



The European social dialogue

The history of a social innovation (1985-2003)

—

Jean Lapeyre

Foreword by Jacques Delors

Afterword by Luca Visentini

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"Montag looked at the river. We'll go on the river. He looked at the old railroad tracks. Or we'll go that way. Or we'll walk on the highways now, and we'll have time to put things into ourselves. And someday, after it sets in us a long time, it'll come out our hands and our mouths. And a lot of it will be wrong, but just enough of it will be right. We'll just start walking around today and see the world and the way the world really looks."

Fahrenheit 451

Ray Bradbury

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Foreword

To believe in Europe means believing in the abilities of those involved in constructing Europe. While obviously a good dose of political will, institutional backing and the right instruments are needed, this would be inadequate without the commitment of the social forces. Above all, Europe is a human adventure.

The European Union must be a place of peace and economic and social development, combining economic efficiency with social progress. The social partners therefore have a fundamental role to play. Over the years, I shared this conviction with company leaders and unionists, getting them to become involved in the European social dialogue despite all the difficulties that this involved but also all the hopes it raised.

The motivations of the two sides were obviously not identical, split between the economic interests of the employers and the desire of the unions to shape European integration in a social manner. Yet this was precisely their interest in the social dialogue: to create a discussion forum and, wherever possible, to find compromises between the conflicting positions, opening the door for innovative solutions responding to the interests of both sides.

This is why this book is so valuable. Written by one of social dialogue's most committed players, it highlights the difficulties encountered, the successes achieved, but also the failures. All this made the European employer and union organisations key players in the construction of Europe. This book highlights this momentum in all its complexity. It also shows the will and perseverance required from the trade unions day in, day out, to forge ahead in the social field, constantly taking account of societal developments. Hard and sometimes thankless work, but necessary to ensure cohesion and solidarity in a crisis situation characterised by inequalities and risks of exclusion.

The Commission was able to create the frameworks within which this social dialogue could flourish. While its role was sometimes indispensable to get negotiations going, the social partners were the ones doing the negotiating and concluding agreements reducing the risks of social dumping and harmonising social standards. While each had its own role and its own field of responsibility, they always complemented each other.

For its part, the European Trade Union Confederation has become committed to social dialogue, aware of the risks, but able to create a momentum transcending the differences in positions, for the common good.

The inequalities between our European countries must never be a handicap or be used as an excuse to do nothing. Quite the contrary, they must spur us on to reduce them, via negotiations at national, sectoral and European level. Hand-in-hand with the legislator, social dialogue must drive progress in harmonising our social situations, preventing our differences from becoming divergences, possible causes of social dumping.

The agreements on parental leave, agency work and fixed-term employment contracts, the development of which is traced in this book, spurred progress. Even the failures, such as that on European works councils, allowed us to create – taking account of what had already been discussed by the social partners – legislative frameworks indispensable for a social Europe.

The story continues, despite the fact that times have become more difficult. Especially in a period when the European Union is in danger, we need strong, legitimate(d) and committed social players. This book highlights their importance.



— *Jacques Delors*,

President of the European Commission from 1985 to 1994



Introduction

The aim of this book is to trace the history of the social dialogue, from its origins to its autonomous empowerment, based on the testimonials of those responsible for designing and developing it, looking at the various texts from joint opinions to autonomous agreements, and analysing how the social dialogue functions. It is based mainly on internal documents belonging to the European Commission, the International Institute for Social History (IISH), the archives of the Jacques Delors Institute and those of the employer organisations UNICE (for the private sector) and CEEP (for the public sector), and of the ETUC, and on the notebooks and archives I collected over the seventeen years spent as head of social dialogue at the ETUC. It thus offers a “human” perception of the way the social dialogue was constructed, a construction resulting from many meetings, but also, despite all the tensions, from a shared will at a certain point in time to create a common good in the dynamic context of constructing Europe.

The development of the European social dialogue was not just a building block in a European system of industrial relations. It also played a role in structuring, organising and legitimising European-level union and employer organisations and promoting their ability to negotiate elements harmonising the European environment, in addition to their national territorial and sectoral environment.

European social dialogue is a game with three players, with the Commission playing a delicate role, a mix of stimulation, encouragement, intervention, support, accompaniment and self-effacement. Certain developments could not have taken place without the initiative being taken by European Commission. These need to be taken into account in the construction of this social dialogue. At the same time, the latter also contributed to the development of the European Economic Community’s political, economic and social environment and to its enlargement. But it

also required a lot of patience and perseverance – and even stubbornness – on the part of the unions.

This history covers the period from 1985 to 2003, a period during which I was in charge of social dialogue at the ETUC. The text is centred on a series of interviews with players at European and national levels. This analysis of social dialogue developments and events is a personal one, obviously influenced by my French and CFDT background. That said, this European work was a source of great fulfilment for me, enriched by the confrontation with other national union cultures and their integration. In writing this history, I sometimes found it hard to distinguish between “we” and “I”, as these two words are hardly separable in union action, a mix of collective adventure and personal commitment.

In his foreword, Jacques Delors speaks of a “human adventure”. In that dynamic period spent constructing the social dialogue, there were men and women who believed in this adventure and who were committed, despite all their diverging and conflicting views, to building this environment of consultation and negotiation – an environment contributing to major social progress.

The book’s first chapter takes stock of European industrial relations before 1985 and the arrival of Jacques Delors. The deadlock described highlights the major abyss between the employers and the unions at that time, with issues such as the reduction and reorganisation of working time and the information and consultation of workers at national and transnational level remaining bones of contention even now. This was also the period during which an organised and unified union force emerged, the European Trade Union Confederation, an organisation which was to lend its weight to constructing the European Economic Community (EEC), promoting harmonisation in the European social field.

In the subsequent chapter, the launch of the European social dialogue on 31 January 1985 is described. It was intended as a means of rebalancing the EEC, up to then a purely economic institution, on its way to the Single Market. This rebalancing was backed by a reform of the Treaty, introducing qualified majority voting, also on industrial relations topics, an area which had previously been systematically blocked by UK government vetoes. The European social dialogue started its work with a focus on two topics: the macro-economic environment, and new technologies and social dialogue. This was a “running-in phase” and a difficult period, with the first stock-taking, in May 1987, criticising the dearth of results.

The third chapter sees the European social dialogue getting up to speed and becoming more structured. It was a period of major progress, as witnessed by the commitments made by Commission President Jacques Delors to the May 1988 ETUC Congress in Stockholm, the adoption of the Charter of Fundamental Social Rights of Workers in December 1990 and the Social Action Programme ensuring its implementation, and a quantum leap in ETUC policies at its May 1991 Congress.

In the fourth chapter, we find the social partners with their backs to the wall: what role did they want to play in constructing Europe and setting its standards? What were the respective roles of legislation and collective agreements? What supranational role did they want to / could they assume? The agreement reached by the social partners on 31 October 1991, annexed to the Maastricht Treaty as the Protocol of Social Policy, answers the first two questions. The last question is tied to the internal debates and developments of the respective employer and union organisations, and to a noteworthy debate between the ETUC and the CEEP, stimulating social dialogue in general.

The fifth chapter deals with the change in the roles of the social partners, transforming them from lobbyists to key players through European-level negotiations. This

development was not without problems, as witnessed by the foreseeable breakdown of talks on the information and consultation of workers in transnational companies. But this problem was quickly overcome, first by a legislative initiative on the part of the European Commission, and second by the successful negotiations over parental leave. These negotiations naturally posed the problem of a transfer of power from the national to the European level and thus to a Europeanisation of the employer and union organisations.

The sixth chapter deals with the enlargement of the circle of European social dialogue participants, with the European Association of Craft, Small and Medium-sized Enterprises (UEAPME) joining the employer side, and CEC European Managers and the newly created Council of European Professional and Managerial Staff (Eurocadres) joining the employee side.

Chapter seven charts the further negotiations. Following the parental leave breakthrough, two further negotiating results related to part-time work and fixed-term contracts. But there was also disappointment, as it proved impossible to negotiate the information and consultation of workers at national level. The British employers did everything to block negotiations at UNICE level, adopting a strategy to politically block a proposed directive which followed the social partners' refusal to negotiate. This chapter also deals with the failure of a promising initiative, the establishment of the European Industrial Relations Centre.

Chapter eight deals with the breakdown of negotiations on agency work, marking the decline of the social dialogue, though a shift to empowering the social partners was to be seen on the issue of telework, raising hopes. Symbolised by the social partners' adoption of a joint working programme, this empowerment took place in a context where the European Commission and Member States were backing away from any moves to achieve harmonisation in social policy, with the emphasis now on a "soft" non-legislative approach.

The last chapter deals with the relationship between social dialogue¹ and civil dialogue, the synergies between the unions and NGOs at European level, and their joint battle to establish fundamental rights at European level.

The conclusion attempts to demonstrate that, following a period of stagnation, the social dialogue resurged, backed by greater European Commission engagement and more proactive (and less reactive) social partners.

Written by Luca Visentini, the afterword looks at the future of the social dialogue, at present going through a difficult patch. The European construction, after a phase of ebb, is regaining centre stage, underpinning economic and social recovery. Unions must not miss out on this opportunity.

1. In all English versions of the successive European Treaties, the wording used for "social dialogue" is "the dialogue between management and labour", thereby circumventing the ambiguity of the word "social" in English.

Chapter 1

The state of play before Year 1

**"Thirty monks and their abbot can't make
a donkey bray against his will."**

Novelas ejemplares

— Cervantes

.....

This chapter describes the birth of a trade unionism unified by the establishment of the European Trade Union Confederation. Overcoming the divides of international unionism, European unions are, despite any fears they might have, committed to creating a Europe of peace, solidarity, economic growth and social justice. This chapter starts by tracing the status of European-level employer/union relations before Jacques Delors took up office as President of the European Commission in 1985. This period was characterised by problems in the relationship between the social partners, deadlocks, vain attempts to relaunch the social dialogue and finally, in 1984, a complete breakdown. There were two topics already dividing the social partners: the reduction/reorganisation of working time; and the information and consultation of workers on major changes to companies and restructuring measures.

1.1 The birth of the ETUC, rooted in the ECSC and the European Economic Community. Social policy in the 1970s and 1980s

The intention here is not to analyse this period in detail (many excellent works already exist in this field¹), but to highlight certain features of importance for the further chapters. Bipartite (i.e. between employers and unions) and tripartite (i.e. between public authorities, employers and unions) relations were very chaotic during the 1970s. The European union movement was divided, while the employers absolutely refused to take up a role as social partner², assured of the complicity of Margaret Thatcher's UK government and its opposition to any social initiative.

In 1957, at the time the European Economic Community was established, the union movement was divided between three existing international confederations:

- the International Confederation of Free Trade Unions (ICFTU)³ covering all the main social-democratically-inclined unions of Western Europe and the various regions of the “free” world;
- the World Confederation of Labour (WCL) which similarly covered the “free” world, but whose members were predominantly Christian-democratically-inclined; and
- the World Federation of Trade Unions (WFTU) which mainly covered the Soviet Bloc and communist-inclined unions (including in Western Europe the French CGT and a few communist unions from unitarian confederations, e.g. in Greece or Austria). Italy's *Confederazione Generale Italiana del Lavoro* (CGIL) had already distanced itself from the WFTU, changing its status from a full member to an associate member in 1973, one year before becoming a member of the ETUC. But even so, it was not to definitively part company with the WFTU until 1978. The Portuguese CGT and the Spanish CCOO never belonged to it.

The ICFTU and WCL were to establish regional European organisations which worked together to a greater or lesser degree. It was the European Coal and Steel Community (ECSC) established by the Treaty of Paris signed in 1951 which first got trade unions to experiment with working together, forgetting their ideological divides.

Bringing together these two industries – coal and steel – which had played such a vital role in the Second World War constituted a major first step for unions in these countries, spearheading the development of the European Economic Community.

One could even say that the European Trade Union Confederation (ETUC) was mainly built on the experience gained in the context of the ECSC. The most interesting and innovative aspect of the latter was its ability to implement a transnational sectoral industrial policy based on social dialogue and on the instruments provided for under the Treaty, first and foremost the levy (max. 1% of turnover) on companies in the sectors concerned. An independent budget and sufficient recurring financial means helped ensure the funding of industrial policy (a system of long-term loans and investment

1. See the bibliography at the end of the book.

2. The term “social partner” is used throughout the book as it now belongs to “EU-speak”. It was however controversial for a long time, even within the ETUC. Union leaders as different as Georges Debunne, President of the Belgian FGTB, and Edmond Maire, Secretary-General of the French CFDT, constantly refused to use it, preferring the French term “*interlocuteurs sociaux*”, i.e. employer associations and trade unions were viewed as counterparts, not as partners.

3. The French abbreviation of ICFTU is CISL (standing for “*Confédération internationale des syndicats libres*”). This is not to be confused with the Italian “*Confederazione Italiana Sindacati Lavoratori*”, also abbreviated to CISL.

guarantees, research into new products and processes, etc.) and social policy (a system of social benefits and social research into redeployment and restructuring measures) programmes.

Four groupings existed within the ECSC: employers, workers, consumers and dealers. Sectoral dialogue between the social partners took place within the ECSC Consultative Committee and with the European Commission. This dialogue turned out to be quite effective in managing changes in the two industries, even if the 1970s and 1980s were at times beset by major conflicts.

This ability to intervene financially and in a concerted manner has unfortunately been progressively undermined and is now – following the dissolution of the ECSC in 2002 – very much blunted in the face of the major changes taking place, especially in the new Member States, for instance in Poland and Romania⁴.

Other European unions were to emerge around major EEC sectoral policies. These included the European Federation of Agriculture (EFA), the foodworkers' IUF, the fishermen's union in 1958, the European Liaison Committee for transport unions (1962), and the European Textile, Clothing and Footwear Committee in 1964.

The European Trade Union Confederation is the product of the willingness of unions from different cultures to join forces for a common project: the construction of the European Economic Community and its social dimension⁵.

The ETUC was the first international trade union organisation overcoming ideological divides to emerge since the end of the Second World War. The debates surrounding the creation of the ETUC were not easy in either the ICFTU or the WCT. But in the ICFTU above all, the national confederations – the German DGB, the British TUC, the Italian CISL, the Benelux⁶ confederations – played a major role in overcoming the reticence of certain national confederations. A certain resistance to establishing a European confederation was based on arguments questioning international solidarity, and, especially for the TUC, on its radical opposition to the European Economic Community (cf. Chapter III on the evolution of the TUC). Certain players even saw the ETUC as a possible Trojan horse for communist-inclined unions or, as with the French *Force Ouvrière*, harboured a fear of having to give up an exclusive relationship (as the sole French representative) within the ICFTU⁷.

Turning to the WCL, it was mainly the French CFDT, backed by the Belgian CSC and in particular its Secretary General Robert d'Hondt⁸, which was to play a decisive role. As a reminder, Emilio Gabaglio*, the future ETUC Secretary General who took part in the discussions, was president of the Italian *Associazioni Cristiane dei Lavoratori Italiani* (ACLI), a member of the WCL and an associate member of the ICFTU. Jan Kulakowski*, Secretary General of the European branch of the WCL also played an important role in overcoming the difficulties.

4. At the initiative of its Secretary General Patrick Venturini and its President Roger Briesch, the European Economic and Social Committee (EESC) attempted to save some of the culture reigning in the ECSC Consultative Committee through creating, after the expiry of the Treaty of Paris (setting up the ECSC) on 23 July 2002, a Consultative Committee on Industrial Change (CCMI) within the EESC with a view to extending the scope of debate and research to all industries and services.

5. Christophe Degryse and Pierre Tilly, *1973-2013: 40 years of history of the European Trade Union Confederation* Brussels, ETUI, 2013.

6. Belgium, the Netherlands and Luxembourg.

7. Speech at the ICFTU Congress in London in 1972.

8. See the index of names. All names marked with an asterisk are to be found in the index at the end of the book.

In this context, a series of meetings took place between 1969 and 1972 in the Perraudin restaurant in Brussels⁹, in particular between the CFDT and the DGB¹⁰, on the necessity of a harmonised approach. Meetings also took place within an informal group composed of representatives of the CFDT (in particular René Salanne*, responsible for the confederation's international and European policy and sometimes accompanied by René Decaillon*), the DGB (Manfred Lahnstein*), the FGTB and especially Théo Rasschaert* who was later to become the ETUC's first Secretary General and who chaired the European Committee of the ICFTU (which itself was later to become, in 1969, the European Confederation of Free Trade Unions) and the Italian CISL in the person of Carlo Savoini*. These meetings also included Georges Grinberg, the young assistant of FGTB President Georges Debunne, Jan Kulakowski, Secretary of the WCL's European Committee, representatives from the Belgian CSC, Robert d'Hondt, Emilio Gabaglio for the ACLI, and sometimes the CGIL¹¹ (in particular Mario Dido*) and Jean Degimbe*, at that time already a European Commission official.

On first seeing the light of day on 8/9 February 1973, the ETUC was made up solely of confederations belonging to the ICFTU¹². This notion of a list of 17 founding members was to gradually disappear in the statutes, slipping from a mention in the body of the statutes to a footnote in the May 1991 version of the statutes adopted at the Luxembourg Congress. Much to the disappointment of the FO¹³, it disappeared completely from the May 1995 version of the statutes adopted at the Brussels Congress. It was however clear from the outset that the ETUC would soon encompass the member unions of the WCL, and even others.

A symbolic shift of focus was therefore needed¹⁴ to enlarge the ETUC. This happened in May 1974 with the collective accession of WCL member organisations and other national organisations. Enlargement was to continue a few months later with the accession of the CGIL¹⁵ in July (with the DGB and FO voting against the move).

We really must pay tribute to the ETUC's founding fathers, a generation of unionists, who, following two terrible world wars on the European continent, had wanted to build a world of peace, democracy and economic and social progress. While the hard core of this movement came from the six founding nations of the EEC, they already showed great willingness to take on members from the surrounding non-EEC countries.

-
9. Jan Kulakowski recalls these meetings in the Le Perraudin restaurant in his book of interviews with Leszek Jesien, *Rencontre à Bagatela*, Brussels, Couleur Livres, 2015, p. 33-36. As we will see many times, the restaurant was to remain a special meeting place.
 10. I also remember an important informal meeting in 1972 in Düsseldorf on the occasion of a DGB youth congress between François Staedelin, a member of the CFDT National Executive (who went on to be elected ETUC Secretary at the London Congress in 1976) and sent there specially by his Secretary General Edmond Maire, and Erwin Kristophersen, in charge of international and European policy at the DGB, on the prospects of setting up the ETUC and of the CFDT joining it. I was there in my capacity as head of the FGM youth section, together with Peter Seideneck, similarly in charge of the DGB youth section, who was later to become adviser to ETUC Secretary General Emilio Gabaglio.
 11. It should be remembered that, at that time, the CGT and CGIL maintained a joint European secretariat in Brussels.
 12. FGTB, DGB, LO-DK, UGTE, CGT-FO, TUC, Ais, CISL, UIL, CGTL, NVV, LO-N, SGB Switzerland, SAK Finland, LO-S, TCO-S, OGB.
 13. On page 128 of the book published in 2014 by FO and its Europe/International Sector, *L'Union européenne: comprendre pour mieux revendiquer*, there is a table showing the developments leading to the establishment of the ETUC and its enlargement. This lists the founding congress of 9 February 1973 and the 1974 accession of the CGIL, but completely ignores the extraordinary congress of 23-24 May 1974 which brought in a further 12 organisations belonging to the WCL (the Belgian CSC, CFDT France, the Luxembourg LCGB, the Dutch CNV and NKV, the Basque STV-ELA, the Swiss CNG and SVEA) but not exclusively the Finnish SAK, the Danish FTF, the Irish ICTU and the Maltese GWU, on top of the 17 founding organisations.
 14. The French FO fought hard to defend the notion of founding members, making it the only French union organisation to bear this title... while the Belgian FGTB had reservations about the CSC.
 15. This accession did not take place during a congress but resulted from a decision of the Executive Committee on 9 July 1974.

Such a pluralistic yet unified European union movement was already clear in the minds of such trade union federations as the European Metalworkers Federation (EMF) which had remained, since its establishment in 1971, independent of FIOM, the International Metalworkers' Federation, even if the two organisations worked closely together and coordinated their actions. The EMF for example was to affiliate the CFDT, a metalworkers' union that had joined the FIOM and EMF in 1968 and which did not give up its membership of the WCL until 1979. The same was true for the European Federation of Chemical and General Workers which experienced the accession of sectoral organizations belonging to WCL confederations, such as the CFDT's chemical branch, the FUC (*Fédération unifiée de la chimie*). Similar debates to those within the ETUC, possibly even tougher, were to take place within the International Trade Secretariats with regard to the autonomy of the European trade federations (see Chapter 4.8).

Several European trade sectors were to remain very much tied to their respective International Trade Secretariats, or even remained the regional secretariats of these global organisations. Indeed, for several years a number of these organisations refused to take in national trade federations belonging to ETUC member confederations while still affiliated internationally to the WCL. It should be stated here that the status of these International Trade Secretariats was autonomous and pre-dated the creation of the ICFTU (see Chapter 4.8).

1.2 Social consultation bodies from 1974 to 1984

Apart from the existing social consultation committees, the Advisory Committees and the Economic and Social Committee (all of which we will be discussing in other chapters), two cross-industry social consultation bodies existed at European level:

- the Standing Committee on Employment established in 1970 following a high-level conference of Member State representatives, the European Commission, employer organisations and trade unions;
- the Tripartite Meetings which, from 1974 onwards, were to become, at the request of the ETUC, more “political”.

These two bodies both found themselves confronted with the same difficulties over the design of the European social dialogue between employers and European unions: the will to negotiate on the part of the unions, and the will to remain in non-committal contact with the other side on the part of the employers. These opposing positions in the design of the social dialogue will crop up over and over again throughout this book.

The union demand for a European negotiating area at both cross-industry and sectoral level had been a constant demand ever since the creation of the ETUC, and was reaffirmed at each of its congresses.

However, the idea of EU-level framework agreements was not new, having already been developed in a report to the Commission written by Gérard Lyon Caen¹⁶ in the mid-1970s. In his Communication to the Council of Ministers of 7 May 1979,

16. Gérard Lyon Caen, professor of labour law at the Paris Faculty of Law and Economics, wrote a report for the European Commission entitled *In Search of the European Collective Bargaining Agreement* (Doc no. V/855/72-F) and stamped “restricted circulation”, author's archives. The ETUC similarly had the opportunity to work with Antoine Lyon Caen, professor at the Université Paris Ouest Nanterre La Défense and head of studies at the School of Advanced Studies in Social Sciences (EHESS) in Paris.

Commissioner Henk Vredeling* in person praised the conclusion of framework agreements in the following terms: “They may be the result of an own initiative of the social partners or an initiative of the Community requesting them to further develop dialogue and direct negotiations in the appropriate fields. Whatever the case, the Community institutions would provide the necessary technical assistance and declare their availability to take, where necessary, initiatives conducive to the conclusion of the necessary compromises, all the while respecting the sole competence of the social partners.” For the European employers (UNICE), this was out of the question.

Following a meeting on 13 July 1979 between two high-level delegations from the ETUC and UNICE, François Staedelin, in an internal ETUC memo dated 17 July, pointedly summed up the employers’ mentality through posing three questions and listing the employers’ replies: “What is the goal of our meetings? Are you empowered to negotiate? No; What is the nature of our meetings? They must remain informal; What should our meetings deal with? Discussing general concepts but without forgetting economic and social aspects.”

The letter of 26 June 1980 from UNICE President Guido Carli to ETUC President Wim Kok* was symbolic of this constant opposition to a dialogue possibly leading to binding agreements: “UNICE cannot agree that a dialogue of this kind would only be ‘constructive’ if it were to result in the reaching of agreements between the two sides... We must respect the point that UNICE has no mandate to make commitments in the name of its members...”¹⁷

François Staedelin, a trade union activist from the CFDT-PTT Alsace, President of the CFDT Alsace and member of the confederation’s national executive, President of the CFDT-PTT Federation, ETUC Secretary General from 1976 to 1986, President of the Workers’ Group and subsequently of the European Economic and Social Committee from October 1990 until his death in December 1991. François had already known Jacques Delors from his spell at the CFTC and had kept up contact with him, in particular when Jacques Delors became an MEP and President of the EP’s Economic and Monetary Commission. The two were very close.

He wielded considerable influence over the development of the ETUC and its policies, in particular due to his links with the German DGB.



François Staedelin, the former ETUC Secretary General (1976-1986), played a decisive role in establishing the European social dialogue. In 1988, he was the rapporteur of the European Economic and Social Committee’s opinion on the Community Charter of Fundamental Social Rights of Workers.

Source: ETUC archives

1.2.1 The Standing Committee on Employment (SCE): the first deadlock

This Committee was established by the Council decision of 14 December 1970 following a conference on employment in Luxembourg on 27-28 April bringing together national ministers of labour, the Commission and the social partners. Under the impetus of the Italian Minister of Labour, Carlo Donat Cattin*, the project went ahead. The question of having employers and trade unions take part in designing and implementing Community policies on employment and the labour market had been discussed during the conference.

The SCE had two special features:

- for the first time it brought together all (social) players in a single Community body: the Council and the Commission, ministers of labour and employment, trade unions and employers;
- it extended union and employer participation beyond the European organisations in response to specific national issues or lobbying pressure, particularly from the French organisations.

The SCE members were a motley bunch.

The employer delegation was made up of a) a Liaison Committee (eleven delegates) bringing together UNICE, the Committee of Commercial Organisations in the EEC Countries (COCCEE), the Union of Craft Industries and Trades of the EEC (UA-CEE) and the European Insurance Committee (CEA)¹⁸ and b) four delegates from the Committee of Professional Agricultural Organisations in the European Community (COPA) and three delegates from the European Centre of Public Enterprises (CEEP).

The workers' organisations were represented by nine delegates from the European Confederation of Free Trade Unions (ECFTU) and four delegates from the European Organisation of the World Confederation of Labour (EO-WCL). As the ETUC did not yet exist, a Liaison Committee between the ECFTU and the EO-WCL was set up. Other members included two delegates from the European Standing Committee established by the French CGT and the Italian CGIL, one delegate from the International Confederation of Managers (CIC), one delegate from the French CFTC and one from the German DAG.¹⁹

A first revision of the 1970 decision occurred in 1975, simplifying the union delegation through assigning 17 seats to the ETUC and one seat to each of the French confederations not belonging to the ETUC: the *Confédération générale des cadres* (the phantom CIC had vanished into thin air, leaving just one representative member, the French CGC), the CGT (as the CGIL had joined the ETUC) and the CFTC.

A revised version of the SCE's rules of procedure, adopted by the Council on 9 June 1980, listed just two union organisations: the ETUC and the CEC (EUROCADRES did not yet exist). It was pointed out in the decision that the workers' delegation (ETUC-CEC) was to be coordinated by the ETUC, while the employers' delegation (UNICE-CEEP-UEAPME-Eurocommerce-COPA) was to be coordinated by UNICE.

18. This organisation held, on behalf of the European employers, a seat on the Board of Directors of Eurofound in Dublin for a very long time.

19. The German "white-collar" federation which amalgamated with three other unions to form ver.di in 2001. In the same year, ver.di became a member of the DGB.

In May 1980, the two sides clashed over the organisation of a Tripartite Western European Employment Conference in Oslo decided upon by the Committee of Ministers of the Council of Europe, a conference which the European Commission was also to attend. UNICE, not wanting to become engaged in this debate, refused to participate, leading to the ETUC publishing a press release on 13 May entitled *NO to irresponsible European employers*. This employer decision was taken despite a conciliation attempt by Commissioner Henk Vredeling who organised a “strictly confidential” dinner with the presidents of the ETUC and UNICE²⁰.

In the following years, the SCE met once every six months under the chairmanship of the minister of the country holding the EU Presidency (except under the British Presidency: Mrs Thatcher was the only head of government to refuse to meet the ETUC) and in the presence of the Commissioner for Employment and Social Affairs. Apart from holding the Tripartite Meetings, the SCE went from crisis to crisis, at the whims of the ministers holding the presidency and who had to draft the conclusions of the “President”, taking more or less account of the opinions of the social partners, but above all of their personal priorities. Aimed at rekindling interest in the SCE, the 1980 attempt to reform the body was unable to overcome the lack of commitment shown by unions and employers alike.

In 1998, in the context of a new strategy for employment, the Council set up an Employment Committee (EMCO) made up the national representatives of the ministries concerned. It was to play an advisory role vis-à-vis the Ministers of Employment and Social Affairs. Tied to the rhythm of the 6-month Council presidencies, this new Committee assumed responsibility for multilateral “monitoring”, using a set of indicators to check the implementation of reforms recommended for each country by the Council.

The Standing Committee on Employment now belonged to the past, and the ETUC was already thinking about setting up a consultation body integrating the economy, social affairs and the environment, as we will see in Chapter 8.

1.2.2 The Tripartite Meetings: further deadlock

These more “political” conferences requested by the ETUC with a view to dealing with the social dimension of implementing the Common Market took place between 16 December 1974 and 9 November 1978. The outcomes became increasingly disappointing due first to the unilateral action of the successive presidencies who worded conclusions in the manner best suiting them, and second due to the systematic refusal of the employers to enter into any commitments.

It was only during the third Meeting on 24 June 1976 that a joint position was arrived at, calling for a return to full employment, a reduction in inflation and annual GDP growth of 5% (*sic*).

20. Memo of 5/5/1980 from Carlo Savoini to Commissioner Vredeling on the necessity to prepare this conference, IISH archives, box 2093.

By contrast, the fourth and fifth Meetings on 27 June 1977 and 9 November 1978 (the latter referred to as the “burial meeting” by Georges Debunne²¹) led to a major divide between the employer and union positions, causing the ETUC to put a question-mark over its continuing participation in such meetings²².

In fact, these two bodies – in particular the Tripartite Meetings – found themselves confronted by the same problems and the same deadlock, first on working time and its organisation, second on a Commission proposal for information and consultation in transnational enterprises (the so-called Vredeling Directive) which deeply divided the social partners. The latter issue had started to arise in 1977 following the adoption of two directives, one on collective dismissals and the other on workers’ rights in the case of a transfer of undertakings.

1.3 Reasons for applying the brakes that would go on for several years – until 1984

Two topics would continue to divide the social partners. With regard to the regulation of working time, the unions had to wait until the 1993 Directive, while they had to wait a further year for information and consultation rights in transnational European companies. We will come back to these topics later on. But first we will look at the development of the opposition to these initiatives, the details of which are looked at in Claude Didry’s and Arnaud Mias’ excellent book *Le moment Delors* published in 2005.

1.3.1 Working time

The 22 May 1979 meeting of the Standing Committee on Employment took place under the Presidency of France. Minister of Labour Robert Boulin* called on the Commission to hold “direct talks with and between the social partners with a view to submitting concrete proposals to the next Council of Ministers”.

A Resolution of the Ministers of Employment / Social Affairs dated 22 November 1979 thus referred to the organisation of working time. At the same time, Commissioner Vredeling announced a Communication from the Commission on a flexible retirement age, part-time work and temporary work, calling on the social partners to restart talks in this field and in particular on the annual volume of work.

Correspondence between the ETUC, UNICE and the Commission shows that positions were completely blocked by the employers²³.

21. Georges Debunne, *Les Syndicats et l'Europe: passé et devenir*, Brussels, Édition Labor, 1987, p. 99-106. In this book, he takes a very critical look at relations with European employers. Georges Debunne, President of the Belgian FGTB from 1968 to 1982, became ETUC President in 1982, holding the post until 1985. He was also the founder and President of FERPA, the European Federation of Retired and Older People, an organisation with close links to the ETUC.

22. Position of the Executive Committee (4-5 December 1978).

23. See Claude Didry and Arnaud Mias, *Le moment Delors: les syndicats au cœur de l'Europe sociale*, Brussels, P.I.E.-P. Lang, 2005.



Poster used in the 1980s by the German metalworking union for its campaign on reducing working time.

Source: ETUC archives

In its 1981 “Report of Social Developments”, the Commission was to write the following on the issue of working time arrangements: “The Commission has made special efforts to revive dialogue with the two sides of industry on the reorganization of working time and work-sharing — more specifically on the questions of annual hours of work and overtime working. Both the renewal of tripartite discussions and the Commission’s desire to bring about the adoption of specific measures to shorten working time have met with approval from the ETUC (European Trade Union Confederation), while UNICE (Union of Industries of the European Community) also reacted positively to the Commission’s proposals for discussions. The employers, however, wanted to tackle the problem of working hours in its general economic context. Accordingly, the UNICE reaffirmed its opposition, primarily on grounds connected with the need to maintain and improve the competitive capacity of firms, to the union demand for the introduction of a 35-hour week without any reduction in wage levels.”

The subject was to crop up again and again. The unblocking of the social dialogue at the start of 1987 saw the SCE meeting of 25 June affirming that flexibility “could not put a question-mark over workers’ rights in the field of social security, social protection and working conditions”. The large-scale strikes in Germany in 1987, in particular in the metalworking sector, over the 35-hour week, and the subsequent collective agreements boosted the action of European unions to get working time reduced as a measure complementing work-sharing in the fight against growing unemployment.

1.3.2 Information and consultation in transnational companies

While there were two important directives, one in 1975 on information and consultation rights in the event of collective dismissals (tightened in 1998) and the other in 1977 on safeguarding employees’ rights in the event of transfers of undertakings, there was no European regulation giving workers a permanent information and consultation right in multinational companies. The subject cropped up in internal Commission discussions in the late 1970s following debates on the 1975 and 1977 directives, and in 1980 the initial proposal for Community-level legislation on information and consultation rights in Europe appeared.

The proposal put forward by Dutch Commissioner Henk Vredeling (it should be stressed that this proposal was adopted by the 12 Commission members) on information and consultation in large companies operating within the EEC quickly evoked

opposition from such companies, with US ones especially lobbying via the American Chamber of Commerce in Belgium. This lobby expressed the “firm commitment” (*sic*) of US business to the principle of “good corporate citizenship”, mirroring the employers’ longstanding litany on the virtues of self-regulation. UNICE was also very much against such an initiative. Commissioner Ivor Richard²⁴, Henk Vredeling’s successor, even appeared before the US Chamber of Commerce in Washington on 31 March 1982, courageously defending the draft directive²⁵. “No one would deny that workers have at least the right to be informed about matters which are often literally a matter of economic life or death to them... We are not simply a Common Market of goods and services, but also a Community of Peoples.”

Later on, this opposition to the Vredeling initiative became subtler, put across by the powerful European Roundtable of Industrialists (ERT) made up of sixteen of the largest European companies²⁶ (it now has some 50 members). The ERT was established on 6-7 April 1983 in Paris at the initiative of three company leaders: Pehr Gyllenhammar* from Volvo, Wim Dekker from Philips and Umberto Agnelli from FIAT. This organisation (whose members were by no means either reactionary or anti-social) was, at the time of its establishment in Paris, backed by two important Commissioners: Étienne Davignon*, Industry Commissioner and François Xavier Ortoli*, Commissioner for Economic and Monetary Affairs. The ERT was a carbon copy of the US Business Round Table which, arm in arm with the American Chamber of Commerce, was conducting a virulent campaign against the Vredeling initiative. The major role of employer lobbies in Brussels and their ability to influence the European Commission should not be underestimated, as it was even greater than that of UNICE.

The European Roundtable of Industrialists: the real employer spokesman

The creation of the ERT was supposedly a response to the question put by the two European Commissioners, Étienne Davignon and François Xavier Ortoli: “Who do we talk to, when we want to talk to European industry?” Clearly not UNICE!

While the ERT was opposed to the information and consultation proposal, it was however a major supporter of Jacques Delors’ plans to implement the Single Market²⁷. The ERT denied having any social “competence”, and thus refused to have anything to do with the ETUC (although certain official contacts could not be avoided). This led to its longstanding Secretary General, Keith Richardson*, saying: “Social dialogue with organised labour is, by contrast, an area where the ERT almost certainly could have made some impact and chose not to do so. Trade unions would have been happy to talk with the ERT but members felt that was UNICE’s right and responsibility, and they were

24. Ivor Richard, a British Labour MP, was a member of the Thorn Commission from 1981 to 1985.

25. Speech reproduced in *European Community News* No. 7/1982; cited in Richard P. Walker’s study, *The Vredeling proposal: cooperation versus confrontation in European labor relations*, *Berkeley Journal of International Law*, 1983, vol. 1, p. 177-196.

26. Volvo, Thyssen, Olivetti, ASEA, United Technologies, ICI, Siemens, FIAT, Shell, Lafarge Coppée, St Gobain, Philips, BSN, Renault, Ciba-Geigy, Nestlé.

27. At a press conference held following a meeting with the ERT on 3 April 1986, Jacques Delors had the following to say: “At this meeting with the ERT, i.e. with decision-makers who expect the Commission to take initiatives to improve the competitiveness of European industry, I noted no trace of Europessimism.” Delors Sciences Po archives.

distinctly nervous about being dragged along the perilous path toward Pan-European wage negotiation.”²⁸

UNICE referred to the OECD “guidelines” and ILO declarations on “voluntary” measures. In the minutes of talks held on 25 June 1980 with Commission President Roy Jenkins at the request of the new UNICE President Guido Carli*, the author noted: “Mr Carli had no specific item to raise except the question of employees’ participation in multinational enterprise. He said that the Commission’s proposal should be carefully studied and that could take time. He understood that Mr Davignon had agreed to discuss this delicate question with a group of managers of transnational enterprises.”²⁹ Immediately afterwards, UNICE was to send a memo to policymakers on this draft EEC regulation of employee participation, summarised in the single sentence: “Any rigid and harmonised Community-level regulation in this field is to be rejected.”

All that the CEEP requested was for public enterprises to “remain outside the scope”. At this time, the CEEP only played a marginal role, with discussions taking place mainly between the ETUC and UNICE secretariats.

As for the ETUC, it was very happy with the Commissioner’s initiative for a binding instrument aimed at improving the information and consultation of workers in companies with complex structures, and especially transnational ones.

The consequences of this “ideological” battle against information and consultation in multinational companies, also taken up by ultra-liberal governments over the next 20 years, were to leave a long-lasting mark (see Chapter 5).

The proposal remained blocked from 1980 to 1994, despite several union interventions. Its first burial occurred in the European Parliament in 1982 under a deluge of 217 amendments, most of which came from British MEPs and were inspired by the employer lobby³⁰. A vain attempt to get things going again was made by Commissioner Ivor Richard in July 1983, this time with a recast draft without provisions for informing workers about the introduction of new technologies.

Following a further request from the ETUC to resume talks, Dutch Minister of Labour Van Blankenstein, at that time President of the Council of Labour Ministers, informed Ernst Breit, the ETUC Secretary, in a letter dated 22 November 1986, that he wished to postpone talks on the draft directive until 1989. This amounted to a second burial.

Things remained at a standstill until Jacques Delors gave a commitment at the May 1988 ETUC Congress and until the adoption of the Community Charter of Fundamental Social Rights of Workers in December 1989. The latter revived the subject in its Articles 17 & 18, ultimately leading to the adoption of a directive in 1994 (see Chapter 5).

28. *Big Business and the European Agenda*, Sussex European Institute Working Paper No. 35, September 2000.

29. Memo sent by Michel Van den Abeele. A Belgian, he was to advise European Commission presidents, François Xavier Ortoli, Roy Jenkins and then Gaston Thorn. From 1982 until 1992, he was chief of staff of EU Commissioner Karel Van Miert and again from 1995 until 1996 (IISH archives, box 2094).

30. In an article for the 1995 *Transfer* journal written by Jean-Jacques Danis and Reiner Hoffmann, *From the Vredeling Directive to the European works council Directive: some historical remarks*, the authors cite the 1982 Annual Report of German Employers Association BDA (p. 121): “There is no doubt that the fact that the European Parliament took a number of our misgiving into consideration in the proposals for amendment it adopted on 12 October 1982 was in part the result of the definite attitude and intensive efforts of entrepreneurial industry.”

1.4 Stalemate and a few attempts to get out of it...

The crisis between the social partners which had been brewing since 1977 “had led to a blocking of the Tripartite Meetings and had reduced the Standing Committee on Employment to an inefficient venue for trading criticism between the two parties and governments”³¹.

Jacques Delors came to the same conclusion, writing: “In 1977, any form of annual dialogue between governments, the Commission, the employers and trade unions had broken down. It was like High Mass without faith...”³²

An attempt was made to get the talks going again under the French EEC Presidency in the first half of 1984. Together with the Robert Cottave*, the social advisor to the French representation in Brussels, the French Minister of Labour, Pierre Bérégovoy*, who was well networked in Brussels, organised a “strictly invitations-only” meeting with union and employer leaders on 28 February 1984. The meeting was to take place at Val Duchesse, as were the three ensuing ones³³. The minister’s aim was not only to revive the tripartite consultation but also, as he wrote in his invitation, “to take account of the social partners’ field of competence and their specific role manifested by the importance of contractual relations in our countries. In this respect, the European social dialogue is of decisive importance”.



The meeting held on 3 January 1984 between the French President, François Mitterrand, and ETUC representatives. The French EEC Presidency in the first half on 1984 tried, without success, to relaunch the European social dialogue.

Source: ETUC archives

31. Study document written by Carlo Savoini, p. 27. Archive made available by his daughter, Ilaria Savoini.

32. Jacques Delors, *Mémoires*, Paris, Plon, 2003, p. 192.

33. Val Duchesse is a former priory belonging to the Belgian state in the suburbs of Brussels. The three informal meetings in 1984 and the first two Social Dialogue Summits of January 1985 and November 1985 took place there. This venue became too small following the 1986 enlargement of the EEC, and the ensuing meetings were held in the Palais d’Egmont, a mansion in the centre of Brussels which also belonged to the Belgian state.

The second invitation for 2 May 1984 was also strictly personal and explicitly contained no agenda. Nevertheless, Pierre Bérégovoy was to write: “However, I consider it important to continue our talks on the problems of youth employment, in the twin perspective of industrial restructuring and how new technologies are changing the way we work.”

This meeting was the occasion of a fierce debate between the social partners on working time. An internal memo of Commissioner Ivor Richard’s secretariat summed up the debate in the following words³⁴: “The discussion then developed into an old familiar dispute on the role of the reduction of working time as a contributing factor to reducing unemployment.”

The debate also touched on the subject of formalising these informal meetings and the mandate the organisations might have: “The difficulties of course remain how we can maintain this informal contact between representatives of the SP, without the need for it to become so structured and institutionalised as to lose the advantages that informal contacts can produce...”³⁵

This meeting did however have positive effects on the SCE meeting of 10 May 1984 and on the meeting of the Council of Ministers of Social Affairs on 7 June, both of which looked at the subject of introducing new technologies. In the conclusions of the Council meeting, we can read the following: “Could one not, on this item (i.e. the introduction of new technologies) reach agreement on a joint action of the social partners, for instance defining joint orientations in the field of information and consultation to which the national negotiators could refer, either at a sector or cross-industry level?”

