much of this heightened activity was a response to Commission efforts to mobilize ETUC in support of "its" social dimension. In the health and safety aspect of the social dimension ETUC contributed to the Framework Directive, working quite effectively through the workers' group of the ACSH and provided an important ally to those in the

Commission who were trying to extract the most possible mileage from the opening provided by the SEA. 98 The ETUC has routinely tried to work with the trade union group and Socialists in the European Parliament, but with less than perfect success. 99 At the same time, the ETUC has depended heavily on EP support, particularly for funding ETUC operations such as ETUCO and TUTB, an indicator of at least some influence over the Parliament.

ETUC expresses its views on broad economic policy issues, but it is not clear that these carry much weight except when it is in the interests of more important actors, the Commission in particular, to invoke them. Much of ETUC's public position-taking - like its repeated pronouncements on economic policy - seems more ritual than anything else. Moreover, at least in the Delors' decade, ETUC positions have often "shadowed" Commission positions from slightly further to the Left, indicating yet again that ETUC opinion may have been shaped first and foremost by what the Commission wanted to do. On narrower issues such as specific directives, the ETUC has tried to maximize its consultative role, with uneven success. On workplace health and safety, for example, where the ETUC has an institutionalized role, it has played an active and influential role. 100 On other directives, ETUC has been consulted, but the Commission is always constrained to prudent realism about Council responses (sometimes, we suspect, persuading ETUC to be realistic itself in the same ways) and, even then, the Council has almost always "downsized" Commission offerings. At Council stage national unions, or at least those with serious national power, tend to use their weight to pressure their own governments rather than ETUC.

#### Bargaining at Euro-Level? ETUC and the Maastricht Social Protocol

The signing of the Maastricht Social Protocol in December 1991 raised the prospect that the ETUC might become a Euro-level bargainer. Quick Maastricht ratification, which everyone expected, would have led the Commission to invoke its "negotiate or we'll legislate" powers where the ground had already been well prepared by Action Program Directives held up in Council. 101 The ETUC thus had to sort out with its constituents what, if any, bargaining role ETUC might be allowed to play in the new context. To discuss these possibilities ETUC convened a conference on "European Collective Bargaining - ETUC Strategy" in Luxembourg in June 1992. The position paper from the conference submitted to the October 1992 meeting of the Executive Committee laid out an ambitious agenda for "Europeanization" of collective bargaining with ETUC in a key role stressing the importance of rights of association, collective action, bargaining for democracy and calling for explicit recognition of these rights at European level. 102 It argued that legitimated Euro-level representation was needed because of the deteriorating effects of economic integration on national collective bargaining. Furthermore, ETUC constituent organizations should learn to coordinate national and transnational "bargaining issues," not to replace or weaken what happened at national level, but to give it "a new dimension."

The central question was how to use the opportunities opened by Maastricht. The October draft sought to clarify processes to promote the convergence and supranational coordination of European collective bargaining. Convergence, meaning the "harmonization" of demands, would have to occur at four levels: confederal, sectoral committees, transnational companies and cross-border regions (reflecting the constituent organizations of ETUC). Harmonization would occur gradually, consistent with sectoral and country specificities, and would be facilitated by the incorporation of European perspectives (ETUC positions) by national member organizations. 103 ETUC, UNICE and CEEP were identified as the "natural" representatives at Euro level, while ETUC organizations (EICs and ITUCs) would have to become "key players" at sectoral and crossborder region levels. 104 The conformity of Euro-level negotiations with bargaining mandates would be monitored and assessed by the ETUC and EIC executive committees, with continuing 'steering' by the ETUC Social Dialogue and Collective Bargaining Committee. Next, concerning the nature and scope of any Euro-bargain that might be reached (eg. where it would fit in national settings), Euro-agreements should be "framework" deals to be filled in and made binding at national, sectoral and transnational levels. Finally, promising issues for exploring European bargaining possibilities included a "legal framework for basic social rights" plus continuing training, employment and jobs, work organization and hours, rights of migrant workers, work environment. Subjects for sectoral and transnational enterprise levels would be specific to them. 105

The October draft anticipated the difficulties of Euro-level operations, the unwillingness of UNICE to bargain, reiterated at the July 1992 social dialogue summit, being the most important.

UNICE's position was that the October 1991 agreement could have no force apart from the Maastricht Treaty, that it would not go into effect until the Treaty was ratified, and that it applied only to subjects about which the Commission proposed to legislate.<sup>106</sup> The failure of the Commission to propose that followed the difficulties in ratifying Maastricht (which did not happen until late 1993) removed any pressure on UNICE to negotiate. This, the October draft noted, made it necessary to turn to classical trade union methods of mobilizing organizational resources to put pressure on employers. To do this, social dialogue had to be extended beyond the peak level European organizations to sectoral, transnational company, and national levels. Hence, the industry committees would have "a key role" in engaging sectoral level employers in bargaining over problems posed by the completion of the single market. Likewise, the "establishment of works councils in transnational groups" had to be accelerated. Finally, the member confederations had to "provoke' national employers' organizations into making European social dialogue a concrete reality at national level."

The bottom line was that as long as UNICE refused to bargain, ETUC would not have any bargaining role. To acquire such a role, ETUC would seek to "change the balance of power," by pressuring UNICE to negotiate and to do this it looked to its organizational components at other levels. Developing social dialogue on other levels, particularly sectoral, might put pressure on UNICE to negotiate with ETUC, probably because UNICE would otherwise lose influence over important matters which were being negotiated elsewhere. For this to work, ETUC's component organizations had to be both willing and able to produce collective bargaining at their levels and UNICE had to be unable to stop it from happening.

Constituents' comments on the October draft (there were 25 showed reluctance to give ETUC much of a bargaining role.<sup>107</sup> The main dissent came from the Germans.<sup>108</sup> At the December ETUC executive meeting the DGB asked to postpone decision to consult with member unions. After this IG Metall's strong objections served as the basis for a more substantial revision by the ETUC's social dialogue steering committee. Changes adopted at the March, 1993, ETUC Executive Committee curbed ETUC authority to engage in negotiations. The provision in the October draft that the "ETUC will, at regular intervals, set the common priorities to be advanced at the different levels of bargaining, including the Community level," as well as the list of possible subjects for negotiations, were replaced by a statement that

At the interprofessional and sectoral levels, and where appropriate, in transnational companies, the competent organs of the unions and their European-level organizations [i.e., industry committees] will decide what issues and demands should form the subject of European collective bargaining. The competent organs of the ETUC will establish, in agreement with affiliated organisations, the subjects and objectives of intersectoral bargaining.<sup>109</sup>

The basic issue at stake was how much power the ETUC's affiliates and their own constituent unions were willing to give the ETUC to pursue a European bargaining agenda for negotiations with UNICE. The answer, in March 1993, was "not much." The ETUC was allowed to explore becoming a bargainer subject to strict and continuous control by the national unions exercised through national confederation representatives on ETUC governing bodies. The first major opportunity that ETUC has had to develop this role occurred over European Works' Councils, as we will see later.

The structural problem still standing in the way of the ETUC becoming a bargainer: is the status of its immediate constituents, national confederations and sectoral unions. The biggest member confederations, the British TUC and the DGB have no negotiating mandates. But European sectoral union structures are not up to negotiating either because of their limited resources and the dependence of some of them on ICFTU International Trade Union Secretariats. Strengthening the EICs has thus become one of the ETUC's most pressing contemporary issues. Discussions of the matter, begun at the June, 1993 ETUC executive meeting, were scheduled to reach some conclusions at the May 1995 ETUC Congress, but the Congress did not resolve it.

### Sectoral Social Dialogue

One clear role of European Industrial Committees is to engage in social dialogue at the sectoral level. Action has been limited, in general, but EICs have made some headway in developing sectoral social dialogue by joint lobbying with their employer counterparts on issues before EC bodies, such as draft directives. From the union perspective, sectoral social dialogue is viewed as a process of

engaging employers in a whole spectrum of discussions ranging from exchange of views through such joint lobbying and eventually to real negotiation. At this point, simply getting employers to sit down officially as employers, even if not to negotiate collective agreements, is deemed promising as a way of drawing employers into confidence-building social dialogue.