Bérégovoy’s last attempt was to hold a meeting on 27 June 1984, but this was negatively impacted by the last-minute absence of the minister³⁶, who sent his Secretary of State, Georgina Dufoix* as his replacement. Despite her commitment, she was unable to convince the participants to sign a draft summarising text, as “it didn’t really thrill anyone”³⁷. The official communiqué was misleading.

The final attempt took place under the Irish EEC Presidency on 5 December 1984 and ended with Minister Ruairi Quinn* accepting the stalemate. An internal memo³⁸ of DG V (Employment, Training and Social Affairs³⁹) described the climate: “The employer and union personalities invited on 5 December to Val Duchesse went there more out of politeness towards the President of the Council of Social Affairs than out of any conviction to making progress on the social dialogue... Contrary to what had become customary, the Italian Minister of Labour (Gianni de Michelis*, ed.) had been invited to ‘get acclimatised’ (*sic*)⁴⁰ to the discussions to be continued under the Italian Presidency (which began on 1 January 1985, ed.)”. The memo went on to say that “Georges Debunne (the ETUC President, ed.) spoke up first, asking what was the point of continuing

34. Commission memo summarising the meeting dated 7/5/1984 and signed by Denis Grennan. IISH archives, box 2100.

35. Ibid.

36. Claude Didry and Arnaud Mias provide a surprising explanation given by the social advisor of the French Permanent Representation in Brussels: Pierre Bérégovoy would have preferred to have watched a football match...

37. Comments from Georges Debunne in his book, *Les syndicats et l'Europe: passé et devenir*, Brussels, Labor, 1987, p. 168.

38. Undated and unsigned minutes of the meeting, though probably written (given the style) by Carlo Savoini, in charge of social dialogue within the Commission.

39. Currently DG Employment, Social Affairs and Inclusion; it is called DG Employment and Social Affairs in the remainder of the text.

40. Ibid footnote 38.

a dialogue of the deaf”, while Mathias Hinterscheid⁴¹ (the ETUC General Secretary) declared “that trade unions would not be continuing such discussions in the future without a clear will on the part of both parties to come closer”.⁴²

The meeting ended without a result... The social partners had already moved on, with all eyes set on the arrival of Jacques Delors as President of the European Commission.

1.5 1984: searching for ways out of the deadlock

The early 1980s were difficult years for the EEC. In 1984, the European Economic Community was stalemated. At the end of its term, the Thorn* Commission was blocked by institutional developments. The framework of the Treaty of Rome had run out of breath, and was becoming increasingly difficult to manage. Margaret Thatcher, the British Prime Minister, vetoed any move towards European or budgetary federalisation, as well as systematically vetoing any initiative in the social field. We were now in the Thatcher/Reagan era, an era characterised by the triumph of ultra-liberalism.

However, on 14 February 1984 during the French EEC Presidency, the European Parliament adopted the draft Treaty establishing the European Union (the “Spinelli* Project”). This provided an innovative and strong basis for reviving the EEC, but without solving the stalemate, as there was no one in the driving seat to get the project moving.

The debate on revamping the European Commission and appointing a new President got under way. Various candidates vied for places, but François Mitterrand and Helmut Kohl were clearly in pole position. The French President had a preference for Claude Cheysson*, his Minister of Foreign Affairs, but this met with British opposition. Another possible candidate put forward by the French President was Jacques Delors, his Minister of Finance, who had pushed through austerity policies but no longer played a role in the new government’s projects planned by François Mitterrand. Sam White, a journalist working for the *Evening Standard* was quick to write “Mr. Delors was sent to Brussels because he was a considerable nuisance in Paris”⁴³. At European level, it seemed that consensus could be reached over Jacques Delors. He had been an MEP from 1979 to 1981, President of the Economic and Financial Commission, and maintained good relations with the Germans.

As for the British government, it did not consider him a threat (they would later regret this error of judgement). Quite the contrary, he had played a positive role as Minister of Finance in resolving the problem of the British “cheque” (Margaret Thatcher’s famous “I want my money back!”) at the Fontainebleau Summit on 25-26 June 1984, setting the amount of compensation granted to the United Kingdom to reduce its EEC budget contribution.

At the 10 July 1984 European Summit under the Irish Presidency, the decision was taken to make Jacques Delors President of the European Commission. Aware of the difficulties facing him, Jacques Delors decided to make a tour of European capitals to

41. At the time of my arrival, the Secretariat was made up of: Mathias Hinterscheid, Secretary General (CGT Luxembourg); Bjorn Peterson, deputy Secretary General (LO Sweden) Peter Coldrick (TUC UK); Fritz Rath (DGB Germany); and Ettore Masucci (CGIL Italy).

42. Ibid footnote 38.

43. Quote from Russell Lewis’ paper *Master Eurocrat: the making of Jacques Delors*, London, Bruges Group, 1991, p. 14. The author’s archives.

check with national leaders the conditions and success factors for relaunching the EEC, as he was to state in his policy speech to the European Parliament on 14 January 1985: “The architects of the European construction have fewer problems with the ‘what to do’ than with the ‘how to do it.’”⁴⁴

For Pascal Lamy*, who was to become head of Jacques Delors’ cabinet office in Brussels, “after the tour of the 10+2 (the +2 were Spain and Portugal, two future members, ed.) capitals, Jacques Delors realised that the key to consensus was to implement the Single Market, thereby relaunching the EEC machine⁴⁵”.

Jean-Michel Baer*, who was to become his social affairs advisor and helped prepare for Jacques Delors’s arrival in Brussels, added that “to achieve this goal, we need to get employers and unions to back the project”⁴⁶.

The goal was to implement the Single Market and the four fundamental freedoms of movement: of goods, capital, services and people (and especially workers). A deadline was set for its implementation: 1992. With this goal in mind, Jacques Delors set himself a roadmap... for two terms of office.

Any other approach via institutional or monetary reforms would have been doomed, Jacques Delors knew after his tour of European capitals⁴⁷. Above all, a pragmatic approach was needed, focused on the economy as the source of growth and employment.

1984 turned out to be a very difficult or even tragic year for the social side. The British miners’ strike, unleashed on 6 March 1984, was to lead, after one year of bitter struggles and sacrifices, to a terrible defeat due to the bad leadership of Arthur Scargill, the Secretary General of the National Union of Miners (NUM)⁴⁸. Much further away, in India, the explosion of the Union Carbide factory in Bhopal on 2 December 1984 caused more than 20,000 deaths... provoking a debate on and raising awareness to the responsibility of multinational companies.

After these years ending in deadlock in all Community fields, whether institutional or related to social dialogue and consultation, were better times on the horizon? In his desire to get things moving, the future Commission President started preparing the ground for European recovery in autumn 1984, just a few months before his arrival in Brussels. This included reviving the European social dialogue. In his tour of European capitals after his nomination by the Council, Jacques Delors had also paid particular attention to meeting up with several union and business leaders.

Giorgio Benvenuto*, Secretary General of the Italian UIL, who was to take part in the first Val Duchesse meeting on 31 January 1985, remembers⁴⁹ how interested Italian unions were to see Jacques Delors become Commission President, as well as the

44. Jacques Delors’s speech to the European Parliament on 14 January 1985 on the basic guidelines underpinning the action planned by the new Commission (EP Debates N°2-321/3 dated 14.01.1985).

45. Conversation with Pascal Lamy and Jean-Michel Baer on 25.11.2014.

46. Ibid footnote 45.

47. Interview on 20 January 2014.

48. Arthur Scargill: leader of the British NUM, believed in his ability to conduct a “political” strike to bring down Margaret Thatcher in 1984, as he had managed to do with Edward Heath and his Conservative government in 1974. Margaret Thatcher’s move to progressively close down UK coal mines provoked a major conflict, unfortunately badly managed by Arthur Scargill. The conflict was both dramatic and noteworthy: dramatic in its consequences, boosting the power of the British Prime Minister, who violently repressed the strikers, and accelerating the closure of the mines, and noteworthy due to the exemplary solidarity shown by the miners and their families in a desperate situation. Following the failure of the strike and the splitting up of the miners’ union, Scargill had himself elected president for life by the NUM and sought to retain all the accompanying financial benefits after his retirement, even suing the NUM. A number of excellent films like *Brassed Off*, *Billy Elliot* and *Pride* retrace the miners’ strike.

49. Giorgio Benvenuto, interview on 8 March 2015 in Rome.

contacts the two of them had had in autumn 1984 with Italian Prime Minister Bettino Craxi, who was to chair the EEC Council in the first half of 1985⁵⁰.

In the course of the second half of 1984, the Italian unions declared their intention to support the recovery plans put forward by Jacques Delors during the Italian Presidency of the EEC. The main liaising figure in the Italian unions was Bruno Trentin⁵¹, at that time Secretary of the CGIL⁵² who knew many French unionists. The “third man” was Pierre Carniti*, Secretary General of the CISL, who had very close links to the CFTD and Edmond Maire. The three of them were to take part in the first Val Duchesse meeting on 31 January 1985.

At that time, as a young secretary of the metalworkers’ union CFTD (FGM-CFTD) I had the chance to get to know Bruno Trentin, Pierre Carniti and Giorgio Benvenuto in the early 1970s when all three were secretaries of the *Federazione lavoratori metalmeccanici* (FLM), the Italian metalworking federation. We took part in a series of discussion rounds between the FLM, FGM and FTM (the CGT’s metalworking federation) between 1971 and 1974. The analysis of the 1974 crisis saw opinions diverging between the FTM on the one hand and the FGM and FLM on the other. While the latter viewed the crisis as structural, the CGT-FTM saw it just as an economic downturn.

FGM-CFTD officials attending these meetings included:

- its Secretary General Jacques Chérèque*, who was to become deputy Secretary General of the CFTD in charge of its international and European policy in 1979;
- Roger Briesch, the Federation’s national secretary and, as of 1976, head of the CFTD’s International/European Department⁵³;
- Albert Mercier*, deputy Secretary General of the FGM, future member of the CFTD Executive Committee and in charge of its international/European policy⁵⁴.

A good line-up of convinced Europeans, without mentioning the longstanding friendly relations of Jacques Chérèque and Albert Mercier with Jacques Delors⁵⁵.

In Paris in July 1984, Jacques Delors also met with the Director General of the Commission’s DG Employment and Social Affairs, Jean Degimbe⁵⁶, a man upon whom he could count. He requested him to prepare an initiative for a social dialogue summit, to be announced on taking up office in January. This summit would allow an immediate link to be made between the launch of the Single Market and its social dimension.

50. Bettino Craxi was to provide major support to the Commission President, especially at the Milan Summit in June 1985, for the first time imposing a vote on convening an intergovernmental conference, which would lead to a fundamental revision of the Treaty: the Single European Act.

51. See the index of names. As noted by Iginio Ariemma in his book *La sinistra di Bruno Trentin: elementi per una biografia*, Roma, Ediesse, 2014, p. 123, Bruno’s commitment to Europe was already evident in the late 1960s – he had “*l’europeismo nel sangue*” (Europeanism in his blood) –, and, in the 1970s, mainly after the CGIL became a member of the ETUC (a move he had defended), he had started his dialogue with the French Christian personalism school and in particular with Jacques Delors. *Dialogo che diverrà più intenso allorché Delors presiederà la Commissione Esecutiva della Comunità Europea* (a dialogue which intensified after Delors became head of the European Commission).

52. He was to become Secretary General in 1988.

53. Jacques Chérèque and Roger Briesch were also two Lorraine steelworkers actively involved in ECSC activities.

54. Albert Mercier attended the first Val Duchesse meeting on 31 January 1985.

55. Marie Delors remembers the many happy dinners spent discussing affairs in the small kitchen of their apartment.

56. It is quite probable that Jean Degimbe and Jacques Delors crossed paths when the former was in the European Movement secretariat and the latter the head of the CFTC’s *Bureau de recherche et d’action économique* (BRAEC) in the late 1950s.

In the second half of 1984, an ETUC official was set to play an important role liaising with Jacques Delors in preparation of the latter taking up office and gaining the support of the ETUC: François Staedelin.

Informal contacts with the ETUC also took place in that second half of 1984. In a memo dated 12 November 1984⁵⁷ and addressed to the Presidents and/or Secretaries General of EEC national union confederations, Mathias Hinterscheid announced that, following a first informal meeting (undated, ed.), a series of meetings with Jacques Delors were planned.

A meeting with the ETUC secretariat took place on 17 December⁵⁸ to present Delors with the memorandum adopted by the Executive Committee on 6-7 December. This informal meeting again took place at the Perraudin Restaurant⁵⁹. Jacques Delors was accompanied by Pascal Lamy, his future chief of staff, and Jérôme Vignon, one of his advisors and later to become head of Jacques Delors' forecasting unit. During this meeting, Jacques Delors announced his intention, on taking up office, to bring together national employer organisation and union leaders.

A further meeting took place on 9 January 1985 shortly before Jacques Delors presented his programme to the European Parliament.

During its 6-7 December 1984 meeting, the ETUC Executive Committee adopted a Declaration entitled *New Commission, new start?*, a title expressing hope. It listed economic and social priorities, with a particular focus of production investments and employment. This Declaration was accompanied by a request for an "official" meeting with the new President.

On 12 December, UNICE similarly adopted a declaration addressed to the new Commission and focused on implementing the Single Market. It called for a "realistic social policy", i.e. a flexible labour market and a rejection of social harmonisation.

57. IISH archives, box 2102.

58. The delegation from the Secretariat was made up of Mathias Hinterscheid, Bjorn Peterson, François Staedelin, Peter Coldrick, Fritz Rath and Antonio Miniutti. The President, Georges Debunne, rounded off the delegation.

59. The IISH archives even contain the lunch menu...

Chapter 2

The dynamics of imbalance

**"To put everything in balance is good,
to put everything in harmony is better."**

Ninety three

— Victor Hugo

In this chapter, we will see that European recovery is based on an imbalance between economic integration and social integration, with the completion of the Single Market not taking direct account of social matters. But the Commission President wants to compensate for this through promoting greater consultation between the social partners and creating a framework allowing them to gain a capacity for dialogue and negotiating. We are thus witnessing the beginnings of a strategy of convergent parallelism between the Commission President and the European trade union movement. From the kick-off Social Dialogue Summit in January 1985 to the drafting of the first joint opinions, the social partners go through a learning process, learning how to negotiate at European level. With social policy remaining blocked by British vetoes, the importance of modifying the Treaty to create a new social dynamic becomes obvious.

2.1 Despite leaving its lethargy behind it, Europe seems stuck in a deadlock in all social matters

How could citizens and social players be mobilised to make the relaunch of the EEC a success? “You don’t fall in love with a market”, Jacques Delors was wont to say. The unions, via the ETUC, had great reservations about an approach to EEC recovery considered to be too market-oriented and liberal, while the employers were by no means thrilled by a socio-economic approach, even if employers as a whole (including UK employers) were in favour of the proposed Single Market, as Jacques Delors had found out on his tour of European capitals before taking up office¹.

Previous attempts at dialogue between Europe’s employers and trade unions had resulted in failure or deadlock both in the Tripartite Meetings and the Standing Committee on Employment. While the trade unions displayed a certain reluctance with regard to the Single Market as presented, the President’s arguments aroused greater interest, not to say hope².

In his 14 January 1985 inaugural speech to the European Parliament upon taking up office, the Commission President referred directly to his social strategy³: “In connection with the broad spheres covered by employment and labour market policies, I would like to say that we will succeed only on two conditions: that the reforms be negotiated by the social partners, in other words that bargaining policy continue to be one of the mainstays of our entire economic system, and that a minimal level of harmonisation be sought in the European arena.”⁴

And then came the heartfelt call from a man still loyal to his trade union commitment: “When shall we see the first European collective agreement? I want to insist on this point: the European collective agreement is not an empty slogan. It would provide a dynamic framework, one that respects differing views – a spur to initiative, not a source of paralysing uniformity.”⁵

Furthermore, this address came shortly before the first “Val Duchesse” social dialogue⁶ meeting on 31 January 1985, to which the new Commission President summoned national trade union and employer leaders from the ETUC, UNICE and CEEP. It should be said at this stage that the CEEP, as we have already seen, had up to now only played a very secondary role in European-level social relations, related solely to the defence of state-run enterprises. But with the arrival of Jacques Fournier* as its President in 1988, all this was to change (see Chapter 6.1).

At that time, the EEC was made up of 10 countries (the last one, Greece, had acceded to the EEC in 1981), i.e. this meeting preceded the third enlargement through which Spain and Portugal became members of the EEC on 1986 (though talks had already begun).

1. Jacques Delors, *Mémoires*, Paris, Plon, 2003, p. 316.

2. See Georges Debunne’s book on European trade unions: *Les syndicats et l’Europe: passé et devenir*, Brussels, Labor, 1987.

3. According to Jean-Michel Baer, his social advisor, this speech was prepared well before Delors took up office in the Commission. A first draft of the speech was written on 15 December 1984. It was finalised on the very day of the speech in the EP. Interview of 25/11/2014.

4. Speech by Jacques Delors to the European Parliament on 14 January 1985 on the basic guidelines underpinning the action that the new Commission planned to take (EP Debates N°2-321/3 dated 14.01.1985).

5. Ibid.

6. Reference has already been made to the Val Duchesse meetings in 1984, but these did not have the same character. Invitations were “personal”, even if J. Delors was inviting the organisations.

A Commission document dated 19 December 1984⁷ referred to UNICE/ETUC contacts with the Commission, within a working group “which had attempted to find possible points of convergence between the positions upheld by the two representative organisations of the social partners”. One could already see possible points of convergence on the economic problems and the conditions required to relaunch the EEC, though divergences were evident in the field of wages and reducing working time. Two items were however stressed as being more positive: when the ETUC unveiled its vision for part-time work, “UNICE was not hostile to such an approach” and “the necessity to adopt new technologies is fully recognised by the ETUC and UNICE”.

As we will see, these contacts served as a testing ground for the topics to be discussed at the Social Dialogue Summit on 31 January 1985, especially as the document concluded with the following remark: “UNICE and ETUC acknowledge that it is of vital importance to create a climate of consensus (underlined in the document, ed.) in order for Europe to be able to overcome its current difficulties.”⁸

The social partners in January 1985

European Trade Union Confederation: founded in 1973, it was made up of 35 (now 88) national confederations from 21 (now 37) countries and 12 Occupational Union Committees (now 10 European industry federations).

UNICE (to become **BusinessEurope*** in 2007): founded in 1958, it was made up of 39 national employers' organisations from 33 countries.

CEEP: founded in 1966, it was made up of 20 national sections and 2 direct European member organisations (the European Broadcasting Union (EBU) and the European Hospital and Healthcare Employers Association (HOSPEEM)).

The composition of these 3 organisations would evolve mainly in line with the enlargement of the EEC and the EU and developments among their members. For example, the CEEP was to lose many members due to privatisations, but to gain new enterprises run semi-privately by regional authorities.

*It was UNICE President Ernest Antoine Seillière, former President of the French MEDEF, who wanted to rename UNICE in 2007, on the occasion of the employer organisation's 50th anniversary. In his view, the new name, BusinessEurope, would better reflect the organisation's nature. Moreover, the former UNICE Secretary General, Zygmunt Tyszkiewicz, considered that UNICE sounded too much like UNICEF – though there was little risk of confusing UNICE with a philanthropic organization...

2.2 Val Duchesse I: the launching ramp

On 31 January 1985, 18 union leaders from the 10 Member States, including the ETUC President (Georges Debunne from the Belgian FGTB) and his Secretary General Mathias Hinterscheid⁹, and 15 employer leaders (including UNICE President Lord Pennock* and his Secretary General Bernard Sassen) met with Commission President Delors. In

7. This unsigned document had been drafted for the last attempt to bring the social partners together in a meeting with Irish minister Ruairi Quinn in December 1984, as a result of the Bérégovoy initiative. IISH archives

8. Ibid.

9. The other union participants were the two Belgians Robert D'Hondt from the CSC and André Vanden Brouck from the FGTB, two Frenchmen, André Bergeron for the FO and Albert Mercier for the CFDT, three Italians, Bruno Trentin (CGIL), Pierre Carniti (CISL) and Giorgio Benvenuto (UIL), Ernst Breit (DGB), David Lea (TUC), two Dutchmen, Wim Kok (FNV) and A. Hordijk (CNV), two unionists from Luxembourg, John Castegnaro (CGTL) and François Schweiter (LCGR), the Greek Georges Dassis (CGT), and two Danes, M. Larsen from the FTF and John Svenningsen from LO DK.

addition to UNICE, two CEEP members (President Marcel Boiteux¹⁰ and Secretary General Werner Ellerkmann*) were there to represent state-run enterprises.

Jacques Delors, even though attaching great importance to personal contacts with union and employer leaders, wanted to invite the European organisations, giving them a certain legitimacy and role in the construction of this social space, a process he considered impossible solely through legislative measures. In his view, it was up to the social partners themselves to become involved in the strategy for relaunching the EEC.

Also present were four Commissioners: Lord Cockfield*, Karl-Heinz Narjes*, Peter Sutherland* and Alois Pfeiffer* as well as Emile Noel*, Secretary General of the Commission.

Documents outlining the topics to be discussed had been prepared by the Commissioners. The first one, drafted by Cockfield and Narjes, related to the Single Market and industrial development, while the second one, drafted by Pfeiffer and Sutherland, related to growth and employment.

It should be remembered that separate preparatory meetings had taken place beforehand (on 8-9 January) with the ETUC and UNICE.

Drafted by the Commission Secretary General, the reports of the debates¹¹ show that the participants were very interested, but had many questions and even concerns.

During the first part of the discussions, unionists like David Lea* from the TUC remarked that it would be “difficult to gain public support for opening up public procurement to market rules... and for a policy aimed at eliminating obstacles but not specifying the costs”. For Greek unionist Georges Dassis*, “the Single Market would not solve all problems”, while Ernst Breit from the DGB made the following remark: “The advantages of opening up public procurement are purely hypothetical and require EEC regulation, the drafting of which must involve the workers.”

Pierre Carniti from the Italian CISL similarly pleaded for instruments allowing workers to participate in the process: “Any progress towards greater market integration must be backed by identical progress in the field of negotiations on the social front.”

The points raised by Bruno Trentin from the CGIL and CEEP President Marcel Boiteux were the ones most argued. For Bruno Trentin: “Opening up public procurement was necessary, (but) it needed to take place simultaneously in all Member States and to be backed by a European policy for rationalising infrastructures, consisting of an overall plan financed by EEC funds, giving precedence to concentrating enterprises, and allowing workers’ interests to be safeguarded via European-level bargaining and collective agreements.” André Bergeron from the French CGT-FO similarly pleaded for European collective agreements.

Marcel Boiteux, EDF and CEEP President, whose organisation was considered as lacking any great weight in the employer delegation, spoke out strongly, gaining the attention of Jacques Delors. In the view of the CEEP President, the focus needed to be put on reviving European industry: “We are experiencing the third Industrial Revolution and need a large market. We need to work on harmonising legislation and taxes... and we need to consider the role of state-run enterprises, also with regard to transnational activities.”

Last but not least, FNV President Wim Kok argued in favour of an integrated approach, as no process could function “without workers participating in it at all levels and right from the start”.

10. President of the French state-run utility EDF.

11. Emile Noel’s minutes, IISH archives, box 2001.

As we shall see, Jacques Delors' proposed large market was not immediately applauded by the unions, as witnessed by their fitting conclusion regarding this first session: "(...) despite the divergences, all participants agreed on the need to reduce unemployment and the connection between structural measures and measures boosting the economy."¹²

The second session of the Summit got off to a flying start, with Commissioner Alois Pfeiffer saying: "(...) realistically, no growth policy can claim to fully reduce unemployment. We therefore need to think about reducing working time, about new and cost-neutral ways of organising work". On this subject, one might have expected an outcry from the employers, but this did not happen. Speakers like the President of the Belgian employer federation, the FEB, stated that "(...) the two problems are creating jobs and sharing work", while the President of the Dutch employer federation, the VNO, was to add: "(...) we need to seek growth, but if growth is not high enough, we'll have to think about sharing work." As for the President of the German employer federation, the BDA, he was "convinced that social dialogue was a *sine qua non* for making progress in fighting unemployment"¹³.

In this second session, I found the comment from unionist Bruno Trentin the one most to the point: "The Commission must play a triggering role... (however)... the social partners must not wait for directives, but must get into the driving seat... any delay in innovation will lead to major increases in the cost of labour and thus to greater unemployment."



Bruno Trentin, CGIL Secretary General, and Jacques Delors, European Commission President: two men dedicated to the European social dialogue.

Source: ETUC archives

This comment spurred Jacques Delors to conclude: "(...) we need to define a framework within which, despite workers' fear, it will be possible to come up with a labour market policy based more on contractual arrangements than on national laws or European

12. Ibid.

13. Ibid.

directives.” For the first time, the social partners were called on, said Jacques Delors, “to put all effort into a new phase of constructing Europe, and to engage in a Community-level dialogue on subjects of interest at Community level”.¹⁴

According to a Commission document, this first meeting “marked the end of a long crisis between the social partners which had led to a blocking of the Tripartite Meetings and had turned the Standing Committee of Employment into a lame duck”¹⁵. The way the discussions had gone, despite major differences on the nature of the social dialogue and the quality of its results, “pointed to a perceptible change in the psychological climate and new possibilities for a dialogue less guided by tactics and more to the point”¹⁶.

In the words of the Commission’s Secretary General¹⁷, “everybody understands that higher growth would make structural adjustments easier. Supply-driven policies and demand-driven policies need to go hand-in-hand, instead of being mutually exclusive. And the way to marry them is to be found in contractual arrangements, i.e. via the social dialogue”.

Two topics dominated the discussion: the functioning of the labour market, including the organisation and duration of working time, and the introduction of new technologies and their social impact. The conclusions drawn by the President laid the ground for the social partners to begin discussions without setting a timetable, but offering to make available the technical facilities and the necessary background documents. Moreover, in his report to member organisations, the ETUC Secretary General concluded that “everyone should first carefully go through the results of this meeting, and then look for the best ways of continuing the dialogue. Everybody considered that, at some time in the future, we could repeat this type of meeting. But no deadline was set, as everybody was busy looking for his own path forward”.

The sequel to this first social dialogue summit was thus to take place between UNICE and ETUC, mainly at the level of their respective secretariats. As already noted, the CEEP continued to play only a marginal role until the arrival of its new President in 1988, SNCF CEO Jacques Fournier (see Chapter 4.1).

The contacts and correspondence between the secretariats over the follow-up to the 31 January summit reveal the difficulties associated with transforming the “good intentions” of the social partners into concrete projects.

Discussions between the two secretariats continued to be difficult, as can be seen in the letter sent by Mathias Hinterscheid to Jacques Delors on 2 July 1985 (attached to which was a copy of the letter to be sent to UNICE President Lord Pennock on 4 July). It complained about the “difficulty of getting the social dialogue with UNICE up and running” and requested the Commission to launch new initiatives¹⁸. In particular, with reference to the results of the June EEC Summit in Milan, Mathias Hinterscheid requested the President to send out a new invitation to the social partners for a further summit.

The positive development of the contacts between the UNICE and ETUC secretariats from September onwards, and in particular on 11 October 1985, allowed plans

14. Quoted by Jean Degimbe, former Commission Director General in his book *La politique sociale européenne: du Traité de Rome au Traité d'Amsterdam*, Bruxelles, ETUI, 1999, p. 207.

15. Internal Commission summary drawn up by Patrick Venturini, the President’s social affairs advisor, and Carlo Savoini, responsible for social dialogue at the DG Employment and Social Affairs (December 1988), Patrick Venturini’s archive.

16. Ibid footnote 11.

17. Ibid footnote 11.

18. These two letters are to be found in the IISH archives, box 2103.

for a new summit to be envisaged, with Jacques Delors setting 12 November as its date. This development was mainly due to a tactical softening on the employers' position, not wanting to be seen as responsible for blocking the social dialogue.

In the context of preparing this summit, a memo from DG Employment and Social Affairs dated 5 November and addressed to Commissioner Sutherland reveals that a draft joint declaration was already under discussion on the subject of "New technologies and social dialogue"¹⁹.

In its memo of 9 April 1985, the Commission²⁰ had already written the following: "On this point, could we not agree on a joint action of the social partners leading to the definition of joint guidelines in the field of information and consultation, to which national negotiators could refer, either at sector or cross-industry level?"

Within the ETUC, points of view on a contractual perspective at European level were not as convergent as one might have believed. Claude Didry and Arnaud Mias quote a memo of 11 April 1985 from the British Secretary heading the economic portfolio, Peter Coldrick²¹. In it, he refers to the British industrial relations culture under which his confederation, the TUC, had no power to bargain. For Peter Coldrick, the ETUC had "no bargaining mandate", and any bargaining had to take place at national level between unions and employers. This notion was very different to that of the French ETUC Secretary, François Staedelin, who claimed a European competence at confederation level to negotiate European matters.

The start of this social dialogue was no Alice in Wonderland journey. For some, "a certain convergence has been established between business leaders and European unions, though obviously not without fragility and ambiguities. The fact that the socio-economic players have adopted this course, with all the risks involved – for trade unions in particular – is motivated by concern for the long term"²². This was a fair analysis of our commitment as unions: aware of the risks, but determined to see this Europe succeed, a Europe based on peace, democracy and economic and social development.

2.3 Val Duchesse II: social dialogue at work

In his invitation to the new Summit on 12 November 1985, the Commission President was to write: "Contacts have occurred between your organisations since 31 January, while the Commission has developed its thoughts and proposals aimed at boosting growth, employment and the EEC's technological capacity. After ten months of work on both sides, I would like us to take stock of our reflections as openly as possible, while also involving representatives from the trade unions and employer organisations in the new member countries, Spain and Portugal." The Spanish UGT (Nicola Redondo, Secretary General) and the Portuguese UGTP (Joao Proença, Deputy Secretary General) were to be invited by the ETUC at the request of the President, as the latter could not yet invite them himself²³.

19. Memo for the attention of Peter Sutherland "Draft declaration of the social partners for Val Duchesse" of 5 November 1985. Sent by DG Employment and Social Affairs, it was signed by Jean Degimbe.

20. IISH archives, box 2098.

21. Claude Didry and Arnaud Mias, *Le moment Delors: les syndicats au cœur de l'Europe sociale*, Brussels, P.I.E.-P. Lang, 2005, p. 117.

22. Jacques Delors and Clithène, *La France par l'Europe*, Paris, Grasset, 1988, p. 55.

23. Memo from François Staedelin to Mathias Hinterscheid dated 22 October; IISH archives, box 2103.

20 people took part from the ETUC, including its President, Ernst Breit, its Secretary General Mathias Hinterschheid, deputy Secretary General Bjorn Peterson and François Staedelin. The employers were represented by 18 people from UNICE, including its President Lord Pennock, Secretary General Zygmunt Tyszkiewicz* and Ms Verschuere, the person in charge of economic affairs in the UNICE Secretariat and the counterpart of the ETUC's Peter Coldrick, as well as two men from the CEEP, its President Lord Shepherd and its Secretary General Werner Ellerkmann.

Jacques Delors was to chair this Summit, supported by two Commissioners, Alois Pfeiffer and Peter Sutherland, each of whom had drafted an introduction, the one on a *Cooperative strategy for creating jobs* and the other on the *Introduction of new technologies – a subject for social dialogue*.

Val Duchesse II was to end with a *Joint UNICE-ETUC-CEEP declaration of intent on social dialogue and new technologies*. The social partners agreed to “set up, together with the European Commission, a working group tasked with tracking the development of the economy and employment and looking in greater depth at the issues raised in the Commission report” (this referred to the annual report prepared by the Commission each autumn, ed.).

In contrast to the Val Duchesse I meeting, the results of which remained “confidential”, a joint press release was issued this time.

The two working groups established, “Macroeconomics” and “New technologies and social dialogue”, enjoyed different fates.

The first, brought together to discuss a Commission document, quickly led to the establishment of joint positions (prompted by the official in charge of monitoring this group, Ludwig Schubert* and soon to become its main editor). This first group was tracked very closely and actively by Commissioner Alois Pfeiffer and his cabinet and would soon start meeting regularly.

The second group dealing with practices in companies, and in particular with information/consultation procedures prior to the introduction of new technologies, was to experience far greater difficulties, sometimes on the verge of total breakdown. Yet the mandate set forth in the declaration of intent was ambitious: “The participants agree to entrust to a Working Group made up of leaders and representatives of their respective organisations and the Commission the duty to examine the possibility of achieving, throughout the Community, joint guidelines on social dialogue in association with the introduction of new technologies.” Though sometimes chaired by Commissioner Marin²⁴, the group was mainly chaired by the Director General of the DG Employment and Social Affairs, Jean Degimbe, an expert in the subject.

The composition of the working groups and the monitoring of their work and results was to cause a number of problems, as revealed in an unsigned internal Commission memo²⁵ dated 27 November 1985, but which is thought to stem from Jean Degimbe. In it, he recommended the definition of a “form of working allowing both Presidents (the Commission maintained contacts almost solely with UNICE and ETUC, ed.)

24. Spanish socialist Manuel Marin negotiated Spain's accession to the EEC. He was pure politics, with very little to do with social affairs. In a speech to the Dublin Foundation on 9 September 1988, he would insist that: “There is no risk of social dumping... Give me an example of any questioning of fundamental rights in our democratic countries. Thatcher might have managed to demolish unions, but not social rights...” (author's notes). Social dialogue got on his nerves, made him impatient in meetings, and especially when a session was halted to allow the delegations to discuss the points of conflict among themselves. Contacts with the Commissioner were mainly via his French advisor Paul Ramadier.

25. Results of Val Duchesse, a memo dated and 27 November 1985 and certainly meant for President Delors' cabinet. IISH archives, box 2103.

to report on the work of these groups to their respective executive bodies before any new Val Duchesse meeting – convened to negotiate the tasks – is scheduled”.

2.3.1 The Macro group, consensus over the Commission's draft proposals

After a first round of discussions on 24 March, the next meeting chaired by Alois Pfeiffer on 26 June 1985 put forward two topics for discussion:

- the macroeconomic aspects and the social dimension of international competitiveness;
- the EEC's economic situation and prospects.

The two topics were dealt with in documents prepared beforehand by the Commission.

With regard to the first topic, the ETUC Executive Committee had just adopted a declaration²⁶: *The global competitiveness of European industry*. Peter Coldrick, the secretariat member leading this group, and the ETUC delegation (Mathias Hinterscheid and ETUC President Ernst Breit were also members of the Macro working group) based the ETUC's initial argumentation on this declaration, and in particular on the policy of public and private investment. This Keynesian policy was naturally opposed by the employer delegation, though a number of its members²⁷ were to try and find items of possible agreement: a higher level of investment; fiscal measures; the positive impact of a Single Market; the promotion of research and development... With the exception of one “item of conflict, i.e. the reduction of working time as a way of reducing unemployment” (Collas CNPF²⁸), UNICE Secretary General Tyszkiewicz remained reserved about the objective of these discussions as “he did not see how it will be possible to achieve an agreement quickly within the next few months”²⁹.

The second part of the discussion was about investment policy and the objectives of the Commission's annual report. Speaking for the employers, Fritz Heinz Himmelsreich* (Secretary General of the German employer organisation, BDA) considered that “the main objective was to avoid questioning the agreement over the EEC's strategy”. However, speaking for the unions, David Lea (TUC) stated: “The unemployment and growth rates indicated in the EEC strategy are not achievable... it would be dishonest to set targets which cannot be achieved, like reducing the unemployment rate from 11% to 7% within 10 years.”³⁰

According to Peter Coldrick, Alois Pfeiffer, in his conclusions, wanted to prevent this group becoming “a mere debating club”³¹, instead wishing that “UNICE and ETUC should have a direct input into the next Annual Economic Report for 1986-1987 and perhaps even submit a common opinion”³². He pleaded for a European agreement... “we need to draw up a list of points of agreement and suggest a procedure. We should not be tempted by promises impossible to keep, but should draft documents with a view to achieving concrete results by autumn.”³³

26. “Improving competitiveness and industrial structures in the EEC” (Com. 86/40). ETUC Declaration adopted by the Executive Committee in Geneva on 19/20 June 1986, ETUI archives.

27. Draft “confidential” minutes drawn up by the Commission and dated 3 July 1986 (signed GZ7gs, i.e. very probably Gaetano Zingone, an official of DG Employment and Social Affairs), IISH archives, box 2124.

28. Ibid.

29. Ibid.

30. Ibid.

31. Minutes drafted by Peter Coldrick for the ETUC secretariat and dated 30 June 1986, IISH archives, box 2124.

32. Ibid.

33. Ibid footnote 27.

Unions and employers had different reasons for their joint interest in Europe's economic and social recovery. Objective 92 was thus a target they could share and on which compromises were possible. The Commission's Cooperative Strategy for Growth and Employment was based on a policy mix satisfying both the ETUC and UNICE. Relations between the DGs for Economic Affairs and for Social Affairs and the Delors Cabinet were also fully in sync."

Interview with Ludwig Schubert on 3 December 2015

This was to be the case, with a first joint opinion adopted on 6 November 1986³⁴. This confirmed the agreement reached between UNICE, CEEP and the ETUC "on the fundamental options of the EEC's 'Cooperative Strategy for Growth and Employment' and their support for the general direction of economic policy proposed by the Commission in its 1986/1987 Annual Economic Report". The last paragraph opened the door to future talks: "UNICE, CEEP and the ETUC are convinced that dialogue is an important element in the effective implementation of the EEC's strategy for more growth and employment. They are ready to engage in further dialogue on the unresolved questions (for example: reduction of State expenditure; tax and social security burdens; financial, commercial and labour market flexibility; the revision of certain regulations, relaxation of wage formation, the organisation and duration of working time, etc.)." This first "agreement" owed a lot to the engagement of Commissioner Pfeiffer and the ability of his team to come up with a compromise.

The way in which this joint opinion was adopted by the Working Group was to pose several questions. In a letter to the ETUC Secretary General dated 8 January 1987, FGTB President André Vanden Broucke wrote that "it is impossible for him to consent to the joint opinion", as he was very much against a very sensitive item in the text stating that "moderate growth in real per capita salary costs should be kept below the productivity increases for a certain time in countries where it is already practised and should be applied in the other countries"³⁵. In his reply dated 14 January, Mathias Hinterscheid "took note" of the remark, "especially because it was shared by several other confederations". However, he also referred to the method used in adopting the joint opinion: "If your finding is intended to question the right of a 'sub-commission' to give its consent, without referring the case at hand to a plenary session and/or the Executive Committee, this is certainly something needing to be discussed, as it relates directly to the mandates of the colleagues sitting on these Commissions."³⁶

About to enter a new era, the ETUC was painfully aware of the need to adapt its working and decision-making methods to this new responsibility of supranational negotiations. This problem was to lead *inter alia* to the Report addressed to the 1991 Luxembourg Congress *For a more efficient ETUC*. At the Executive Committee meeting of 11/12 June 1987, it was duly noted that "the Executive Committee shall have the last word on any documents to be jointly accepted by the employers and the ETUC"³⁷.

It turned out that the discussion of macroeconomic issues was a lot easier, mainly due to the mediation of Ludwig Schubert and his ability to draft appropriate texts. He had the task of monitoring the Macro social dialogue, initially in his capacity as a

34. A full list of the Joint Opinions and Agreements of sectoral and cross-sectoral social dialogue can be found in the Annex. See also the database maintained by DG Employment and Social Affairs.

35. IISH archives, box 2126.

36. Ibid.

37. Agenda item 11: current activities a) Val Duchesse: assessment document/proposal for a procedure.

member of Alois Pfeiffer's cabinet, and subsequently as a member of DG II Economic Affairs³⁸. One can assume that unions and employers had a joint interest in macroeconomic strategy... as long as income policy was not on the agenda³⁹.

2.3.2 The Micro working group: fraught with tensions and difficulties

Commission Vice-President Manuel Marin invited the ETUC, UNICE and CEEP to take part in a first meeting on 25 March 1986, presenting them with a preparatory text stating straight away that "the goal of the exercise is to arrive at joint conclusions, not at agreements"⁴⁰. Though very general, this change of perspective seemed to constitute a good basis for a coming meeting. This was preceded by several meetings between the UNICE and ETUC secretariats aimed at identifying possible issues for discussions. Finally, Manuel Marin, "in consultation with the European Secretariats of UNICE and ETUC" (it should be noted that the CEEP was omitted, *ed.*), convened a second meeting on 3 June.

In the course of this new meeting, a Commission working document was presented. It contained five chapters: Training and motivation; working conditions and work organisation in companies; information and consultation rights in companies; adaptability of the labour market; social aspects of completing the Single Market. As General de Gaulle would have said, indeed a wide-ranging programme!

In an internal preparatory document sent to Mathias Hinterscheid, François Staedelin pleaded for the meeting not to cover everything and nothing and to be focused on just three items: information and consultation on the introduction of new technologies; the Single Market and its social dimension; and training and motivation as part of a forward-looking approach at sector and company level⁴¹.

With regard to the first subject listed by Staedelin, Carlo Savoini, a connoisseur in this field, wrote an internal preparatory memo to the DG Employment and Social Affairs, stating: "It would however be a good idea to prevent the two partners getting embroiled on 3 June in a quarrel over the legal or any other nature of the guidelines: the discussions on whether each party has a mandate to negotiate and enter into commitments entails the risk of becoming semantic and unending. Conversely, it is important to try and find a common denominator over the content and terms of any information and consultation procedure, and to postpone until a later meeting (when a draft text could possibly be submitted) any debate on the formal scope of joint guidelines."⁴² He was not to know how right he would be!

All efforts were finally to be focused on "new technologies", with a section on workers' training and motivation and another on information and consultation, whereby it had already become clear that this was going to be a conflict-laden topic.

38. Currently DG Economic and Financial Affairs; hereinafter referred to as DG Economic Affairs.

39. The ETUC would subsequently criticise the European Central Bank for not having the same objectives as the US Federal Reserve, limiting its action to fighting inflation via budgetary and monetary measures, without taking account of the need for more investment and the twin goals of full employment and growth.

40. Draft minutes of the meeting drawn up by the DG Employment and Social Affairs (signed GZ, i.e. Gaetano Zingone, an official working for DG Employment and Social Affairs) and conditionally sent to the ETUC Secretary General, IISH archives, box 2011.

41. Telex from François Staedelin to the ETUC Secretary General, undated but in preparation of the 3 June meeting, IISH archives, box 2011.

42. Background memo signed by Carlo Savoini on 29 May 1986. IISH archives, box 2011.

The departure of François Staedelin and my arrival at the ETUC

With François Staedelin wanting to finish his ETUC mandate in 1986, the CFDT decided to put me forward as a candidate for the job. The Belgian Confederation of Christian Unions (CSC) was of the opinion that a CFDT candidate did not represent (or no longer represented) Christian/social sensitivities, as the CFDT had turned its back on the WCL in 1979. It therefore decided to nominate its own candidate, Béatrice Hertogs*. After a hearing in Cologne by the ETUC President, Secretary General and deputy Secretary General, the Confederation's Financial and Management Committee decided to present my candidacy at the Executive Committee meeting on 19/20 June 1986 in Geneva. At that time, ETUC Secretaries were not elected by Congress. I took up office on 1 September 1986.

François Staedelin had very much left his stamp on the ETUC over the past 10 years, characterised by his Franco-German background (he came from the Alsace), but above all by his Alsatian result-oriented cunning. His handing over the sceptre to me was ideal, and I was fully able to continue where he had left off. I inherited all his dossiers, and especially health & safety, social rights and above all relations with the employers, giving me the opportunity to play both an active and observing role in the development of the European social dialogue. This continuity was above all embodied by the transfer of his network and the relationship of trust enjoyed from the outset with Jacques Delors and his team, including Jean Degimbe, Director General of the DG Employment and Social Affairs and his advisor Carlo Savoini, who was to become the first head of the Social Dialogue unit and the first director

of this field. It was clear that this reciprocal trust, not without sometimes difficult and hard discussions, played a decisive role in setting up the European social dialogue. Following the accession of Spain and Portugal**, the EEC now had twelve members. One is tempted to say that a Franco-Italian network and culture close to Jacques Delors constituted the core of this process of constructing the social dialogue. But this would be only partially true, underestimating the input from other cultures and in particular the German DGB and the Nordic unions, of whom Jacques Delors was a great admirer. Moreover, as we will see later on, the European system of industrial relations created by us was not a carbon copy of any national system considered better than others. It was a "first".

On my arrival, I immediately took charge of coordinating the Micro group, in addition to the general coordination of the social dialogue with the employers. UNICE's Director of Social Affairs at that time was Philippe Meyer, a former senior IBM manager, a company I knew well through monitoring the union teams during my term of office at FGM CFDT. With IBM a very anti-union company, I expected a rather difficult relationship with him. But this was not to be the case.

I ended up working with five further UNICE Directors of Social Affairs during my term of office, Bernard Arnold (UNILEVER), Jean Yves Terrier (Rhône Poulenc), Nils Trampe (from the Danish employer organisation DA), Renate Hornung Drauss (from the German BDA) and Thérèse de Liedekerke (UNICE).

* Béatrice became a member of the ETUC Secretariat at the 1991 ETUC Congress.

** For them, the EEC was an incredible accelerator of democracy and development.

The 17 October 1986 meeting was to go through a text on *The training and motivation of workers* painstakingly put together by the UNICE and ETUC Secretariats together with the Commission. But the meeting ended up in confusion due to a flood of amendments on the part of the employer delegation. Chairing the meeting, Commissioner Marin demonstrated his authority and determination, "refusing to let UNICE transform the Working Group into a drafting group"⁴³ and bog down the debate.

43. Memo dated 21 November 1986 from the author to the ETUC Executive Committee meeting of 4/5 December.

This dilatory attitude of the employers masked a constant obsession about “the status of the text emanating from the Val Duchesse meeting. The employers are putting a question-mark over the notion of a joint conclusion or declaration, proposing instead that the text be solely termed a Commission ‘report’”⁴⁴. The second topic of the meeting of the working group on *information and consultation*, which was backed by a Commission document, ended up not even being discussed as it was “challenged by UNICE as being unacceptable and unamendable”⁴⁵. Above all, the employers expressed their fear of being ensnared by an obligation to negotiate, “as nothing must hinder the absolute responsibility of an employer to decide freely”⁴⁶.

A third topic, internal company flexibility, was touched on, but it was agreed to remain focused on new technologies and to address this topic in a future mandate.

Commissioner Marin wound up the meeting by requesting the ETUC and UNICE to draw up a new text proposal, declaring that the Commission needed results for the European Summit in December. He did not hold back with his threat of “directives”, should UNICE refuse to further develop what had been discussed in the Val Duchesse meetings!⁴⁷ The next meeting of the working group was scheduled for 2 December.

The difficulties encountered in these talks led Commissioner Marin to write a memo on 26 November 1986 on the organisation of the group’s work.⁴⁸ In it, the Commissioner underlined the importance of the “quality and representativeness of the members” making up the working groups, and their “personal commitment” to the talks and their possible results. He also suggested better defining the mandates of the two working groups.

Three meetings between the respective secretariats and the Commission were needed (on 14, 19 and 21 November) to finalise two texts to be debated on 2 December. The first, on *Training and motivation*, was basically ready for adoption, while the second, on *Information and consultation*, was to continue to meet great opposition from the employers.

Coming together on 2 December 1986, the working group quickly reached agreement on the *Training and motivation* text drafted by the secretariats, but struggled with the *Information and consultation* text. I made it clear to the employers that agreement was to be reached on all or nothing, ruling out any attempt to uncouple the two texts.

A series of further meetings of the secretariats⁴⁹ were necessary before a new text proposal, dated 6 February 1987, was drafted. We internally consulted our national and sectoral organisations to identify any amendments still needed, but also to check how far we could go in the talks. Three further meetings of the secretariats were still needed before agreement was reached on a joint draft. The 16 February meeting served mainly to put on hold the discussion over adaptability (flexibility), as the Commission was supposed to produce a draft text for a later debate.

The second meeting on 19 February ended with a major question-mark being put over the draft text on information and consultation discussed by the secretariats, with amendments systematically watering down the already minimal consensus. “Faced with this attitude, I declared that their amendments were unacceptable and that, if UNICE was not to become more cooperative, no agreement would be possible. It truly seemed

44. Ibid.

45. Ibid.

46. Ibid.

47. Proposals noted by the author at the meeting.

48. IISH archives, box 2110.

49. In *Le moment Delors*, Claude Didry and Arnaud Mias list 6 between December 1986 and January 1987.

that the UNICE negotiating team was ‘scared of its own shadow’, fearing that any joint UNICE-ETUC statement in the field of information and consultation might prepare the ground for a EEC regulatory initiative.”⁵⁰

The atmosphere was so strained that the Commission representatives suggested calling into question Commissioner Marin’s convening of the working group meeting scheduled for 5-6 March 1987. For UNICE, the dilemma lay in it being deemed the instigator of the breakdown of these talks.

A last-ditch meeting between the Secretaries General and the Director General of the Commission was scheduled for 25 February. At this meeting, UNICE abandoned its demands. Compromises were found, in particular on the concept of confidentiality and on timely information. Agreement now seemed possible, even if certain points still needed to be discussed in the plenary session before the text could be adopted. The working group was convened by the Commission. As it was so uncertain whether this meeting would achieve a breakthrough, Commissioner Marin decided not to chair it, leaving it up to his Director General!

While this meeting on 5-6 March turned out to be very complicated to manage, both from an internal point of view and in the confrontation with the employers, it allowed us to make significant progress with regard to our European negotiating capacity and in developing a common language.

We had identified four crucial points needing to be negotiated: the timing of information; the nature of the information and the terms of confidentiality; the place or role of negotiations as a normal element of regulating the problems posed by the introduction of new technologies; and the need to give precedence to developing proper information and consultation practices in all EEC countries.

From the outset, the atmosphere was strained, but open. We slowly progressed, amendment by amendment, continually suspending the meeting, until at the last minute we found ourselves “on the verge of agreement”, a necessarily cautious wording reflecting the difficult talks and the lacking (and uncertain) approval of the draft text by our respective bodies⁵¹.

The ETUC Executive Committee meeting at the end of March approved this joint opinion, as did its UNICE and CEEP counterparts. But, as Mathias Hinterscheid was to write in a memo taking stock of the social dialogue addressed to the Executive Committee meeting of 11-12 June (after the 3rd Summit of 7 May): “Compared with what Jacques Delors expected from this dialogue, i.e. that it should become an (or even the main) instrument in implementing social policy, an indispensable dimension in his eyes and ours, in the Single Market and a technology-driven Europe, the result leaves a lot to be desired.”

Prospects for the third Social Dialogue Summit looked gloomy...

50. Memo dated 16 March from the author to the ETUC Secretariat.

51. Between this joint opinion and the last negotiations I led 17 years later on managing change and its social consequences, you can see that we had not progressed one inch in our discussions with the employers in the field of information/consultation/bargaining.

2.4 Egmont I, the 7 May 1987 Social Dialogue Summit: a first stock-taking

The Egmont Summit (named after a mansion in the centre of Brussels) was convened by the Commission President and the then President of the European Council, the Belgian Prime Minister Wilfried Martens. The meeting had two distinct parts. The first part involving the social partners and the Commission (Jacques Delors and his two Commissioners Manuel Marin and Peter Schmidhuber*) took stock of progress so far and looked at the prospects for further progress as well as at the topics to be discussed, with 1992 as the time horizon. In the second part, the Belgian Prime Minister, accompanied by his Ministers of the Economy and Labour, was first informed of the results of the first part and then started discussions on the prospects for growth and employment in the EEC. "He undertook to present the joint opinions concluded by the social partners at the EEC Summit on 29-30 June 1987."

Despite the results obtained, not without difficulty on the part of the Micro working group, the meeting's climate was rather complicated. With regard to the topics to be discussed in the working groups, it was agreed that the Macro group, over and above discussing the economic situation, should focus on the Commission Communication *Making a success of the Single Act*. As for the Micro group, it was to pick up the topics put on the back burner during the discussions over the first joint opinion, i.e. internal and external company flexibility; working conditions and the organisation of the labour market.

But the real difficulties lay in the direction to be given to the social dialogue. The antagonism was clearly revealed by the statements of the respective presidents of the ETUC and UNICE, Ernst Breit and Karl-Gustaf Ratjen (two Germans...). For Ernst Breit, "the implementation of the Single Market needs to involve the parallel creation of a European social area, to which the social dialogue would provide a concrete contribution acceptable to workers, while the EEC institutions would, for their part, promote policies and adopt regulatory proposals indispensable for creating such an area". Karl-Gustaf Ratjen expressed the employers' preference for a "antenatal" stage of the social dialogue, before progressing to more committal methods, pointing out that excessive social regulation could have a negative effect on improving companies' competitiveness. Contrary to the ETUC, he ruled out that joint opinions could serve as a basis for EEC social legislation⁵². UNICE was developing its "neither/nor" theory, i.e. neither legislation nor binding agreements.

Jacques Delors was aware that the European social dialogue was still at a very fragile stage and therefore preferred to let it develop at its own pace via working groups, without any premature legislative intervention on the part of the Commission. He summed up this approach in the following words: "Feeding this still fragile baby with a view to getting it to grow, but without choking it with too much food."⁵³ To reassure the employers, he undertook not to initiate legislation on the basis of the joint opinions unless the social partners were to jointly request such.

The President of the European Council, Wilfried Martens, expressed his wish to inform the European Council at its June Summit in Brussels of the results of the social dialogue, its continuation and the necessity to incorporate the social dimension in policies implementing the Single Market.

52. These proposals were set forth in the document *Social Dialogue: current status and prospects* written in November 1988 by Patrick Venturini and Carlo Savoini. Patrick Venturini's archives.

53. Ibid.

The two working groups were mandated to continue their work. The Macro group continued working on the Objective 1992, while the Macro group focused on flexibility and adaptability. Again, the atmosphere in the two groups differed totally.

While discussing general macroeconomic issues with the employers was relatively easy, immediately discussions touched on subjects directly concerning companies and employment relations, the shutters went down, with the UNICE delegates refusing to discuss subjects which in their view were the sole responsibility of companies and their managers.

At the ETUC Executive Committee meeting of 11-12 June, Mathias Hinterscheid took stock of the social dialogue⁵⁴, as requested by the Executive Committee at its April meeting in the presence of Jacques Delors. Speaking to national union leaders, the President had clearly stated the problems associated with a European social area, pointing to the necessity to harmonise certain fields, either through agreements or through legislation, in order to avoid social dumping.

Taking stock, the ETUC Secretary General stated that there was an ante-Val Duchesse and a post-Val Duchesse, i.e. we had moved on from “virtually non-existent relations” to a dialogue which was producing results (the two joint opinions already adopted). “Although up to now the employers were opposed to all European legislation or other form of regulation in the field of social affairs, they cannot prevent a legislator... from referring *inter alia* to these joint opinions.” We therefore needed to continue to push the Commission to put forward social initiatives in the form of directives, using the possibilities opened up by the Single European Act. However, the union movement would have to wait until the adoption of the Community Charter of the Fundamental Social Rights of Workers and the December 1989 Action Plan before any real progress was made in the social dialogue. In the meantime, it was to go through a crisis.

2.4.1 Conflict in the Micro working group

On 21 May 1987, work resumed in the Micro working group on adaptability (flexibility) and the organisation of the labour market, subjects of major controversy between the employers and the unions. This first meeting ended with a list of points of convergence and divergence. But the following meeting on 10 November 1987 got bogged down in a conflict between the ETUC delegation and that of UNICE. The generic approach taken by the employers who wanted to first have a declaration of principle on the virtues of adaptability and flexibility was diametrically opposed to that of the ETUC which wanted any form of flexibility to be negotiated and that the terms and conditions of such flexibility be framed in concrete agreements.

Due to numerous suspensions of the meeting (much to the annoyance of Commissioner Manuel Marin who was chairing the meeting), no progress was made. Again, this meeting was followed by a series of meetings of the UNICE and ETUC secretariats with Director General Jean Degimbe. It wasn't until 11 April 1988 that discussions resumed, based on a text drawn up by the two secretariats. It was agreed that the two approaches – generic and concrete – would be followed concurrently, looking not just at general principles but also at work organisation, working time, forms of employment contracts, the adaptation of wages and workforce flexibility.

54. Social dialogue: its origin, its functioning, its results, its future, agenda item 11. The author's archives.

Again, a series of meetings between the secretariats and the Commission took place, leading to the drafting of a text destined for drastic revision. This was to be studied at the working group meeting on 5 July, with the group mutating into an “editing group”, i.e. the paper was to be subjected to subsequent “political” examination by a further working group. This meeting was again complicated by many amendments, put forward mainly by the ETUC, contesting the employers’ Community approach to wage flexibility. In the view of the unions, this subject had to remain within the field of national and sectoral negotiations.

According to the analysis of Patrick Venturini* and Carlo Savoini⁵⁵, “the employer representatives seemed bent on quickly adopting a joint opinion compensating for the concessions made to the unions with the adoption of the joint opinion on information and consultation. The intention to attribute responsibility for any breakdown of the social dialogue in this matter to the unions fitted in with the employers’ attitude”.

The following meeting was to open “in a stormy climate”⁵⁶, provoked by employer declarations ruling out any prospect of further developing the social dialogue in the form of binding agreements. In return, the ETUC declared that, in such a climate, it was unable to sign a joint opinion. Reverting to trench warfare, it contested paragraph after paragraph of the draft opinion, meaning that the parties were not even able to finish examining the first part of the text.

Despite everything, a new meeting was scheduled for 9 December 1988. “The two parties are displaying a clear will to ‘succeed’, in contrast to the niggling spirit characterising the behaviour of the two delegations at the previous meeting.”⁵⁷ A text was ultimately finalised, but it remained unsatisfactory for the ETUC and still had to be examined by the respective decision-making bodies of each side. The talks ground to a halt over a version finalised on 19 December. Given the major difficulties encountered by this group, the ETUC and UNICE requested that, at the upcoming Social Dialogue Summit scheduled for 12 January 1989, “the nature and goals of opinions resulting from the social dialogue” be examined.

In the view of the ETUC, it was clear that the joint opinions, even if they above all represented a learning process in transnational negotiations, could not continue to be limited to texts destined to gather dust on the shelves of Brussels, devoid of any national follow-up and above all without being further developed into binding agreements.

2.4.2 The Macro group and Objective 1992

A meeting of the Macro group had taken place on 16 February 1987, with its agenda referring to the economic situation and the Commission’s 1988 Report. This report focused on a more creative growth of jobs, touching on the problems of reducing working time, developing the services sector, slowing down the substitution of labour by capital and above all the importance of developing part-time work. In the run-up to a new summit planned for May, this meeting postponed the assumption of a joint opinion being adopted at the meeting scheduled for 26 June.

55. Ibid footnote 52.

56. Ibid.

57. Ibid.

A “preparatory” meeting took place on 2 June between Mathias Hinterscheid and Zygmunt Tyszkiewicz in the office of Commissioner Alois Pfeiffer, who wanted to give them a preview of a working document on *Private and Public Investment*, a document to be discussed at the 26 June meeting of the Macro group.

This meeting took place in a positive atmosphere and ended with the Commission’s plans being approved. The decision was also taken to send a joint telegram to the European Summit scheduled for 29-20 June under the Belgian Presidency. This telegram, addressed to Belgian Prime Minister Wilfried Martens and to the Commission President, stressed the importance of adhering to the strategy of cooperation and completing the Single Market, while at the same time strengthening social cohesion. At the same time, it deplored the prospect of a new budgetary deadlock and expressed the social partners’ concern over a slowdown in world trade and growing protectionism.

A further meeting of the Macro group was held on 26 November 1987, ending with a joint opinion on the Commission’s Annual Report, again supporting the fundamental options of the strategy of cooperation for growth and employment. This time, after its finalisation and adoption by the working group, all members of the Executive Committee were consulted beforehand, and, in the absence of “any fundamental objection”⁵⁸, the joint opinion was sent to the Copenhagen Summit on 4-5 December and to the Council of Ministers of the Economy and Finance on 7 December.

It was also preceded by a telegram, this time signed by the three Secretaries General (of the ETUC, UNICE and CEEP), addressed to the President of the European Council, the Dane Poul Schlüter, and the Commission President. Listing the main points of the joint opinion, this telegram insisted that the heads of state and government leaders “take the necessary decisions on the basis of the proposals made by the Commission in its communication ‘Making a success of the Single European Act: a new frontier for Europe’”. We will dwell on this first reference to the Single European Act in the next section!

2.5 The first major revision of the Treaty: the Single European Act

In the wake of the “White Paper”⁵⁹ on the realisation of the Single Market presented by Jacques Delors and adopted at the European Summit in Milan in June 1985, it was decided⁶⁰ to hold an intergovernmental conference to start institutional reform paving the way for implementing the proposals set forth in the White Paper. The Luxembourg Presidency headed the operation in close conjunction with Jacques Delors. The Luxembourg Summit on 2-3 December 1985 initiated the reform of the Treaty of Rome, restarting the process of European integration through the adoption of the Single European Act⁶¹.

58. Memo of 2 December from Peter Coldrick for the Executive Committee meeting on 11-12 December, agenda item 8.

59. This White Paper on the realisation of the Single Market and Objective 92 was drawn up by Lord Cockfield, a member of the Commission.

60. By a “coup de force” of Italian Council President, Bettino Craxi, who was also President of the European Council.

61. Parliamentary approval for this Single European Act was required in Denmark and Italy. Following its rejection by the Danish parliament (80 votes against it, 75 for it), a referendum was held. 56.2% of the population voted in favour of adopting the Treaty.

“My favourite Treaty”, said Jacques Delors⁶² who was to call it the Single European Act⁶³ to avoid, as a result of a Franco-German initiative⁶⁴, “the way in which Europe is organised being split in two, on the one hand the economy based on the Treaty of Rome, and on the other a new architecture dealing with foreign and security policy”⁶⁵. The main objective was naturally to ensure the completion of the Single Market and thus of the Objective 92 set by the President, but with enlarged EEC competences, the extension of qualified majority voting and greater powers for the European Parliament, an aspect deemed indispensable since the Spinelli Report⁶⁶.

The ETUC was not particularly enthusiastic about this reform and had much criticised, despite its overall support, the Single Market Objective 1992 due to the absence of social measures and the possibility of qualified majority voting for economic matters, but unanimous voting for social affairs. Two elements were however to overturn the inertia caused by the right of veto, systematically used by the United Kingdom to veto any proposal of a social nature.

First of all, the Treaty triggered a decision-making revolution through introducing qualified majority voting. As this initially seemed linked to the necessities for completing the Single Market, Margaret Thatcher was satisfied. However, without the British Prime Minister really realising it or underestimating its possible use, qualified majority voting was also extended to the social field. “She had obtained what she wanted on market deregulation. Everything else seemed of secondary importance for her.”⁶⁷ The Luxembourg Presidency, headed by its Prime Minister Jacques Santer, played a major role in concluding this new Treaty: “Small country, great Presidency.”⁶⁸

Two articles in the new Treaty triggered a relaunch of European social policy and the institutionalisation of European social dialogue: articles 118A and 118B.

Article 118a was linked to the completion of the Single Market, as the free movement of machines and products presupposed a harmonised degree of protection at European level. This article “encouraged improvements, especially in the working environment, as regards the health and safety of workers, and shall set as their objective the harmonisation of conditions in this area, while maintaining the improvements made.” This wording seemed to solely address issues related to health and safety at work, and for many it was unimaginable that the term “working environment” could be given a broader interpretation. However, for Jacques Delors and François Staedelin, it was clear that a “Scandinavian” interpretation was to be applied, as work organisation and working time were just as much elements shaping health and safety at work!

At this time, the ETUC was very much focused on developing health and safety standards⁶⁹, but was also running European and national campaigns to reduce and re-organise working hours. Article 118A was to serve as the basis for the 1989 adoption of

62. Jacques Delors, *Mémoires*, Paris, Plon, 2003, p. 202 ff.

63. Signed twice (on 17 February 1986 in Luxembourg and on 28 February in The Hague), it came into force on 1 July 1987.

64. At the Milan Summit on 28 June 1985, French and German delegates distributed a draft version of the Treaty, without having given prior notice to either the Commission or the Italian Presidency. This draft put a question-mark over the term “Community method”, giving precedence instead to an “intergovernmental method”. It was not even discussed at the Summit... Jacques Delors, *Mémoires*, p. 208.

65. Ibid footnote 62.

66. Spinelli, while reticent about this reform which in his view did not go far enough at an institutional level, acknowledged that Delors was making progress, supported by the European Parliament.

67. Interview with Pascal Lamy on 25 November 2014.

68. Jacques Delors, *Mémoires*, Paris, Plon, 2003, p. 219.

69. This commitment would lead to the establishment of a Trade Union Technical Bureau in 1988 with a remit to use union know-how in developing standards regarding health and safety at work and working conditions.

the Framework Directive of Health and Safety at Work, which itself served as the basis for the 1991 Working Time Directive. Community social policy was back on the road again, after having circumnavigated the obstacles systematically put in its way by the United Kingdom⁷⁰.

As for Article 118B, for all its simplicity it constituted the start of the process of institutionalising the European social dialogue: “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.”⁷¹ This article was to become a cornerstone of Jacques Delors’ and the ETUC’ efforts to develop the European social dialogue in the face of feet-dragging European employers. It should however be added that a number of national employer organisations were already quite open to the idea of European-level negotiations.

The heads of state and government leaders, via these Treaty articles empowering the Commission to support the European social dialogue, also recognised the potential role of the social partners in the construction of Europe, opening up the prospect of rounding off indispensable national negotiations by a European negotiating level. Would we be able to move forward?

For the moment, back then in 1986, the European employers were to continue with their “neither/nor” policy, remaining passive⁷².

70. Jean Degimbe cited the five specific directives quickly resulting from the Framework Directive: minimum requirements for the workplace (89/654); the use of work equipment (89/655); personal protective equipment (89/656); manual handling of loads (90/269); display screen equipment (90/270) in his book: *La politique sociale européenne: du Traité de Rome au Traité d'Amsterdam*, Brussels, ETUI, 1999, p. 25.

71. Certain legal specialists like Antoine Lyon Caen may rightly regret that this article was not more binding, allowing it to safeguard any possibly negotiating results. Nevertheless, we considered this as a decisive step forward for the future role of the social partners.

72. CNRS-CRESST researcher and sociologist Janine Goetschy was to write in an article in 1991: “One was aware of UNICE reticence towards going further than a declaration of intent, towards making joint opinions binding, towards concrete and pragmatic measures with immediate extensions.”

Chapter 3

The art of steering

**"Theory is when you know everything,
but nothing works.**

**Practice is when everything works
but no one knows why."**

Albert Einstein

In this chapter, we will be looking at the importance of the role a Commission President can play, and the influence he can have on the evolution of organisations and the men and women making them up. We will also be charting the development of the European social dialogue, moving from its first wobbly steps to a more structured dialogue. The period is characterised by a major development, the adoption of the Community Charter of Fundamental Social Rights of Workers and a Social Action Programme which, in association with the qualified majority voting enshrined in the Single European Act, are to relaunch Community social policy, circumventing the Maginot Line erected by the employers in their rejection of all legislation and binding agreements. Their "neither/nor" policy now belongs to the past. Similarly, they are no longer able to rely on British vetoes. In this chapter, we will be looking at the ability of the employers to apply the brakes and the necessity for the ETUC to pedal twice as hard.

3.1 Jacques Delors' commitments made to the ETUC Stockholm Congress in May 1988

It had become a tradition that the President of the European Commission address ETUC congresses. While Jacques Delors had already attended the 5th ETUC Congress in Milan in May 1985, his participation on 12 May 1988 in Stockholm was to turn out to be particularly important, bearing on the implementation of Objective 92 and the realisation of the Single Market. And he brought with him a message intended for the social partners.

The atmosphere was not that optimistic, as witnessed by the introductory speeches of President Ernst Breit and Secretary General Mathias Hinterscheid. The implementation of Objective 92 did not take sufficient account of the social dimension; the ETUC was well aware of its limited means and ability to intervene; and, finally, the social dialogue, after getting off to a good start with three joint opinions, was already in a crisis. As underlined in the activity report, "... there are two conflicting theories on the direction of this dialogue. On the one hand, the employers uphold the idea that social confrontation exists at European level, but that this must not lead to agreements or harmonization initiatives by the Commission. *In extremis*, the employers want to instrumentalise the social dialogue as a 'permanent forum', while blocking any social legislation initiative by the Commission..."

On the other hand, the ETUC saw the social dialogue as a "quantum leap" on the road to European agreements, the contents of which could then be negotiated at country and/or sector level. The social dialogue was also supposed to "serve as a basis for drafting European directives and regulations on social matters"¹. This contradiction between employers and unions on the direction to be given to the European social dialogue, despite successes and progress, was to become permanent.

Jacques Delors gauged the atmosphere, beginning his speech by underlining the ETUC's involvement in his project: "I remember our meeting in 1985 where you approved Objective 92 even before the movement that was going to get Europe forging ahead had got going. At this juncture, I would like to clearly state that this did not, as claimed by certain people, reflect an obsession to introduce the 'social dimension' everywhere. It was intended more as a demonstration that, without social cohesion, the Single Market will not exist. When we say that the Single Market must not lead to social dumping, we are defending both the employment and employee protection conditions which could be the subject of such dumping, and the employment of workers in companies subject to undue and unfair competition."²

This speech went down like a treat among unionists, especially as the Commission President did not mention any harmonisation of social rights, thereby reassuring unions from leading nations such as the Nordics. "The convergence of evolutions and social policies must take place in the sense of progress, in line with the direction and mission set down by the Treaty. This means that those countries with lower standards are called on to progressively raise them, while those countries with higher standards should continue to improve them. Instead of stopping the social convoy to let the laggards catch up, the Community will help the latter to accelerate to the speed needed to join the convoy. Social adjustment will be done in a dynamic way mainly through

1. 6th Statutory Congress: Activity Report 85/87 p. 32.

2. Jacques Delors' speech to the ETUC Congress on 12 May 1988, minutes of the Congress, ETUC archives.

structural policies and not by recourse to social dumping.”³ Such a speech would be a dream these days! And it was completely in tune with the ETUC strategy...

After expressing his concerns about the development of the social dialogue, the results of which seemed disappointing to him, Jacques Delors ended his speech with three commitments: the creation of a “basic pillar” of guaranteed social rights, as had already been suggested by the Belgian Prime Minister and which was part of the ETUC programme; recognition of each worker’s right to lifelong learning; European legislation for European companies reconciling business imperatives with greater industrial democracy.

And he did not forget to emphasise the role the social partners would have to play in these initiatives he intended to promote. First, “this basic pillar was to be negotiated by the social partners and then transposed into Community legislation”. Second, “the social dialogue could even get the process rolling”. Third, he called on national and European unions to put pressure on their respective governments, as he was well aware of the employers’ opposition to any step forward in this area of economic democracy.

Two of these three objectives were to be achieved, the first via the Community Charter of Fundamental Social Rights of Workers. While this was not really negotiated by the social partners, it was the subject of an opinion issued by the European Economic and Social Committee (see Chapter 3.7) and adopted by 11 of the 12 Member States (the British government refused to sign it) at the Strasbourg Summit in December 1989.

The third objective permitted the relaunch of the Directive on European works councils in 1994 and the drafting of the European Company directive, rounded off by a directive on employee participation.

Unfortunately, the second objective, the right to training, a subject dear to the heart of Jacques Delors, was to make no progress, either within the Commission or through the social dialogue.

This speech of Jacques Delors to the Stockholm Congress left its stamp on the union world and future developments, even within certain national organisations.

For example, the conclusions of the Hanover European Summit of 27/28 June 1988 were to emphasise “the importance attached to social aspects in progressing towards the 1992 objectives... To this end, it is necessary not only to improve the working conditions and standard of living of employees, but also to ensure better protection of the health and safety of workers at work. It (the Council, ed.) emphasises that the measures to be taken will not reduce the level of protection already achieved in the Member States... It emphasises the importance of the information and consultation of the social partners throughout the process of establishing the Single Market... and calls on the Commission to intensify its dialogue with the social partners”. The Summit also took the decision to renew Jacques Delors’ mandate as Commission President.

3.2 The decisive evolution of certain national organisations: the particular case of the TUC

At the time Jacques Delors took up office in the European Commission, the British TUC was bound to a 1981 resolution of its Congress calling on the United Kingdom to withdraw from the European Economic Community (EEC), a position upheld by the Labour

3. Ibid.

Party. This radical position had already been clear in internal ECFTU⁴ discussions on the prospects of establishing the ETUC. At a conference in Luxembourg on this subject on 4 October 1972, a TUC official, Alan Hargreaves⁵, was to state: “The TUC Congress has very clearly said that it does not accept the terms negotiated in the agreement on Great Britain’s accession to the EEC. European trade union organisation = Common Market: No!”⁶

While the British coal and steel unions had always refused to boycott the ECSC institutions and were already very much involved in European work and had a more positive and participatory vision, the TUC, despite its formal positions radically opposing the EEC, had also decided against an “empty seat” policy in the EEC’s advisory committees. The geographic scope of the future ETUC was debated within the ICFTU, with two sides emerging: those like the French unionist André Bergeron (FO) who pleaded for a European organisation only covering EEC Member States (the United States of Europe, an idea dear to the heart of the FO Secretary General); and those who wanted this future organisation to also cover other European countries, in particular those belonging to the European Free Trade Association (EFTA) and the European Economic Area (EEA)⁷. The latter position reflected the prospect of the European Economic Community being enlarged and the desire not to separate the EEC from the rest of Europe and from outlying countries wanting to join this Community.

The TUC had also played a key role in establishing the ETUC in 1973, also the year in which the United Kingdom, Ireland and Denmark joined the EEC. Victor Feather, TUC Secretary General from 1969 to 1973, was to become the ETUC’s first president, in office for its first two years.

The TUC was not the only union confederation totally opposed to Europe in the early 1980s. The French CGT, a union maintaining links with many TUC member unions, was similarly opposed to Europe, in contrast to the ETUC, as seen for example in this CGT press release⁸ commenting on the “No” of UNICE employers to the Commission initiative on information/consultation in transnational companies: “Faced with the opposition of the employers, will we have to consider giving more power to the EEC institutions as a counterweight to multinationals? This would mean forgetting that the Common Market is, above all, the instrument of these transnational corporations. The convergence between UNICE and the ETUC for ‘democratising’ the Common Market through the election of this assembly by universal suffrage has not helped clarify this fundamental concept, instead helping to create a certain confusion among workers in Europe.”

4. European Confederation of Free Trade Unions founded by a congress of the European ICFTU organisations in April 1969.

5. At that time, Alan Hargreaves was head of the TUC’s International Department.

6. Quoted by Georges Debunne in his book *Les syndicats et l’Europe: passé et devenir*, Brussels, Labor, 1987, p. 46.

7. The EFTA was established in 1960 by seven countries: Sweden, Norway, Switzerland, Portugal, Austria, Denmark and the United Kingdom. The UK and Denmark gave up their membership on becoming members of the European Economic Community in 1973, followed by Portugal in 1986 and Austria, Sweden and Finland in 1995. The EEA was established on 2 May 1992 by the EU (the then 12 EU Member States) and the EFTA states (Finland, Sweden, Iceland, Liechtenstein, Norway, Austria and Switzerland). However, Switzerland rejected the agreement following a referendum. Relations between EFTA, the EEA and European Economic Community differ between bilateral agreements and overall agreements obliging all EEA countries to respect the “*acquis communautaire*” in order to engage in free trade with the EEC. Up to 1991, the ETUC was to have a Secretary General from an EEC Member State and a deputy Secretary General from an EEA country. EFTA is now made up of just four countries: Norway, Switzerland, Iceland and Liechtenstein. The non-EEC members of the EEA are Norway, Iceland and Liechtenstein.

8. No. 318/1980.

Within the TUC, we have seen that the leaders of the steelmaking and mining sectors, but also of the TUC itself, were involved in ECSC and EEC advisory bodies, rejecting any “empty seat” policy. Despite its formal positions, the TUC actively took part in the Commission’s advisory committees and played a constructive role in the ETUC right from the start. Leaders such as David Lea, John Monks* and Tom Jenkins* were already engaged in the battle to develop their organisation vis-à-vis the EEC, recognising the economic and social policy pursued by Jacques Delors.

A milestone in this development was the ETUC Stockholm Congress in May 1988. David Lea, a fan of Delors from the word “go”, had presented Resolution I on *Economic policy for full employment*, stating the following: “If we accept that Marxist myths exist, then we also accept that market myths similarly exist. Our current task is to find a new consensus à la Mitterrand and not à la Thatcher. Margaret Thatcher’s vision can be summed up in a horrifying observation made just a few weeks previously: ‘There is no such thing as society. There are individual men and women, and there are families.’... The unions can find ways, at each level, to work together and to show that the cooperative approach is part of a new European idea and that the new workers’ rights will be new European rights in a new European social framework... Jacques Delors understands this well, and we place our trust in him. But a number of his colleagues do not understand this. **We must give Jacques Delors the support he needs to make progress at the Hanover Summit on cooperative growth and the social rights of workers** (our emphasis).”⁹

The Commission President’s speech to the ETUC Congress made a major impression on the delegation from the TUC, whose own congress was scheduled for September 1988 in Bournemouth.

In the run-up to this annual congress, a milestone report had been compiled: *Europe 1992: Maximising the benefits, Minimising the costs*. Tom Jenkins was to write¹⁰: “The TUC report argued that on balance the economic benefits (e.g. economies of scale; Airbus vs Boeing) primed over the costs, so that market integration was a good thing in its own right. But the killer argument in favour was the inclusion of a social dimension to the SMP. A composite motion involving eleven unions, from a wide range of political backgrounds, supporting the report was also brought before Congress.”

The TUC Executive Committee, interested in the direction given to Europe by Jacques Delors, took the risk of inviting the Commission President to speak at its Congress on 8 September. For the first time, a President of the European Commission would take part in a TUC congress, confronting Margaret Thatcher on her home pitch¹¹.

TUC President Clive Jenkins introduced the Commission President with the following words: “When we welcome the French socialist Jacques Delors here, as the President of the Commission in this period, we will be greeting someone who believes in a social partnership, who opposes apartheid. We can work with him to ensure the very important European Company Act gives rights to employers and their Unions to

9. Minutes of the 6th statutory congress of the ETUC in Stockholm, 1-13 May 1988, p. 41 and 46.

10. Tom Jenkins, head of the TUC’s International Europe Department, in an undated memo entitled *1992 And All That*, from Tom Jenkins’ archives.

11. This was not however the first time Jacques Delors had presented his social vision of the European Economic Community on British soil. Two years earlier on 31 October 1986, at the Council House in Birmingham, he had upheld the necessity of social dialogue and social cohesion as key elements in achieving the Single Market. Speaking to the British employers on 6 November 1986 at a CBI conference, he affirmed that the implementation of the Single Market and the Single European Act necessitated the immediate establishment of “economic and social ground rules”. But the resonance to these two speeches was nothing compared to his standing ovation he was given at the TUC Congress. Delors Archives, Sciences Po, JD 52 and 53.

Frère Jacques, Frère Jacques...

David Lea and John Monks well remember the standing ovation given to Jacques Delors at the end of his speech to the TUC Congress. It took the form of the whole audience singing the French song at the top of their voices. Margaret Thatcher watched the speech

broadcast directly from Bournemouth on BBC2 in her office, seething with rage at the triumph of this European Commission President who dared provoke her on "her own" territory.

Interview with John Monks and David Lea, 10 November 2014

be consulted on mergers and takeover, to be safe at their place of work, to have gainful employment."

The Commission President naturally dwelt on the subjects put forward at the ETUC Congress in Stockholm, while also underlining the potential benefits of completing the Single Market by 1992. At the same time, he praised the TUC report. "We must also maintain and develop the exceptional model of European society... and take our fate into our own hands... It is impossible to construct Europe solely by deregulation... The social dimension is a key element."

Jacques Delors went on to describe three types of possible reactions to the Objective 1992: those from sceptics, those from enthusiasts, and those from architects. He saw himself belonging to the third category, while the TUC Report made him confident that the TUC had the same attitude. He got an enthusiastic welcome from Congress delegates (see box below), as recalled by John Monks: "After 15 years of suffering one failure after the other, one anti-union law one after the other (1980, 1982, 1984, 1988 ed.), of witnessing the triumph of ultra-liberalism, here was a Commission President at the TUC Congress bringing us a breath of fresh air."¹² Not having expected such a warm welcome and this standing ovation¹³, Jacques Delors well remembers this memorable occasion¹⁴, summed up by Tom Jenkins: "Delors' speech on 8 September 1988 to the TUC in Bournemouth sealed the deal."¹⁵

The British unions were to find a forum for social consultation at European level no longer available to them at national level¹⁶.

Jacques Delors's speech was to have an effect undreamed of by the TUC's "Europeans".

Margaret Thatcher decided to take revenge against this "provocation" on 20 September 1988, giving an anti-union and anti-European speech in Bruges which solely upheld a deregulated and market-oriented Europe. This speech was to mark the start of her demise, as it provoked an internal division in the Conservative Party.

It should be noted that neither Jacques Delors nor the two British Commissioners (Lord Cockfield and Clinton Davis) were present at the Bruges speech. According to an article in the German *Der Spiegel* reported in a memo from the President's cabinet,

12. Interview on 10 November 2014.

13. Interview with JM Baer on 25 November 2014.

14. Jacques Delors, *Mémoires*, Paris, Plon, 2003, p. 317.

15. Ibid footnote 10.

16. In his book *The European social dialogue under articles 138 and 139 of the EC Treaty: actors, processes, outcomes*, The Hague, Kluwer Law International, 2008, Christian Welz cites the following analysis by Brian Bercusson: "Mrs Thatcher can thus claim to be among those, seeking deregulation, responsible for creating the EU social dialogue. The irony of the history is that the most determined opponent of collective social dialogue at national level in the UK was the inspiration for collective social dialogue at the EU level." (page 257)

"Unprecedented"

A few of the headlines from the newspapers covering the event suffice to understand the impact of Jacques Delors' speech to the TUC Congress: for the *Daily Mail*, it was "Frère Jacques! A euro brother brings hope to the Unions". For the *Daily Express* "TUC'88 introduced by an adoring Frenchman". In a memo dated 9 September and sent to Mr Santarelli, Director General of DG X (currently DG Education and Culture), a member of the Standing Commission Representation in London was to write the following on the impact of Jacques Delors' speech to the TUC: "There is no doubt that the President Delors' speech at the TUC yesterday morning made an impact on the British public perceptions which is unprecedented."

Jacques Delors archives, Sciences Po



Source: Jacques Delors Institute

"they were spared a show which would have been too depressing for them!" Touring on from Bruges, Margaret Thatcher went first to Luxembourg, then to Madrid, repeating her Bruges speech, rated by a number of commentators as a "tour of sabotage" or a "punitive expedition"¹⁷. Lord Cockfield, who had been explicitly placed close to Jacques Delors (as a watchdog) by Margaret Thatcher, did not have his mandate renewed, as the British Prime Minister considered him to have become too European...

At the Tory conference in Brighton at the beginning of October 1988, Lord Cockfield even went as far as to denounce Thatcher's "narrow domestic view". Writing in the Dutch employers' journal *Onderneming* on 18 October 1988, the Secretary General of the European employers presented a more positive picture, saying that "because she (Margaret Thatcher, ed.) has the gift of so clearly getting across her message, she has basically stimulated the European idea. Her speech has brought all of those living in the future back down to earth." But more objectively, he was to write that she was wrong in stirring up a fear of "a massive bureaucratic bloc in Brussels, smothering us with 'red tape'".

In this European evolution, the TUC had by and large been two steps ahead of the Labour Party.

The Nordic unions, often referred to by Jacques Delors, were very active in the ETUC, despite their countries, Sweden, Finland and Norway, not (yet) being members of the European Community.

In the view of the German DGB and its very much pro-European leader Heinz Otto Vetter* (succeeded by Ernst Breit in 1982), the appointment of Alois Pfeiffer, a leading SPD politician but above all Secretary General of the German Agricultural Trade Union¹⁸, as European Commissioner greatly influenced the Commission's social

17. Delors Archives, Sciences Po, JD 74.

18. Alois Pfeiffer even took part in ETUC Executive Committee meetings as a member of the DGB delegation.

involvement. In charge of a key EEC portfolio, that of economic policy, he was a pillar of support for Jacques Delors, not only in getting the European social dialogue up and running, but also through his work in the Macro working group. For instance, on the occasion of the celebration commemorating the 40th anniversary of the founding of the Austrian trade union confederation, the ÖGB, on 3 December 1985, Alois Pfeiffer outlined the cooperative strategy for growth and employment proposed in the Commission's annual economic report: "The cooperative relations between the social partners and governments in Europe constitute not only an important factor for political stability but also for a level of economic productivity envied by our competitors throughout the world." Unfortunately, Alois Pfeiffer was to die on 1 August 1987, in the middle of his term of office.

I will not be going into the positions of the unions in other countries. Suffice it to say that Southern European unions generally and naturally held views very similar to those of Jacques Delors on collective bargaining.

3.3 1988-1990: An important period for the development of the social dialogue and Community social policy

This period was indeed important because, despite the difficulties encountered in the social dialogue (where the ETUC was having to pedal for two to make any progress at all), the Commission perfectly played its role of simultaneously stimulating and advancing (what are Italian friends were to call "convergent parallelism") the Charter and the Social Action Programme. The renewal of Jacques Delors' mandate as Commission President at the Hanover Summit on 27-28 June 1988 helped give greater long-term visibility to the EEC strategy of economic and social integration.