This confidence-building dimension has long been sought to the Commission, which encouraged sectoral talks by offering to consult with the sectoral "social partners" once they formally agreed to enter into social dialogue through regularly scheduled meetings of the organizations and joint working groups. Thus after social dialogue was formally set up by the construction EIC and employers association, the Commission promised to solicit their views on all measures by which it proposed to implement the Social Charter Action Program -- a promise not always kept in timely fashion.<sup>110</sup> In this and other ways, the Commission role in fostering sectoral social dialogue is somewhat ambiguous, since it has almost always privileged top level social dialogue over sectoral discussions.<sup>111</sup>

The main political obstacle to EIC efforts to establish sectoral social dialogue has not been lack of Commission support but rather UNICE's opposition. UNICE has sought to confine the social dialogue contemplated by Article 118A of the SEA to discussions among the Community level organizations, where it could be sure to block progress. The Maastricht social protocol does not seem to have changed this position. Until recently, UNICE members faithfully echoed its opposition to extending social dialogue to the sectors. Thus, when invited by EURO-FIET to a meeting to discuss the potential employment effects of bank restructuring, the European banking industry organizations refused to send anyone except "experts" not officially representing the organizations. <sup>112</sup> In the same vein, the European chemical industry association agreed to attend a joint conference on health and safety, retraining and mobility in Paris only if it were hosted by a French foundation rather than the Commission (even though the Commission funded it).

Employer unity behind UNICE's opposition to sectoral social dialogue has been by no means complete and durable, however. Some employers, like those in construction, have actually stated that UNICE no longer represents them and have then formally joined sectoral dialogue with EICs. Even within UNICE, there was some retreat and consideration of organizational changes to avert the defection of employers with an interest in sectoral level discussions. Such interest has been triggered most by Commission legislative initiatives that employers hoped to influence, following a belief that success would be more likely if the Commission or other bodies were approached jointly by the social partners ( a belief encouraged by the Commission).<sup>113</sup> The Commission and EICs have thus combined to induce some employers to begin limited sectoral social dialogue. Where this has worked it is undoubtedly because the employers in question do not have sufficient access to the EU legislative process on their own, directly or via their governments, to get what they want, mainly in weaker sectors.<sup>114</sup> Large transnationals like Unilever or ICI do not feel the need for union allies, which undoubtedly helps explain their stalwart support for UNICE's resistance to sectoral social dialogue.<sup>115</sup>

EICs seek to identify circumstances under which employers can be drawn into discussions. Directives are not the only such circumstances, even if they are the most important. The perceived need for European level rules on some subject on which there is as yet no Commission initiative is another. Thus, the "property services" (cleaning) employers association and EURO-FIET easily found common ground in their desire for some enforceable standards to protect law-abiding firms against competition from "cowboys" who disregard rules embodied in law or collective agreements. Getting money from the ESF and ERDF (regional development funds) is another inducement, whose effectiveness depends on how the Commission decides to play. The advance programming of the "structural funds" coordinated by the Commission can be used to make employers bargain with unions when, as in one situation, the employers were told they could only come in with project proposals -- e.g., for retraining displaced workers -- prepared jointly with the relevant unions. With recent changes in structural fund guidelines explicitly enjoining social dialogue, this practice is likely to grow.

EICs have been particularly successful in bringing employers to the table on health and safety issues, where incentives to engage in social dialogue are particularly strong. The resulting levelling of the playing field is particularly welcome to firms which cannot or do not want to avoid stringent national health and safety standards. Moreover, the legitimacy of union claims to a European level voice is more widely conceded in this area than most others, while the wall between health and safety and other industrial relations issues seems high enough to prevent agreements concerning the former from serving as precedents. Thus, there will be rules, unions will influence them, and employers will improve their prospects of influencing them by joining with unions.

In general, from the EICs' perspective, the goal is to find an issue where there is some potential for a precedent-setting agreement. As EURO-FIET's director put it, "If you want an agreement, start on a subject where you're likely to get an agreement, even if it's not the key issue." While EICs have sometimes been able to overcome the obstacle of political resistance to sectoral dialogue by careful selection of such issues, they have often then faced another institutional obstacle, however. Often there is no counterpart employer organization with a mandate to discuss social matters which an EIC could bring to the table. Although this has often been a convenient pretext for blocking sectoral social dialogue, it has also been a real problem that employers interested in, or at least not opposed to, dialogue have had to solve. In commercial banking, for example, there is a German type of division into separate employers and industry organizations in five countries and unitary organizations in the seven others, with the European commercial banking organization insisting that it could not enter into social dialogue because it was only an industry association. A similar argument was made in the chemical industry, where the German employers opposed participation in sectoral social dialogue by the European industry association in the interest of preserving the distinction between industry and employer associations to which they were accustomed, leaving the ECFGU without a "social partner." In this case the Germans were also leading an effort to fill the gap by creating a European level employers counterpart to the industrial association.<sup>116</sup>