3.3.1 The continuing work of the Working Groups

Coming together again in February 1988, the Macro Group continued its work on the economic situation and attempts to get growth going again, thereby creating jobs. But it found itself confronted by debates on topics concerning the Micro Group: the reduction of working time, part-time work, etc., as well as the structural problems caused by the realisation of the Single Market and listed in the Cecchini* Report. The clashes with UNICE thus also took hold of this – up to then quite consensual – group, as witnessed at the meeting of 28 June 1988. In the face of the problems encountered with the employers and the impossibility of finding any acceptable consensus for a joint opinion, the ETUC decided, without waiting for the meeting set for 6 December, to draft its own opinion, which it published on 26 October. It also called on the Commission to annex it to its annual economic report.

In a letter sent on 30 November to Commissioner Schmidhuber, the UNICE Secretary General expressed his regrets over this situation and demanded that, should the Commission accede to the ETUC request, an opinion drafted by UNICE should similarly be annexed to the annual report. Under these circumstances, he continued, "we no longer see any reason to continue discussing a joint opinion (...). And any joint opinion to which the respective positions of the two sides were annexed would in our view be meaningless". Despite an ETUC attempt to arrive at a twin contribution, the one its own and the other joint, at the 6 December 1988 meeting, the breakdown, reflecting

the dissent over the Single Market's social dimension, was made official. In an internal memo¹⁹ addressed to Mathias Hinterscheid, Peter Coldrick was to note, following contacts with the UNICE secretariat: "I did stress that our people were not at all happy with the destructive positions being taken by UNICE on the social dimension and that they would have to be very clear on this issue."

As a result, it was simply agreed that "the Commission shall, under its own responsibility, draft a report of the meeting which will be published together with the annual report. In essence, this report shall reflect the respective positions of the two sides on the social dimension annexed to the report itself"²⁰.

UNICE celebrates its 30th anniversary!

On 28 November 1988, UNICE celebrated its 30th anniversary with a major conference, to which all leading European politicians were invited, including Jacques Delors. In the afternoon, he had a private meeting with UNICE Secretary General Zygmunt Tyszkiewicz, during which he hauled him over the coals for the employer organisation's lack of engagement in the social dialogue. The President's subsequent public speech was firm, with regard to both implementing the Single Market and to its social dimension. Delors' stance was to have a positive

influence on the employers' attitude at the Social Summit on the following 12 January, though in the meantime the UNICE discourse remained backward-looking. Its President, Karl Gustaf Ratjen was to say: "We will urge the politicians to resist the understandable temptation to swim too often in the warm and comfortable water of social policy. Instead, we will ask them to pluck up the courage first to plunge into the icy, turbulent water of the removal of physical, technical and fiscal barriers."

Interview with Zygmunt Tyszkiewicz on 13-14 June 2016

Throughout 1988, a general debate had developed over the Single Market's social dimension, a constant ETUC concern. Following the publication of the Padoa Schioppa* Report on the economic and social consequences of implementing the Single Market, we had already written the following²¹ to Jacques Delors on 27 May 1987: "In our view, the absence of social objectives in the White Paper was a serious and prejudicial error. Since then, we have not ceased to correct this omission (...). We call on you to have (...) an equivalent report compiled (...), the purpose of which would be to analyse the social consequences of the Single Market from both a national point of view and a regional and sectoral perspective."

In February 1988, the ETUC Executive Committee adopted a resolution on "The realisation of the European Social Area in the Single Market". This hard-hitting resolution²² highlighted the two sides of the Social Area: legislation and social dialogue as well as European-level negotiations. Furthermore, it defined four levels: sectoral, EEC-wide, national and regional. And it set five objectives for ensuring the economic and social cohesion of the Single Market: a Single Market for growth and employment, for a technology policy, for solidarity, open and safe, and democratically controlled.

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19. Memo of 21 November 1988, in which the ETUC Secretary General wrote these comments: "Again we spent the whole day going through a text containing nothing but quasi-repetitions, where the wording had just been changed a bit". IISH archives, box 2131.
 20. Memo dated 16 January 1989 sent by Peter Coldrick to the ETUC Economic Committee for the 2-3 February 1989 Committee meeting, IISH archives, box 2131.
 21. Letter of 27 May 1987 sent by Mathias Hinterscheid to the Commission President. Author's archives.
 22. 16-page resolution adopted at the 11-12 February Executive Committee meeting.

In addition to the 1988 Cecchini report highlighting the advantages of completing the Single Market²³, *inter alia* for employment, the Commission published two reports, one of which was a working document²⁴ on “The Social Dimension of the Internal Market”. This stated the following in its preamble: “The social dimension of the internal market is a fundamental component of this project (Objective 1992, ed.), for it is not only a matter of boosting economic growth and the external competitiveness of European undertakings, but also of using more efficiently all the resources available and of achieving a fair share-out of the advantages deriving from the single market.” Later on in the document, this statement was further underpinned “the increase in the Community’s general prosperity in the interests of all its citizens, ... one of the main aims of completing the internal market, requires that an active social policy sees to it that the economic measures to be taken do not affect the standards of social protection attained in the Member States”. This document concluded with a chapter on building “a Community-wide social base”. Our strategy was working perfectly, but it was proving difficult to actually achieve anything.

It seemed clear that the social dialogue had to be further developed. The two Working Groups, Macro and Micro, needed to be dissolved, and the social dialogue put on a new basis. Jacques Delors therefore convened a new Social Dialogue Summit on 12 January 1989 with a view to “ensuring consistency and overcoming any obstacles”.

The crisis was general, with the Micro working group having issued the following statement after its 9 December 1988 meeting: “The two parties have called for the Social Dialogue Summit planned for 12 January to examine the nature, goal and content of the opinions stemming from the social dialogue.”

The new Commission took office on 1 January 1989. The Spaniard Manuel Marin had given up the social affairs portfolio to take over “Cooperation, Development and Fishing”, and was replaced by Greek Commissioner, Vasso Papandreou*.

3.4 Palais d’Egmont II: a new breath of life for the social dialogue

On 12 January 1989, the Commission President²⁵ invited the social partners to a new Summit, but the atmosphere was tense. He arrived at the Summit with four Commissioners, Vasso Papandreou, in charge of Social Affairs, Cardoso E Cunha* responsible for Energy/Enterprise/ Industry, Martin Bangemann* for the Internal Market and Leon Brittan* in charge of Competition.

Writing in an article published on 12 January 1989, *Libération* journalist François Ferron listed the proposals received the day before by the author from UNICE Secretary General Zygmunt Tyszkiewicz and Jean-Michel Baer, Jacques Delors’ social affairs advisor. In my view, “this will be the hour of truth (...). If the employers have no intention of discussing either legislation or Community-wide collective agreements, the unions will draw their conclusions. Each will retreat to its own position and we risk seeing nationalist reactions that will cause the internal market to fail”. In the view of UNICE, the European employers were against any “common social policy” and any new “binding legal instrument”. But was the dialogue doomed to fail, asked the journalist?

23. This was a very optimistic vision of the effects of the Internal Market. Even the DG Economic Affairs regarded it with scepticism (interview with Ludwig Schubert on 3 December 2015).

24. SEC(88) 1148 final of 14 September 1988. Author’s archives.

25. Jacques Delors had just been reappointed for a further term of office (1989-1992).

“No”, replied the President’s advisor, “because nobody has any interest in that. That would not be serious, given everything that is at stake in the internal market”.

In the view of the Commission President, there was a need to take stock and examine the prospects for the social dialogue. He set the tone by stating the need to “debate (...) the new framework needed to allow the social dialogue to develop. Otherwise, we must objectively conclude that the conditions do not exist to make further progress and we will draw our consequences”²⁶.

Though the ETUC was not that optimistic, its President Ernst Breit was willing, ambitious and provocative. “The goal of the social dialogue is to blend the collective bargaining autonomy of the social partners into the European industrial relations culture. The employers need to clarify what they understand under social dialogue. We cannot just carry on exchanging points of view. Or do they want to unilaterally regulate working conditions in the Community, at the cost of serious social conflicts?”²⁷ In the view of the ETUC President, the social dialogue was not a goal in itself: “The two social partners are not consumers of the social dialogue. They are its key players.”²⁸ We thus needed binding concrete results.

Ernst Breit put forward our proposal for making the social dialogue more efficient, i.e. the creation of a small parity-based group tasked with steering the social dialogue together with the Commission through planning and chairing the work. He ended by insisting on the need to adopt a Social Charter at Community level, inspired by the *acquis* of the International Labour Bureau (ILB) and the Council of Europe.

In the view of UNICE President Karl Gustaf Ratjen, the speed should not be too fast, but above all he didn’t want to block the road: “Taking stock of the social dialogue up to now, we arrive at a positive assessment. (...) While the results (i.e. the joint opinions, ed.) are perhaps not quite up to scratch, we now need to give the social dialogue a new profile. We are prepared to discuss all topics in a spirit of constructive cooperation, taking account of the principle of subsidiarity. In this spirit, one could perhaps one day end up with European collective agreements, but have we already come far enough to conclude concrete agreements?”²⁹ He was one of the employers most positive about the evolution of the social dialogue in an organisation like UNICE, dominated by the influence of its British affiliate, the CBI, which backed Margaret Thatcher’s anti-union policy. Many of the employer arguments related to the concept of competitiveness and the wide variety of national situations, attaching high priority to subsidiarity and excluding Community-wide action.

Nevertheless, the UNICE Secretary General, not wanting his organisation to appear to be blocking the social dialogue, admitted that a standstill in social affairs was not on the cards and that “harmonisation was needed in those fields – and only those ones – where competition could be detrimental to social aspects”. In the same vein, Zygmunt Tyszkiewicz stated that, with regard to the consequences of the social dialogue and the joint opinions, “we perhaps had a too static understanding of the joint opinions. We need a more dynamic approach”³⁰. But this window of opportunity was quickly closed!

26. Proposal noted by Carlo Savoini in the minutes drawn up for the Commission, undated IISH archives, box 2106.

27. Ibid.

28. Ibid.

29. Ibid.

30. Ibid.

Jacques Fournier, President of the CEEP and SNCF CEO, was very open to the social dialogue, stating that “we won’t get Europe working efficiently without common policies, among which social policy is set to play a key role”³¹. He was also open to a dialogue with the ETUC on the enforcement of Article 48.2 of the Treaty on access to public-sector jobs, looking at specific sectors such as transport.

In this discussion, the comment made by Bruno Trentin from the CGIL was again very relevant: “In the time between the establishment of the social area and the achievement of economic progress, the dialogue sometimes gives rise to dangerous schizophrenic reactions, calling for a rapid upturn in social interventions, including attempts to institutionalise the social dialogue.”

In his contribution, TUC Secretary General Norman Willis highlighted the necessity for bi-directional action: bottom-up (from the national to the European level, as demanded by the employers), but also top-down. This aspect was to be taken up by Jacques Delors in his speech to the European Parliament on 17 January 1989³².

The issue dividing the ETUC and UNICE was that of how joint opinions or possible agreements were to be used and extended: on the basis of legislation or of a simple text without enforceability?

In his conclusions, Jacques Delors walked the tightrope separating the unions and the employers: “There are two paths we cannot take each time the social partners manage to adopt an Opinion. The first is to oblige the Commission to legislate: this path would lead to a question-mark being put over social partner autonomy, something which is contrary to our philosophy of industrial relations and which is based on a balance between legislative and contractual (collectively agreed) regulation. The second path not to be taken is that of not significantly extending joint opinions. Such extensions may sometimes take the form of directives. In other cases, they may, in a top-down manner, influence national and/or sectoral negotiations.”³³ Hats off to Jacques Delors!

The discussion on reviving the social dialogue had three sides to it:

- The spirit: what was the social dialogue for?
- The method: how was it to take place? At which level?
- The topics: continuing vocational training (lifelong learning) and the organisation of the labour market (Delors’ proposals)

Regarding the spirit, we have already seen what Jacques Delors thought... Regarding the method, the social partners, having discussed it beforehand with Vasso Papandreou (and with Jacques Delors’ cabinet office), agreed to the establishment of a “political” steering committee chaired by the Commissioner and tasked with defining, monitoring and assessing the work of the Working Groups, and with presenting a report to an annual plenary meeting. The steering committee was to be made up of five members from each organisation, including the presidents and secretaries general of the European organisations and a few of their national counterparts. As regarded the topics, the proposals put forward by the Commission President were taken up: continuing vocational training (lifelong learning) and the functioning of the labour market.

31. Ibid.

32. Ibid.

33. Ibid.

Jacques Delors also undertook to keep an eye on the work of the Commission, in particular monitoring the employment situation and prospects, and, taking up a key ETUC demand, to “upgrade the work on assessing sectoral prospects through trying to anticipate both sectors with problems and those with a promising future”³⁴.

A further subject at the Social Dialogue Summit was the Social Charter, work on which was already in progress within the EESC. Two opposing positions, that of the ETUC and that of UNICE, were being debated. Also raised was the question of a consultation on the European Company statute and the inclusion of worker participation, for UNICE another “red rag to a bull”.

The Summit was to end with a concluding text drafted and personally presented to the press by Jacques Delors, and an “internal” concluding text on the work agenda and how it was to be organised.

In his off-the-cuff conclusions, Jacques Delors noted that “opposition to anything with a normative character has been overcome”, marking the end of the first phase of the European social dialogue. Working on a case by case basis, one could now decide on the nature of the “significant extension” to be given to a joint opinion: “this could possibly take the form of a directive”³⁵. Acting in a practical manner, the President called on the Commission (in the person of Carlo Savoini) to establish an “Industrial Relations Unit” within the DG Employment and Social Affairs.

The press gave wide coverage to this Summit. In the view of the Belgian newspaper *Le Soir*, “European social dialogue is moving forward”. By contrast, the 13 January issue of *La Libre Belgique* sported the headline “Social rights slowdown in Europe”. In the view of *Libération*, results were just “modest”: “Cautious social dialogue between European employers and unions... but the feared clash did not materialise.” Writing for *Le Monde* on the eve of the Summit on 13 January, Michel Noblecourt headlined his article “The day of truth for the European social dialogue”. He followed this up on 16 January, writing: “while little progress seems to have been made, the progress that has been made is real (...) Without doubt, it is UNICE which has moved most (...), to the great satisfaction of Mr Delors who has been pushing hard in this direction”. Describing the atmosphere at the Summit, the journalist took up a statement made by a participating French employer, Pierre Guillen*, who had said that everything had gone “terribly well”. Michel Noblecourt summed up that “little by little, Europe is moving ahead. Maybe one day we’ll end up having a social dimension”. But sometimes, we got more the impression of dancing a tango: “two steps forward, one step backwards”.

Appearing on 12 January, the *Financial Times* wrote “Delors tries to revive EC labour talks with employers”, while the next day it came up with the headline: “Boost for EC’s social dialogue”. In its 13 January issue, the *Guardian* wrote: “EEC labour to win bigger say in shaping policy”, quoting Normal Willis: “I was much more encouraged by the employers’ response than I have been recently. We have agreed to speed up discussions about the Community’s social programme.” Finally, Agence Europe wrote on 13 January that “the talks between the social partners to revive the social dialogue, conducted under the aegis of the European Commission, have ended... with a positive result... This result is a *sine qua non* for the social partners, and for the unions in particular, to maintain a positive attitude towards completing the Single Market”.

34. Ibid.

35. The President’s concluding report (in the Delors archives).

3.5 A tense start for the Steering Committee

Following up the 12 January 1989 Summit, two meetings between the respective secretariats of UNICE, CEEP and the ETUC were to take place on 27 January and 15 February to set up the Steering Committee and decide on its members. It was finally agreed that the parity arrangements would only apply between the ETUC and UNICE, with the CEEP being allotted two seats. The committee was thus made up of 6 ETUC representatives³⁶, six UNICE representatives³⁷, and two CEEP representatives³⁸.

Commissioner Vasso Papandreou invited the participants to a first meeting on 23 March 1989. The ETUC met with the Commission President on 20 March to discuss a subject put on the agenda by the Steering Committee: the Charter of Fundamental Social Rights, where fundamental differences existed between the unions and employers. While the ETUC wanted the Charter to be binding, UNICE, though not blocking it, wanted it to be simply a declaration of intent. The meeting with Jacques Delors was unable to fully clarify things. He knew that he would not be able to get a large majority of heads of state and government leaders to have a binding Charter adopted and that he had to limit the Charter's scope, but he also wanted it to be more than just a reference, bringing a new legislative and negotiating momentum. The talks with him on ways of creating this momentum were to continue over the next few months.

The invitation³⁹ from the Commissioner, designated by the Commission to chair the Steering Committee, included an agenda on the activity and working methods of the Steering Committee, the establishment of two working groups, and the consultations foreseen by the Commission (annual report on employment, the Community Charter of Fundamental Social Rights, the European Company statute and the position of employees, the Structural Funds, the sectoral surveys launched in the context of completing the Internal Market).

In an internal memo⁴⁰ of 17 March, Peter Coldrick drew Mathias Hinterscheid's attention to the necessity of involving other DGs and in particular the DG Economic Affairs, so as to not get stuck in an approach focused solely on the social aspects of problems. This problem had also been raised in the talks with Jacques Delors on 20 March, with the latter assuring us that Commissioner Henning Christophersen would remain involved in the macroeconomic social dialogue.

In the run-up to this meeting, it also seemed as if UNICE wanted to restart talks on the draft joint opinion on "New technologies, work organisation and adaptability of the labour market", which had ground to a standstill in December 1988 (cf. Chapter 2.4.1). To force the ETUC's hand, UNICE had had the draft text adopted by its Presidents' Council and had informed the Commission by letter⁴¹ that "UNICE would be calling for labour market adaptability to be the first item on the agenda of the social

36. ETUC President Ernst Breit, Secretary General Mathias Hinterscheid, Norman Willis, TUC Secretary General, Bruno Trentin, CGIL Secretary General (representing the three Italian confederations), Finn Thorgrimson, LO-DK President and Nicola Redondo, Secretary General of the Spanish UGT.

37. UNICE President Karl Gustaf Ratjen, Secretary General Zygmunt Tyszkiewicz, Mr Gozzard, President of UNICE's Social Policy Commission, CNPF President François Perigot, Confindustria President Sergio Pininfarina, and Stavros Argyros from the Greek FGI.

38. CEEP President Jacques Fournier and Secretary General Werner Ellerkmann.

39. Letter dated 3 March 1989, IISH archives, box 2136.

40. Memo sent to Mathias Hinterscheid and to the author. It reports on a conversation with TUC Secretary General Norman Willis, who considered that the work proposed was "too DG V and not enough DG II", IISH archives, box 2136.

41. Letter of 9 March 1989 from Zygmunt Tyszkiewicz to Jean Degimbe, IISH archives, box 2136.

dialogue meeting, should this joint opinion not also be endorsed by the ETUC's deliberative bodies. We considered it a good idea to confirm our position to you before the Steering Committee meeting planned for 21 March".

For the ETUC, it was impossible to submit this draft joint opinion in its then form to a decision of its Executive Committee. In a preparatory memo⁴² sent to the ETUC members of the Steering Committee, the ETUC Secretary General wrote: "In my view, we need to make UNICE understand that, should they insist on this opinion being submitted to our bodies (the Executive Committee, ed.), they risk a refusal, which would be a pity as we would end up without any decision at all (...). In order not to block proceedings, we could put it on the agenda for the April meeting (of our Executive Committee, ed.) provided that they now commit themselves to a concrete extension to our joint opinions... including a few very important amendments without which the text will not be extended." This first meeting of the Steering Committee already looked as if it was going to be tense!

There were no problems with regard to the Steering Committee's missions and functioning: consultations on Commission initiatives, starting work on the specified topics, the composition of the working groups and the frequency of meetings. The Steering Committee was also to be "regularly informed of the progress of the debates in order to be able to assess the results, provide the necessary stimuli and recommend the adoption of possible joint conclusions and reflect on their possible extensions"⁴³.

Little is more than nothing

The European social dialogue struggled to make progress between 1988 and 1989, leading CFTD Secretary General Edmond Maire to say this about

the current social dialogue between UNICE and ETUC: "Though little is better than nothing, as Raymond Devos used to say, it's still not much"...

* Cited in *Le Monde* on 8 October 1988. Raymond Devos was a French-Belgian comedian.

As regarded extensions, the discussions reached boiling point on the draft opinion, which, though still shelved, had been adopted by the UNICE bodies. UNICE President K.G. Ratjen restates "the importance attached by UNICE to the adoption of this joint opinion", while the Secretary General considered that "the social partners have validly discussed this subject of vital importance to European industry for two years. As the draft opinion constitutes an important milestone, we therefore need to complete the work which UNICE considers to be the top social dialogue priority."⁴⁴

In his reply, the ETUC Secretary General expressed "his surprise at the insistence of both the Commission and UNICE for the ETUC to adopt the draft (...) there is however little chance that the draft in its current state (...) will be adopted by the ETUC Executive Committee...". As for ETUC President Ernst Breit, he considered "that it is not opportune to carry on debating this subject and that it would be better to wait for what the Executive Committee had to say in the matter".

42. Memo handed in during the pre-meeting lunch with members of the ETUC delegation on 21 March, which took place without interpretation and which was considered as "oral information" by Mathias Hinterscheid. IISH archives, box 2140.

43. Unsigned "confidential" minutes of the Commission dated 10 April 1989, but probably written by Carlo Savoini or Gaetano Zingone, another DG Employment and Social Affairs official. IISH archives, box 2140.

44. Ibid.

The subject was thus adjourned pending the results of the internal discussions within the ETUC at its April 1989 Executive Committee meeting. The ETUC was not prepared to make any concessions to UNICE on the key points of the role of bargaining at all levels and on the link between reducing and organising working time. As we will see, this opinion was not adopted until... 10 January 1991!

Turning to the Charter of Fundamental Social Rights, the Commission announced a consultation of the social partners. For the unions, the opinion of the European Economic and Social Committee (cf. Chapter 7) was a reference base which had to be complemented by legislative instruments. For the employers, this was no subject for the social dialogue and consultations could take place either separately or together with the social partners. In their view, the EESC was no reference, despite the fact that a large proportion of the EESC's Employer Group had voted in favour of the opinion on the Charter.

As for the Commission's annual report on employment, this was to be the subject of a debate within the Steering Committee. As regarded the other consultations, the Commissioner announced that his departments were working on individual sector assessments⁴⁵ of the consequences of completing the Internal Market. All of a sudden, the UNICE Secretary General got cold feet, having "reservations about the sectoral assessments... indeed, the sectors under consideration are those with problems which have already been addressed in the context of the GATT talks", while at the same time stating that "UNICE is not empowered to discuss sectoral problems"⁴⁶. Speaking on behalf of the ETUC, Mathias Hinterscheid saw no problem: the union organisations in many sectors were calling for social dialogue on the specific problems affecting their respective sectors and "we should encourage such discussions".

The Steering Committee finally set up two new working groups, each with 15 ETUC members, 15 UNICE members and 3 CEEP members. The first was to work on "vocational education and training" in line with the March 1987 joint opinion with its focus on continuing vocational education and training (CVET). The second group was to work on the "Prospects for a European labour market as and when the Single European Act is implemented", with the aim of analysing developments in employment and skill requirements against the backdrop of new technologies and the implementation of the Single Market. The next meetings of the two working groups were scheduled for 24 and 26 April 1989, and 19 June for the next Steering Committee meeting.

3.6 The Steering Committee and the working groups: between concrete results and deadlock

1989 was set to be a year of progress, but with many complications. Before looking at the Community Charter of Fundamental Social Rights of Workers adopted on 9 December 1989, let's first take a look at the development of the social dialogue after the first Steering Committee meeting. A further meeting had been scheduled for 19 June 1989, but this was cancelled by the Commission, as it had not yet finished its preparatory work on a number of its proposals, above all on the Charter. This cancellation "created a vacuum and led to an accumulation of problems to be dealt with by the Steering Committee."⁴⁷

⁴⁵. Three sectors are mentioned: textiles, automotive and electronics.

⁴⁶. Ibid footnote 43.

⁴⁷. Memo of the author to the union members of the Steering Committee.

This second Steering Committee meeting was finally held on 4 October 1989, with its agenda mainly devoted to going through the previously blocked draft opinion on “New technologies, work organisation and adaptability of the labour market”. Also on the agenda were progress reports from the two working groups set up on 23 March and an exchange of views on the progress and results of the consultations of the social partners on certain Commission drafts and proposals currently being prepared. These were: The Annual Report on Employment, the reform of the Structural Funds, the draft Social Charter adopted by the Commission on 27 September, the European Company statute, the sectoral assessments and a possible study on the “contribution of public services to competitiveness and company performance”.

The first item was obviously the most delicate. There had been no Working Group meeting on this draft Opinion since 23 March 1989. Everything had taken place in meetings between the ETUC and UNICE secretariats. These discussions had plodded their way through the amendments put forward by the ETUC, but remained extremely difficult on two points. The first concerned a reference to reducing working time and the second to a basic conflict on bargaining. With regard to the former, the only solution that seemed possible was to write down the ETUC’s position, followed by a sentence from UNICE stating that the employers did not share the unions’ opinion. As regarded the latter, the ETUC wanted all flexibility measures to be negotiated and the subject of an agreement. The employers rejected systematic negotiations, instead suggesting adding “where necessary” as a last-resort move.

Discussions within the Steering Committee were to be just as difficult as the informal ones between the secretariats. As stated by Mathias Hinterscheid in a memo to the Executive Committee meeting on 19-20 October⁴⁸, “we again note that the employers are little disposed to a compromise. This is slowly becoming discouraging”. We ended up spending one and a half hours discussing the two words “where necessary” in the Steering Committee with regard to the obligation to negotiate technological developments!

In this meeting, the European employers were generally worried about current developments, as the discussions over the Charter and the European Company statute⁴⁹ were taking place outside the realm of the social dialogue⁵⁰. With regard to the former, the Commission had put its draft Charter on hold, instead devoting its efforts to defining the “accompanying” programme for its application. The two elements were separate: while the Charter was to be discussed and adopted by the European Council, the work programme was a Commission initiative and had to contain a number of legislative initiatives and measures linked to the rights set forth in the Charter. Though the two went hand-in-hand, their statuses differed. Following this Steering Committee meeting, the ETUC Executive Committee adopted a resolution at its 19-20 October 1989 meeting, writing to the French minister chairing the Social Affairs Council,

48. Document (dated 13 October) related to agenda item 8.a handed out during the meeting. Author’s archives.

49. For a long time, this statute had a “Waiting for Godot” status. It was intended to provide a legal structure in the context of the Single Market allowing companies to reduce their administrative costs caused by the numerous national legal orders. The most difficult problem, posed by the Germans, was to maintain their co-determination system. A regulation was finally adopted in 2001 on the European Company statute, with an accompanying directive on worker participation and involvement in such European companies: Regulation EC 2157/2001 of the Council of 8 October 2001 and Directive 2001/86/EC of the Council of 8 October 2001.

50. Jean Degimbe, *La politique sociale européenne : du Traité de Rome au Traité d’Amsterdam*, Brussels, ETUI, 1999, p. 220.

Jean-Pierre Soisson*, to inform him of its concerns regarding the Charter, mainly on the way it was to be implemented⁵¹.

The other agenda item was the progress report of the Vocational Education and Training working group with its focus on two points: CVET funding and training during working hours. The Steering Group called on the group to continue its work in order to arrive at a compromise. Based on a Commission document, the debate on employment was more confusing and was thus referred to the Standing Committee on Employment, despite the fact that discussion modalities had not yet been decided. In the future, the annual report on employment, which addressed the sectoral dimension, was to become part of the Annual Economic Report.

At this meeting of the Steering Committee, the specific position of the CEEP came to the fore, revealing the possibility of starting talks with it on the sectoral approach rejected by UNICE⁵².

We were now under the French EEC Presidency, working well with our various government counterparts⁵³.

3.7 The Community Charter of Fundamental Social Rights of Workers: a promise is a promise!

Having given a commitment in front of 1000 delegates at the ETUC Congress in Stockholm, Jacques Delors was quick to fulfil his promise. In June 1988, the European Summit in Hanover, under the leadership of the Commission President and the German Presidency, affirmed the importance of the social aspects of the Single Market. This gave Jacques Delors the opportunity to request the EESC, in a letter written together with Commissioner Manuel Marin on 9 November 1988, to provide an opinion⁵⁴ on the possible content of a “Community Charter of Fundamental Social Rights”.

This led to the EESC setting up a subcommittee on which the three interest groups were strongly represented. This subcommittee soon started its work, under the leadership of its rapporteur François Staedelin, at that time President of the Workers’ Group. One detail not without importance was that this subcommittee tasked with drafting the opinion was chaired by François Ceyrac from the Employers’ Group, a former President of the French employer organisation, the *Conseil National du Patronat*

51. We were able to discuss this with Jean Pierre Soisson, at that time Minister of Labour, during the conference we held in Ostend in September 1989 on information and consultation in transnational companies. Cooperation with the French EU Presidency was excellent.

52. This discussion on the sectoral dimension of the forward-looking management of employment had been the subject of a debate in the working group on “Prospects for a European labour market” which had come together four times since the 12 January Summit (on 26 April, 18 May, 25 June and 20 September). The Commission’s document issued in preparation of the 4 October meeting stated that “the sectoral level (underlined in the text, ed.) was the subject of a sharp confrontation between the two sides, a confrontation which needed to be drawn to the particular attention of the Steering Committee”. IISH archives, box 2141.

53. In the course of our discussions with the French Minister of Labour, we were able to put across our objectives, in particular in the fields of training and employment. At the informal meeting of the Council of Social Affairs Ministers in his home town of Auxerre on 10 July 1989, he presented a document on employment and vocational training in which he called for the creation of a European Employment Observatory with an annual debate on a Commission report in whose compilation the social partners would be involved. This Observatory was established in late 1989.

54. This greatly irritated UNICE which despised the EESC, while the ETUC knew how to deal with it. At a DGB conference in Cologne in September, Jacques Delors had already stated his intention to refer the draft Charter to the EESC.

Français (CNPF), who, together with the rapporteur, was to help overcome the resistance of certain employer representatives.

Previously very much involved in the work of the Council of Europe's Governmental Committee of the European Social Charter in Strasbourg, François Staedelin had chosen Éliane Vogel-Polsky⁵⁵ as a specialist on the subject. A professor at the *Université libre de Bruxelles* (ULB), the latter was a highly-reputed expert who often worked for the European Commission and the ILO, in particular on problems of gender equality at work, but above all a specialist in everything to do with the Social Charter and international and European social rights. The abilities of the rapporteur to negotiate with the members of the Employers' Group, in particular the German ones, his constant liaising with the ETUC which in turn liaised with several UNICE employer representatives (including Bernard Boussat, in charge of International and European Affairs at the CNPF, Flavio Mondello from Confindustria and José Isaac Rodríguez from the CEOE) were to lead to a broad consensus on an opinion basically listing the workers' rights set forth in the Council of Europe's Social Charter.

After several heated debates, the opinion was adopted by the EESC on 22 February 1989 by 135 votes to 22. It should be noted that the 22 votes against the opinion came from the British employers and... the French CGT. At this juncture, we should stress the interest in this work, the results of which was broadly shared by the three Groups. The few representatives opposing this dynamic compromise held extreme but marginal views, whether on the employer⁵⁶ or union side.

A surprising and important consensus

"Right from the start, a certain number of employers, sensitive to human rights, were in favour of drawing up a Charter listing fundamental rights based on the *acquis* of the Council of Europe's Charter and the ILO Conventions. But others had to be convinced during the course of the discussions. As all members of the

Workers' Group and a large majority of the Various Interests Group were committed to the Charter, a broad consensus existed. The abilities of rapporteur François Staedelin and the chairing of the debates by President François Ceyrac, both of whom were highly respected by all EESC members, were the basis for this vote in favour of the Charter."

Interview with Georges Dassis on 27 January 2016

Frankly speaking, what interested Jacques Delors was less the content of the opinion than the demonstration of consensus on the part of the EESC's three groups over the principle of having a base of fundamental social rights. This situation allowed the

55. Even at this early stage, Éliane Vogel-Polsky was already convinced that the European Economic Community would ratify the Council of Europe Charter. In her view, "The best way to give substance to these fundamental rights and make them effective in a way comparable to the internal law of the twelve Member States would be to have the Treaty and international acts ratified by the Community as a specific entity of international law, on the basis of its external competences", as quoted by Patrick Venturini, the President's social affairs advisor in his memo on "Which social regulation for the Community?". Jacques Delors had also stated the possibility of such ratification of the Council of Europe Charter when speaking to the Council's Parliamentary Assembly in September 1989. Twenty-five years later, this option is still under discussion... On the importance of Éliane Vogel-Polsky in social matters, see Éliane Gubin's book: *Éliane Vogel-Polsky: une femme de conviction*, Brussels, Institut pour l'égalité des femmes et des hommes, 2007.

56. The French weekly, *Le Point* published an article on 6 March 1989 entitled: "Margaret Thatcher's ally... in her fight against this project". In it, the UNICE Secretary General was quoted as saying: "For me the document (adopted by the European Economic and Social Committee) is, frankly speaking, a bad document." The employers, quick to realise that they could not stop the machine, switched to wanting to make the Charter non-binding, without any accompanying social legislation initiatives.

consultation of the social partners – the path preferred by UNICE and which would quickly have been blocked by the employers – to be bypassed. Using the vote of the EESC as a basis, Jacques Delors had a draft Charter drawn up. This was to be the subject of an initial discussion at the Madrid Summit on 12 June 1989⁵⁷.

We also need to emphasise the constant support⁵⁸ for this approach⁵⁹ received from the European Parliament.

Links with the French Presidency were excellent during the whole period spent drafting the Charter and discussing it at the Summit. At the start of this Presidency in July 1989, we had had an in-depth discussion with President François Mitterrand at the Elysée Palace⁶⁰. The French President's advisor on Europe, Elisabeth Guigou, had been keeping track of the Charter's progress at Council level, and the French Presidency had established a high-level group of experts. This met for the first time on 27 September, using as its basis the draft Charter proposed by the Commission on 20 September. This group of experts was tasked with drawing up a draft for the Social Affairs Committee, itself tasked with drafting the version to be presented to the heads of state and government leaders at the Strasbourg Summit in December.

While the ETUC backed the Charter, UNICE constantly tried to torpedo it, or at least to water down its contents and its force⁶¹. Shortly before the draft Charter was presented to the Social Affairs Council meeting on 30 October, UNICE again voiced its rejection of the Charter at a press conference held on 24 October. In the words of its Secretary General, it was a "very bad document", "archaic and dangerous"⁶².

At the same time, the Commission started drawing up an Action Programme to be taken into consideration by the Council. Naturally, the employers, who had got wind of its drafting, were totally opposed to it⁶³. It seemed already clear that the Charter would be no more than a solemn proclamation. The ETUC therefore considered it vital

57. The Spanish EEC Presidency was very committed to advancing the Charter, pushed by the Spanish Minister of Labour, Manuel Chavez (a former national leader of the UGT and member of the Felipe Gonzales government). In the conclusions adopted by 11 of the 12 ministers attending the 7 March informal Summit in Seville, he called for "the earliest possible adoption via a solemn proclamation of heads of state and government leaders" and invited "the Commission to draft an Action Programme" and to "immediately start work on drafting standards related to the fundamental rights". Manuel Chavez also gave a speech at the EESC plenary meeting on 30 March in support of the result obtained by the EESC on the Charter.

58. Resolution of the European Council Parliament of 15 March 1989.

59. Within the European Parliament, there existed an Intergroup of MEPs /unionists. It had been founded in 1979 at the initiative of two MEPs, Heinz Oscar Vetter (the former President of the DGB elected via the list of the German SPD and belonging to the PSE group in the European Parliament) and Luigi Macario (the former Secretary General of the Italian CISL elected via the Christian Democrat list and belonging to the EPP group), and of ETUC Secretary François Staedelin. Members of this group of MEPs included in particular Aldo Bonaccini, head of the CGIL and elected as an MEP in 1979 via the PCI list, Bruno Trentin, socialists such as Pierre Carniti, Michel Rocard and Jacques Moreau, but also the Green MEP Pierre Jonckeer and Christian Democrats like the German Elmar Brok and the Belgian Raf Chanterie. This Intergroup came together each session and was co-chaired by an ETUC Secretary and an MEP responsible for the agenda and minutes. It was sometimes a great help in finding compromises on social topics, in particular between the EPP and the PSE.

60. The ETUC delegation was made up of its President Ernst Breit, Secretary General Mathias Hinterscheid, CFDT Secretary General Jean Kaspar, CGT-FO Secretary General Marc Blondel (the FO and the CFDT were at that time the only French members of the ETUC) and myself. Elisabeth Guigou, at that time President Mitterrand's advisor on European Affairs, was also present.

61. UNICE opinion of 19 October 1989 on the Charter of Fundamental Social Rights of Workers.

62. Terms used in an article in the Belgian newspaper *L'Echo de la Bourse* on 25/10/1989.

63. In an article appearing on 25/10/89 in *Agence Europe*, UNICE expressed "its perplexity regarding Article 31 of the draft Charter, according to which the European Council would mandate the Commission to present an action programme before the end of the year. This wording gives the impression that the Commission, in accordance with the wish of the European Parliament and the unions, aims to gain a social affairs mandate exceeding the limited scope provided for by the Treaty, via an expanded interpretation of Article 118a, applying majority voting to everything concerning working conditions. This would lead to a common social policy totally rejected by the employers".

for the Commission to back it with an Action Programme cementing the rights set forth in the Charter. For the Commission, there was no point in adopting the Charter and the Action Programme at the same time. On 6 June 1989, Jacques Delors wrote to the ETUC President⁶⁴ that the two documents would not be released together, as he feared a political backlash and his administration coming under pressure. The ETUC President expressed his fears about the non-binding nature of the Charter in the course of preparation, to which Jacques Delors replied: “As to its form, while understanding your dissatisfaction with a solemn proclamation, I request you... not to underestimate the long-term impact of such a solemn commitment on heads of state and government leaders”. At that time, the plans were for the Social Action Programme to be announced in June 1990. The ETUC started talks with the President and his cabinet to get the drafting of the Programme speeded up and to have it announced at the same time as the Charter. We also put pressure on Commissioner Vasso Papandreou and Director General Jean Degimbe. The Commissioner’s cabinet office was quick to react, coming up with an “opportunistic” plan for warding off the British government. “The Commission’s tactic will be to delete Chapter II of the Charter on its implementation, therewith keeping the British, and with them UNICE, at bay. The argument to be used vis-à-vis the unions will be to say that the problem of the Charter’s implementation had disappeared, as, acceding to our demands, the Programme drawn up and agreed within the Commission will be released at the same time as the solemn proclamation.”⁶⁵

This pressure from the unions was to pay off, with the Social Action Programme adopted by the Commission on 29 November, before the adoption of the Charter.

Black-out at the European Summit!

All of a sudden the lights went out on the Summit room, and, in the dark, a voice said: “And now, Ms Thatcher, if we could start speaking about social policy....”

Interview with Jean-Michel Baer* on 25 November 2014

Despite the lacking agreement of the British who remained radically opposed to the Charter, even if it wasn’t binding, it was finally adopted at the Strasbourg Summit on 9 December 1989 by 11 of the 12 Member States, with their heads of state and government leaders at the same time taking note of the Commission’s drafting of a Social Action Programme, already adopted by the Commission, ensuring the Charter’s implementation⁶⁶. The Charter’s adoption was proof of the skilfulness of Jacques Delors and his team, and in particular his legal advisor François Lamoureux, to conduct the complex negotiations with Margaret Thatcher (we will again come across this “legal inventiveness” in the Maastricht Social Protocol, cf. Chapter 4).

64. Reply (dated 2 June 1989) to a letter sent by Ernst Breit on 16 March, quoted by Anaud Mias and Claude Didry p. 267. IISH archives, box 2304.

65. Memo from the author to Mathias Hinterscheid on 28 August 1989 following a meeting with André Kirchberger, advisor to Vasso Papandreou’s cabinet office. This tactic was also discussed in the *Wall street Journal* of 25/10/1989: “One possible solution, one EC official said, would be for the Commission to present the action program in late November, before the adoption of the Charter itself at a Summit of EC governments on Dec. 8 and 9. This would leave Britain free to adopt the Charter after having rebutted the action program.”

66. We had to wait until 1998 and the arrival of Tony Blair in 1997 for the United Kingdom to ratify the Charter.

From a tactical point of view, the ETUC was dissatisfied with the result which it considered not to be binding enough. It therefore called for the speedy implementation of the Social Action Programme cementing it.

This Charter was first and foremost a political measure, backed by a solemn proclamation of the heads of state and government leaders. But it had more than just token value, first through the existence of the Action Programme containing 47 social proposals (including 18 legislative proposals⁶⁷) and secondly because it served as a reference for both the national and European courts, as would be seen later on in the case of Renault Vilvoorde (Chapter 7).

Nine chapters of the Community Charter of Fundamental Social Rights of Workers

- Freedom of movement
- Employment and remuneration
- Improvement of living and working conditions
- Social protection
- Freedom of association and collective bargaining
- Vocational training
- Equal treatment for men and women

- Information, consultation and participation for workers
- Health protection and safety at the workplace
- Protection of children and adolescents

These social rights constituted a set of minimum principles common to all but one Member States of the European Union. The provisions were taken up by the EU Charter of Fundamental Rights adopted in 2000.

This Programme, in association with the qualified majority voting rule introduced by the Single European Act, helped get the social dialogue and social policymaking going again. It should be noted that the preamble of the Single European Act referred to the “fundamental rights recognized in (...) the European Social Charter, notably freedom, equality and social justice”.

Last but not least, we should not forget that the fall of the Berlin Wall at the end of 1989 brought with it a new challenge to European integration and unionism, a challenge which the ETUC was going to overcome in an exemplary manner.

Given the importance of the EESC and the Council of Europe in the drafting of the Community Charter, we feel a need to describe these two institutions.

3.7.1 The European Economic and Social Committee

Resembling “*je t’aime, moi non plus*”, a complex relationship exists between the European Economic and Social Committee (EESC) and the ETUC. Established in 1958, the EESC was for a long time the main discussion forum for what was at that time called “organised civil society”. The absence of structures for consulting the social partners gave the EESC responsibility for the main issues regarding European social policy. This Committee had always suffered from its lack of influence compared to the European Parliament, not through any lacking quality of its opinions, but due to its weak reactivity and lack of any follow-up. These two elements have fortunately since developed due to a hierarchical treatment of opinions and monitoring and assessment procedures

67. Of the 18 legislative proposals, just 6 concerned labour rights, while the other 12 referred to health and safety at work.

(developments which owe much to the period during which Secretary General Patrick Venturini* and President Roger Briesch* were in office).

A first problem lies in the Committee's high rate of self-referrals, offset by a decreasing number of referrals from the Commission, the Council and the European Parliament, all of which undermines the EESC's legitimacy. With little solicitation on the part of the EEC institutions, the Committee has developed its own work schedule. This often proves to be positive, in many cases anticipating future developments, but in other cases it is just activity for activity's sake.