There is organizational fragmentation on the union side as well. Multiple unionism, along occupational lines, as in Britain, or along political lines, as in France, has been a source of difficulty in arriving at common union positions. The chemical sector EIC secretary complained that instead of 17 unions in 17 countries, his organization had 49 unions. Differences in the distribution of negotiating authority among different organizational levels in different countries also make it hard to for EICs -- not to speak of ETUC -- to get a mandate to perform a representative function. Even more serious are conflicts of interest, real or perceived, among unions from different countries, notably between those from Northern high wage and Southern low wage countries. Organizational boundaries can also be an obstacle to effective action on issues that cut across the sectoral lines along which the EICs are built. This is obviously the case with respect to EC legislation affecting the whole labor market such as the framework directive on health and safety, public procurement, working hours, etc. If trans-sectoral matters at the EC level were left to the ETUC, there would of course be no problem of coordination among the EICs for them to worry about. But, as noted earlier, the EICs are not content to leave the ETUC to represent them in such matters.<sup>117</sup>

Despite all this there has been a limited amount of genuine sectoral dealing at European level, usually emerging from sectoral social dialogue. The "posting" directive discussed earlier was finally blocked in the Council in December 1994 due to opposition from four Member States.<sup>118</sup> But getting this number down to four was an achievement of joint efforts between EFBWW and the employers organization because many more states originally opposed it. EURO-FIET has engaged in a continuing campaign for recognition as a social partner, making repeated demands on the Commission for recognition and support and for ETUC support for its demands to the Commission, and expressing dissatisfaction with both the Commission's and ETUC's responses.<sup>119</sup> EURO-FIET has nonetheless achieved modest breakthroughs in getting employers to reach joint agreements in the retail trade sector, property services, banking and insurance.<sup>120</sup> There has been additional social dialogue to determine working hours regulations in sectors granted derogations from the working time directive (hotels, transport, fishing, merchant marine).

### III. Dénouement: Real Deals?

It was the first post-Maastricht threat of legislation, over European Works Councils, in later 1993, that opened prospects for genuine Euro-level bargaining. The brief, if very intense, episode that followed revealed a great deal about how far ETUC and its constituents had moved towards effective transnationalization. It also opened up a whole new arena for European union action which has very recently led towards a genuine framework agreement between the European social partners on parental leave. Finally, it marked the beginning of the end of Delors Commissions' major initiatives in industrial relations policies and the beginning of a new era in European social policy.

The Maastricht Treaty ran into unexpected ratification problems, beginning with rejection of the treaty by referendum in Denmark in June, 1992. Behind these problems, as evidenced in further referenda in Ireland and France plus public opinion polls across Europe, was declining public support





began on November 17, 1993. ETUC and its Industry Committees favored the Belgian proposal while UNICE declared a preference for "a broader voluntary approach."<sup>132</sup> ETUC favored legislation while UNICE preferred a "Recommendation" or some other proposal of a less-binding nature. On whether information and consultation should be done by "appropriate machinery" (i.e. the Commission would specify minimum structural requirements) or by way of "alternative procedures," ETUC wanted binding minima while employers wanted maximal flexibility. UNICE was willing to bargain on the issue. ETUC did not pronounce.

Behind this, ETUC wanted full-strength EWCs, as contained in the initial proposal. UNICE was willing to negotiate to dilute the proposal and slow down the process. ETUC, aware that the German EU Presidency to begin in July 1994 was determined to pass an EWC Directive, was lukewarm about negotiating out of fear of dilution and because the German unions, critical in granting ETUC any real negotiating mandate, were opposed to legislation that might undercut German codetermination.<sup>133</sup> The Commission wanted negotiations and knew that the threat of legislation by the German Presidency was likely to make UNICE more pliable.