The second major problem is the way its members are appointed. Set at the time the Committee was established, it has remained unchanged over the years, with Member States arbitrarily designating members. As is most often the case, the States generally take account of the representativeness of national social partners when appointing employer delegates (Group I) and worker delegates (Group II) (with the exception of Margaret Thatcher who wanted to weaken the union side by appointing "yellow" or marginal unions with close ties to the government). This situation has led to the Various Interests Group (Group III) being filled by a mixed bag of delegates drawn from farmers' organisations, small businesses, the crafts sector, the professions, and the social economy – to the detriment of any true representation of civil society. Aware of this problem, the EESC established in its midst a Consultative Civil Society Committee⁶⁸. While allowing representatives of European NGOs to meet regularly, this does not really meet their needs, and they prefer to develop their own links to the European Parliament where they get a warmer welcome and are paid greater attention. It would be a good idea to reform the method of appointing members, with a third of appointments being proposed by the Commission to the European Council, benefiting representative European NGOs in the social, environmental, human rights... fields. It is for example an absolute "must" that such organisations as Amnesty International Europe, World Wild Life Europe, ATD Quart Monde Europe, etc. be members of the EESC, as they could make an important contribution through their ability to represent their national members and the problems and proposals put forward by them.

In contrast to the ETUC, where a member of the Secretariat is in charge of coordination between the Workers' Group and the Confederation, there is no coordination between the Employers' Group and UNICE, with the latter continuing to neglect (to put it mildly) the Committee, even if a number of its members belong to that Group. Indeed, less than ten members come directly from UNICE member organisations, with the others appointed by a mixed bag of institutions (chambers of commerce, SME organisations (also represented in Group III), farmers' organisations (also represented in Groups I and III) or even by political institutions.

The development of the European social dialogue has shifted the consultation of the social partners away from the EESC.

The union and employer organisations do not want the EESC and its three groups to encroach on areas of the social dialogue that must remain bipartite. Adding to this mistrust, we need to mention the lack of cohesion within the groups with the exception of the Workers' Group (Group II), 90% of whose members are trade unionists playing an active role in ETUC member organisations, and who work in coordination with the

68. Under President Roger Briesch (2002-2004) and Secretary General Patrick Venturini (1998-2008). Three other Frenchmen held leading positions in the EESC: Roger Louet (FO) as Secretary General (1979-1987), Jacques Moreau (CFDT) also Secretary General (1987-1992), and François Staedelin (CFDT) as President (1990-1991).

ETUC Secretariat⁶⁹. This coordination played a major role in the drafting of the Community Charter of Fundamental Social Rights of Workers, but also of other opinions of use to the ETUC. The scope of each institution does not rule out possible synergies and a better use of the advisory function on exploratory subjects, possibly also referred by the social partners.

(Heated) internal discussions have taken place on possible ways of further developing the Committee, including the establishment of a Bipartite European Labour Council, with premises and logistics provided by the EESC and financed by the EU. Such a “Council” could be a forum for organising, chairing and assessing (and possibly even arbitrating) social dialogue and its results. A further council could be established, this time catering for the interests of NGOs and the social economy.

3.7.2 The Council of Europe

Despite the ETUC working well with this institution, the Council of Europe (CoE) nevertheless is more of a sleeping beauty. An intergovernmental institution, its processes are rather intransparent. The ETUC did a lot of work with it via the Governmental Committee on the European Social Charter where it played an “active” observer role, trying to give it greater transparency and above all to raise the Charter out of its anonymity and ineffectiveness.

Little known, the Council of Europe Social Charter functioned for a very long time in a confidential intergovernmental manner. It is a by-product of the European Human Rights Convention adopted in 1950, from which social rights were excluded during its negotiation. The Social Charter was not adopted until 1961. However, the European trade union movement, via the ETUC, has always been interested in this Charter, considering it to represent a basic set of rights for CoE member states and a first step for countries wanting to accede to the European Union (in particular Central and Eastern European countries) to acquire a basic set of social and human rights.

The work done by the Governmental Committee on the European Social Charter is important, examining the national reports on the enforcement of the rights ratified by these States and ruling on any infringements. The ETUC makes great use of its right of intervention and is listened to if not heard. The employers are not represented by UNICE (which considers this is outside the scope of its competence), while the Geneva-based International Organisation of Employers is more focused on the International Labour Organisation (ILO).

This work within the Council of Europe goes beyond the Social Charter and includes the activities of the Directorate of Social Affairs. We enjoyed a very good relationship with its officials, who similarly wanted social institutions – and especially the unions – to have greater powers of intervention. The Secretary of the Governmental Committee of the European Social Charter, Klaus Fuchs* provided valuable support.

Following the election of Catherine Lalumière* as Secretary General of the Council of Europe on 1989, we⁷⁰ went to see her with a view to impressing on her the importance we attached to this institution and to request greater social partner participation

69. In March 1993, a resolution on relations between Group II and the ETUC drafted by the author was adopted by the ETUC Executive Committee.

70. Mathias Hinterscheid and the author, who was responsible for coordinating the work of the ETUC with the Council of Europe.

in CoE activities. We also emphasised the importance of upgrading the status of the Social Charter, suggesting that she take it away from the Directorate of Social Affairs and reassign it to the Directorate of Human Rights (something that she quickly did) and requesting her to introduce a collective redress procedure. While the Charter was a lovely 4-lane motorway, it had no access ramps. The fact that the members of the Governmental Committee on the European Social Charter were both judges and affected parties considerably weakened the Charter's effective enforcement. Initiated by the ETUC, it was not until 1999 that this procedure was introduced.

The European Convention on Human Rights and the Social Charter are two extraordinary instruments which the trade union movement has not been able to exploit as much as it would have liked to have done, in particular in the redress procedures created at our request. We would have needed a true legal strategy to advance social jurisprudence by upbraiding national infringements in the implementation of social rights.

Both the European Convention on Human Rights and the Social Charter were to serve as references and sources in the drafting of the Community Charter of Social Rights of Workers in 1989 and the Charter of Fundamental Rights of the European Union in 2000. Gérard Fonteneau* and Klaus Lorcher* were the two ETUC officials involved most in the work of the Council of Europe.

The ETUC continues to this day to push to have the Charter properly applied⁷¹, constantly increasing its contacts at national and European level.

3.8 The Steering Committee meeting on 26 January 1990: bad vibes!

The third meeting of the Steering Committee was to take place on 26 January 1990. On its agenda was the still blocked draft opinion on "New technologies, work organisation and adaptability of the labour market". With the issue of reducing and reorganising working time on the table in many countries (in particular in the British and German metalworking sectors), the employers' opposition to the Social Charter adopted in Strasbourg in December 1989 and to the introduction of European social regulations gave the ETUC little incentive to make concessions.

In our internal consultations, our organisations had seemed very much opposed to any compromise with UNICE over the draft text, as witnessed by a letter from the Danish LO-DK⁷² expressing the general spirit: "It is not simply a question of details, but a question of the general direction of the whole declaration... The unions are expected to make concessions, but without anything to offset them on the part of the employers... The text is quite precisely worded (with regard to the employer wishes, ed.), but vague and imprecise with regard to workers' interests. It is consequently not clear what interest the ETUC can have in signing such a declaration." In a letter from the European Metalworkers' Federation, its Secretary General Bert Thierron also expressed his opposition to the discussed text, in particular with regard to the negotiating guarantee and the meaning of flexibility⁷³.

71. Resolution of the ETUC Executive Committee meeting on 1-2 December 1988, "The importance of the European Social Charter for the success of the Internal Market".

72. Letter of 18 January 1990 from its President Finn Thorgrimson to the ETUC President. Author's archives.

73. Letter dated 22 March 1990, following the criticism and amendments put forward at its Executive Committee meeting of 16 March. The criticism was backed up by a second letter dated 24 April: "The whole text can be considered as an attack on the general goal of reducing working time". Author's archives.

In the minutes I took at the Executive Committee meeting on 15-16 February 1990, I noted that “UNICE has with regret taken note of the remaining differences while agreeing to continue the discussion”⁷⁴. It was “agreed” that the Presidents of the ETUC and UNICE would meet in an attempt to find a compromise.

As a sign of the atmosphere reigning in the Steering Committee, the consultation of the social partners on Commission proposals regarding the initiatives associated with the Social Action Programme concluded that there would be a report on the “degree of convergence and/or divergence on each of the proposals”.

For this consultation, five working groups were established for a 3-month period, discussing:

- the proposed directive on employment relations other than full-time, open-ended employment;
- the proposed directive on the organisation of working time;
- the proposed directive on an employer’s obligation to inform employees of the conditions applicable to the contract or employment relationship;
- a Community-wide instrument on the procedures for informing, consulting and participating workers in companies operating throughout Europe;
- a proposed Community-wide instrument on the working conditions applicable to workers performing work in a host country in the context of the freedom to provide services, in particular on behalf of a subcontracting company.

In a preparatory memo⁷⁵, I emphasised two possible dangers of such consultations: “The first involved the possible transformation of the social dialogue into a consultative committee of the Commission on its proposals. This would put a question-mark over the very nature of the social dialogue. The second danger was to be found in the risks of neutralising Community initiatives through making it necessary for Commission proposals to get past the social dialogue.”⁷⁶

Nevertheless, one “positive” result did emerge: the conditional adoption at our Executive Committee meeting in December of a draft joint opinion on Training & Education, which had still met with difficulties at the October Steering Committee meeting. The difficulties had been left in a pending status, subject to “further discussions”.

The Working Group was given a new mission:

- on the one hand, to “further elaborate”, between now and October 1990⁷⁷, paragraphs 5, 11 and 12 of the joint opinion⁷⁸, with a focus on in-house company training schemes and problems in getting leave for training;
- on the other hand, to discuss the transition of young people from education to work and initial vocational education and training (IVET), as well as the participation of

74. Agenda item 7 Social dialogue: report (dated 8 February 1990) on the meeting of the Steering Committee on 26 January. ETUI archives.

75. Memo of 25 January to the members of the Steering Committee. Author’s archives.

76. For the necessary distinction between “bipartism” and “tripartism” and between “consultation” and “negotiation”, we would have to wait, as we will see later, until our Joint Declaration at the Laeken Summit in 2000 (cf. Chapter 8).

77. In the understanding that, if the social partners did not reach agreement, the Commission would draw up its own proposal in its Action Programme and present it as part of its 1991 Work Programme.

78. These were the paragraphs dealing with “responsibility shared between an employer and an employee” in the field of CVET, the access modalities for lifelong learning, and training taking account of a need for personal development and an employee’s career development.

the social partners in Community-wide programmes and in particular the Action Programme for the development of continuing vocational training in the European Community (FORCE) which the Commission had just presented to the Council and which highlighted the value of social consultation, the experiences gained with company training agreements and the pooling of these experiences.

On this last point, lifelong learning, unions and employers still held opposing views. The FORCE programme exemplified this conflict, with UNICE seemingly supporting the programme but in fact very much against it, as was later seen when, following this meeting of the Steering Committee, UNICE was to publish a *Position Paper* on vocational education and training, in which it stated, in paragraph 3, that “UNICE cannot give its support to the analysis of contractual policy and the dissemination of innovative contractual agreements...because evaluation at the European level of the effectiveness of contractual policies is impossible.”

In the view of the employers, CVET had to remain subject to company policy decided by the employer. Everything had to be done to prevent the expansion of collective agreements to this field, particularly at a European level. The UNICE letter also questioned the reference to training leave and the right to training. Contesting this reference, the employers perversely referred to a previous joint opinion of the social partners, in which we had been unable, despite all our efforts, to include a “right to training”.

This position of UNICE triggered a response from the ETUC on 6 March 1990, accusing the former of taking up positions going against what was being discussed in the social dialogue. The UNICE Secretary General replied on 30 March, contradicting himself by declaring that the role of the social partners was not questioned by the employers’ position, but in the same paragraph writing that “we cannot give our support to the analysis of contractual policy at the European level”. This meant that he was absolutely against a joint assessment on this subject, as this could lead to Community legislative and/or collective bargaining initiatives. In the following paragraph he went on to contrast the company level with the European level: “In our view, the extension over and beyond the company level to the European level would be counter-productive.” Nevertheless, he went on to affirm the principle of a “right to training”, up to then unacceptable to UNICE. As with the subject of restructuring, this was to be a subject where I never really saw any progress being made in the seventeen years I was in office.

Despite this opposition to the FORCE programme, the Steering Committee looked at possible extensions of the opinion which had been “finalised” through sweeping the differences under the carpet. This problem of extensions was a general problem regarding the jointly adopted texts⁷⁹. Extensions were possible at two levels: national and sectoral. With regard to the national level, a consensus was arrived at, allowing on the one hand their wide dissemination to public authorities and national social partners, and on the other hand through organising round tables. With regards to the sectoral level, UNICE “stuck to its guns”.

The only consolation was that the ETUC and CEEP considered that such extensions could be envisaged both at Member State level and at European sector level. UNICE was however against any such dimension.

79. As stated in a preparatory document of the Commission dated 19 December 1989: “Despite their clear significance and value, the joint opinions adopted up to now have remained little known outside the small circle of those participating in the work”. Author’s archives.

The generally positive conclusion I was able to report to the Executive Committee was that “the level of debate has been better in this group than in the two preceding groups, but that the employers still very much give the impression of wanting to ‘drown the fish’ with social dialogue and their ‘neither... nor’ policy (neither legislation nor negotiation)”⁸⁰.

3.9 The consequences of the 26 January 1990 meeting

On 31 January 1990, a meeting took place between the ETUC and the Commission, attended by Jacques Delors and Vasso Papandreou on the part of the Commission, and Ernst Breit and Mathias Hinterscheid on the part of the ETUC. This meeting was extremely important, with its agenda dealing with the consequences of the Strasbourg Summit: the Charter of Fundamental Social Rights of Workers; implementation of the associated Action Programme, both from a legislative point of view and with regard to the role of social dialogue; the principle of subsidiarity; existing legislation and needed additions; monitoring; Central and Eastern Europe and EEC/EFTA cooperation.

In the minutes⁸¹ I took of the meeting, the following points need to be highlighted:

- A commitment from the Commission to present all Action Programme proposals by the end of 1991. It also declared its willingness to resort to bilateral consultations in the event of it “noticing that one of the parties is trying to slow down the work of the Commission (i.e. UNICE, ed.)”, as speed was of essence.
- With regard to the social dialogue, “as much as we call for a ‘hard core’ of Community-wide social legislation, we also uphold the autonomy and responsibility of the social partners to negotiate and conclude collective agreements”. Jacques Delors fully agreed with us on the fundamental role of collective bargaining, but was “very critical of the results of the social dialogue, or rather the lack of concrete results. With regard to the right to time-off for training, a subject where Jacques Delors considered that the social partners could make faster progress than legislation (remember what was said on the previous page about the problems encountered with the FORCE programme, ed.). The same was true for the European labour market where concrete measures could be decided for cross-border regions”.
- Replying to our criticism of the use of the principle of subsidiarity to block Community initiatives, Jacques Delors admitted that ambiguity existed over this concept and that he himself took some responsibility for this, but insisted that a legislative text would truly help progress to be made at European level. “Legislation cannot be a substitute for unions’ lack of power”, he said, pointing his finger at us. “You must assume your role and push through at least some of your union objectives by your own means.”⁸² These words were to greatly guide our preparatory work and the debates at the ETUC Congress in Luxembourg in May 1991.
- With regard to the legal instruments for implementing the Action Programme, Commissioner Vasso Papandreou agreed to a broad interpretation of Articles 100A and 118A, “but on solid foundations so as not to risk the Summit blocking them, or – worse

80. Memo dated 8 February 1990. Author’s archives.

81. Ibid.

82. Ibid.

still – a European Court of Justice (ECJ) ruling with a restrictive interpretation of the phrase ‘for 10 years’⁸³.

Had not Jacques Delors declared to the European Parliament on 17 January 1990: “It is unacceptable that decision-making should be less effective for the social dimension than for the economic area”? The next intergovernmental conference on institutional reform was supposed to revamp the EEC, making it more democratic. In this respect, the ETUC was to play a decisive role in the democratisation of the Central and Eastern European (CEE) countries in preparation for the enlargement of the EEC. We had already anticipated this enlargement in our work helping the new and/or reformed CEE unions to prepare for the economic and social integration of their countries. We wanted to see the support of and cooperation with these countries including a social dimension. Similarly, we wanted to develop a training programme for the new democratic unions “to ensure their ability to take action and engage in collective bargaining in these countries which were soon going to find themselves confronted with the harsh realities of a market economy”⁸⁴. Following this meeting, the Commission consultations began.

Flexibility: the Spanish case

The conflict between the ETUC and UNICE over atypical work had been aggravated by the agreement concluded in January 1990 between the Spanish government and the two union confederations, CCOO and UGT, on controlling employment contracts. This agreement had the potential to serve as reference at European level. This agreement triggered two virulent letters from UNICE, one on 26 March sent to Council President Felipe Gonzales and the other sent on 27 March to Commissioner Vasso Papandreou, denouncing this agreement in the following words (don't laugh!): “UNICE is very

disturbed by this turn of events in Spain” and “if the agreement concluded in Spain were to be extended to other Community States, there is no doubt that this would discourage the flow of private investment to these States”. The national and European employers then launched a disinformation campaign, labelled by the EESC Workers' Group as “totally unjustified... employing a crude alteration to the exact content of these agreements” (the position taken by Group II and sent by its President, François Staedelin, to the ETUC Secretary General on 5 July 1990). We should remember that this agreement related to the “fight against fraud and union information rights on employment contracts”!

With regard to a draft directive on part-time, fixed-term and temporary work, the Commission, in line with its commitment to the Steering Committee, consulted the social partners on 13 March⁸⁵ and 24 April 1990. The positions expressed by the social partners were naturally diametrically opposed. The unions considered it necessary to quickly establish a Community-wide legislative framework for atypical employment contracts, while “UNICE rejected any Community-level intervention and the argumentation used in the Commission document on distortions of competition”⁸⁶.

83. Ibid.

84. I would like to recall here that the US unions, with the help of their government, had quickly appointed liaison officers in several CEE countries with a view to developing an industrial relations “culture” similar to theirs, but different from the European one.

85. After this meeting, the ETUC denounced the employers' position in a letter of 30 March 1990 to Commissioner Papandreou: “The outright rejection of Community legislation on atypical work expressed by UNICE on 13 March, like its *a priori* rejection of Article 118A as the legal basis for the draft directive on the organisation of working time, serves only to heighten our concern.”

86. UNICE bulletin, March/April 1990.

This situation led Mathias Hinterscheid to write a further letter to Commissioner Vasso Papandreou⁸⁷, highlighting our concerns that the consultations in the context of the social dialogue were neutralising Community initiatives: “The meetings of 24 April and 23 May 1990 have unfortunately confirmed UNICE’s negative attitude. On both atypical work and the organisation of working time, the employers have merely refuted the Community initiative by refusing to discuss the very content of these initiatives. In such a context, these consultations are a one-way street, doing nothing to improve bilateral consultations that could otherwise proceed more quickly and efficiently... For our part, we would therefore prefer the Commission to speed up the publication of its draft directives, gaining valuable time in the necessary rebalancing of business and social interests.”

3.10 Steering Committee meeting of 10 July 1990: the employers keep their foot on the brake!

This meeting was important to the ETUC for three reasons: first, to initiate a debate on the extension of joint opinions; then, to find an overall approach to employment policy, and in particular to structural policies; and finally, to remove any obstacles in the way of negotiating adaptability and flexibility.

Extension? You said extension of joint opinions? But yes, we’re here to discuss the use of our joint opinions!

The Steering Committee meeting of 26 January 1990 had tasked the three European Secretariats with drafting a Joint Declaration on what consequences these opinions would have. But on 26 April, the UNICE Secretary General wrote to Commissioner Vasso Papandreou to clear the ground and limit the “ambitions” of the ETUC, which wanted to develop a common method of extending these texts, which otherwise were by nature non-binding. In the words of Zygmunt Tyszkiewicz: “It is therefore not possible, nor do we consider it useful, to develop a European model for dissemination of joint opinions.”

To my great regret, Mathias Hinterscheid was a bit too quick off the mark on 16 July, acceding to the publication, under pressure from the UNICE Secretary General, of a minimalist declaration⁸⁸ containing less than the result previously achieved in the Steering Committee. On 18 July, I reacted in an internal memo⁸⁹ to Mathias: “I must admit that I was very surprised at the ‘somewhat hasty’ joint press release on the results of the Steering Committee meeting, which seems to have replaced the joint declaration we were developing on ‘usage instructions’ for joint opinions. In particular, these give Tyszkiewicz an easy way of jettisoning the whole sectoral dimension.” I stressed this point, demanding that we obtain from UNICE a “commitment” on the further use of joint opinions.

I was not the only one to react to this press release signed by Mathias together with UNICE and CEEP. Representing three Italian union confederations in the Steering Committee, CGIL Secretary General Bruno Trentin was to write the following to the ETUC President and Secretary General⁹⁰: “I was very astonished that the text did not reflect the agreement reached with great difficulty at the Steering Committee meeting of 10 July which would have obliged (not invited) the affiliated organisations to discuss

87. Letter of 27 June, IISH archives, box 2136.

88. ETUC press release, CP 27/90 IISH archives, box 2136.

89. The author’s archives.

90. Letter of 10 October 1990 Author’s archives.

the impact of the Community programmes on the various national situations (and not to assess their value and usefulness) and to call on the various sectoral organisations to define agreements with a view to allowing the joint opinions to have concrete benefits at workplace level.”

Fortunately, a secretariat-level working group was to draft, in September, a new joint declaration taking better account of ETUC concerns on national-level commitments to take over the European joint opinions. The Italian social partners were the first to give such a commitment on implementing the joint opinions, at a joint seminar in Rome (alas, they were to be the only ones).

As a result of this declaration, the ETUC sent out a circular⁹¹ to its national and sectoral member organisations requesting them to hold debates on the joint opinions with their national employer organisations, with the “Economic and Social Committees” of their countries, and with the European employer organisations in their sectors. Indeed, while UNICE rejected any sector involvement, the door had already been opened to dialogue at this level in several sectors (Retail, Construction/Woodworking, Food, Textiles, Transport...). In this circular on the use of the joint opinions, I was to write: “The basis we now have remains quite fragile, given that these opinions sometimes contain wordings resulting from difficult compromises and very carefully balanced (...). Nevertheless, we consider that these opinions can serve as a basis for constructing and developing what we consider to be an indispensable instrument for realising social policy, also at European level: negotiations leading to collective agreements.” This said, we were very much aware of the weakness of what was contained in the joint opinions. But, for us, they were part of a learning process for a European industrial relations system.

As regarded employment policy, the ETUC managed to get a working group on “Employment and structural policies” set up, tasked with providing input to the Annual Report on Employment in the context of the social dialogue.

The Steering Committee restarted negotiations on the subject of “adaptability and flexibility”. At the preceding 26 January meeting, the Presidents had been asked to identify the main problems and propose ways of removing any obstacles. Finally, after this meeting and several others at UNICE/CEEP/ETUC secretariat level, the decision was taken to hold a joint seminar on the various aspects of adaptability and flexibility, with external contributions fuelling the debate. On the basis of the input from the 24-25 September seminar, the Working Group would recommence its work, attempting to draft a new proposal for a joint opinion.

The Steering Committee “noted with satisfaction” the progress made in the Education/Training Group on drafting an opinion on the “Transition of young people from education to active working life”, while noting that differences continued to exist on the draft opinion on “practical approaches likely to allow the widest possible access to training”⁹².

We should note that in this period between March and July 1990, we were negotiating a “separate” framework agreement with the CEEP on the subjects of training and new technologies, to be implemented in two sectors: rail transport and energy. The aim was for this agreement to be concluded by the end of the summer holidays in September (cf. Chapter 4.1). However, in July, there was still a long way to go...

91. Circular dated 9 October 1990, issued by the author. IISH archives, box 2136.

92. Joint opinion of 13 February 1990 on the creation of a European occupational and geographical mobility area and improving the operation of the labour market in Europe. Joint opinion of 19 June 1990 on basic education and initial, vocational and adult training. Joint opinion of 6 November 1990 on the transition from school to adult and occupational life.

3.11 The Steering Committee meeting of 6 November 1990: a funny atmosphere...

The agenda for this meeting contained a few topics not much to the taste of UNICE: the presentation of the framework agreement on training and new technologies in the rail and energy sectors concluded on 6 September by the ETUC and CEEP; the evolution of social dialogue in the retail sector; information on the status quo of the sectoral studies carried out by the Commission⁹³, and information on the study of the contribution of public services to company competitiveness and performance; and, as always, employment, adaptability and training.

Discussions mainly related to the Commission's Annual Report on Employment and on the progress in the working groups. The discussions on the Employment Report were easy-going, following the social partners' unanimous approval of the report's quality and usefulness at a joint working group meeting on 21 September.

The deadlock over the draft opinion on "Adaptability" seemed to have been overcome following the seminar on 24-25 September. But even so, this seminar had not been able to remove all obstacles. In his introduction to the work being done, the German Professor Otto Jacobi attempted to "de-ideologise"⁹⁴ the subject, calling on everyone to take a pragmatic approach. In his view, "while flexibility is not synonymous with deregulation, it needs to be the subject of negotiations between the social partners. Technological change... calls for 'modern' highly-qualified workers and, at the same time, a change in the old hierarchical structure of companies, more suited to a more complex organisation of work"⁹⁵. The ETUC considered it possible to arrive at a joint opinion opening the door to the principle of negotiations at European level and the various other levels involved on the changes and the necessary adaptations. But UNICE stuck to its guns: "European-level negotiations are not possible".⁹⁶

Despite all this, negotiations were scheduled to resume on 26 October and a new meeting of the working group was foreseen for 10 January 1991 in an attempt to finalise a joint opinion.

The Steering Committee reached agreement on to a draft joint opinion on IVET under the title "Transition from school to adult working life" which was to be presented to the decision-making bodies of the three organisations. With regard to access to CVET, differences remained on the question of funding. A next meeting of the working group scheduled for 28 November was tasked with resolving this problem.

Finally, a discussion arose for the first time over the concept of "subsidiarity"⁹⁷, only for it to be postponed until the next Steering Committee meeting in January 1991, when it would be discussed in the context of a debate over the upcoming revision of the Treaty.

Seldom good news for the extensions of the European social dialogue was the announcement that the Italian employer representative Sergio Pininfarina* and union leader Bruno Trentin would be holding of a round-table discussion on the European social dialogue and its results in Rome in February 1991, bringing together unions and

93. Pierre Buigues, Fabienne Ilzkowitz and Jean-François Lebrun, *The Impact of the Internal Market by Industrial Sector: The Challenge for the Member States*, II/364/89-FR, European Commission, 1989. This study identified 40 sensitive sectors in terms of development and employment and to which the ETUC and its sectoral committees paid great attention. They also called for discussions on the effects of industrial changes induced by the implementation of the Single Market. Author's archives.

94. Minutes taken by the Commission, undated, unsigned. IISH archives, box 2144.

95. Ibid.

96. We can well imagine the perseverance needed by the ETUC to get negotiations on atypical work going.

97. A subject which we had discussed with Jacques Delors at our meeting on 30 January 1990.

employers. The President of the Greek employer organisation also expressed his readiness to hold a similar round-table in Greece.

3.12 The ETUC's Luxembourg Congress and the arrival of a new ETUC Secretary General

As already revealed at the preceding Congress in Stockholm in 1988, the ETUC found itself confronted with a need for renewal and a change in its ways of working. Moreover, the “qualitative” evolution of the social dialogue meant that we had to improve our democratic management of this dialogue and the decision-making processes on any results thereof. The Stockholm Congress had called for a report to be prepared for the following congress. Named after the President of the Dutch union confederation FNV who had chaired the working group tasked with preparing it, the Stekelenburg Report was subtitled *For a more efficient ETUC*.

The Luxembourg Congress on 13-17 May 1991 turned out to be a turning point in the ETUC's history.

The title of the general resolution was particularly significant: *European trade unionism at the heart of change in a changing world*. The choice of the new Secretary General was also significant, underlining the desired change in the ETUC's management and strategy.

3.12.1 A new EUTC Secretary General, but who?

On the day before the Luxembourg Congress there were two candidates left in the running for the post of Secretary General: Johan van Rens*, head of international and European affairs at the Dutch FNV, and Emilio Gabaglio* from the Italian CISL.

There was no doubt that the choice was going to constitute a turning point for the ETUC, with a profound effect on the evolution of trade union action in Europe and involving a transfer of powers from the national to the European level. The ultimate election of Emilio Gabaglio, supported in particular by Southern European organisations (whereby Southern Europe extended right up to Belgium) but also by the German DGB (which played a determining role), clearly pointed to a more political profile for the ETUC's European Secretariat. The failure of Johan Van Rens to get elected freed up a post of Deputy Secretary General⁹⁸, created in the hope that one of the two candidates would withdraw by accepting the post of deputy. This was not however the case.

The Executive Committee had to come together during the Congress to examine the candidacies for this second post, the first having been handed, out of principle, to the representative of the Nordics, Marku Jaskelainen from the Finnish SAK. The DGB suggested to the CFDT to nominate me as deputy Secretary General, while the TUC put forward Peter Coldrick, also a member of the Secretariat. The discussions within the Executive Committee were difficult, but I ended up being nominated by a margin of just one vote. The TUC had great difficulty accepting this defeat and threatened to ballot the

98. From 1973 to 1991, the Secretariat had only one deputy Secretary General. He or she was always supposed to come from a non-EEC country (always a Nordic country). This second deputy position was created in the context of a reform of the ETUC.

Congress in an attempt to reverse this decision. However, TUC Secretary General Norman Willis (who was to become ETUC President and thus to chair the Executive Committee) realised that it would be difficult for him to start his presidency by undermining a decision taken by this very body. Peter Coldrick then publicly announced that he was withdrawing his candidacy, a difficult moment for him. But he remained a loyal official, and I very much appreciated his qualities and contributions throughout the 17 years we worked together within the ETUC Secretariat.

Two major topics were to dominate this Congress: the strengthening of the social dialogue, and the role and place of the trade federations.

I'm leaving, you're leaving!

Mathias Hinterscheid was not expecting a cold shower when he arrived at the DGB headquarters in Frankfurt in autumn 1990. Come to plead his case for keeping his job as Secretary General, he had asked me to accompany him. However, Ernst Breit, President of the DGB and the ETUC, didn't even give him a chance to start speaking, instead opening the

discussion on the necessity for a deep-going reform. A draft proposal entitled "The modernisation of the ETUC" was to be presented at the next Congress. Ernst ended his introduction by saying: "I'm leaving, you're leaving". Thus giving concrete form to the plans for a deep-going reform, the DGB President did not leave Mathias much choice. The train journey back to Brussels was somewhat painful and sad for the latter.

Looking at the topic of strengthening the social dialogue, the ETUC's primary aim was to achieve its qualitative upgrading with regard to both its content and implementation commitments: "The ETUC declares its intention to progress towards achieving European collective agreements through proposing the conclusion of framework agreements, like the one concluded between the ETUC and CEEP"⁹⁹ (cf. Chapter 4.1).

A further focus was on the four dimensions of social dialogue: cross-industry; sectoral; multinational companies; regional/cross-border¹⁰⁰. The ETUC thus had a strategy for occupying all vertical and horizontal dimensions of social dialogue.

For more on the fundamental role of the federations in the evolution of the ETUC, see Chapter 4.9.

Another aspect emerged at the Congress and was to become increasingly important in the following years: that of coordinating collective bargaining. This was a completely new development, as up to now the national and sectoral union organisations had done everything to keep their bargaining level out of ETUC reach. The General Resolution was to state that "the ETUC shall coordinate collective bargaining policies, each year publishing guidelines on the common priorities for collective bargaining at national and sectoral levels".

I was to inherit responsibility for this work. We set up a "Collective Bargaining Committee" tasked with presenting to the Executive Committee, every year in December, a status report on national and sectoral developments, as well as recommendations for one or two topics of common interest to be included in national and sectoral bargaining. With its two meetings a year and its annual workshop, this Committee was to

⁹⁹. Paragraph 4.5 of the General Resolution.

¹⁰⁰. The ETUC has 45 interregional trade union councils (IRTUCs) bringing together the trade unions belonging to the affiliated national confederations in the cross-border regions from far north in Sweden to deep south in Spain, from Ireland in the west to Hungary in the east. The IRTUC coordinating committee meets twice a year.

gain an important role, drawing up the status report in conjunction with the European Trade Union Institute.

On 14 June 1990, the Spaniard Carlos Ferrer* was elected President of UNICE, replacing, as of 1 January 1991, the German Karl Gustaf Ratjen (President from 1989 to 1991). While the style changed, UNICE policy remained the same.

On 3 October 1990, Germany was reunited, meaning that the East German *Länder* were now part of the European Union. The support given to Helmut Kohl by Jacques Delors to ensure the parity of the Deutschmark between East and West Germany was of fundamental importance. Germany had up to then given a lot to Europe, and now it was Europe's turn to give a lot to Germany, helping it to soften the monetary shock.



7th ETUC Congress in May 1991 in Luxembourg. The speech of Jacques Delors. On the tribune from left to right: Ettore Masucci, Secretary; Peter Coldrick, Secretary; Mathias Hinterscheid, Secretary General; Ernst Breit, President. This Congress was to elect a new Secretary General, Emilio Gabaglio (from the Italian CISL), and a new President, Fritz Verzetnitsch (from the Austrian ÖGB).

Source: ETUC archives

3.13 Implementation of the Social Action Programme

As already stated, the Action Programme¹⁰¹ was made up of 47 proposals, of which 18 were legislative ones. However just seven referred to labour law¹⁰² and employment conditions. The eleven others concerned health and safety at work and were very much related to the completion of the Single Market and the free movement of goods and services, with the exception of the proposal on working time, to be based on the Framework Directive on Health and Safety at Work (see explanation below).

The Charter adopted by the Council and the Commission's Action Programme, together with the decision to introduce qualified majority voting on topics related to the "working environment" and in particular the field of health and safety at work made the employers' previous "neither-nor" position untenable. As promised by Commissioner Vasso Papandreou¹⁰³, implementation of the Programme quickly got started.

101. COM(89) 568 final of 29 November 1989: "This is the subject of this document which the Commission has prepared under its sole responsibility, pursuant to its right of initiative, with regard to proposals for Community instruments to be presented to the Council and recommendations under Article 155 of the EEC Treaty." A very wise and cautious wording, but killing two birds with one stone: Charter/Programme... which the employers and liberal governments were unable to prevent...

102. Employment contracts and relationships other than full-time and open-ended; an employer's obligation to inform employees in writing about the conditions applicable to the contract or employment relationship; the organisation of working time; revision of Directive 75/129/EEC on collective dismissals; the posting of workers within a service provision context; a Community instrument on procedures for informing, consulting and participating workers in European companies; the protection of young people.

103. The bulk of the Commission proposals were implemented between 1991 and 1994. During this period, the Bilbao Agency with its tripartite board was established. Its task was to monitor standardisation and other developments in the field of health and safety at work.

With regard to employment and working conditions, the first initiative turned out to be not too much of a problem, despite the normal skirmishes with the British government. The initiative concerned an employer's obligation to inform employees in writing about the conditions applicable to the contract or employment relationship (the Written Statement Directive). The directive was adopted by the Council on 14 October 1991¹⁰⁴.

The bitterest battle was waged in 1992 and 1993 over the proposed directive on the organisation of working time. Employers kicked off by contesting the legal base, Article 118A, employed by the Commission to set down minimum rules on workers' health and safety. In a letter to Jean Degimbe, Director General of the DG Employment and Social Affairs¹⁰⁵, Zygmunt Tyszkiewicz rejected the consultation of the Advisory Committee on Safety, Hygiene and Health Protection at Work, a tripartite institution with its seat in Luxembourg, stating that the draft directive "was outside the scope of the Committee's responsibility". In UNICE's view, "the organisation of working time (...) was a subject of industrial relations and collective bargaining", whereby it should be remembered that he also rejected collective bargaining. But the Commission's approach was the right one, and the ETUC supported the proposal setting maximum working hours, minimum daily and weekly rest periods, annual leave, etc.

In April, a UNICE press release called on the Social Affairs Council to reject the draft directive on working time, "which in its view imposed many unjustified constraints on working time, *inter alia* a maximum of 48 hours a week (including overtime), max. 8-hour night shifts, strict rules on minimum daily and weekly rest periods, as well as a strong exhortation for all Member States to regard Sunday as a day of rest" (*sic*). In this respect, UNICE was to toe the line of the British employer organisation, the CBI. The directive was to become the subject of extremely difficult debates in the European Parliament and the Council, under fire from European and national employer organisations.

It was difficult for the ETUC to keep track of how the draft directive was progressing, as it was constantly being watered down by the British representatives and their war of attrition, always letting others believe they would accept the proposal, but with amendments. This tactic allowed them to slowly but surely unravel the proposal and finally to reject it through pushing through what was to be a congenital defect of the directive, the possibility of an "opt-out". This clause¹⁰⁶ allowed the British employers to derogate from the minimum provisions through direct negotiations with the employee concerned (subject to the latter's acceptance), thereby considerably weakening the directive to this day.

Despite all these problems and after many discussions with our British comrades from the European Parliament, in particular with Stephen Hughes* and, from the TUC, Dave Feickert*, I was convinced that we needed to support the draft, even in its watered-down version, as it provided new guarantees for British and Irish workers¹⁰⁷. We should not forget that in the United Kingdom (and proportionately similar in Ireland), some seven million workers had only two weeks' paid holiday (the directive set a minimum of three), and that there was no ceiling for working hours, meaning that some two million workers worked 48-56 hours a week.

104. Directive 91/553.

105. UNICE letter dated 2 March 1990. IISH archives, box 2144.

106. Initially designed by and for the United Kingdom, it would subsequently be used by the new Member States.

107. Directive 93/104 was adopted on 23 November 1993.

The British government, despite all the concessions gained, continued to contest the legal base of this directive, taking the case to the European Court of Justice. In the government's view, the health and safety base allowing qualified majority voting was inappropriate. It argued in favour of unanimous voting, which would have allowed it to veto the decision. This legal battle was worrying for some employers who thought that the directive already provided sufficient flexibility. On 11 July 1996 in Dublin, the UNICE Secretary General was to state that he was afraid that the ECJ ruling might lead, in great contrast to what the British government hoped to achieve, to a radical increase in social legislation through a very broad interpretation of the term "working environment"¹⁰⁸, especially as the ECJ Advocate General had stated in March 1996 that, in his view, the European Union only needed qualified majority voting to take decisions involving improvements to the working environment. As reported by journalist Robert Taylor, "This must be construed in broad terms as including any factor affecting the worker in his work." The journalist went on to add that, should the Court support the opinion of the Advocate General, this would mean that a large number of social measures could be introduced under qualified majority voting. The British government had played with fire... and got its fingers burnt.

As we have seen, the issue of working time had always been – ever since the birth of the ETUC – a key demand, backed by numerous struggles, particularly in the metal-working sectors in Germany, the United Kingdom, France and Italy.

The discussion was to continue within the ETUC. The European Trade Union Institute became the discussion forum, drafting proposals in collaboration with academics and trade unionists. In 1995, it brought out a book which was to "revolutionise" the approach to this problem¹⁰⁹. Up to that time, we had taken a very linear approach to reducing working time: daily, weekly, monthly, yearly. Our discussions helped us to gain an understanding of working time from a career-long perspective, and the link between working and leisure time¹¹⁰.

Other Commission proposals were to meet with unexpected difficulties. For instance, the draft directive on "Pregnant Women" was very much contested by the French government (to the great delight of the British), questioning the legal bases used by the Commission, i.e. Article 118A, which allowed qualified majority voting. In the view of the French, and in particular the heads of social security system, there was no question of the EEC taking action in the field of social security, even indirectly, except under the unanimous voting rules of Articles 100 or 235.

The draft directive, over and above providing workplace protection for pregnant women, also provided for wage guarantees while the woman concerned was not working. The French representatives participating in the Council discussions argued in defence of a strictly legal interpretation of the Treaty, while at the same time declaring that changes to the Treaty were necessary. They pleaded in favour of legislation being passed unanimously or for the elimination of social security aspects from the draft directives (this issue also arose in connection with proposals on atypical work). In the view of

108. Proposal reported by Robert Taylor in an article in the *Financial Times* of 12 July 1996.

109. *Le Temps de travail en Europe : organisation et réduction*, coordinated by Reiner Hoffmann and Jean Lapeyre, Paris, Syros, 1995. This book was written following a joint ETUC/ETUI conference held in Düsseldorf on 7-8 December 1994.

110. Researchers including Jean-Yves Boulin from the Paris Dauphine University, Mateo Alaluf and Robert Plasman from the ULB, Ulrich Mückenberger from Hamburg University greatly helped us in defining this new and more flexible approach to fighting unemployment, improving living and working conditions, better reconciling work and private life and to equal treatment for women and men.

the ETUC, this would have significantly distorted the purpose of the proposal. In Brussels, the French position seemed particularly negative as it merely contested the legal bases without making any proposal for rectifying the situation. In an attempt to better understand the French position, and above all to get it changed, I arranged a meeting with the experts of Claude Evin, at that time the French Minister of Social Affairs, on 9 April in Paris¹¹¹.

In a memo to Mathias Hinterscheid¹¹², I summed up the discussions and their conclusions. In the view of the French, there was “principal opposition to any issue in the field of social security being subject to qualified majority voting”. But the arguments put forward by the ETUC did seem to at least “shake up” the Minister’s experts. I pleaded for the need to get social legislation pushed through as quickly as possible, without having to wait for the Treaty to be reformed, but instead to have a dynamic interpretation of the current Treaty. The substantive content of the directives had to be sufficiently clear, meaning, with regard to atypical work, that there had to be an equal treatment guarantee in the field of social benefits, and, with regard to pregnant women, an income guarantee during the period they were off work. I called on the French administration to take a more positive stance, defending the principles of equal treatment and income guarantees, while at the same time leaving the application of these principles up to the Member States. At the end of the day, the “ministerial delegation seemed to have changed its mind, agreeing to qualified majority voting as long as the necessary clarifications were made, for instance on a guaranteed wage or wage equivalent, stating that this could be gained through various combinations involving employers, collective agreements and social security systems”¹¹³. The meeting was thus very useful, and ended with the Minister’s advisor “demanding that her staff take a more positive stance”¹¹⁴. This change in the French attitude removed the obstacles in the way of a solution. In my mind, this anecdote is indicative of the work we had to perform in explaining moves and persuading stakeholders in many countries, including governments considered to be “friendly”, with a view to achieving progress in EEC social policy.

111. The meeting was attended by Ms Berthod, the Minister’s advisor, Mr Laroque, Director of the Ministry’s Social Security Division, Ms Leclerc, Director of the Ministry’s International Division, and Ms Marceau, advisor to the standing French representation in Brussels.