After the first consultation the Commission reconfigured the proposal (February 8, 1994), seeking to ensnare UNICE by mildly watering it down, removing in particular the title "European Works Councils" (replaced by the catchy "mechanisms for informing and consulting employees in Community-scale undertakings or groups of undertakings").<sup>134</sup> In most other respects the proposed directive resembled the initial draft with one important exception. It allowed "agreements in force" concerning works councils prior to the final date of transposition into national law (eventually September 1996) to be considered "prior acquired rights," subject to minimal conditions of conformity with the legislation. This step of "grandfathering" existing arrangements was a new incentive. Large numbers of multinationals would almost certainly establish such "agreements in force" immediately to gain flexibility before the directive was actually transposed. If there was legislation, therefore, there would be a large number of EWCs very quickly.

The second consultation involved "social dialogue" to decide officially to negotiate or legislate. The first meeting occurred on February 23. ETUC insisted that any bargain declare that information and consultation was a fundamental right at European, general management and all other decision-making levels, with workers' representation at all such levels. This representation should be structured, permanent and involve a transnational bargaining committee including official employee representatives (usually union members) and the general management of the firm. Finally, there should be minimum provisions applied to all "mechanisms."<sup>135</sup> The ETUC also expressed preference that any agreement reached between UNICE, itself and CEEP (the public sector employers' federation) should be submitted to the Council to become Community law. UNICE was willing to accept "appropriate arrangements" for information and consultation in multinational companies about transnational issues. The matter of information and consultation being a "right" was to be negotiated, however. It also stressed "flexibility" and the need to examine alternative methods and procedures.<sup>136</sup>

The March 17, 1994 meeting left a list of key matters to be settled. Was information and consultation of workers and their representatives a right in general? Should it become a right in transnational undertakings? Should central managements be required to negotiate with representatives of workers (i.e. usually unionists), and if so appointed through what procedures, to set up such a mechanism? Third, should there be minimum provisions? Both parties desired to have the Council make any agreement they reached into Community law. Both also agreed to negotiations lasting a shorter period than the Social Protocol set out (ETUC two months, and UNICE three).<sup>137</sup> UNICE/CEEP responded, in the next session on March 23 by refusing to admit any right to information-consultation at transnational level and refusing to allow that "representatives of workers concerned" (union members) be implicated legally in the negotiation to set up the mechanisms. ETUC then threatened to break off the negotiations. In response UNICE capitulated. Then the Confederation of British Industry (CBI) announced to the press that it disapproved of the movement towards negotiations and that it would no longer participate in discussions.<sup>138</sup> This led the ETUC to call the talks to an end.<sup>139</sup> The process of legislation began soon thereafter on a "fast track" to ensure that a directive would be enacted during the German Council Presidency. The directive was passed by the Council on September 22, 1994 (94/45/EC).<sup>140</sup>

ETUC wanted the full results of legislation through bargaining to set a precedent for future Euro-level industrial relations. UNICE was willing to negotiate, but for the purposes of diluting the "mechanism for information-consultation." The game was thus about how much dilution ETUC would

accept to get the precedent for Euro-bargaining vs how much UNICE was upgrade its minimalism to avoid legislation. Background factors overdetermined the outcome. Everyone knew that the German Council Presidency would push through the Commission's legislative proposal. This, plus the strong positions of German unions against watering down of the proposal, stiffened the determination of ETUC not to bargain downward and tempted UNICE to be minimalist. Both ETUC and UNICE had mandate difficulties. For either to negotiate at European level was a new thing. UNICE clearly had a serious problem with its Irish, Danish and British organizations. On the other hand, its Latin members (the Spanish, French and Italians) plus the Belgians were quite eager. ETUC had, as it often has had, a German problem. The DGB favored legislation rather than negotiation. The heart of the story was that ETUC wanted a directive more than UNICE wanted negotiations to avoid a directive.<sup>141</sup>