112. Memo dated 11 April. The author’s archives.

113. Ibid.

114. Ibid.

Chapter 4

From lobbyists to active players

**"Before promising the people hot water,
we first need to provide them
with vessels to put it in."**

Le Captain Cap
Alphonse Allais

In this chapter, we will be looking at the evolution of the various players within the context of a planned reform of the Treaty on European Union. First, there is the evolution desired by the public-sector employers (CEEP) and the ETUC which is to lead to the first European cross-industry agreement. And then there is a more limited evolution on the part of the private-sector employers (UNICE) following the failure of its "no legislation/no bargaining" strategy, with UNICE having to find ways of dealing with the Commission's legislative initiatives. The social partners are going to be forced to quit their role as lobbyists, instead becoming players/producers of social standards, while the Member States are going to have to come to terms with this evolution. The agreement signed on 31 October 1991 is to mark the start of a new era in the European social dialogue. This is also a period of a deep-going transformation of the European organisations and especially the ETUC and of the role of its affiliated trade union federations.

4.1 The CEEP, an ideal partner?

Having started work in early 1989, the working groups were not making much progress. UNICE seemed paralysed by developments it had always been opposed to, such as the adoption of the Social Charter and the Social Action Programme, backed by the possibility of qualified majority voting since the adoption of the Single European Act. The problem we had was to know how to bypass and/or provoke UNICE. Our second partner on the employer side was to be a great help in this respect.

We have already seen that the European Centre of Employers and Enterprises providing Public Services and Services of general interest (CEEP) had up to now played just a marginal role in the European social dialogue, defending the existence and status of state-run companies without influencing the general framework against the interests of private-sector employers. As Jacques Fournier, the future CEEP President, was to say, “though there were three partners participating in the social dialogue, we were not boxing in the same category as the other two. The difficult questions were negotiated between UNICE and the ETUC. The CEEP did not have the same weight in the discussions”¹.

The CEEP was founded by the heads of several state-run French companies in the 1960s. It extended its reach first to Germany and Italy, then to the Benelux countries, with a debate over the interpretation of Article 90 of the Treaty of Rome on introducing competition to public sectors, which “directly questioned the place of state-run companies in the Common Market”². But we would have to wait until the 1980s, and the “Objective 1992” (the completion of the Single Market) and the adoption of the Single European Act, for the “wind of deregulation” to start blowing. The CEEP’s constitutive assembly took place on 6 April 1966 and its first congress was held in Paris in April 1968. The CEEP is made up of national sections bringing together state-run and state-held companies. Though the CEEP was originally intended to be the mouthpiece of such companies vis-à-vis the European institutions, it “was extremely cautious to start with”, wanting to be a “club with as little legal form as possible”³.

The French footprint was clear to see, as witnessed by the appointment of the heads of French state-run companies as its Presidents: Marcel Boiteux from the French utility company EDF between 1981 and 1985, and Jacques Fournier from the SNCF between 1988 and 1994 (between 1985 and 1988, the CEEP was headed by Lord Shepherd, chairman of the British National Bus Company).

This footprint induced a strong “public service” culture “à la française”, sometimes considered to be slightly arrogant and for a long time a source of misunderstandings with other, less centralised, public service cultures, as found in Germany or Scandinavia. In the early 1980s, the CEEP was to a large extent dominated by French companies (e.g. EDF, Elf, AGF, CNME, BNP, SNCF or Air France). They were also the ones providing it with most of its logistic support. Privatisation waves and the twin UNICE/CEEP membership of certain state-run companies, many of which wanted to be released from the shackles of the State, battered the CEEP, giving rise to an existential dilemma. This was to last until it opened its doors to public-sector companies providing “services of general interest”, many of them from Scandinavia – i.e. quite a “mixed bag”.

1. Jacques Fournier, *Itinéraire d'un fonctionnaire engagé*, Paris, Dalloz, 2008, p. 466.

2. Study published by DARES, *La représentation patronale française dans l'Union européenne : conditions d'eupéanisation des organisations et usages d'une représentation nationale*, October 2011.

3. Quote from Bernard Chenot, President of Assurances générales de France (AGF) and President of the French section of the CEEP (1965/1972) in the DARES report referred to above.

It was clear from the start that the arrival of Jacques Fournier, elected President of the French section of the CEEP in 1987 while he was head of Gaz de France and subsequently elected its President in 1988 (he had since become President of the French railway company SNCF), would have a significant impact on the CEEP's position in the social dialogue. Jacques Fournier had got to know Jacques Delors in the 1960s, when the latter, as head of the Social Affairs department in the Commissariat Général du Plan (the French economic planning centre), had brought him in as his successor. Jacques Fournier was the prototype of a committed high-level civil servant serving the State and the public interest. It was he who was to get the CEEP out onto the social dialogue pitch, playing a "moderating" role despite the fact that, in the words of Nunzia Gava, head of social policy at the CEEP, "Tyszkiewicz (UNICE Secretary General, ed.) despised the CEEP"⁴. For us, the influence of the CEEP on negotiations remained invisible, as "in any internal debate in the preparatory meetings of the employers, it (the CEEP, ed.) remained a minority. Similarly, it was little able to express its views in plenary meetings"⁵.

The new CEEP President had affinities with Jacques Delors, with whom he was able to conduct bilateral discussions in defence of public services, a subject dear to the heart of Delors, and on the place of the CEEP in the social dialogue. "In the field of the social dialogue, we had no dispute with the Commission. In fact, in many respects, we were its top upholders."⁶ This side-lining of the CEEP by UNICE was compensated by the former's good relations with Delors⁷.

Jean-François Colin, deputy managing director of the SNCF and in charge of human resources, was to become chairman of the CEEP's Social Commission. He was the President's "right arm" in Brussels, and we enjoyed an excellent relationship with him. Jacques Fournier could also count on the CEEP's head of social affairs, Nunzia Gava, who was to contribute a lot to progressing the European social dialogue.

At the beginning of 1989, after Jacques Fournier had opened the door at the 12 January Social Dialogue Summit and in the face of UNICE's inertia, we started exploring the possibility of a joint ETUC-CEEP declaration, or even negotiations between the two organisations. With it impossible to arrange a summit meeting between their two presidents and secretariats at short notice, the possibility of joint action was discussed by Ernst Breit and Jacques Fournier at an impromptu meeting in Paris on 18 May. Following up this meeting, I had a meeting with the CEEP Secretary General and the chairman of its Social Commission, in which we quickly agreed on two possible and complementary actions: a joint declaration on the role and importance of public services and state-run companies in achieving economic and social cohesion in Europe⁸; and the start of a social dialogue in one or two public sectors (rail transport and energy)⁹.

In December 1989, the two organisations adopted a "declaration of intent". This was followed up on 23 January 1990 by CEEP and the ETUC (with its two committees, one on transport, the other public services/energy) adopting a Joint Declaration in which they announced that "public enterprises and sectors have an essential role to play in ensuring cohesion and solidarity in the completion of the Single Market and the European social area. Dynamic public enterprises and services, backed by a modernisation

4. Interview with Nunzia Gava on 8 January 2015.

5. Ibid.

6. Ibid footnote 1.

7. Interview with Jacques Fournier on 26 March 2015.

8. The ETUC had already adopted a resolution at its Stockholm Congress in May 1988 on "Public services and the quality of life".

9. Memo from the author to Mathias Hinterscheid dated 2 June 1989. Author's archives.

of social relations, must work for the benefit of all economic and social activities". The Declaration also stated that "the CEEP and ETUC wish to develop a dialogue to deepen and further expand certain subjects already discussed in the social dialogue, such as CVET, and to address certain more specific issues, such as the freedom of movement and free access to public-sector employment."¹⁰

However, this last subject proved to be difficult and premature (mainly on the part of the unions). In our preliminary discussions, in particular between Jean-François Colin and myself, we expressed our wish for the agreement to be concrete, relating to two specific sectors: rail transport and energy distribution. For the ETUC, this meant liaising with two confederations, the EPSU (the European Public Service Union) for the energy sector, and the ETF (European Transport Workers Federation) for the rail transport sector. This was to be our first experience in concrete cooperation in the field of industrial relations and, at least for the ETUC, a new stage in its development and its sectoral negotiating ability. This experience, while not simple to manage, was to be extremely enriching, in particular on account of the commitment of the two European trade union federations.

We finally identified two subjects for negotiations with a major and concrete impact at company level: vocational training and workplace health and safety. The agreement reached thus related to actions promoting IVET and training for new technologies, and to actions aimed at developing prevention and training policies with regard to health and safety and working conditions in the two sectors concerned.

Negotiations lasted six months. The last session, on 29 June 1990, was beset by a number of last-minute difficulties provoked by the German CEEP delegation, who were against expressing an opinion without UNICE involvement. As stated by Nunzia Gava¹¹, "this agreement meant that we would be shaking up not just UNICE but possibly also a number of our national companies – Dutch, German, Italian – even if it did not put any supplementary constraints on our state-run companies".

A text was ultimately finalised on the basis of the draft we had presented to our Executive Committee meeting in Geneva on 14/15 June¹², which mandated us to conclude the agreement. In a memo to our affiliated confederations and union committees¹³, I emphasised the four merits of this agreement: the qualitative strengthening of the social dialogue (for the first time we called this text a "framework agreement" rather than a joint opinion as had been the case up to now with UNICE); the decentralising effect at sectoral level; the implementation momentum across the sectors, but also directly in the companies concerned; and the concrete goals, set to become "the subject of realisation and concerted action between the employers and workers' representatives".

Signed on 6 September 1990 by the two Presidents and the two Secretaries General, this agreement highlighted the social dialogue issues at stake and the necessity to progress beyond the joint opinions concluded up to now, together with procedures for monitoring the agreement in the companies concerned. "In the extension of the joint opinions already adopted by UNICE, CEEP and the ETUC, two organisations, CEEP and the ETUC, have decided to expand and enrich them, taking account of the specific features of state-run companies."

10. Text of 23 January 1990 initialled by the author. Author's archives.

11. Interview of 8 January 2015.

12. Our June Executive Committee meeting was traditionally held in Geneva where our national leaders took part in the annual plenary session of the ILB. This meeting was held in a room belonging to EFTA. The enlargement meant that this room quickly became too small, forcing us to give up meeting in Geneva, instead using Brussels. This was also an opportunity to re-centre the ETUC at the heart of the Community.

13. Memo of 13 August 1990 drafted by the author.



The signing of the first European cross-industry agreement between the CEEP and ETUC on 6 September 1990. On the left, Mathias Hinterscheid, ETUC Secretary General; in the centre, Wim Bergans, ETUC press and communications officer; on the right, Jacques Fournier, CEEP President.

Source: ETUC archives

This ability to conclude a European agreement between the CEEP and the ETUC had a stronger-than-expected impact. While this agreement was first and foremost symbolic and its implementation hardly noticeable in the companies concerned, it was to have important consequences. On the one hand, through provoking UNICE, it strengthened the CEEP's role vis-à-vis the private-sector employers, while on the other hand it demonstrated to the Commission the possibility of making further progress in the European social dialogue. It also played a key role in strengthening the ETUC internally. The sectoral dimension was of great value, in the face of UNICE's constant argument that it had no competence in this dimension. While a number of our union committees had already managed to develop a social dialogue with European employer organisations, as in the services and retail sector, in the woodworking/construction public works sector, in the food and agriculture sector and in the telecom sector, this remained insufficient in the face of the challenges induced by the Single Market. In a special issue of the 1988 *Social Europe* journal entitled *The social dimension of the Single Market*¹⁴, the Commission had identified 40 sectors affected by the Objective 1992.

The framework agreement was sent out to ETUC member organisations on 17 October, together with a set of "usage instructions". They were requested to fill the agreement with life in the companies concerned. The CEEP and ETUC were to subsequently ask the European Commission for support on the "mobility" chapter, requesting that it

14. Edited by the DG Employment, Social Affairs and Education, this was a progress report of the interdepartmental group set up to study the social dimension of the Single Market.

fund a joint study on *The problems of continuity and transferability of social protection elements relating to companies in the same sector*¹⁵.

This “privileged” cooperation was to continue under successive CEEP Presidents¹⁶ as well as under Yannick Moreau who took over from Jean-François Colin as HR Director at the SNCF, Robert Villeneuve from the EDF, and Enzo Avanzi, head of the Italian section of the CEEP, all of whom were to become chairmen of the CEEP Social Commission. Cooperation was also excellent with Roger Gourves who was to succeed Werner Ellerkmann as CEEP Secretary General in late 1994, as well as with Jytte Fredensborg, the next Secretary General who, for the first time, did not come from a large state-run company but from a local utility company in Denmark, and finally with Rainer Plassmann, the German who became Secretary General in 2000.

The work with the CEEP became increasingly sector-oriented, with a focus on energy and healthcare. We worked with specialised sections of the CEEP¹⁷ or via Sectoral Social Dialogue Committees (SSDCs). The nature of the CEEP also developed, strongly influenced by a weakening of state-run companies due to waves of privatisation, the twin CEEP-UNICE membership of certain state-run companies and the growing membership of companies with mixed public-private ownership or run by local/regional authorities. This development towards companies run by local/regional authorities was unfortunately limited to companies from Scandinavia, impacting the balance of CEEP membership.

Cooperation also continued at a cross-industry level, for example in the context of preparing for the European Summit in Cardiff in June 1998. Confronted with UNICE roadblocks, the Presidents and Secretaries General of the CEEP and ETUC held a meeting on 1 June, ending with a communiqué¹⁸ expressing their joint commitment to the success of the European employment strategy, the necessity of synergies between business development and the employment strategy, their wish for a European framework approach to modernising work organisation in the sector of public services and services of general interest, and expressing their regret that the European negotiations on “information and consultation” had not yet started (see Chapter 7).

Together with the CEEP, the ETUC and its European Federation of Public Services (EPSU) were to hold a European conference on services of general interest in Brussels on 4-5 October 2001. And on the occasion of the European Summit on 14-15 December 2001 in Laeken, the CEEP and ETUC were to sign a Joint Declaration on *Services of general interest* as a pillar of the European Social Model. This text underlined their joint work on a European Charter on Services of General Interest and on a framework directive consolidating and further detailing Article 16 of the Treaty and Article 36 of the Charter of Fundamental Rights.

15. This report was compiled in 1991, with the help of the *Institut de la protection sociale européenne* (IPSE).

16. Antonio Castellano Auyanet, a Spaniard from the gas/electricity sector, succeeded Jacques Fournier in 1994. He was followed by Carlos Correa Gago, also a Spaniard (1998-2000) and the Portuguese Joao Cravinho (2000-2005).

17. Representing hospital management, HOSPEEM for example negotiated an excellent agreement with EPSU's hospital section. This was to become a directive on the prevention of cuts and bites. Cf. Fischbach-Pyttel, C. (2017) Building the European Federation of Public Service Unions. The history of EPSU (1978-2016), Brussels, ETUI.

18. *CEEP-ETUC communiqué: Un engagement commun pour la stratégie européenne pour l'emploi* of 8 June 1998.

4.2 The Steering Committee meeting on 25 January 1991: creation of an *ad hoc* Working Group on the revision of the Treaty

We had left the Steering Committee meeting of 6 November 1990 with a discussion paper on subsidiarity and the prospect of restarting this debate within the context of the discussions on revising the Treaty started in late 1990 by the two Intergovernmental Conferences set up by the heads of state and government leaders¹⁹. A new situation also emerged in 1990 with the adoption of the Community Charter of the Fundamental Social Rights of Workers, a situation destabilising European employers.

For the ETUC, it seemed clear that the revision of the Treaty would open a window of opportunity, giving the social partners the role of players and producers of social policy through empowering them to negotiate at a European level.

On 21 December 1990, the ETUC had had a meeting with President Jacques Delors and Commissioner Vasso Papandreou to discuss the Intergovernmental Conferences on Treaty revision. Monetary problems dominated the meeting (in particular the role of the European Central Bank), as did budgetary problems (the talk was all about expenditure, though the ETUC also saw a need to speak about revenues) and the link between economic and monetary policies.

We had also discussed with the President the questions of enlarging Community competences in the field of social policy, of making qualified majority voting applicable to all fields and of the role of the European social partners and their dialogue. For the President, “nothing has yet been decided. Consequently, all contributions and consultations are useful”²⁰. We thus needed to convince the employers to contribute, together with us, to the Intergovernmental Conference.

Informal discussions took place between Patrick Venturini, Carlo Savoini, Jean Yves Terrier²¹ and the author in December 1990 to look at possible ways for us to progress from our current role as lobbyists to becoming active social policy players, to construct a complementary contractual (non-regulatory) space at national and sectoral level, and to extend the EU’s competences and social field, including the subsidiarity dimension.

I also had a series of informal talks with a few employer representatives: Wilfried Beirnaert* from the FEB, Bernard Boussat* from the CNPF, Flavio Mondello* from Confindustria, Jose Isaias Rodriguez* from the Spanish CEOE and Jean-François Colin and Enzo Avanzi from the CEEP. These were the representatives open to the European social dialogue, including its contractual dimension, and who considered UNICE’s attitude to be too stubborn. This possibility of openly discussing subjects while harbouring the same concerns (not always for the same reasons) was of vital importance for arriving at an agreement.

To achieve a result on the future role of the social partners, on our negotiating competences and on the concept of cross-industry subsidiarity that we were prepared to exercise within the harmonisation of European social policy, we needed to be able to provide input to the Intergovernmental Conference. To achieve this, we considered it necessary to establish an *ad hoc* working group tasked with preparing this input.

19. The Rome Summit of 14-15 December had led to the convening of two intergovernmental conferences, one on Political Union, the other on Economic and Monetary Union (in preparation for the single currency).

20. Memo from the author, dated 17 January, to the Steering Committee members. It reported on the meeting with Delors. IISH archives, box 2136.

21. Jean-Yves Terrier, UNICE’s Director of Social Affairs, had been head of HR at the French multinational Rhône Poulenc.

The one thing we deemed certain was that the proposal to create such an *ad hoc* group could not come from the social partners (UNICE was *a priori* against it and any proposal put forward by us would have been rejected by the employers). The proposal therefore had to come from the Commission!

The Steering Committee meeting of 25 January was thus presented with this discrete background preparation, passed on to Commissioner Papandreou by her advisor, André Kirchberger. A real synergy existed between those involved, whether in Jacques Delors' cabinet office or that of Vasso Papandreou. The same was true at the DG Employment and Social Affairs between Carlo Savoini and Jean Degimbe.

These preparations allowed me to send a memo to the Steering Committee members²² on 17 January, setting forth what we wanted, i.e. first to state that the social dialogue was progressing "at snail's pace. There can be no question of just listing the joint opinions to be satisfied with this dialogue". Moreover, I wrote that "we have exhausted the possibilities for improvement, apart from the experience gained through concluding the CEEP-ETUC framework agreement". Secondly, we needed to speak of the necessity of "arriving at a third stage, not just improving the European social dialogue quantitatively but also qualitatively. We therefore needed to "work on defining the respective roles of the legislative and contractual dimensions at Community level".

The reform of the Treaty was an occasion to strengthen the role of the social partners through rewording Article 118B, the article describing our role. I therefore suggested that the Steering Committee set up "a small high-level working group tasked with drawing up a draft joint document". While this was not the position held by UNICE at that time, a number of its national members were on the same wavelength as us and were going to play a driving role in the discussions with the employers.

The Steering Committee meeting took place as we had imagined. Well-prepared (and convinced), Vasso Papandreou presented what was at stake for social policy, the work of the Intergovernmental Conference, and the place of the European social dialogue in the new institutional architecture. She proposed, "with the aim of developing it (the European social dialogue, ed.) towards the contractual (collectively bargained) relations targeted by Article 118B"²³, the constitution of an *ad hoc* working group. The group's task would be "to jointly reflect... on the role of the social partners at European level"²⁴.

The heads of UNICE, or at least its President and Secretary General, were taken by surprise! While the CEEP and ETUC directly agreed to the establishment of this *ad hoc* Working Group, UNICE expressed reservations, preferring to wait and see what its national organisations had to say...

UNICE Secretary General Zygmunt Tyszkiewicz even expressed his great dissatisfaction, as reported by Agence Europe²⁵ in its 1 February Bulletin: "The Commissioner has surpassed her prerogatives by inviting the European social partners to reach an understanding on a joint contribution for the two intergovernmental conferences (IGCs), indicating to the negotiators how the social dimension should in their view be regulated." In the view of the UNICE Secretary General, "it is exaggerated to claim... that the decision to define a joint position for the IGCs has been taken." But the train had already left the station and UNICE wasn't going to be able to stop it!

22. *The role of the social partners in reforming the Treaty and in realising the Community contractual area.*

23. Taken from the conclusions of the Steering Committee meeting of 25 January, unsigned memo from the Commission dated 22 March 1991. IISH archives, box 2136.

24. Ibid.

25. Bulletin issued by Agence Europe on 1st February 1991.

UNICE was so annoyed that it even put a question-mark – as reported by Agence Europe – over an already reached agreement on two joint opinions. “The UNICE Secretary General felt it necessary to relativize, in the Steering Committee meeting, the scope of the joint opinions on training and the adaptability of the labour market to new technologies. He explained that the employers had solely agreed to discuss these texts with their governing bodies...”²⁶

Having read the previous chapters, you will have realised how difficult it had been to draft the opinion on adaptability. Finally, after a joint seminar in September 1990, a compromise wording was found for a finalised draft agreement²⁷, just fifteen days before the next Steering Committee meeting. As Carlo Savoini wrote²⁸: “Even if the final draft of this opinion meets a specific employer demand to delete a few ‘quasi-legal’ clauses, the text has conserved its ‘*protocole d’entente*’ character and could, without any difficulty regarding its content, be easily transformed into a ‘framework agreement’.”²⁹

As for the opinion on training, there was also a difficulty in the wording of a Community-wide right of access to training desired by the ETUC but rejected by UNICE. After a long time-out in the meeting, the Steering Group, in its mediating role, came up with a compromise: “Given the growing importance of continuing vocational education and training (lifelong learning), the social partners are in favour of developing, at all appropriate national and European levels, access guarantees open to employees and enabling them to benefit from training throughout their careers.” Reached in a painstaking manner, this wording was immediately supported by the ETUC and CEEP, but UNICE expressed reservations with regard to the approval by its governing body, stating “that the result is not guaranteed, as far as it is concerned”³⁰. However, during the time-out and the negotiations over a compromise in the select committee, employers like the Italian Sergio Pininfarina exerted a positive influence. Nevertheless, we had to wait until 5 April 1991 for the joint opinion on the “Transition from school to adult life and work” to be signed, and until 20 December 1991 for the joint opinion on “Modalities likely to permit effective and as broad as possible access to training” to be concluded.

It should be noted that the 25 January 1991 meeting was to be the last Steering Committee meeting. On 3 July 1992, a Social Dialogue Summit would establish a Social Dialogue Committee with more members than the Steering Committee (see Chapter 5.5).

4.3 The *ad hoc* Working Group: difficulties and successes

With a view to coming up with a contribution of use to the work of the intergovernmental conference, it was decided to “work at a faster pace”³¹ Four meetings were fixed: on

26. Ibid.

27. Joint opinion *New technologies, work organisation and adaptability of the labour market*.

28. A paper analysing the social dialogue, never published. Archives of Ilaria Savoini.

29. “Anche se la redazione finale di questi pareri risponde ad una specifica richiesta padronale di sopprimere qualsiasi formulazione ‘quasi giuridica’, il testo conserva tuttavia interamente la sua natura che lo avvicina ad un ‘protocollo di intesa’, che avrebbe potuto senza suscitare alcuna difficoltà di carattere sostanziale in termini di contenuto essere facilmente trasformato in un ‘accordo quadro’.”

30. Taken from the conclusions drafted by the Commission and dated 22 March 1991, IISH archives, box 2142.

31. Memo from the author dated 5 February 1991 for the Executive Committee meeting on 14/15 February regarding item 8 of the agenda on the social dialogue.

22 February, 11 March, 26 March and 16 April 1991. For those who were aware of the normal negotiating speed of Community work, this was indeed a much faster!³²

The plan was to review a “draft” at the Social Dialogue Summit scheduled for 29 April, to be attended by President Jacques Delors, Commissioner Vasso Papandreou and the President of the Council in office, Jean-Claude Juncker, at that time the Luxembourg Minister of Labour³³.

The employers were stressed by the prospects of European social legislation, and divided over any commitment to binding European framework agreements. The ETUC clearly wanted a balance between legislation and agreements, with both of a normative nature. After having spent a lot of time discussing with legal experts, and especially with Antoine Lyon Caen, I drew up a memo for the debate in the *ad hoc* group³⁴. Addressed to its ETUC members, some of whom were expressing worries, doubts or difficulties in understanding, I tried in this memo to define what a European framework agreement might be: “Under the term ‘framework agreement’, we need to understand an agreement which defines the general guidelines and a methodology which involves social partners at other levels to implement them. In sum, we need to trigger a certain momentum of negotiations in various fields, taking account of national realities and practices, albeit within a European framework of objectives and orientations. In a second stage, more ‘technical’ discussions may take place on the legal definition of the framework agreement, its scope and its interaction with national law. Similarly, we need to define together with the Commission the conditions for approving a European agreement. This would entail its legal recognition on an ‘as is’ basis and the conditions of possible redress. The problem is to ensure an extension procedure making the agreement applicable beyond the contracting parties.” Though this sounds a little convoluted, it was to reassure mainly the German and Nordic unions. Nevertheless, this memo written in April contained all the elements we were to obtain in the agreement of 31 October 1991.

The work of the *ad hoc* Working Group was slow to get off the ground. We wanted to remain focused on the role and responsibilities of the social partners as well as the link between aspects covered by legislation and those subject to bargaining and contractual arrangements. We had therefore decided to put aside a highly conflictual subject upheld by the ETUC, that of qualified majority voting on social policy matters.

Throughout this period, the Intergovernmental Conference, chaired by Luxembourg, was making progress, also on the social chapter. On 14 May 1990, a first letter³⁵ was sent to the Council President in office, Jean-Claude Juncker, drawing his attention to the discussions within the *ad hoc* Working Group which “could end up better defining the responsibility, autonomy and complementarity of the social partners, with regard both to the legislator and to the area left up to collective bargaining and contractual arrangements. Please understand, Mr President, our concern that the results of our work be taken into consideration by the Intergovernmental Conference”.

On 24 June 1991, Emilio Gabaglio, the new ETUC Secretary General, met Jacques Delors to provide him with an update on the development of the European

32. After a few years spent at the ETUC, I often used to say: “At the CFDT, I needed one idea a day. But here at the ETUC, all I need is one idea a year, but I need to keep hold of it like a dog with its bone.”

33. Jean-Claude Juncker was a special case, having concurrently held the positions of Minister of the Economy and Minister of Labour in Luxembourg. He was thus able to experience the contradictions between two European Councils. Juncker was appointed as Prime Minister in January 1995 but continued to hold the positions of Minister of State, Minister for Finance and Minister for Labour.

34. This memo is to be found in the IISH archives in Amsterdam, ETUC n° 2165.

35. This letter written by the author was signed by three Secretaries General, including Mathias Hinterscheid for the ETUC a few days before the end of his term of office and the ETUC Congress. The author’s archives.

social dialogue and mainly of the work of the *ad hoc* group and its contribution for the Treaty. During this meeting, the first since taking up office at the ETUC, Emilio pleaded for at least a reference to the Charter to be included in the Treaty. Jacques Delors answered: "As you know, John Major says 'no' to everything and Helmut Kohl does not want to rush him. We need to first get Council approval for everything regarding the EMU. As regards social policy, that can wait until Maastricht, as otherwise we risk a cartel of 'Nays'³⁶"

Sign it, I'll explain it to you later...

Emilio Gabaglio had just been elected ETUC Secretary General and was starting his term of office. But the negotiations were already under way. Given the slow pace of developing our contribution, we needed to send a signal to the Commission and Council Presidents, highlighting our willingness to come up with proposals for revising the Treaty and on our role as social partners. On 28 June 1991, I arrived at a meeting of the Secretariats attended by Zygmunt Tyszkiewicz, Werner Ellerkmann and myself

with a draft letter committing us to submit this contribution after the summer holidays. Surprisingly, the two Secretaries General from UNICE and CEEP accepted it in principle. After a few tweaks to the wording, they agreed to this letter being sent. I returned to the ETUC with the letter signed by the two Secretaries General and went straight to Emilio's office. I showed him the letter and said "Sign it, I'll explain it to you later". He took his pen, signed the letter and handed it back to me. From that moment onwards, a bond of trust existed between the two of us...

Jacques Delors, together with Dutch Prime Minister Ruud Lubbers (who was to assume the Presidency of the Council for the second half of 1991 and was therefore in charge of the Intergovernmental Conferences), had requested that the Intergovernmental Conference leave a blank page in the social chapter of the Treaty under negotiation³⁷. This blank page was to be filled by the social partners' contribution. As it was already July, this was indeed a true sign of optimism! Especially as the employers' position was anything but positive. On 8 July, at a meeting of the Secretariats to prepare a meeting of the *ad hoc* group, Bernard Arnold from UNICE declared that the latter was unable to arrive at a joint position as there was no consensus within UNICE with regard to going any further than the letter of 28 June without knowing what changes would be made to the Treaty. Moreover, UNICE was demanding a formal reply from Jacques Delors to a letter sent to him by UNICE President Carlos Ferrer³⁸. The ETUC challenged such procrastinations. At this meeting, we also identified issues still to be resolved: the binding nature of an agreement and its *erga omnes* application; who mandates whom; what is the nature of the consultations to be guaranteed by the Commission... These were also

36. Notes taken by the author during the meeting.

37. The Luxembourg Presidency had already worded a first draft of the Treaty's Social Chapter. Our letter of 28 June 1991 was important, as it preserved a space for our contribution. In an interview with Jean Degimbe on 22 April 2010 at a colloquium held by the Belgian Council of Labour, he recalled that "Jacques Delors had called on the Intergovernmental Conference to reserve two 'blank' articles, leaving it up to the social partners to fill in the blanks by defining a method of European social dialogue".

38. Letter of 20 June which, following a debate within the UNICE Council of Presidents, led to the employers developing a guarantee on "the autonomy of the social partners, their freedom to set the pace, the content and the nature of any negotiations, their equal rights and their equal influence on the outcome of such negotiations". A number of these elements had already been taken into account in the joint letter of 28 June. However, UNICE, although we were still in the middle of negotiations, was trying to seal certain aspects of the debate through a prior commitment of the Commission... Author's archives.

formal legal aspects, in particular with regard to the drafting of the clauses proposed for insertion into the Treaty. We wanted to reword Articles 118(4), 118A and 118B to highlight the role of negotiations and the autonomy of the social partners in the context of Community social policy.

During the summer, informal contacts continued in an effort to remove the stumbling blocks. The European Parliament was also very actively debating this Social Chapter and the Commission's future Action Programme. On 18 July, the President of the European Parliament, Enrique Baron, wrote to the Commission and Council Presidents, suggesting they hold, on 14 October, an inter-institutional meeting (EP/Commission/Council) to debate concrete aspects of the Social Action Programme. The Chairman of the EP's Social Commission, the Belgian socialist Lode Van Outrive, even suggested a 5-point agenda: atypical work; the organisation of working time; the information and consultation of workers; cross-border subcontracting; and the protection of pregnant women³⁹. The ETUC was very much in favour of this initiative.

At the beginning of October, the results of the *ad hoc* group were by no means "in the bag". We therefore decided to hold a discussion seminar on 18 October with legal experts on the *Role of the social partners in collective bargaining*. Professor Antoine Lyon Caen from the University of Nanterre played a major role in it, helping us to clarify in legal terms the establishment of a European contractual area. The contributions from Professors Roger Blanpain from the Catholic University of Louvain and Marco Biagi* from the University of Bologna were also of great interest, discussing the mandatory or voluntary nature of bargaining, the nature and consequences of agreements at different levels and procedures for extending agreements.

While discussions remained blocked, certain employer organisations were, as we have already seen, in favour of creating a European bargaining area, confirming the following anecdote reported by Carlo Savoini⁴⁰. At the end of the 18 October "technical" seminar of the *ad hoc* group, Carlo went off to a seminar on Lake Orta organised by Federmeccanica, the Italian metalworking employers' organisation, accompanied by the head of industrial relations at Confindustria, Rinaldo Fadda, and the Brussels representative of Confindustria, Flavio Mondello. "In reality, the most important thing was the breakfast the next morning, during which I met Pininfarina (Confindustria President, ed.), Périgot (CNPF President, ed.) and Himmelreich (from the German employers, ed.). They said to me, loudly and clearly: 'Savoini, on 31 October (the date of the final negotiations, ed.) you must not leave the table until we have signed the agreement'." [Our translation]⁴¹

On 30 October 1991, the preparatory meetings of each side were held in the morning to examine the possibilities of a compromise. In the afternoon, all sides came together for a plenary meeting. The debate centred on the negotiating role and responsibility of the European trade union and employer organisations, and above all on the role of the Commission which UNICE wanted to restrict, but which the ETUC wanted to extend. The day ended without any progress being made.

The next morning, at the start of the plenary session, the UNICE Secretary General arrived with a text which he had handed out to us. He had written it "during the

39. In the view of Lode Van Outrive, "these spokesmen are going to clarify things in such a way that everyone knows who objects to what and why". Proposal published in the *Bulletin de l'Agence Europe* on 18 July 1991.

40. *Con la Cisl verso l'Europa sociale, intervista a cura di Luciano Longo*, Roma, Edizioni Lavoro, p. 70.

41. "In realtà, la cosa più importante era la prima colazione del giorno dopo, durante la quale incontrai Pininfarina, Périgot e Himmelreich, amministratore delegato del BDA il quale mi disse chiaro e tondo 'Savoini, il 31 ottobre voi non ci dovete far alzare dal tavolo finché non abbiamo firmato l'accordo'."

night”, and it was an absolute catastrophe! I said to Emilio: “That’s the end of the negotiations.” This text questioned everything we had discussed up to then, making any compromise impossible.

But then came a surprise: Zygmunt Tyszkiewicz announced that he had to leave. Was this a provocation? Or was this a way of letting us make progress without him, removing any obstacles while allowing him to keep his hands clean in front of his governing bodies. Never was a departure so opportune. Immediately Zygmunt Tyszkiewicz had left the room, everyone trashed the text and the meeting’s chairman Jean Degimbe suspended the session.



Carlo Savoini on the left, Jean Degimbe on the right, two European Commission officials of decisive importance for the construction of the European social dialogue. They played a vital role, liaising with the social partners on President Jacques Delors’ social strategy.

Source: ETUC archives

After a 1-hour suspension, during which each side wondered what needed to be done to save the negotiations, Jean Degimbe requested the session to restart, announcing that he had a proposal to make. He then presented a text which he referred to as a summary of our discussions and the points of agreement which he had been able to identify.

This text helped release the brakes, enabling negotiations to progress. Everyone now forgot the text tabled just two hours ago by the UNICE Secretary General and concentrated on the new text which had the potential to become an agreement.

Bernard Arnold, the UNICE Director of Social Affairs, took over as leader of the employer side. He was not as intransigent as his Secretary General and I was aware that, within the employer group, there were several members very much in favour of a compromise. Two employer representatives were particularly aware that this was a historic moment, although they seemed to be the most reticent ones: Rolf Thusing from the

German BDA⁴², a tough negotiator throughout the talks, and above all Richard Price, the representative of the British CBI⁴³ who certainly had no mandate to conclude such an agreement⁴⁴. His return home was to be particularly difficult and I think he suffered for the rest of his career. But we need to raise our hats to him for having accepted to suffer the consequences and allow the further development of the European social dialogue.

The Belgian method

"As employers, we were just as much surprised by Zygmunt Tyszkiewicz's text and taken aback by its effect, deadlocking the current negotiations. Like any good Belgian negotiator, I had drafted a text based on our previous discussions and containing what I felt was a possible compromise, shaped on a process used in Belgium. I came to see you during

the suspension to show it to you and check whether it would be OK for you. You answered 'Yes, it's OK but it mustn't come from either of us. Give it to Jean Degimbe so that he can make it into a proposal, demonstrating his ability to sum up our discussions.' I then went over to Jean Degimbe and gave it to him. He was to make the very best use of it."

Interview with Wilfried Beirnaert on 13 January 2015

As stated by Wilfried Beirnaert⁴⁵ in his speech marking the 20th anniversary of the European social dialogue: "Those of us who experienced that final day of negotiations on 31 October 1991 were very much aware of what was at stake, knowing that, to overcome the challenge, they had to leave their prejudices and tactics behind them and aim high and far. We all knew that this final *window of opportunity* was about to close."

As noted by one of the participants, Nicole Notat⁴⁶, this was a "unique moment when the planets were aligned⁴⁷". The result might seem unexpected, especially as it was not questioned by the decision-making bodies of each organisation.

That very evening, a letter was sent to the President of the Council, the Dutch Prime Minister Ruud Lubbers. Signed by the three Secretaries General (ETUC, UNICE and CEEP), it explained the agreement reached on the wording of the three articles of the future Treaty, Articles 118, 118A and 118B. The first article constituted a guarantee for the Nordic unions, empowering a Member State to confer the implementation of European directives⁴⁸ on the national social partners (and not exclusively on the legislative or the administration, as was the case in France). But as collective agreement coverage was not 100% and as a directive was needed to ensure the rights of all citizens, a check was foreseen for the establishment of the "necessary provisions by way of agreement" as well as the ability of the Member State concerned to "take all the necessary steps to ensure that it can at all times guarantee the results imposed by this Directive". This

42. Bundesvereinigung der Arbeitgeber (BDA), a German employer confederation.

43. Confederation of British Industry (CBI), the British employer confederation.

44. In this respect, Wilfried Beirnaert, the negotiator for the Belgian employers, has a different interpretation of the surprise departure of the UNICE Secretary General on the morning of 31 October: "In my perception of events, as with that of several of my colleagues, Tyszkiewicz just did not believe in the possibility of any agreement being reached. He believed that he could quit the field without fear of further obligations, convinced that Thusing and Price would unassailably keep guard on behalf of the BDA and CBI. I can well imagine that, when Arnold reported the conclusion of an agreement to his boss, Tyszkiewicz immediately asked what had been the stance of Thusing and Price. Learning that they had given the green light, he must have realised that it was pointless to swim against the current. Tyszkiewicz was a very pragmatic person." Interview on 13 January 2015.

45. Ibid.

46. At that time a member of the CFDT Executive Committee and later to become its Secretary General.

47. Interview of 19 May 2015.

48. Pursuant to paragraphs 2 and 3 of the article defining the fields of competence of the EEC in social matters.

“broom wagon” provision empowered the social partners in these countries to transpose a Community directive through integrating it as best as possible into their collective bargaining system.

The proposals for Articles 118A and 118B concerned:

- on the one hand the “mission” of facilitating dialogue between management and labour, establishing a mechanism for prior consultations on Community initiatives regarding social policy and the ability of the social partners to take the initiative planned by the Commission under their wings;
- and, on the other hand, when an agreement had been reached, the possibility to have it implemented either by the social partners themselves, in line with their national procedures and practices, or, at their joint request, through a Council “decision”⁴⁹ at the proposal of the Commission, and thus via an *erga omnes* extension of the agreement.

This request to give legal force to “the agreements as **they have been concluded**” was to be refused in principle by the heads of state and government leaders, though in practice all agreements subsequently proposed were to be adopted basically in unchanged form, with the Commission just adding a few legal paragraphs before and after the text to give them the form of a directive.

For the ETUC, this agreement and the prospect of having it made part of the Treaty was a major victory, ushering in a new era of negotiations, backed by the ability of the Commission to take legislative initiatives, something which the European employers had up to then rejected.

I drafted a resolution to be submitted to the Executive Committee meeting scheduled for 5-6 December 1991 in Amsterdam. Entitled *An agreement opening the door to European collective bargaining*, this text was to be adopted with just a few modifications. The ETUC considered the agreement of 31 October 1991 as a major step forward, “opening the door to concrete negotiations at all levels on the worker-related consequences of the Single Market”. While the ETUC wanted the swift adoption of the proposed Directive on European works councils, it also called for immediate “negotiations on the creation of information and consultation structures in transnational companies”. The ETUC naturally wanted the text of the agreement to be included in the Treaty “together with the extension of Community competences in the social field and the general extension of qualified majority voting to this field.”

Emilio Gabaglio and I were very pleased with the progress made, as this allowed us to advance our twin-dimension social strategy for the EEC, with a balance still to be found between Community legislation, national legislation, and a dimension based on collective agreements, whether at European, national, regional or sectoral level or at MNC level. Our vision of vertical and horizontal subsidiarity had come out on top.

This new place of the social partners in drafting social standards did not however make everyone happy... The European Parliament in particular felt “left out” of the process of validating European framework agreements. But for us (both unions and employers) it was obviously out of the question for the European Parliament to be able to make changes to our agreements. For us, it was a case of “take it or leave it”. We left it up to the Commission and the Council to weigh up whether or not our agreement was to

49. This term “decision” was to be a subject of debate, i.e. to know whether it corresponded to the Community instrument or whether it was a generic term for all Community instruments (see the following pages).

be extended by a Community legal act. Ultimately, the European Parliament was given the ability to submit an opinion on a proposal for extending a framework agreement concluded by the social partners, but without the right to amend it – quite frustrating for it. We later had to pay for this, as we will see later on with regard to the agreement on part-time work or the establishment of the European Centre for Industrial Relations (ECIR, see Chapter 7.6).

This agreement was also going to lead to a reform of the union and employer organisations, enabling them to assume a negotiating role at European level. The ETUC had been preparing for this for a while, but it seemed more difficult for the employers.

In a paper drawn up for the extraordinary meeting of the Council of Presidents in Scheveningen on 3 December 1991⁵⁰, the UNICE Secretary General clearly stated the problem of the necessary European-level resources and powers to cope with this new phase of constructing the European Community. Cautiously basing his arguments on the principle of subsidiarity, “Who does what”, he highlighted the weaknesses of the European employer organisation with three questions: “a) Composition and structure of the membership; b) The UNICE Secretariat, and the resources at its disposal; c) The decision-making mechanisms in the UNICE Statutes”. The first point referred to UNICE’s wish to maintain its dominance, or even exclusivity, as the mouthpiece of the employers and to better coordinate the sectoral representations to avoid any potentially different or even divergent national expressions of employer demands. With regard to the second point, the Secretary General stressed the necessity for better European Parliament lobbying and better links with the Employers’ Group of the European Economic and Social Committee. This required a stronger secretariat, better means of information, and new premises (in this respect he referred to the construction of the new Union House by the ETUC and the ICFTU⁵¹). Finally, with regard to the third point, he compared the ETUC decision-making methods with its two-thirds majority rule and those of the CEEP which were the same as those used by the Council, with each country having a certain number of votes and with a minority veto (23 of 76 votes). He stated that UNICE, working by consensus, very rarely held a ballot, questioning whether it would not be a good idea for UNICE to introduce qualified majority voting. This paper was ultimately to lead to a strengthening of UNICE structures, though UNICE had to wait until the establishment of an internal working group chaired by a UNICE Vice-President, Alan Corby, the CEO of the Prudential Corporation, to come up with more political reform proposals. We will come back to this later.