If the result did end prospects for bargaining at EC/EU level on EWCs, it did not preclude further Euro-level collective bargaining. The EWC Directive itself obliged significant new Euro-level negotiations by the so-called "special negotiating bodies" to who were to put the mechanism into place. The number of multinationals falling under the directive's criteria has been estimated as at least 1,300, taking into account the British opt-out and the expansion of the EU to 15.<sup>142</sup> The total number of employees in those companies is around six million, about four percent of the EU labor force. If EWCs were set up in all companies subject to the directive, with union presence in all of them, only a small portion of the labor force would be linked to a European industrial relations system through EWCs, but the centrality of the companies and the importance of the breakthrough to transnational action could make the change important nonetheless. Campaigning in the UK to get cooperation from those British companies that do not fall directly under the legislation has already become a key demand for British unions. And even though the Commission's directive cut back on possibilities for capturing British multinationals, at least a hundred UK-based multinationals are included, despite the UK opt-out from the Social Protocol. Some British companies have already indicated that they will establish EWCs even though not obliged, for example. Moreover, non-EC-EU headquartered transnationals will also have to include British activities in the their information-consultation mechanisms established. Transnational corporations headquartered outside the EC/EU, including US firms, will also be touched.<sup>143</sup> General Motors, for example, has just indicated that it would set up a works council in its European operations.

The most significant effect of implementing the legislation may be on transnational European trade unionism itself. If all 1,300 companies had EWCs with the maximum membership of 30, 39,000 workplace activists would be drawn into transnational union work. This would create an important pool of cadres for transnational union work at other levels, and might strengthen national union support for ETUC bodies, particularly the EICs. Even if the numbers fall short of the maximum, new EWC members will have to begin rethinking union actions on a transnational basis, develop new practices of collaboration with colleagues from other countries and construct new linkages with union bases transnationally inside the company. The ETUC itself will have to generate the intellectual and financial resources to help train these new people and the EICs will have to grow and change to support them.

The 39, 000 number, however, is an upper limit. Actual developments may fall considerably short. Apart from anything else, many companies have possibilities for avoiding EWCs with much union presence by gaining employee acceptance of alternative arrangements. <sup>144</sup> The upsurge in company interest in "designer EWCs" since the passage of the directive is less the result of any conversion to dealing with unions at European level than a proactive hope for having an inoffensive "agreement in force" before the September 22, 1996 deadline. There is also a three year period after this deadline before establishment negotiations must be concluded. With the legislation, companies nonetheless have had to face the reality that they could not resist setting up, and paying for, EWCs sooner or later, provided that there were demands from their employees that satisfied the requirements of the directive. In short, a period of preliminary skirmishes is over, during which the EICS scoured Europe, using EP money, to lay the foundation stones of EWCs while the multinationals waited to see whether they needed to act at all. Now the companies will use their considerable resources to make the coming of EWCs as gentle as possible. The unions are aware of this danger, but will they be able to match the means of their opponents?

The Commission decided to use the Maastricht protocol again in early 1995., this time on parental leave, an issue with a long history. The first directive was proposed in 1983 and blocked by the British. <sup>145</sup> Later, <sup>146</sup> the Council approved Community action in the general area in Article 16 of the Social

Charter and in the Third Medium Term Action Programme on Equal Opportunities between Men and Women, 147 and in 1993-4 in debates over its White Paper on Social Policy and Medium Term Social Action Programme (1995-97).<sup>148</sup> In February 1995, however, matters began in earnest with a letter from the Acting Director General of DG V officially informing the social partners of the Commission's intention to act in the area of "the reconciliation of professional and family life" (not the narrower "parental leave") under the Maastricht Social Protocol and inviting them to the consultation procedures. clauses.

The first stage of the consultation is designed to elicit the social partners general views on the desirability of Community action in a specific area. <sup>149</sup> All sides responded favorably to the idea of Community action and the second six-week consultation period opened in late June, 1995. On July 5 ETUC, UNICE and CEEP decided to bargain, thereby opening what ETUC called in its press release, "the first European negotiations." <sup>150</sup> The organizations quickly alerted their constituents and sought negotiating mandates. From this point on, therefore, the negotiating parties, under the Chairing of Ms Jo Walgrave, President of the Belgian National Labor Council, had six months to conclude.

"Reconciliation" was an opportune theme for negotiation. UNICE and business wanted to avoid Euro-level action on parental leave, ETUC wanted negotiations in principle and thought that success on this issue might also help with its significant female labor constituency. Moreover, most EU member states already had parental leave arrangements which, in many cases, were more generous than what the negotiations were likely to turn out and this lowered the costs of bargaining. Discussions centered on the minimum standards at the heart of the proposed framework agreement. The most profound issue was whether parental leave would be regarded as an individual "right" available to everyone employed, or whether access would be restricted. ETUC insisted on the former while UNICE wanted it only for workers in firms above 50 employees. Everyone seemed to agree that the right length was three months, but there were disagreements about remuneration and continuation of social protection during this period. There also agreement that this leave should be non-transferable (particularly from husband to wife), but some discord over the age limits of children for whose care the program was mainly designed (eight, according to ETUC). ETUC wanted the leave principle extended to "ascendants" as well as "descendants," and to family crises as well. Employers refused to agree to anything implying greater costs to them. There were also disagreements on criteria for eligibility (how long on the job, full time vs. part time, what to do with small firms, how long should the notification period be). Everyone felt, however, that no leave arrangements under a framework accord should lower of existing standards in member states. Both ETUC and UNICE also insisted that both public and private sectors be covered. <sup>151</sup>

The negotiators had moved close to a general agreement in the early fall of 1995. The first draft of a final accord was circulated on September 28. The major remaining differences were on the "right" question, whether leave would be for care for dependent elderly parents and family emergencies, how universal (ETUC) vs flexible (UNICE) minimum requirements would be, and whether sectoral negotiations should follow (ETUC for, UNICE against).<sup>152</sup> At time of writing (late October, 1995) no final agreement had been signed, but there were good reasons to anticipate that it would be. Furthermore, the Commission had pledged to open the same procedures on the two outstanding directives on "atypical work" <sup>153</sup> European level collective bargaining had come into being. ETUC had taken its first steps towards becoming a bargainer.

#### Conclusions: The End of an Era?

The "Delors decade" that ended in January, 1995 was the most activist period in social policy in EC/EU history. In terms of its accomplishments in the areas of labor standards, Euro-bargaining and industrial relations it is a matter of deciding whether the glass is half-full or half-empty. For those with images of the rapid transfer of national neo-corporatist settings to Euro levels, the glass is half-empty. For those, were aware from the beginning of the modesty of the EC/EU's legitimate claims and capacities, the glass is half-full. There have been important legislative advances - health and safety protection, equal protection of men and women, protection of free movement of labor and social dialogue. But in only a few cases can one speak of more than beginnings and useful precedents.

The construction of national industrial relations systems and other regulatory mechanisms took decades. Moreover, however weakened national systems presently are in the face of internationalization, they still provide considerable protection, even if the damaging effects of

internationalization are expanding. It may well be that European-level advances will not be enough to compensate. In general it is too early to tell. The most important advance, both on its own and because of its implications, was the European Works Council episode. The Works Council legislation has provided precedent for further invocation of the Maastricht Social Protocol "negotiate or we will legislate" approach by the European Commission which is presently being followed on other matters. The unfolding process has proceeded far enough to indicate that both ETUC and UNICE are willing to contemplate European-level negotiation and that they will be able to generate the organizational resources to do so. These things in themselves are substantial changes.<sup>154</sup>

The ETUC, originally a lobbying organization narrowly controlled by its national constituents, has become a much more significant actor since the mid-1980s. This has largely been because it has been called upon repeatedly to respond to the European Commission's activist programs, as we have seen. Its ability to seize greater autonomy and a new role has been limited, however, by the lack of meaningful linkages with day-to-day union activity at branch and rank-and-file level, where Europe and European integration have remained abstractions. The construction of works Councils, the strengthening of Industry Committees and other new activities may begin to provide these linkages. Successes in bargaining over "reconciliation" and atypical work will deepen the ETUC's presence.

The context in which the effectiveness of social dimension policies and practices should be judged has changed, however. The years since the Maastricht Treaty have been perilous for the Community. The severe recession that began in 1992 revealed fundamental problems that had been discounted earlier, in particular that Europe had been falling relatively behind. In the words of the 1993 Commission White Paper on Growth, Competitiveness and Employment, "the truth is that although we have changed, the rest of the world has changed even faster."<sup>155</sup> Over the last two decades the European economy's potential rate of growth has shrunk from 4% to around 2.5% annually, unemployment has been rising from cycle to cycle, the investment ratio has fallen by five percent and the EC's competitive position in relation to the USA and Japan has worsened. The biggest problem is EC-EU's unemployment level. As of 1995 over 10% of the labor force were out of work. In the words of the White Paper, since the first oil shock in 1973 "80% more wealth has been created but total employment has risen by only 9%." On average, EC-EU economies have created too few jobs, a fact that looked particularly glaring when compared to the USA.