4.4 The Maastricht Treaty and the Social Protocol

The Treaty negotiations proved to be difficult. In the social field, the majority of Member States supported the inclusion of the text proposed by the social partners into the Treaty, but found themselves confronted by the inflexible opposition of the United Kingdom, an opponent hardened in many battles on other fronts. However, its goal of liberalising the Single Market had been achieved, with the Treaty removing the obstacles to the free

50. In fact, I only possess the *Draft Discussion Note*, but this is certainly the one sent to the UNICE Council of Presidents. Archives of Zygmunt Tyszkiewicz.

51. “It should be noted that ETUC, with ICFTU, are now building their own premises, consisting of 18,400 m² on 11 floors, with prestigious meeting and conference facilities (translation booths for 12 languages)”

movement of goods, people (workers), services and capital between the Member States. The Treaty also launched the European Economic and Monetary Union (EMU), the first stepping stone on the way to introducing the Euro. Not the right “cup of tea” for the British, they again opted out.

To convince them to include the social field in the Treaty, good arguments were not enough. The solution was to come from a legal expert, Jacques Delors’ advisor François Lamoureux, who was to provide proof of his legal inventiveness by proposing a Protocol allowing eleven Member States, with the agreement of twelve Member States, to develop social policy through the use of Community instruments and procedures. While opting-out had become a British obsession, it was better to do something with eleven than to do nothing with twelve.

The European Summit on 9-10 December 1991 in Maastricht gave its consent to the draft Treaty on European Union with an annexed Social Protocol, despite last-minute attempts addressed to the Council President Ruud Lubbers by the British government⁵² to water down the text. Lubbers didn’t take the bait, claiming to have a unanimous vote (even though the Social Protocol was only accepted by eleven of the twelve Member States). Strong interventions on the part of the Commission⁵³ and certain governments⁵⁴ were needed to put things straight.

Signed at the Maastricht Summit on 7 February 1992, the Treaty only came into force on 1 November 1993, on account of Denmark’s initial refusal (by referendum) to ratify it in June 1992. After this Danish vote against the Treaty in June 1992, the European Summit in December authorised a number of special exemptions for Denmark to facilitate a second referendum allowing the Danes to vote Yes on 18 May 1993 and thereby letting the Treaty come into force on 1 November of that year. We should also not forget that the French referendum on 20 September 1992 produced a very close result, with 51.05% voting Yes. This was a Treaty marking the start of a lack of understanding for public opinions in various countries.

For the ETUC, the Maastricht Treaty was not the best of treaties⁵⁵, though its Social Protocol reproduced our agreement of 31 October 1991, similar to the transposition of framework agreements into directives. Another point was to give rise to interpretation problems. The use of the word “D(d)ecision” in the legislative implementation of a social partner agreement⁵⁶. For a number of us⁵⁷, the word “decision” referred to the Community instrument applicable to all Member States, similar to a regulation, and therefore written with a capital D. Unfortunately, the Commission was to interpret this word (in line with the employers) in a generic sense, only

52. John Major had become Prime Minister at the beginning of December 1990 after a “coup d’État” against Margaret Thatcher within the Conservative Party.

53. See Jean Degimbe’s book: *La politique sociale européenne : du Traité de Rome au Traité d’Amsterdam*, Brussels, ETUI, 1999.

54. François Mitterrand and Helmut Kohl, but also Giulio Andreotti, contacted personally by Emilio Gabaglio, played a major role in preventing Ruud Lubbers from making concessions.

55. The Intergovernmental Conference for revising the Treaty had been launched at the 29 March 1996 European Summit in Turin. In an interview with the author by the *Magazine CFDT* in May 1996, entitled “*Il faut dépasser Maastricht*” (We need to look beyond Maastricht), I stated that “Maastricht was possibly a ‘must’”. This transition period needed to be kept short. The next Treaty revision could then re-establish economic and social consistency in the construction of Europe... We should not regret the Maastricht Treaty, but we should also quickly move on further”.

56. Article 118B.2.2 “... in matters covered by Article 118, at the joint request of the signatory parties, by a Council decision...”.

57. Interview with Georges Dassis on 27 January 2016.

taking concrete shape when combined with a “directive”⁵⁸ and thus written with a lower-case d.

This text was to open up unprecedented perspectives for the European social dialogue, though not everyone was so optimistic. Mark Hall⁵⁹ wrote that “it is unlikely that the Protocol will soon produce results in the form of directives or agreements between the social partners. Similarly, the impact that these will have in practice is highly uncertain”. In his view, “the legislative process will at least be delayed” if certain Commission initiatives were dealt with by the European social dialogue within the framework envisaged by the Protocol. Fortunately, Mark Hall was wrong on this point. As an example, the Directive on European works councils was adopted quickly, and we soon started negotiations on parental leave. But unfortunately he was right on another point, i.e. the application of so-called “autonomous” agreements not subject to transposition into directives, but left up to the industrial relations traditions and procedures in each country. “This way of applying agreements at Community level basically depends on the means voluntarily made available by each Member State. Their impact will thus be indirect and almost inevitably unequal.”⁶⁰

We will see later that this prediction would turn out to be true. He was not the only one to show pessimism over the ability to negotiate at European level⁶¹. Similarly, the wording on the nature of the contractual relations we wanted to develop at European level was vague, purposely leaving room for experimentation. This intentions of the “editors” was well understood by Philippe Langlois⁶², who wrote: “These formulations have been made with utmost prudence, and that’s a good thing, as such Community-level social negotiations constitute a legal ‘first’ without any exact rules on how to use them. It would have been futile, or even dangerous, to foresee negotiations with well-defined rules inspired by just one or two national systems. Something completely new was needed.” I couldn’t have put it better myself!

UNICE, or at least its Secretary General, was not at all happy with the Treaty’s social content (in great contrast to the ETUC), declaring⁶³ that the result of Maastricht, in the social policy field, was a “two-headed monster” with “three bad news items”. The first concerned the twofold social policy, for 12 and for 11 following the UK’s Social Protocol opt-out. This “abandonment of a Single Community could constitute a dangerous precedent”. The European employers were obviously annoyed that we could circumvent the British veto, as if it were the first time the United Kingdom had opted out of Community policy (as had already been seen with the European Monetary System...).

58. On this point, we both agreed with the analysis of Professor Philippe Langlois from the University of Paris X who, in a presentation to an ETUC conference on 11 November 1992 in Athens entitled *From the EMU to European integration: the role and responsibilities of the social partners*, was to state: “Upholding orthodox Community thinking, this decision could be one which, as envisaged by line 4 of TEU Article 189 ‘A decision shall be binding in its entirety upon those to whom it is addressed’.” That would have avoided a lot of subsequent problems with the European Parliament.

59. Mark Hall, *Industrial relations and the social dimension of European integration: before and after Maastricht*, in *New Frontiers in European industrial relations*, Oxford, Blackwell, 1994, p. 281-311.

60. This difficulty was mentioned by many scholars listed by Christian Welz in his book *The European social dialogue under Articles 138 and 139 of the EC Treaty*, The Hague, Kluwer Law International, 2008, p. 342-347.

61. Janine Goetschy in the same volume, cited in footnote 60, wrote that this bargaining power “was a major challenge for the ETUC. In assuming that the European employers were ready to negotiate (a point on which nearly all observers remained pessimistic), would the ETUC be able to manage its internal conflicts of interest to allow European-level negotiations?” As we see, the “observers” did not rate our chances that high... and did not think that the ETUC would be able to win an indispensable internal debate on the transfer of bargaining power from national to European level.

62. Ibid footnote 28.

63. Proposal listed in an article in the *Bulletin de l’Agence Europe* on 8 January 1992.

The second concerned the Annex (i.e. the Social Protocol, ed.) which “contains a substantial extension of Community competences in social matters”. UNICE was “particularly concerned about the inclusion of working conditions and information and consultation”! Finally, to the great despair of the employers, a new form of qualified majority voting had been introduced, now at 66 votes against 44, instead of the previous 76 against 54; Zygmunt Tyskiewicz concluded that he hoped that “very little use will be made of the Annex”.

Without waiting, UNICE started internal discussions on post-Maastricht social policy, coming up with a document entitled: *UNICE strategy and policy orientation*⁶⁴. The employers were obsessed by the idea of a Community-level social policy being developed. “We expect that the Commission will use the rest of 1992 to develop a series of social policy initiatives to be launched by the new Commission in 1993 following the ratification of the new Treaty.”⁶⁵ As “early applications of the new Treaty”, it cited European works councils, atypical work and parental leave.

The UNICE Social Commission worked on this strategic document, adopting it at its meeting of 21 May and submitting it to the Council of Presidents meeting on 12 June 1992, which took place in Lisbon during the Portuguese Presidency of the European Community⁶⁶. This document was extremely interesting because this strategic position was destined to become input for the Social Dialogue Summit scheduled for 3 July.

I would like at this juncture to highlight three points of this internal UNICE discussion document indicative of its permanent attitude of opposition and allowing an interpretation of a number of its future positions.

The first point regards the sense of consultations:

- “UNICE could focus its strategy on two main approaches (...) (ii) to make effective use of our statutory right to consultations and (possibly) negotiations, **in order to avoid, delay or modify** (our emphasis) an excessive centralisation of social policy or an overly normative legislation detrimental to the competitiveness of European companies.” One could not have better described the sentiment of the European employers.

The second point concerns the procedures to be followed in negotiations:

- “The decision to negotiate or not to negotiate is to be based on several factors: (i) the **nature** of the proposed legislation (for example the directives on health and safety would not normally be dealt with by way of negotiation); (ii) the **content of the proposal** (the more damage the legislation could cause, the greater our incentive to negotiate); (iii) **the chances of the Commission proposal being adopted** (UNICE had no wish to negotiate something which had little chance of being adopted by the Council)”. The words were emphasised in the UNICE document. We were well aware of this employer position, but we had never actually seen it in writing.

64. Preparatory documents for the meeting of the UNICE Social Commission on 21 May 1992 sent by the Director of Social Affairs, Bernard Arnold. The author's archives.

65. Ibid.

66. The ETUC had already met the Portuguese Prime Minister, Cavaco da Silva, on 28 January 1992 in Lisbon to get him to implement the Social Action Programme.

The third point concerns the implementation of “autonomous” agreements under Article 4.2(a):

- “The Community-level member federations must now study and decide how they will act at national level in the case of agreements coming under the procedure described in Article 4.2(a). Given that this procedure eliminates the need for Community or national legislation and that it does not legally bind UNICE members, this constitutes an attractive ‘voluntary’ option. However, it is unlikely that recourse to this procedure will be supported by the unions, **unless UNICE can unequivocally demonstrate that such agreements will in fact be actively introduced by national means and serving as guidelines for collective bargaining at all appropriate levels.**” (our emphasis). The least that can be said is that the ETUC’s acceptance to enter into a phase of “autonomous” agreements demonstrated the limits of this employer commitment, leading to a never-ending stagnation with regard to this form of bargaining despite this lovely phrase in the referenced text: “... Agreements concluded under Article 4.2 (a) are **morally, not legally, binding**” (our emphasis)!

The ETUC quickly tried to get itself into marching order for possible European negotiations. We held a conference in early June 1993 in Luxembourg on the subject of “European collective bargaining: cross-industry and sectoral dimensions”. Participation was high, with 250 unionists from our national confederations and European industry federations attending. Everyone was aware of what was at stake... and of the difficulties. There were three key subjects on the agenda: The areas and subjects of negotiations; the negotiating mandates; and the nature of the agreements, their application and the monitoring of their implementation. Our main concern was to provide our member organisations with reassurance on the “framework” nature of any agreements, and thus to avoid a “centralisation of European bargaining”. On the contrary, we wanted to open up new negotiating areas at national and sectoral levels. The purpose of European-level negotiations was to complement negotiations at other levels, establish minimum standards to avoid normative vacuums in certain countries, to provide “added value” and to highlight the importance of negotiations and the role of the social partners.

This did not prevent us from seeing the ambiguity of the employers’ attitude. Speaking at this conference, the UNICE Secretary General could not have put it more succinctly: “European-level negotiations are only attractive for us when they replace any legislation deemed harmful to company competitiveness”. While we had no illusions about this employer stance, we considered it more important to get the employers to the negotiating table, rather than wait for hypothetical legislative results.

4.5 Egmont III, 3 July 1992: the future of the European social dialogue and the creation of the Social Dialogue Committee

The Working Groups started working again in early 1992. In particular, the “revitalised” Macro Group was tasked with examining the general economic situation and the Commission’s Annual Report on Employment. The first meeting was scheduled for 23 March 1992, to be chaired by Commissioner Henning Christophersen*, Commission Vice-President. UNICE intended to limit the work programme to a strictly macroeconomic

approach⁶⁷, while the ETUC took a broader perspective of the Group's mandate, as Peter Coldrick was to write in his minutes of the meeting for its ETUC members. In them, he recalled "the need for a new cooperative strategy for growth and employment, the need for the ETUC and its affiliated organisations to have access to the Community multi-lateral monitoring procedures and to the convergence programmes for the EMU, and finally the need to discuss the implications of the EMU for industrial relations"⁶⁸. The proposals put forward by Peter Coldrick were based on a resolution⁶⁹ adopted by the ETUC Executive Committee. Despite initial divergences, the working group managed to prepare a joint opinion⁷⁰ for the Social Dialogue Summit held on 3 July 1992.

This Macro Group became a great producer of very "balanced" joint texts relating to areas of importance to the unions such as wage policies... One could write both that "the conduct of wage policies is the responsibility of the social partners" and that "the evolution of wages must take into account the imperatives of the profitability of job-creating investments and the competitiveness of companies on the global market as well as the implications of the completion of Economic and Monetary Union", which would produce "a process of healthy and non-inflationary growth, in turn creating an appropriate margin for real wage increases, underlining the interdependence between the process of European integration and the increase in living standards". Nice in theory... but difficult to swallow for many of our unions.



Social Dialogue Summit of 3 July 1992. From left to right: Carlos Ferrer, UNICE; and Norman Willis, ETUC, discussing the future of the European social dialogue and the cooperation strategy for growth and jobs.

Source: ETUC archives

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67. Letter dated 30 January 1992 from the UNICE Secretary General to the Director General of the DG Employment and Social Affairs, Jean Degimbe, aimed at limiting the topics of the Working Group to a general macroeconomic approach: "It would seem that its work programme is giving rise to a few misunderstandings... this Working Group should, as in the past, concentrate on the overall economic situation... with a view to arriving at joint conclusions for the Annual Economic Report compiled by the DG Economic Affairs."
68. Minutes taken by Peter Coldrick for the ETUC members of the Working Group, dated 31 March 1992.
69. "Results of the European Council meeting in Maastricht", Executive Committee meeting of 5-6 March 1992.
70. *A new cooperation strategy for growth and employment.*

The Social Dialogue Summit of 3 July 1992 in the Palais d'Egmont was attended by Jacques Delors and Vasso Papandreou (her last Summit before returning to Greece). It was the first Summit since the adoption of the Agreement of 31 October 1991 and the Maastricht Treaty had not yet been ratified. The social partners thus decided to draw up and adopt a Declaration⁷¹. Two texts were discussed, the first on the future of the European social dialogue, the second on the new cooperation strategy for growth and employment. Reaching agreement on a joint text was a difficult process verging on the point of breakdown, with the ETUC insisting on the first and UNICE on the second. Finally, compromises allowed the adoption of the two texts which were, on the one hand, based on the ratification of the Treaty and its Social Protocol (the British employers still had "general reservations" about this declaration), and, on the other hand, supporting a European strategy reconciling short-term priorities (unemployment, budget deficits, the risk of a recession, etc.) with the medium-term objective of sustainable, job-creating and non-inflationary growth.

This declaration underlined the issues at stake in the Maastricht Treaty and called on the heads of state and government leaders to acknowledge that "the Council decision foreseen in Article 4.2 targets the agreements **in the form that** (in bold in the text of the Declaration, ed.) they have been concluded in the course of the negotiations between the social partners, and that, should the social partners jointly request such, the Commission shall accept a 9-month extension of the negotiating period." A further new element was the reference to the social dimension up to now rejected by the UNICE employers. "The social partners concerned at sectoral level shall, when they consider it desirable, develop social dialogue at their level in accordance with the most appropriate procedures. (...) They herewith declare their willingness to implement new Community-level procedures of dialogue, consultation and negotiation under the conditions foreseen by the agreement of 31 October 1991 and in compliance with the new Treaty. For this purpose, the current Steering Group and the *ad hoc* Working Group (which had negotiated the 31 October agreement) are to be replaced by a Social Dialogue Committee." This Committee would thus be tasked with implementing new Community-level procedures of consultation and negotiation, with performing and organising the work related to the European social dialogue and with assessing and monitoring its results.

As our President, Norman Willis, was to say with regard to this Summit – in his very British manner: "We expected more, but we feared we would obtain less."⁷²

The first meeting "installing" the Social Dialogue Committee⁷³ took place on 14 October 1992. Though almost exclusively devoted to the Committee's objectives and

71. "Joint declaration on the future of social dialogue" dated 3 July 1992. A precautionary clause was introduced as a footnote in the Joint Declaration by the British employer organisation CBI, stating the following: "While confirming its support of the proposals put forward by UNICE, the ETUC and CEEP on 31 October, the CBI stresses that the subsequent Maastricht agreement has implications specific to British employers. These implications are currently being examined, but the CBI Board has not yet been asked to approve the position of this organisation. Insofar as the Joint Declaration of 3 July 1992 goes beyond the proposals of 31 October, the CBI has general reservations."

72. Proposal reported by the *Tageblatt* newspaper on 5 July 1992 in an article written by Corinne Cerf.

73. In the document quoted in footnote 28, Carlo Savoini presented a very harsh judgment "*La cui composizione altamente politica l'aveva portato a sfuggire dalle mani dei segretariati europei delle parti sociali: il segretario dell'UNICE, che non avrebbe mai voluto firmare un accordo 'impegnativo' (creatore di diritti e di doveri per entrambe le parti) com'è quello del 31 ottobre, ottiene così la sua vendetta postuma: le strutture prevalgono sui politici!*" [This highly political composition had helped him escape from the hands of the European social partners' Secretariats: the UNICE Secretariat, which had never wanted to sign a "binding agreement" (creating rights and obligations between the parties) like that of 31 October 1991, thus gained its revenge: structures prevailed over policies!]. Indeed, in our joint Secretariat meetings, we were always confronted with employer "officials", although we ourselves were fighting within the ETUC to "politicise" our Secretariat and to transfer powers to the European union level.

work methods, it also endorsed a *joint opinion on occupational qualifications and their validation*⁷⁴, which we had already discussed at the Summit on 2 July and which the Working Group had finalised the day before the meeting.

As regarded the method of working, the Committee was tasked with identifying the topics to be discussed; establishing working groups and organising their work; assessing the work done and monitoring the results, in particular their extension to the appropriate levels; transmitting the social dialogue results to their respective deliberative bodies, as well as validating them. It was also agreed that the Social Dialogue Committee would be systematically informed about the evolution of the sectoral social dialogue.

The agenda of this Committee meeting also contained an item requested by the ETUC on an exchange of views on the constitution of a working group on the Central and Eastern Europe (CEE) countries. This was a major concern for the ETUC which was developing a policy for the integration of these countries into the European Union⁷⁵. In a memo sent to Emilio Gabaglio, I informed him of the UNICE position, which was “not convinced of the interest of this proposal”⁷⁶. In stark contrast to the ETUC, this subject was considered by UNICE as a matter for other international institutions such as the ILO, while, with regard to the social partners, it was seen as the responsibility of the International Organization of Employers and the ICFTU.

For the ETUC, the PHARE Programme (the Programme of Community aid to the CEE countries), did not take sufficient account of the social dimension of EEC cooperation and aid to the CEE countries. Work therefore needed to be done in anticipation of the accession of these countries to the EEC. This included: “The promotion of social dialogue through aid in developing and consolidating employer and worker organisations to make them into true social partners, through developing training courses on industrial relations, labour law, the organisation of the labour market, the introduction of new technologies in companies, etc.”⁷⁷ The European employers demanded a debate on the need for the social partners to intervene in this initiative.

Finally, the meeting decided to establish a working group tasked with drawing up a joint proposal on rationalisation, as desired by the Commission, of the Advisory Committees and on the method of appointing their members⁷⁸.

74. Joint opinion dated 13 October which related mainly to the transparency (mutual recognition) of occupational qualifications and degrees/diplomas within the Community. The ETUC had managed to have included in this text the need to take into account skills and know-how gained through experience and especially through on-the-job learning. It also reviewed all Community programmes related to vocational training: Eurotechnet; PETRA; ERASMUS; FORCE and COMETT.

75. Exemplary work was done in particular by Peter Seidenack within the ETUC Secretariat to set up Integration Committees in these countries. This work targeted the new and/or revamped union organisations and the establishment of an ETUC-funded Secretariat for Trade Union Coordination in countries that had experienced a collapse of union structures. The idea was to get them to work on the problems associated with EEC membership, on their structural shortcomings and especially on taking over our social standards. Employer structures were virtually non-existent after the collapse of Communism. The situation was better with regard to union structures, especially in Poland where Solidarnosc already had a history as a free union, but major help was needed to support the new organisations and to democratise the existing ones.

76. The author's archives.

77. Memo from the author to the ETUC members of the Social Dialogue Committee dated 8 October 1992.

78. Committee of the European Social Fund; Advisory Committee on Social Security for Migrant Workers; Advisory Committee on freedom of movement for Community workers; Advisory Committee on Vocational Training; Advisory Committee on Safety, Hygiene and Health Protection at Work; Advisory Committee on Equal Opportunities for Men and Women; Standing Committee on Employment. But we also needed to include the Advisory Committees for COMETT II; PETRA; EUROTECHNET; TEMPUS and FORCE.

Following this Social Dialogue Summit, preparations started for the European Summit in Edinburgh on 12 December 1992. A strategy for growth and employment still had to be defined, against the resistance of the British government under John Major.

In the presence of Vasso Papandreou and Henning Christophersen, the Commission President received the social partners on 24 November. While agreeing on a recovery strategy, they were more divided on the means, in particular with regard to investment spending and its funding. Jacques Delors suggested creating a European Investment Fund with the aim of pooling public and private funding, in particular to fund trans-European infrastructure networks. The ETUC fully backed this plan, while UNICE only considered it as a road towards increasing budget deficits.

On 9 December 1992, on the eve of the Summit, John Major (the Council President in office) received the social partners⁷⁹. The latter had sent him a joint letter on 4 November⁸⁰, together with their Declaration of 3 July, highlighting the necessity for an agreement of the heads of state and government leaders in Edinburgh on a European strategy for growth, investment and employment.

This was the first time a British prime minister had received the social partners together, eliciting from Norman Willis the words “the term ‘social partners’ is a common concept elsewhere in Europe, but not in the United Kingdom”. John Major was mainly worried about monetary instability, public deficits, the principle of subsidiarity and finding ways of overcoming the Danish “No” to the Treaty.

4.6 A new Commission to relaunch the European Union?

While the results of the Edinburgh Summit were disappointing from an EEC strategy point of view, the heads of state and government leaders took the exceptional decision to renew Jacques Delors’ mandate as Commission President in the middle of his term of office. A new Commission was instituted, with Pádraig Flynn*, the Irish Commissioner, at the helm of the DG Employment and Social Affairs.

Important changes were also made within the Commission administration. Jean Degimbe stepped down after 15 years as Director General of the DG Employment and Social Affairs, to be replaced by the Spaniard, Enrique Crespo, who deserted his post after a few months, drowned by the dossiers... His interim replacement for 6 months was Heywell Jones*, a vocational training expert with whom we maintained good relations. The new Director General, the Swede Allan Larsson*, left his stamp on the following years. The first meeting with the new Director General was to take place on 6 January 1993 at the level of the social partner secretariats to discuss the plans of the Danish Presidency to hold a conference on 15-16 March 1993 on new ground-rules for the social dialogue in preparation for implementing the Maastricht Treaty. Neither UNICE nor the ETUC were very enthusiastic about the overly formal aspects of this conference, although we had not yet discussed together the way we wanted to implement what we had managed to get included in the Treaty. It was also planned that we should hold our own workshop in May on rules for European-level bargaining.

79. The Presidents and Secretaries General, Norman Willis and Emilio Gabaglio for the ETUC, Carlos Ferrer and Zygmunt Tyzkiewicz for UNICE, and Jacques Fournier and Werner Ellerkmann for the CEEP.

80. The author’s archives.

We⁸¹ met Jacques Delors on 18 January 1993, with the intention of stressing the priority needing to be given to employment and Structural Fund effectiveness. While sensitive to our presentation on the lack of visibility of the Commission's action on employment, or even its dissipation, the President seemed to have been neutralised by Martin Bangemann, the Commissioner for Economic Affairs, and by his lack of knowledge of the new Irish Commissioner for Social Affairs, whom "he did not want, a priori, to put on trial". With regard to the Structural Funds, he backed our position on the necessary effectiveness and on the involvement of the social partners. In particular with regard to the Social Fund, he agreed that a revolution was needed, otherwise the three Directors managing the Fund would have to be "sacked"!⁸²

The President had a further meeting with the social partners on 21 January 1993. Just before it that same day, our Management Committee produced a highly critical analysis of the Edinburgh Summit and of the position adopted by the ECOFIN Council which reaffirmed wage restraint policies and the fight against too rigid labour markets.

The Commission President was accompanied by two Vice-Presidents, Henning Christophersen and Antonio Ruberti*, and by Commissioner Pdraig Flynn. In the view of Jacques Delors, the decisions taken at the Edinburgh Summit went in the right direction, even if the result regarding industrial policy linked to the Delors II Package⁸³ was weaker than planned. In his view, the Member States had the greatest responsibility and we needed to put pressure on them, in particular with regard to investment.

In the view of our President, Norman Willis, there was indeed a need to act at national level, in particular via the Structural Funds, though a stronger commitment on the part of the Commission was needed. Moreover, an Ecofin Council⁸⁴ not calling on the Commission to "do the dirty work"⁸⁵ was needed. Emilio Gabaglio considered the ECOFIN message regarding wage moderation a disaster.

In opposition to this, UNICE President Carlos Ferrer insisted on wage moderation policies, while railing against lax budgetary and monetary policies, and above all against the Community legislative initiatives (on atypical work, the organisation of working time, etc.). CEEP President Jacques Fournier came up with a pessimistic analysis of the situation, pleading for a form of growth creating more jobs.⁸⁶

Jacques Delors admitted that there was a crisis of confidence following the Danish rejection of the Maastricht Treaty, but called for social partner support for the Commission's growth initiative. While wishing the European social partners success with their negotiations, he stated that "the Commission cannot abandon either its role as legislator or the realisation of its Social Action Programme. One can discuss what is to be done and how it is to be done, but not the fact that something has to be done!"⁸⁷

The second meeting of the Social Dialogue Committee took place on 16 February 1993 without any significant developments. Discussions continued on the drafting of a

81. Emilio Gabaglio and myself.

82. Author's notes

83. Jacques Delors had already initiated a reform of the EEC budget in 1988. Referred to as the "Delors I Package", its aims were to guarantee the financing of the budget for a multi-annual period and to improve the annual budgetary procedure. In 1992, he initiated a second reform, the "Delors II Package", one of the main objectives of which was to boost growth and employment through a further doubling of the Structural Funds with the establishment of a Cohesion Fund for the less prosperous countries of the Community.

84. Council of the Ministers of the Economy and Finance.

85. In reference to the report on wages and rigid labour markets requested from the Commission by ECOFIN.

86. All these points are taken from the author's notebooks.

87. Ibid.

Social Partner Recommendation on the functioning of cross-industry Advisory Committees⁸⁸.

The Danish Council Presidency confirmed that a conference was to be held on 15-16 March to prepare the way for implementing the Maastricht Treaty and for defining the role of the dialogue between management and labour in Community social policy.

The ETUC was concerned about getting trapped in a meeting “routine”, instead wanting to have a true European-level discussion forum for both cross-industry and sectoral matters.

A “think-tank” seminar was organised on 24 May 1993 by the social partners, also attended by labour law experts, on implementing the 31 October 1991 agreement and the Maastricht Treaty. The ETUC, UNICE and CEEP wanted to draw up a joint position in the context of the Communication to be put out by the Commission on “The enforcement of the agreement on social policy” of the Maastricht Treaty, with a focus on examining the legal consequences of the British opt-out and its effect on the remaining eleven signatories. The employers’ intention was to strictly limit the use of the Maastricht Social Protocol, enabling it to remain within a 12-Member State context and thereby allowing the United Kingdom to continue putting obstacles in the way of Commission social initiatives. We had to admit that we ourselves were also questioning the sense and legal status of the Council “decision” to extend a social partner agreement and to uphold the *erga omnes* nature of this agreement, thereby enabling its application to all workers.



2 April 1993, Day of European Action on Employment-Solidarity. Decentralised ETUC demonstration (one million participants in 150 protest marches).

Source: ETUC archives

On 9 June 1993, the ETUC met with Commissioner Padraig Flynn to take stock of the implementation of the Social Action Programme (which transposed the Charter of Fundamental Social Rights of Workers into concrete proposals), and in particular the delays experienced. The Commissioner admitted that progress was slow, stating however that the context was not favourable, as the economy was weak, unemployment was high, the period for ratifying the new Treaty had been extended and there were “internal negotiation” problems regarding the proposed directives, while the possibility of the President being replaced loomed in the background. He did however admit that the Danish Presidency was well-disposed to the social proposals. On the table or in preparation were proposals for the information and consultation of workers in transnational companies, the posting of workers in the context of cross-border service provision, the protection

⁸⁸. The drafting was entrusted to Renate Hornung Draus for UNICE, Nunzia Gava for CEEP and myself for the ETUC.

of young workers, the organisation of working time, etc. This last subject was at a particularly sensitive stage, being worked on “technically” by the COREPER (Committee of Permanent National Representatives to the EU), a Bermuda triangle of Community negotiations. Pdraig Flynn told us not to underestimate the three years of institutional negotiations, although, for the first time in twenty years, a Community framework on working time was possible, despite the exemptions and the excluded sectors which were to be the subject of specific directives.

As regarded information and consultation, the United Kingdom was still applying its sabotage tactic⁸⁹, remaining fundamentally opposed to this proposal. Pdraig Flynn admitted that it would be necessary to move to an 11-Member State vote under the Maastricht Social Protocol, as, at the 1 June Summit, nine Member States had already agreed on the text and two others found it acceptable with amendments, meaning that the eleven were ready to adopt this Directive. The ETUC called on the Commissioner to apply Maastricht in an “accelerated” manner, but even so we still had to wait until September 1994.

With regard to the Green Paper on Community social policy⁹⁰ which the Commission was drawing up before launching a wide consultation, the ETUC expressed its doubts about the method, wanting to “avoid the Green Paper becoming a diversion”⁹¹. The Commissioner considered it to be an “open” method, a type of “sponge” soaking up all opinions without prejudicing the resulting decisions.

A meeting of the Social Dialogue Committee was scheduled for 29 June 1993. A preparatory meeting the day before saw us focusing our attention on the White Paper on ways of relaunching growth which Delors had to prepare, and on the interaction we wanted to establish between Jacques Delors’ White Paper and Pdraig Flynn’s Green Paper, both of which were to be presented before the end of the year. At the Committee meeting on 29 June, the main subject was a debate on the White Paper entitled *Growth, competitiveness and employment* which the European Council, at its Copenhagen Summit, had requested Jacques Delors to draw up and which was to be discussed at the next Social Dialogue Summit. Also on the agenda was the text on the Advisory Committees. We had been working on this Recommendation for several months at secretariat level, and it was now at a stage where it could be formalised and adopted. Concerning six Advisory Committees⁹², its main elements related to the method of appointing members, the *per se* appointment of the ETUC, UNICE and CEEP as full members, and the anticipation of the agreement on the European Economic Area through appointing two observers representing EFTA employer and union organisations to these Committees.

In the course of this meeting, a discussion also arose over the implementation of the Maastricht Treaty Social Protocol with a view to developing a common

89. I have always “admired” the ability of the British government to systematically unravel social proposals, word by word, comma by comma, signalling its agreement at the end of the course but continually pushing back the limits by constantly demanding amendments, before finally, after having watered down the content, voting... against the proposal. And then contesting the result before the European Court of Justice as was the case with the 1993 Working Time Directive.

90. Green Papers are documents published by the European Commission to stimulate discussion on given topics at European level. They invite the relevant parties (bodies or individuals) to participate in a consultation process and debate on the basis of the proposals they put forward. Green Papers may give rise to legislative developments that are then outlined in White Papers.

91. Proposals made by Emilio Gabaglio, as noted by the author.

92. European Social Fund; the Advisory Committee on Social Security for Migrant Workers and the Advisory Committee on freedom of movement for Community workers, whose merger the social partners were calling for; the Advisory Committee on Vocational Training; the Advisory Committee on Safety, Hygiene and Health Protection at Work.

understanding of the interpretation to be given to it by the Commission. The points needing clarification related to the mutual recognition of the organisations empowered to conduct negotiations, the place of sectoral affairs, the problem of transposing agreements at national level, material support from the Commission in the development of the social dialogue, etc.

On 28 July, the social partners adopted a joint opinion entitled *The actions and future role of the Community in the fields of education and training, taking account of the role of the social partners*.

4.7 Palais d'Egmont IV: Jacques Delors' White Paper as the main course

As planned, this Summit convened for 28 September 1993 and attended by the Council President in office, the Belgian Prime Minister Jean-Luc Dehaene, involved mainly a consultation on the preparation of a White Paper on growth, competitiveness and employment. Though the debates were “intense and passionate”⁹³, the conclusions were drafted jointly by UNICE, CEEP and the ETUC, reaffirming the social partners’ commitment to deepen the economic and social cohesion indispensable for reviving the Community and fighting the recession and the dramatic increase in unemployment. The social partners also undertook to attempt to draft, within a working group, a joint contribution for the White Paper. The Summit also addressed the work on implementing the Social Protocol, referring it back to the Secretariats and the Social Dialogue Committee meeting scheduled for October 1993.

The European employers were not at all happy at how things were developing at Community level. They were still very much against the implementation of the Social Action Programme, in particular the draft Directive on European Works Councils (EWCs), and attacked the ETUC for the funding it received from the EEC for European trade union actions. In the view of UNICE Secretary General Zygmunt Tyszkiewicz, the ETUC had a hidden agenda for the EWC Directive, as this EEC funding was “not just the means of improving consultation but also a vehicle for the development of trans-European union structures”⁹⁴.

The employers were all the more annoyed by the fact that the Belgian Presidency of the EU during the second half of 1993 was set to follow the same tone as the previous Danish Presidency, very receptive to the social policy launched by the Commission.

4.8 The common interpretation of the Maastricht Social Protocol

In the wake of the 24 May seminar, the Secretariats of the three organisations had already started work, with first discussions having taken place at the Social Dialogue Committee meeting on 23 June 1993. But the negotiations at Secretariat level were slow and painstaking, as reflected by the long and difficult Committee debates, particularly at the meeting on 19 October.

93. As noted by Carlo Savoini in an unpublished personal document. Archives of Ilaria Savoini.

94. Proposals made at a UNICE meeting in London, reported in the *Daily Telegraph* of 18 October 1993: “This Community funding is not just a way of improving consultation; it is also a vehicle for developing pan-European union structures.”

A further meeting of the Secretariats the next day cleared the way for a compromise, and a new meeting of the Social Dialogue Committee was convened for 29 October 1993. This adopted the joint text⁹⁵ which was then immediately sent to the Commission so that it could be taken into account in the drafting of the document which the Commission had to present to the European Council in December.⁹⁶

This text constituted a fundamental interpretation of the social partners' intentions set forth in their agreement of 31 October 1991. It defined the 2-phase consultation procedures for social initiatives taken by the Commission: the first on the relevance of a Community initiative for the proposed topic, the second on the content of the planned proposal⁹⁷.

UNICE, CEEP and the ETUC also listed the criteria determining the representativeness of "social partners", which were much stricter than those proposed by the Commission (see table below).

Representativeness criteria proposed by the social partners on 29 October 1993	Representativeness criteria proposed by the Commission in its Communication of 14 December 1993*
<p>To be considered as such, the organisations taking part in the context of Articles 3 & 4 of the agreement should meet all of the following conditions:</p> <ul style="list-style-type: none"> – to be organised at European, cross-industry or sectoral level; – to consist of organisations themselves considered, at their respective national levels, as representative of the interests they defend, in particular with regard to social, employment and industrial relations policy; – to be represented in all EC Member States, and possibly in the EEA, or to have participated in the Val Duchesse social dialogue; – to consist of organisations representative of the employers or workers, membership of which is voluntary both at national and European levels; – to consist of members with the right to be involved directly or via their members in collective bargaining at their respective levels; – to be mandated by their members to represent them in the context of the Community-level social dialogue. 	<ul style="list-style-type: none"> – to be cross-industry or relate to specific sectors or categories and be organised at European level; – to have adequate structures to ensure their effective participation in the consultation process; – to consist of organisations which are themselves an integral and recognised part of Member State social partner structures, have the capacity to negotiate agreements and are representative of all Member States, as far as possible. <p>This definition allowed the Commission to enlarge the scope of consultation beyond the 29 social partner organisations listed in the Annex to the Communication. The Commission maintained the principle under which negotiations are initiated by the social partners themselves through mutual recognition of this capacity to negotiate.</p> <p>Also annexed to the Communication were the main findings of the Commission's "Social Partners Study (Representativeness)".</p> <p>* COM(93) 600 final concerning the application of the Agreement on social policy.</p>

95. "Social partner proposals on the implementation of the Agreement annexed to the Protocol on social policy of the Treaty of European Union."

96. Communication concerning the application of the agreement on social policy presented by the Commission to the Council and the European Parliament. COM (93) 600 final, 14 December 1993.

97. It should be noted that, in the first consultation phases, UNICE always said "No" to any Community social initiative!!

In their contribution, the ETUC, CEEP and UNICE also defined what was meant by “consultations”, and what by “negotiations”⁹⁸. With regard to negotiations, the ETUC managed to impose a mechanism which, in the case of the social partners agreeing to negotiate over a Community initiative, did not permit them to annul the initiative, but simply to suspend the Commission’s work on the topic concerned during negotiations. That was not easy to achieve, as UNICE’s objective was to hamper all Commission social initiatives.

Another aspect of fundamental importance for all social partners was that their agreements be respected when their extension had been requested from and accepted by the Commission. “In the event of the social partners deciding to send their agreement to the Commission for a Council decision, the latter should include it in its text on an ‘as is’ basis, without modifying its wording. If this is not the case, the instrument produced by the Council can no longer be considered as an agreement between the social partners. The procedure should then be restarted at the point at which it was suspended.”

Finally, to take account of our different legislative and collective bargaining cultures, in particular those of our Nordic comrades, we demanded that the Member States be able “to entrust to the social partners, when they request such, the implementation of Council decisions on the basis of their agreements”.

In its Communication of 14 December 1993, the Commission set the consultation periods for each of the two consultation phases to six weeks. The whole negotiation process could take up to nine months and could be extended with the agreement of the Commission. In the case of an agreement concluded between the social partners being taken up by the Commission to turn it into legislation, the latter would back up “all proposals it submits to the Council with a summary of the motives, any observations and an assessment of the agreement”. Moreover, “if the Commission considers it inappropriate to submit to the Council a draft decision on the implementation of an agreement, it shall inform the agreement’s signatories of the reasons for not doing so”. As regarded the power of the Council of Ministers, “the Commission shall confine itself to proposing, in any event and after due consideration of the agreement concluded between the social partners, **the adoption of a decision concerning the agreement as concluded**” (our emphasis) and “should the agreement be amended, it can no longer be considered as an agreement freely concluded between the social partners”.

A greater problem was to be the purely consultative role of the European Parliament defined by the Commission in line with the wishes of the social partners. Precluding any intervention in terms of amendments to the text of the agreement proposed for legislative extension, the EP considered this role very frustrating.

On 17 November 1993, the Commission presented its Green Paper entitled *European social policy - options for the Union*⁹⁹ for broad consultation among “civil society” and which posed the following question: “What sort of a society to the Europeans want?”. Its objective was seemingly to prepare social proposals for the coming year, but this had little to do with the social dialogue.

On 5 December 1993, Jacques Delors made a major move at the end of his term of office, presenting a White Paper entitled *Growth, competitiveness, employment:*

98. We will come back to this basic distinction when discussing the contribution of the social partners to the Laeken Summit in 2001. The concept of social dialogue would continue to be “perverted” to cover any bi- or tripartite relationship between all the players.

99. COM(93) 551 final of 17 November 1993.

the challenges and ways forward into the 21st Century. Even today, this White Paper remains a reference document, especially for the unions, on growth-creating investment policy¹⁰⁰.

We were now entering a period very different to what we had just come through. There was no longer any question of making ersatz agreements. We were now coming to a period of true negotiations, with true shop-floor consequences for workers in Member States.

On 3 December 1993, a joint opinion was adopted on *Women and training*. The social partners had already done a lot of work on the subject of training, even if they fundamentally disagreed on the “right” to lifelong access to training. But this was the first time a joint text had been dedicated to the specific situation of women workers, stressing the new role of women on the labour market, the necessity to develop their skills, to ensure their career development and to fight discrimination¹⁰¹.

The fact that the social partners came up with separate contributions highlighted the divergence of opinions over Jacques Delors’ White Paper. However, on 5 December a “joint considerations” text was drafted, complementing the specific positions of each side, on the “Growth, competitiveness and employment” White Paper. To preserve a minimum of dialogue, this text, painstakingly compiled, listed a few joint considerations on the Community’s economic orientation, already the subject of several previous joint opinions.

We are coming to a moment in time when the development of the social dialogue and the framework of the Maastricht Social Protocol were to create a new context shaking the very foundations of the European organisations, especially the ETUC. The most important consequence would concern the place and the role of the Industry Federations in a strategy aimed at incorporating this dimension into our work as a confederation.

4.9 The difficult yet indispensable interaction and complementarity between the cross-industry and sectoral dimensions

Sectoral social dialogue developed around the high-profile Community policies, both in terms of standardisation and budgetary allocations: agriculture, food industries, transport, textiles, leather, etc. The original aim behind the establishment of the Joint Committees¹⁰² was to create consultation forums for the various Community policies in these sectors. But they were also to serve as the basis for the development of the Sectoral Social Dialogue Committees. The consultation of the social partners enabled them to start discussing and even negotiating joint moves, as seen for example in the oldest “agreement” entitled *Agreement on the harmonisation of the working time of full-time agricultural workers in the arable crop sector of the European Communities* signed on 22 March 1978¹⁰³.

100. In 2013, the DGB published a document *A Marshall Plan for Europe*, greatly inspired by Jacques Delors’ White Paper. This DGB initiative was taken up by the ETUC when presenting its recovery plan in 2014.

101. A significant contribution came from Maria Helena André who led the negotiations on behalf of the ETUC Secretariat.

102. Before the social dialogue was established in 1985, six Joint Committees existed. The oldest one, established in 1963, was for agricultural workers. It was followed by the one for road haulage workers in 1965, for inland waterways in 1967, for the railways in 1972, for the fisheries sector in 1968, and for the shoe-making sector in 1977 (though it ceased operations in 1982).