Recognition of this fundamental problem is the major new element in the social policy debate. The unspoken assumption of the "1992" period was that completing the Single Market and implementing EMU would stimulate European economic growth, technological innovation, wealth and job creation to new levels competitive with other industrialized areas of the world. The 1992-93 recession and joblessness thereafter made clear that this assumption had been wrong. Elites concluded that further basic reforms needed to be proposed. A new political wave in favor of deregulation, particularly of labor markets, also appeared. Whatever will come of this wave, the order of the day has begun to shift from constructing Euro-level social regulatory policies to reconfiguring arrangements to bring the European economy into the race for competitiveness. Reconfiguring labor markets in an institutional and organizationally dense area like the EC-EU will be difficult to do without a great deal more Euro-level bargaining, and European Commissions could encourage this, but European unions and the ETUC have to be resourceful and intelligent enough to seize the occasion. .

In the face of those who advocate a wholesale labor market deregulation that could destroy the uniqueness of the "European model of society" the Commission's 1993 White Paper concluded that "the Community cannot hope to address the consequences of the international relocation of many jobs through wage-price competition."<sup>156</sup> In the employment realm, it continued, that national actions have "generally been aimed more at reducing unemployment than at increasing employment... in broad terms, the way in which taxes and social contributions are raised seems to take little or no account of their potential effects on the level of employment." Pressures to increase labor market flexibility had thus often created dual labor markets and reduced incentives for firms and individuals to invest in training and recruitment. The Commission agreed that reform of labor market regulation was in order, but it should be accompanied by broader efforts to achieve a higher rate of employment. It suggested focussing on "the broader employment environment, paying particular attention to the effects of financial deterrents to employment creation embodied in taxation and related fiscal systems" while increasing investment in the Community's human resources.<sup>157</sup> Policy suggestions include bargained measures to share gains from productivity growth to create jobs rather than being "absorbed mainly by those already in employment."<sup>158</sup> Measures should also be devised to "increase the number

of jobs for given levels of output" by shortening hours and encouraging work-time flexibility. Tax and social security systems should be changed to remove disincentives for employing less skilled workers and lower the relative cost of labor with respect to other production factors. 159 There should be new income support schemes to supplement low wages, while the the concept of work should be "widened" to facilitate reentry into the labor market. The most striking proposals are in the "human capital" area, pointing towards the operationalization of life-time learning.

Perhaps Europe will be able to produce policies and cooperation to support what the Commission calls the development of "active solidarities" to enhance competitiveness without unduly undercutting the positions of the "social partners." If it is unable to do so, the risk of a downward deregulatory spiral will be very great. The degree to which the EC\EU's reflections have changed is illustrated in the Commission's recent Green Paper on social policy whose contents, rather than a positive set of proposals, are a set of open questions, as if European Social Policy had suddenly become a *tabula rasa*.<sup>160</sup> The Commission's subsequent White Paper on European Social Policy indicates that perhaps it has.<sup>161</sup>

The ETUC's 1995 Brussels Congress was an operation of consolidating earlier changes. The ETUC and its constituents are now somewhat better able to face Europe, than they were in 1985. In large part this is a consequence of efforts by European institutions. Whether ETUC and other unions are sufficiently well prepared, and whether the European context will remain sufficiently welcoming to their future efforts, remains to be seen. But there has turned out to be a sting in the tail of our story.

A benevolently disposed European Commission has clearly tried to help create Euro-level trade unionism. But this Commission has always had its own purposes and interests in doing so. Making breakthroughs on social policy and industrial relations matters and reconfiguring European "social partners" into genuine bargainers were important on their own, to be sure, but they were also designed to persuade European labor to buy into the Commission's particular plans for European unification. These plans and labor's needs no longer coincide as clearly as they once did, however. Continuing to buy buy into the Commission's goals has become very costly. The most important immediate goals is the finalization of Economic and Monetary Union. EMU stage three, when the European System of Central Banks is established and movement towards a single currency becomes ineluctable, is scheduled to begin in 1999. During the five years since Maastricht the ETUC has stood behind EMU plans, if sometimes arguing about details. This position has become damaging. The convergence criteria of Maastricht and the subordination of EMU monetary policy to German stress on strict price stability are now inimical to labor's interests in terms of unemployment and stagnated living standards. ETUC and its constituents, nursed by European institutions to Europeanize, now must wean themselves away.