103. Signed by the Committee of Professional Agricultural Organisations (COPA) and the European Federation of Agriculture Trade Unions (EFA) (which became the European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) in December 2000).

The ETUC had always seen social dialogue as being based on the two main pillars of unionism, the cross-industry pillar and the sectoral pillar. However, the relationship between these two dimensions had been neither easy nor obvious ever since the establishment of the ETUC in 1973. In this section, we will not be dealing *per se* with sectoral social dialogue and its results, which are extremely rich and continue to grow and expand considerably. Each Federation will have to write its own story, following the example of Carola Fischbach-Pyttel¹⁰⁴ for the European Public Sector Union (EPSU).

Instead we will be looking solely at the involvement and contribution of the Industry Federations to the cross-industry social dialogue, and at the ETUC strategy for including the whole sectoral dimension in our confederation policy. With regard to sectoral social dialogue, we were looking for a dual dimension, both interacting with and complementing cross-industry dialogue, yet with an independent perspective on sector-specific subjects. We had need of the wealth of the Federations' specific input and their sector legitimacy to negotiate, as the ETUC, at European level.

As seen previously, this interaction already had a long history in those sectors subject to strong Community policies, such as coal and steel (ECSC), agriculture, food, transport, fisheries and the shoe-making sector. Since the start of the cross-industry social dialogue in 1985, the development of the sectoral dimension had been a priority objective for the unions and the ETUC. The Milan Congress on 13-17 May 1985 highlighted this dimension¹⁰⁵, with a view to being able to take concrete action targeting working conditions, training, gender equality, health and safety at work... and above all economic restructuring and technological change.

The major difficulty was the difference in the way the ETUC was structured, with the sectoral dimension covered by its member European Industry Federations, and the way UNICE was structured. Beyond its national member confederations, the sole role of UNICE was to coordinate independent sectoral organisations, most of which refused, at least in the early 1990s, to take on any social responsibility.

Moreover, writing in the Jesuit journal OCIFE¹⁰⁶ in 1992, UNICE's Zygmunt Tyszkiewicz frankly stated, in reference to the sectoral employer organisations: "This tendency to greatly increase the number of social partners by sector is being actively encouraged by the European Commission and the unions, but is followed with apprehension by UNICE which sees in it a potential way of dividing the employers, thereby weakening their influence."

This position of the UNICE Secretary General reflected that defined by the UNICE Social Committee in its social dialogue strategy: "For this strategy to be effective, UNICE must take the lead, ensuring the coordination of the views of all organisations representing industry at European level who may, voluntarily or not, be called on to take part in European-level consultations and negotiations. These organisations include the European Federations of Industrial Branches (FEBI), the European Confederation for the Retail Trade (CECD) and the Federation of European Wholesale and International Trade Association (FEWITA), SMEs and the craft sector, etc. If UNICE is not able to take the lead, the position of the employers will be seriously weakened." As

104. Fischbach-Pyttel, C. (2017) Building the European Federation of Public Service Unions. The history of EPSU (1978-2016), Brussels, ETUI.

105. In the General Resolution, the question of the need to integrate the federations was already raised: "Congress authorises the ETUC Executive Committee to pursue its efforts with a view to industry committees being recognised. Coordination between the cross-industry and industry levels is indispensable for ensuring worker participation in the action decided by the ETUC."

106. Catholic Office of Information and Initiative for Europe (OCIFE).

he said further down in this document, it was a question of “maintaining the ranks of the employers vis-à-vis the unions and the EC institutions with a view to countering the ‘divide and rule’ strategy used to weaken us”.

The attitude of UNICE was to be very aggressive in the face of the demand for Eurocommerce to directly participate in the cross-industry social dialogue (cf. Chapter 6 *New social players knocking at the door of the European social dialogue*). The Commission also upheld this employer attitude¹⁰⁷: “Despite abandoning its open opposition to social dialogue at sector level – the development of which was considered dangerous for a consistent and non-fragmented evolution of European social policy – UNICE rejects any ‘promotional’ action among the European structures established by the various industries in the different sectors.” At the same time, we need to take note of the functional limits of the existing Joint Committees.

UNICE’s policy of rejecting the sectoral dimension was followed by a number of the major sectoral employer organisations. For instance, Mr Mathijsen, Executive Director of the Confederation of the Food and Drink Industries of the EEC (CIAA) answered a request for social dialogue from the European Foodworkers Union (SETA; now EFFAT) with the following words: “the ‘negative’ attitude preventing the European social dialogue” was due to the fact that the CIAA was an “international scientific (*sic*) association tasked with defending the common interests of the food industry from a commercial, technical, legal and scientific perspective; it is not an employer association, and consequently has no industrial relations competence”¹⁰⁸. Such an argumentation was somewhat bold!

Another important sector wanting nothing to do with sectoral social dialogue was the metalworking sector, as seen in an internal document of the Western European Metal Trades Employers’ Association (WEM): “The WEM, is, at the present time, against the institutionalization of a ‘European-level social dialogue’ for the metal industry... WEM asks UNICE to clearly state UNICE’s main responsibility for dealing with social policy and/or labour market issues at European level”¹⁰⁹. This was not however the attitude of all employer federations, especially those which did not consider themselves to be represented by UNICE, such as the European Confederation for the Retail Trade (CECD), which was in dialogue with the European Regional Organisation of the International Federation of Commercial, Clerical, Professional and Technical Employees (Euro-FIET), which itself was in talks with the banking and insurance sectors.

In the context of the completion of the Single Market, this sectoral dimension had been highlighted by the Commission¹¹⁰, which had already identified several sectors liable to restructuring and the subsequent adaptations: “The sectoral dimension of the Community social dialogue is not only an indispensable element in developing the whole industrial relations system, but also seems to offer the best prospects for ensuring effective representation, from a Community perspective, in the face of change, and to counter protectionist temptations possibly arising through the completion of the Single Market.”

107. Chapter 2.5 of the Venturini/Savoini analysis paper “*Dialogue social : bilan et perspectives*” of December 1988 (Patrick Venturini’s archives).

108. Letter dated 31 October 1989 from the CIAA Executive Director to the SETA Secretary, Otto Staadt; the author’s archives.

109. This memo dated December 1989 was “recovered” by EFBWW Secretary Jan Cremers and sent to Mathias Hinterscheid and Jean Lapeyre on 8 June 1990. Author’s archives.

110. Ibid footnote 107.

For the ETUC, the interaction between the cross-industry and sectoral organisations at European level was neither obvious nor easy, for two reasons: their statutory status and the role of the International (i.e. global) Trade Secretariats.

With regard to their statutory status: In the period from 1973, the year the ETUC was established, to 1991, the Industry Federations merely had an observer status. Moreover, just five of them had been recognised by the ETUC right from the start: The ECSC Liaison Office, CECA, EFA (agriculture), EMF (metalworking), Euro-Fiet (commercial, clerical, professional and technical employees) and the IPTT (postal services, telecoms). The others were to successively come on board: SETA-UITA (foodworkers) in 1978, the European Transport Committee and the European Public Services Committee in 1979, the EFBWW (building and woodworkers) in 1984, the FESCID (chemical workers; now EMCEF) and the European Textile/Clothing/Leather Committee in 1988. Certain sectors became affiliated to the ETUC even later, for example the European Education Staff Committee and the European Federation of Journalists.

This commitment to developing sectoral social dialogue and sectoral union committees, and the support provided by the ETUC, had a clear base. The General Resolution adopted at the ETUC Stockholm Congress in May 1988 contained *inter alia* the words: "The ETUC reiterates its support for the development of sectoral policies at Community level. The establishment of Joint Sectoral Committees competent not only in the social field but also in economic and industrial questions is indispensable for defining the policies to be followed." This in turn led to the Congress "mandating the Executive Committee to continue its efforts to have the Trade Union Committees recognised. Coordination between the cross-industry and sectoral levels is indispensable for ensuring the participation of workers in the actions decided by the ETUC".

But these objectives still needed to be backed up by a reform of the ETUC Constitution. In the 1973 ETUC Constitution, amended by the Copenhagen Congress in May 1974, the London Congress of April 1976 and the Milan Congress in May 1985, Article 1 stated: "The European Trade Union Confederation shall consist of National Trade Union Confederations" Article 4 added that: "The European Trade Union Confederation also includes the Trade Union Committees recognised by the Executive Committee..." While these Committees had the right to vote (with the Executive Committee setting the number of votes) at Congress¹¹¹ (except on issues regarding the Constitution and financial matters), they had no voting rights within the Executive Committee, where they only had a consultative role¹¹².

The work of the Special Committee "For a more efficient ETUC" in preparation for the Luxembourg Congress of May 1991 was also going to have consequences for the ETUC Constitution. Article 1 was changed to "The European Trade Union Confederation shall consist of National Trade Union Confederations and European Trade Union Committees". Article 4 defined these Trade Union Committees, while Article 7b established representativeness in the same way as that applicable to the (national) confederations, i.e. "three delegates for each European Trade Union Committee, and one additional delegate for every 500,000 members." Voting rights were extended to Executive Committee decisions (except on financial issues and requests for affiliation), where the representativeness of the Trade Union Committees was better defined¹¹³. The

111. May 1985.

112. Article 6 of the May 1985 version of the Statutes.

113. Articles 12 and 16 of the Statutes adopted at the Luxembourg Congress in May 1991.

development of the ETUC led to the creation of a Steering Committee as a subset of the Executive Committee, in which the Trade Union Committees were also represented¹¹⁴.

The election of Emilio Gabaglio as ETUC Secretary General helped accelerate the integration of the Trade Union Committees. We shared the culture of a dual – cross-industry and sectoral – union pillar, and were well-versed in negotiations linking these two pillars. Our work was thus focused on strengthening this interlinkage, considered as absolutely necessary for further developing our ability to negotiate at European level. Certain national confederations had no negotiating culture. Looking at the two most important member confederations, the British TUC and the German DGB, they had no practice in cross-industry negotiations, as all negotiations took place either at company level (United Kingdom) or at sector and Länder level (Germany). The negotiating mandate we had at the ETUC had therefore to be based on either cross-industry bargaining power or sectoral bargaining power depending on the country. The mandate of the EMF, the metalworking federation including the powerful German IG Metall and the British General, Municipal and Boilermakers Union (GMB), was just as important for us as those of the DGB and TUC.

The next big step forward was the Brussels Congress in May 1995. For the proposed reform of the ETUC Constitution, an amendment tabled by the Italian unions CGIL-CISL-UIL and supported by the majority of the Executive Committee was adopted. This not only replaced the term “Trade Union Committees” by “European Trade Union Federations” in Article 1, but also included in Article 13 the procedures for negotiations at European level in the context of the social dialogue (mandate definition, composition of the delegation, monitoring the conduct and progress of negotiations, the vote on the outcome of the negotiations). Qualified majority voting was instituted for all social dialogue procedures.

Two further points need to be emphasised:

- Article 13 stated that “The Secretariat shall supervise the bargaining delegation”. This was never the case with UNICE. Here, the conduct of any negotiations was in the hands of the President of the UNICE Social Committee, who was a national member and not a member of the Secretariat¹¹⁵.
- It was further stated that: “Regular reports on European sectoral bargaining, carried out by European Trade Union Federations, shall be made to the Executive Committee. Its consistency with ETUC policy shall thus be ensured.” There was a certain resistance on the part of the European Trade Union Federations (or rather their global counterparts) to this coordination. But these relations were to be basically managed by the Collective Bargaining Coordination Committee set up within the ETUC.

This reform also upgraded Article 5 with reference to the Federations: “The European Trade Union Federations are organisations of trade unions within one or more public or private economic sectors. They represent the interests of workers in their sectors at the European level, principally in negotiation.”¹¹⁶

114. Ibid articles 17 and 18.

115. Under the presidency and impetus of Antoine Sellière in 2007, UNICE’s name was changed to BusinessEurope with a view to strengthening its status as a “technical” and administrative instrument. At the same time, the status of Secretary General was changed to Director General.

116. With regard to the position of women in the European trade union movement, we had to wait until the June 1999 Helsinki Congress for Article 23 of the ETUC Constitution to state “The Secretariat... shall include at least one woman...”. And at the May 2011 Athens Congress, Article 22 on the Secretariat was changed to “Gender balance shall be taken into account and the difference in numbers of members of the Secretariat of either gender shall not be higher than one.”

One can examine the role of the global union federations vis-à-vis the ETUC via the history of international trade unionism. Created before the International Confederations, these global sectoral structures maintained their independence. On the establishment of the World Federation of Trade Unions (WFTU) in 1945 and in its initial phase before the split between the Communist and non-Communist unions, the International Federations refused to join it. Even after the subsequent creation of the International Confederation of Free Trade Unions (ICFTU) in 1948, the global union federations were to remain independent.

The Constitution of the International Trade Union Confederation (ITUC), the successor of the ICFTU following the latter's merger with the World Confederation of Labour (WCL) in 2006 continues to uphold this set-up in its Article 6(a): "The Confederation recognises the autonomy and responsibility of the global union federations with regard to representation and trade union action in their respective sectors and in relevant multinational enterprises, and the importance of sectoral action to the trade union movement as a whole. Concerned to ensure the greatest possible degree of cohesion and effectiveness within the international trade union movement, the Confederation shall work in a structured partnership with the global union federations and the Trade Union Advisory Committee to the OECD (TUAC) through the Council of Global Unions (CGU). Global union federations, of which one per sector shall be recognised by the Confederation, shall be represented, with speaking rights, in the latter's governing bodies."

By contrast, the whole strategy of the ETUC was focused on integrating the rights and responsibilities of the federations, while respecting their own sectoral responsibilities, in the ETUC's daily work and policy-making as well as in developing Community rules, *inter alia* for multinational companies.

One particular situation was that of the EMF, set up in 1963 as an organisation independent of the International Metalworkers' Federation (IMF), with its own financial resources but working in complete harmony with the latter. Via the ECSC, EMF action already reflected union pluralism, not just in the steel-making sector but also through the users of metalworking sectors.

With regard to the other European industry organisations, two aspects reflected their ideological resistance, as seen in the discussions over the reform of the ETUC Constitution at the 1991 Luxembourg Congress. The first argument related to the questioning of international solidarity provoked by the European Community and the ETUC, mainly by the teachers, the FIET and the Transport Federation. The second, less admissible argument was that, as the global union federations were mainly under Anglo-Saxon influence, no third force should be developed between the United States and what was then the Soviet bloc (this was also the position held by the WFTU and the CGT in particular). We should also not forget the position of the British TUC, which had been very much anti-European until 1988 and its conversion to European "Delorism". This resistance to integrating the sectoral federations into the ETUC at European level was to persist against the backdrop of growing economic globalisation, strengthening links to the global federations.

The development of the European Sectoral Committees towards a federation structure was sometimes to be no more than **formal**, as seen by UNI Europa which basically remains a regional Bureau of UNI in Geneva, to a great extent financially dependent¹¹⁷ on it and unable to set a membership fee rate at European level ensuring the independence of the European organisation.

¹¹⁷. For example, in the 2012 Financial Report, the contribution of UNI Global amounted to €730 000, i.e. ca. 22% of the total UNI Europa budget.

The European Public Services Union (EPSU) was to experience great difficulty in gaining “independence” from Public Services International (PSI)¹¹⁸. The debates were very similar to those which took place earlier on within the ICFTU at the time the ETUC was established. Certain organisations did not accept the concept of European federations being independent of their global counterparts¹¹⁹, as was seen with the EPSU, which had to wait until the reform of 2000, decided at its Lisbon Congress, for the term “General Assembly” to be replaced by “Congress”, thereby reflecting its independence. The terminology battle was not harmless for the European Federations, with the EPSU switching from the term “Presidium” (the term used by the global federation for its management body) to “Executive Committee”, while one continues to refer to UNI Europa as a Regional Secretariat of UNI, with a “Director¹²⁰” and whose policy-making is *de facto* in the hands of the Secretary General of UNI Global Union.

Also the cause of resistance and tensions were the criteria established by the ETUC for the “new” European Federations: their geographic scope had to be in line with that of the ETUC; and they had to be open to all unions affiliated to ETUC member confederations. They also had to have their own statutes (constitutions) and autonomous structures.

These criteria were to be contested in several ways. With regard to the geographic scope, certain global union federations wanted to prevent their European federations, whose centripetal forces focused exclusively on Community policies, gaining too much autonomy. In such cases, the policy of the global union federations concerned was to consider their European federations as regional organisations, in many cases covering a wider geographic zone than that of Europe and its neighbouring regions. This was especially the case with UNI Europa and the EPSU, which included Russia and other former Soviet republics.

As regarded being open to all unions affiliated to ETUC member confederations (union pluralism ran in the ETUC’s genes), here again rear-guard battles were to take place for several years. For a long time, certain federations were to reject the possibility of becoming members of union federations belonging to ETUC member confederations while belonging to the WCL, either out of ideological sectarianism, or by imposing joint membership of the global union federation, something that these federations refused as only the European level was concerned and as the ICFTU / WCL merger had not yet occurred (not until the Vienna Congress in 2006). This requirement went against the ETUC Constitution, poisoning the climate for almost a decade. This problem even led to an amendment of the ETUC Constitution at the Prague Congress of May 2003, with Article 5 now stating “(...) The European Trade Union Federations shall be open to all national trade union organisations affiliated to member Confederations. These organisations should be part of the relevant European Trade Union Federation.” Certain global union federations demanded that the national sectoral organisations coming from WCL organisations (before the creation of the ITUC) should also be a member of both the European and the global federation,

118. For more on this subject, see the excellent analysis of Carola Fischbach-Pyttel (2017) *Building the European Federation of Public Service Unions. The history of EPSU (1978-2016)*, Brussels, ETUI.

119. Ibid.

120. When UNI Europa became a federation in 2000, we recommended that Bernadette Ségol, the then Director of a Regional Office, be given the title of Secretary-General, but UNI only stooped to the title of Regional Secretary.

Last but not least, with regard to organisational and financial autonomy, here again it was the policy of certain global union federations to keep the European federation financially dependent through setting a rate of membership dues too low to ensure the autonomy of the European organisation. This was particularly the case with UNI Europa, despite a period of emancipation while Bernadette Ségol was in office as Director and then Regional Secretary of EuroFiet/UNI Europa, and initially with the EPSU, although it later gained its autonomy. The European Transport Workers Federation was similarly very much dependent on its global counterpart, a situation worsened by a financial crisis which the global union federation had to manage directly, together with the European Commission, under difficult conditions.

Thanks to the major expansion of European works councils, coordination was to grow between the European trade union federations (belonging to the ETUC) and the global federations, leading to the conclusion of global framework agreements on the industrial and social policies of multinational companies, and even in a few cases to the establishment of global works councils. The European social dialogue has thus contributed to the emergence of a new forum of coordination, intervention and regulation at global level.

The development of the European social dialogue, and especially the agreement of 31 October 1991, helped the ETUC make considerable progress in upgrading its negotiating ability, thereby allowing the necessary transfer of power from the national and sectoral levels to the European level.

This would lead first to the drawing up, in March 2013, of internal rules of procedure on negotiations. These were subsequently debated heatedly at the ETUC Executive Committee meeting with the federations (see Chapter 5).

The development of the sectoral social dialogue committees (SSDCs)¹²¹ took place very rapidly, obliging the Commission to take up the representativeness criteria proposed by the European social partner confederations (see table) to ensure the legitimacy of the union and employer representatives from the various sectors mutually agreeing to set up an SSDC. Studies were systematically conducted by universities to verify, in each of the countries and each of the sectors, the representative and negotiating legitimacy of the unions and employer organisations concerned. These committees currently cover 145 million workers in Europe and involve all key sectors.

At a sectoral level, negotiations have become reality, as seen by agreements on working time, on top of the 1991 Working Time Directive, in the rail, sea, air and inland waterway transport sector. In the hospital sector, the social partners have concluded an excellent agreement on “The prevention of cuts and bites”, validated by the European Council in the form of a directive. On the other hand, an agreement in the hairdressing sector on health and safety at work (in particular regarding the chemical products used and ergonomic problems) was blocked in the Council for legal reasons, with a number of Member States, led by the United Kingdom, opposed to the idea of turning it into legislation¹²².

The federations were going to play a fundamental role in setting up European works councils (EWCs), in many cases signing the agreements setting them up and developing important means of coordinating and guiding them. They were also to benefit

121. European Commission staff working document on the functioning and potential of European sectoral social dialogue, SEC(2010) 964 final, <http://ec.europa.eu/socialdialogue>.

122. President Barroso went as far as saying, with supreme contempt, that there was no question of legislating on the height of the heels of the hairdressers...

from the support of the European Trade Union Academy¹²³ for training EWC union representatives, thus helping to create a common culture for a consistent and solidarity-based response to the corporate management of these multinational companies.

123. The ETUC training institute.

Chapter 5

Moving forward

**"There are risks and costs to action.
But they are far less than the long-range risks
of comfortable inaction."**

John Fitzgerald Kennedy

In this chapter, the social partners get down to the nitty-gritty – to negotiate or not to negotiate –, while a conflict at the US company Hoover revives the problems of informing and consulting employees in the event of the restructuring of multinational companies. A Commission legislative initiative leads to a first attempt at European negotiations, but without success. Nevertheless, this failure opens the door to legislation on European works councils. The first "truly" European agreement is signed on parental leave, a subject on the table of the Ministers of Social Affairs for the last twelve years, but which had remained blocked. These negotiations raise a number of legitimate problems associated with the transfer of powers from the national and/or sectoral level to the European level, with a need to ensure the transparency and control of the negotiations. This is to be a period of great importance for the Europeanisation of the employer and union organisations.

5.1 Their backs to the wall: the revival of the “Vredeling” initiative

As discussed in Chapter 1, the information and consultation of workers in multinational companies was a much-contested subject. Our dispute over this subject had been dragging on for almost twenty years, in a standoff between the European unions and the “global” employers.

The Commission had taken the decision in 1990 to relaunch an initiative of this subject, despite the heated opposition of the employers but with the strong support of the union movement and above all the European Parliament. In December 1991, the debates within the Social Affairs Council showed that there was only one government openly against the directive, that of the United Kingdom. Two other governments – Portugal and Greece – had stated their reservations, but all others were in favour. The problem was that unanimity was required. This resulted in the work on the proposal being deadlocked throughout 1992.

For the employers, the situation was nothing new, with them merely repeating their position in a letter addressed to the ETUC in 1991¹, the title of which clearly highlighted this: *UNICE alternative to the European Commission’s proposals for the information and consultation of workers*. In it, UNICE restated that it had, in its opinion of 4 March 1991, “rejected the Commission’s draft directive as being too institutional, too strict and too bureaucratic”, that it “considers that a Council Recommendation could be useful and effective”, and – as the icing on the cake – it stated its willingness “to assess the effectiveness of this Recommendation after a certain number of years” (*sic*).

The Belgian Presidency of the EU in the second half on 1993 and the determination of the Belgian Minister of Social Affairs, Miet Smet² enabled us to get discussions going again, envisaging that this directive could get through under the Maastricht Social Protocol (without the assent of the United Kingdom), but this was still not enough to relieve the deadlock. As we will see later on, it was to take a specific event to get the ball rolling again. In their quest to avoid legislation, the employers became ensnared in their own reality. One event was set to provoke a policy change on this subject: the Hoover affair.

5.2 The Hoover shock

It took the shameful practices of Hoover (a subsidiary of Maytag, the fourth-ranked US household appliances corporation) in 1993 to really get the debate going again. In a major scandal, the Hoover corporate management blackmailed the French and British governments and local authorities, stating that it had to close either its French vacuum cleaner plant in Dijon/Longvic (704 employees) or its Scottish counterpart in Glasgow/Cambuslang (975 employees). The decision was dependent on which could offer the lowest social costs and the highest local tax advantages.

1. Letter dated 17 October 1991 from UNICE to the ETUC Secretary General. Author’s archives.

2. At a study day held by the FEB, the Belgian employer federation, she stated that it would be possible to achieve progress in EU social policy and in particular in the field of European works councils (EWCs) once the Treaty was ratified by the Member States. “Therefore, even if Great Britain does not want to approve the EWC directive – as is the case at present –, it will be possible to do so without it.” Proposals reported in the newspaper *La Wallonie* on 7 September 1993.

In January 1993³, Hoover Europe management benchmarked the two plants, comparing the state subsidies obtainable in each region⁴ and the respective wage costs. There was no consultation, just the threat of closing down one of the two plants.

With the support of the ETUC, the European Metalworkers Federation (EMF) attempted to organise a solidarity-based union reaction, but, despite two meetings in Brussels⁵ between the Scottish AEEU union and the French CFDT (the major union for the Longvic plant), nothing came about.

On 4 February 1993, Jacques Delors received the union representatives from Hoover⁶ and Grundig, another company in difficulties, but the decisions had already been taken by the US corporation, as witnessed by an agreement signed on 22 January 1993 with the Scottish unions.

The region around Glasgow was reeling from the closure of the naval dockyards, and the wives of many of the unemployed dockyard workers worked at Hoover. With regard to the development potential of the two plants, the Cambuslang plant had more in its favour than Longvic. Excusing their behaviour, the Scottish unions were to say that they had had to negotiate "at gunpoint". The Glasgow employees even went as far as making the surplus of their pension fund⁷ available for investments in upgrading their plant. Present at the meeting with Jacques Delors, one Scottish unionist who had taken part in the negotiations tried to justify the agreement concluded with Hoover (or Maytag, the US parent), commenting on its various terms: "He denounced the errors and untruths spread by the press (for example: it was inaccurate to claim that the agreement suppressed the right to strike; only wildcat strikes were now prohibited. As a result of the questioning of the President (of the Commission, ed.), it seemed that three factors had determined Maytag's decision: lower overtime rates for night shifts, the way of recruiting new staff (solely fixed-term contracts without any entitlement to paid sick leave or company pension fund contributions and the use of part of the pension fund surplus to help recapitalise the plant)."⁸

The further development of the Glasgow plant was thus dependent on precarious contracts: 400 new workers were hired, all on 24-month contracts and with minimal social protection. The British Prime Minister, John Major, clapped his hands on hearing Hoover's decision, upholding it as a consequence of UK competitiveness and of the UK's *opt-out* from the Maastricht Social Protocol. A small consolation for the Dijon workers was Nestlé's decision just a few days later to transfer its production from Newcastle to... Dijon. John Major made no comment....

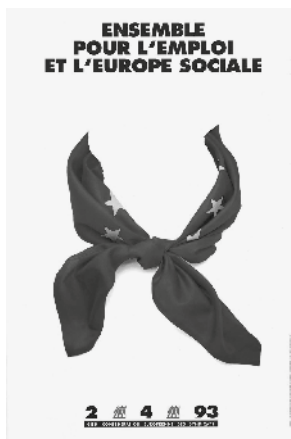
To our great dismay, we had been unable either to establish solidarity between the unionists in the two plants or to take joint action against the Hoover management. A social dialogue failure, and a major setback for the unions.

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3. January 1993 was the date set for the application of the Single Market. Hoover was thus a very bad signal for social matters.
 4. The company had gained assurances of British state aid totalling the equivalent of 70 million francs, much more than the sum offered by the French authorities (the *département* of Bourgogne (Burgundy) and the French state).
 5. Hubert Thierion, an official of the Belgian CSC Métal union and at that time EMF Secretary General, worked closely with the author of these lines in organising the union response and contacting the European Commission to combat this action of a multinational company.
 6. The French Hoover delegation consisted of two representatives, one from the CFDT and the other from FO, while the one from Grundig had five representatives (CFDT, CFTC, CGT, FO and an independent manager). They were accompanied by Marie-Claude Vayssade, the socialist MEP for Lorraine, with whom we were always to work very effectively, and Charles Metzinger, the senator for the Moselle.
 7. In the United Kingdom, occupational pension funds are generally run by the companies themselves. The Scottish employees released a sum equivalent to 180 million francs to make the company profitable again.
 8. Jacques Delors archives, JD 1320, Sciences Po. Minutes of the meeting between the Hoover and Grundig union representatives and Jacques Delors, written by Patrick Venturini, the President's social affairs advisor.



The European Day of Action on 2 April 1993 was focused on the Hoover affair, with the Brussels protest march in front of headquarters of the European employers featuring the ETUC Secretary General pushing a Hoover vacuum cleaner.
Source: ETUC archives

A major union protest march took place on 2 April 1993 in Brussels. While its main theme was employment and Social Europe, it was also a protest against the practices of Hoover and other multinational companies. I had found an old Hoover vacuum cleaner in the ETUC cellar, and Emilio Gabaglio headed the protest march, pushing it. Jacques Delors received a delegation of protesters while they passed in front of the seat of the European Commission. The march went on to pass the UNICE headquarters in the Rue Joseph II and UNICE Secretary General Zygmunt Tyszkiewicz immediately came out onto the pavement to watch the march (in defiance?), the theme of which had been the subject of a bitter dispute between the unions and the employers⁹.



For the public authorities and politicians, the Hoover affair was a true eye-opener, revealing inadmissible practices that needed to be governed by European-level legislation. It also served as a trigger for relaunching discussions on the information and consultation of workers in multinational companies.

This failure of the unions made us very much aware of our difficulties, or even our inability, to organise a solidarity-based response and effective union coordination. This finding resulted in our European federations investing greatly in setting up coordination bodies for multinational companies, and in the ETUC relaunching a campaign for the adoption of Community legislation.

5.3 The new context created by the Maastricht Social Protocol

President Jacques Delors had helped restore the conditions for progress on the European social front through the 1987 Single European Act, which introduced qualified majority voting and new Community competences in the field of social policy. These led

9. The ETUC gave this vacuum cleaner as a present to the UNICE Secretary General, who was to keep it in his office until his departure.

The decisive commitment of the Commission

Following the ETUC's Day of European Action on 2 April 1993, Jacques Delors and Commissioner Padraig Flynn had a meeting with the ETUC on 4 April. The Hoover affair had left its mark, with Jacques Delors telling us: "In the short term, we need a more than symbolic gesture, showing that we have

not forgotten the workers. This is why we consider, together with Padraig Flynn, that the adoption of the Directive on European works councils is a key gesture." The Commission then started cranking up the legislative machine.

Minutes of the meeting, Jacques Delors archives, Sciences Po JD-1221.

to the Maastricht Social Protocol in 1993, based on the agreement of the social partners of 31 October 1991, and above all to the formal structuring of the European social dialogue, including its contractual dimension. The proposed directive thus saw the light of day in the new context of the Treaty and the role it assigned to the social partners. The Commission was going to start "experimenting" with the Social Protocol procedure, consulting the social partners on the relaunch of the Community initiative and leaving them the option of engaging in negotiations.

The employers were well aware that times had changed, and that they could no longer simply rely on the British veto. "During the Dutch Presidency, and underpinned by the Belgian Presidency which came to an end on 31 December 1993, the majority of governments, aware of the worsening employment situation and the need to do something to improve public opinion, wanted to make a gesture towards Social Europe"¹⁰. This employer statement came on the heels of the Commission decision of 17 November to launch the first-stage consultations on the information and consultation of workers in multinational companies. The French employers (together with a few others such as the Belgian FEB or the Italian Confindustria) knew that the decision to negotiate was not taken in advance, especially as: "For over a year, the ETUC has shown a preference for the directive, noting both the draft text and UNICE's extreme reservations. Nevertheless, it is aware that, in refusing to experiment with the new social dialogue (the ability to conclude contracts), it will be contradicting itself to a certain extent, with the risk of discrediting itself."¹¹

This caution on the part of the ETUC was also associated with the fact that UNICE was dragging its feet in responding to the first-stage consultations¹². The ETUC had immediately assented to this first stage, related to whether a Community initiative on the matter was opportune or not. Though the internal contradictions of UNICE were manifest, there was however a dynamic fringe wanting to open negotiations with the ETUC.

The Belgian EU Presidency in the second half of 1993 put the project back on the agenda, even going as far as presenting it to the Council of Ministers of Social Affairs of the 12 EU Member States on 24 September in Bruges. The offensive waged by

10. Internal memo dated 19 November 1993 from the CNPF, posing the question of the first use of the social policy agreement of the Maastricht Treaty for the subject of European works councils, positioning the French employers for negotiations, and stating the need to convince UNICE to adopt this objective: "For several months now, several national federations have drawn UNICE's attention to the need to define our position in order not to be caught short during these consultations"; the author's archives.

11. Ibid.

12. In an interview featured in the *Figaro* of 7 December 1993, the UNICE Secretary General spoke of the difficulty of "finding a consensus among the employers". He also quite strongly questioned a project that would severely burden companies: "If such a bureaucratic and rigid system, dreamt up by people without responsibility, is enforced, we should not be surprised when companies prefer to set up shop in China or elsewhere!"

the European employers targeted the political institutions: the Belgian EU Presidency, ministers in certain countries, the European Parliament. For example, UNICE had a meeting with the Belgian Prime Minister, Jean-Luc Dehaene, on 8 September 1993, in which it called on the Belgian Presidency to abandon three projects: the energy tax (on CO₂ emissions), the minimal harmonisation of the tax on income from financial investments and... the draft directive on the establishment of European works councils. These projects “were likely to cause great harm to company competitiveness, thereby destroying jobs”¹³.

The employer offensive of September 1993 was subtle, no longer in direct opposition to the information and consultation of employees, but now focused on the procedures. On 22 September, just two days before the European Council of Ministers at which the Belgian Presidency wanted to put the draft directive on the agenda, UNICE “supported” the publication of a report compiled by the “Multinational Business Forum” and entitled *Prosperity and diversity: the consultation and information of employees in multinational companies*. The aim was no longer outright confrontation, a fight which seemed doomed in advance, but to demonstrate that European legislation would be counterproductive.

While the employers formally acknowledged the importance of informing and consulting employees, the study’s conclusions “demonstrated” that, while it was of course necessary to make progress (just 59% of the surveyed multinationals gave their staff information on their financial results and only 25% on their strategy), such information and consultation was “closely linked with national and regional cultures, to good management practices and to the changing needs of the workers themselves”. As a result, no procedures should be imposed, while “the direct and two-way communication between workers and their immediate manager needed to be defended”.

The Commission was under pressure from UNICE and its national members who were stepping up their lobbying of respective governments, but also from the AGREF (the association of major French companies) and the multinationals themselves¹⁴ (with a few exceptions), and also from the British government¹⁵.

This position of blocking a Community legislative initiative was to be restated by UNICE in February 1994 in a paper entitled “*Information and consultation of workers: Principles for a UNICE contribution*”. In it¹⁶, UNICE wrote that it “has had to reject the Commission proposal of 16 September 1991, in particular because of its centralist approach and inflexibility... as a result, UNICE suggested the withdrawal of the plan for a directive and the limiting of any initiative to a Recommendation which UNICE and national employer federations would then support vis-à-vis companies”. Self-regulation was to remain a permanent employer demand. Aware of the Commission’s determination on this subject, the employers were wise enough not to completely shut the

13. Statements made by UNICE President Carlos Ferrer, as reported in *La Libre Belgique* on 9 September 1993.

14. Remember the vitriolic campaign waged by the US Chamber of Commerce (Amcham) in Brussels against the initiative proposed by Commissioner Vredeling (Chapter 1).

15. As witnessed by this anecdote: speaking at a conference in London on 20 October 1992, a Community official, Herman van Zonneveld, discussed the draft directive. The next day, the *Financial Times* came up with the headline *EC drops commitment to mandatory works councils*. On 20 November, Herman wrote to me, at the request of his Director Carlo Savoini, to assure me that the Commission had not changed its position and that the British press had misinterpreted his words: “the British press came up with a somewhat ‘biased’ summary and especially the article in the *Financial Times* was misleading... Enclosed you will find my speech and the letter of protest which I have sent to the *Financial Times*. This means that the Commission has NOT changed its position.” The author’s archives.

16. *Information and consultation of workers: Principles for UNICE contribution*, the English text sent to the ETUC on 23 February 1994. Emilio Gabaglio’s archives.

door, stating that “UNICE in principle is ready to sit down with the ETUC to develop an effective and mutually acceptable framework for the information and consultation of workers in companies of European dimension”, i.e. stating a preference for a discussion rather than negotiations.

The ETUC was ready to experiment with negotiations, but did not want to become involved in an endless discussion putting the legislative initiative at risk. I have already referred to the ongoing dispute on this subject. The ETUC therefore called on the employers to enter pre-negotiations aimed at clarifying the aspects to be negotiated and to check the minimum conditions...

5.4 Negotiations impossible, but success with the Directive on European works councils

These pre-negotiations took place from 23 February to 17 March in three sessions¹⁷. For one month, the social partners attempted to clarify the cornerstones of a European regulation and above all how it would be operated, leaving a lot of implementation details up to the social partners at company level.

It should be said at this juncture that the ETUC was much better than the employers at managing the negotiations and its internal discussions. With its Social Dialogue Group, now including all secretaries of the Industry Federations, we were now in a very good position to steer the pre-negotiations in line with our objectives. This enabled me to write the following in a note to the Executive Committee meeting on 9 - 10 June 1994: *Status of the social dialogue and its outlook*¹⁸, in a section entitled *A revealing, serious but not fatal failure*, that “this recently acquired ability demonstrates a certain maturity of the ETUC which must be preserved and enriched for the future”.

At the final negotiating session on 17 March, a “concluding statement” was drafted, listing the main union concerns: information and consultation as a right; the negotiation of the establishment of a transnational workers’ representation; the establishment of minimum provisions in the case of a refusal to negotiate or of failed negotiations; the decision that, in the case of an agreement being reached, this be submitted by the Commission to the Council “to take an immediate decision making it applicable *erga omnes* throughout the Community”¹⁹. I had taken my laptop and a printer with me to the meeting, and as negotiations progressed I typed in the text. At the end of the meeting, the somewhat old printer slowly, line for line, printed out the text we had agreed on, with all participants waiting to get a copy and depart, as we had decided that this text would be used in our respective employer and union organisations to check the negotiating mandate.

On 22 March, the UNICE Executive Committee accepted the text, faxing us its decision that very evening. This position was confirmed by letter on 28 March. However, in the night from 27 to 28 March, the Confederation of British Industry issued a press release opposing the text. As the employers’ decision-making system at that time required unanimity to open negotiations, it seemed as if these were now condemned to failure.

17. 23 February, 9 and 17 March 1994.

18. Memo of 19 May on item 6 of the agenda.

19. Concluding text (draft). Author’s archives.

The UNICE Secretary General tried to defuse the situation, sending a note²⁰ to Emilio Gabaglio explaining that the CBI “will not prevent and will not interfere in any negotiations between UNICE and the ETUC”. Insofar as such negotiations took place under the regime of the Social Protocol, “the absence of the CBI should not change anything, as Great Britain is excluded from all legislative acts emanating from the Protocol. Why, then, should we not try to bring to an end what we have already started?”

One might have thought that the British employers would adopt a neutral stance, but its declared rejection of the text went beyond such neutrality, completely denouncing UNICE’s acceptance of the text as a capitulation to the ETUC. As for us, we had decided to have the TUC in our negotiating team, as we did not want to exclude them from such negotiations, given that many multinational companies had their headquarters in the UK. We knew however that, even if the CBI was not taking part in the negotiations, it could be a great nuisance. This fear was heightened by the fact that the CBI Secretary General, Howard Davis, had just expressed the CBI’s wish to rally all employers opposed to the EU’s social policy. The CBI thus intended to lead the opposition, in competition with UNICE which it considered incapable of standing its own against the Commission and the unions.

On 23 March 1993, the ETUC published a declaration²¹ from its Secretary General stating that, despite having accepted the text in principle, UNICE and CEEP again had reservations, expressed in a joint statement, about the right to information and consultation and about the negotiating arrangements between employee representatives and corporate management bodies. In the view of the ETUC, “the lack of willingness on the part of UNICE/CEEP to discuss these basic elements totally undermines the credibility of the employer position. The ETUC was therefore right in wanting to verify such before starting negotiations”. Therefore, “as things currently stand, the Commission’s legislative initiative is the only option possible for meeting the legitimate expectations of European workers”.

The next day, Zygmunt Tyszkiewicz send a fax to Emilio Gabaglio from Iceland, stating: “I regret your decision **as everything is negotiable** (our emphasis)”, while at the same time even trying to justify his absence at this critical moment: “One might think that my presence here in Reykjavik is linked to our discussions on information and consultation!!! This is not the case. There can be no escaping, and I remain at your disposal to resume the dialogue.” The employers wanted to avoid the legislative process at all costs. In the view of the ETUC, the argument of the CBI being excluded from the negotiations on account of the UK not having signed the Social Protocol was meaningless. Even if the UK was not a stakeholder in the legislative process, there was nothing to stop the UK employers being a stakeholder in the negotiations.

In our reply dated 15 June²² to a letter from UNICE of 13 April, we dwelt on this situation and on the advanced legal basis, as the employers did not seem to understand our position. “(...) At no moment has the CBI used this legal basis as a pretext to withdraw or threaten to withdraw from any attempt at negotiations, even in the face of the questions posed by the TUC member of our delegation on this subject. We had agreed that these negotiations would involve all our organisations within the EU, though obviously with different consequences from a legislative point of view. On the one hand, it

20. Handwritten note, undated but very probably of 29 March. Author’s archives.

21. Statement of Emilio Gabaglio of 23 March 1994. The author’s archives.

22. Letter dated 15 June written by the author and sent by the ETUC Secretary General to the UNICE Secretary General. The author’s archives.

was clear that, in the event of an agreement being concluded, the process of transposing this agreement into a legal act through a Council decision would only apply to the eleven Member States concerned. On the other hand, in the twelfth Member State, only the social partners actually signing the agreement would have been liable to implement it. **There was a real added value here in having the social partners take action to enforce a fundamental right. As you are aware, we could gain much more flexibility through our negotiations, with a will to maintain consistency throughout all Member States**" (our emphasis). For the ETUC unions, it was clear that the refusal of the British employers was not based on any legal argument, but on a political stance rejecting the content and aims of any negotiations. We had to accept that an employer organisation was copying a government's *opt-out*.

We should mention that, in this letter, the ETUC wanted to get round this deadlock by proposing to the employers to restart negotiations on a framework agreement, for example on parental leave or atypical work. Unfortunately, we would still have to wait several months and the announcement of Commission legislative initiatives for a new round of negotiations to begin. In a paper destined for the Executive Committee meeting of 9-10 June,²³ I wrote, in the section entitled *Getting social dialogue out of its depression*, that we had to relaunch initiatives especially at sectoral level: "One thing is certain: the ETUC needs to continue to keep its foot on the accelerator, not letting UNICE apply the brakes, if we are to move on to the next, higher-quality stage of the social dialogue."

With regard to information and consultation, it was now up to the Commission to go ahead with legislative measures. Indeed, the two consultation stages had already been carried out in December 1993 and February 1994, and Commissioner Padraig Flynn had defended the Commission initiative in the face of intense employer lobbying, more out of opportunism than conviction, but even so²⁴... All the pre-negotiation phase had achieved was to suspend the Community initiative. What was interesting was that many aspects discussed by the social partners were to be taken into account in the design of the Community legislation. The informal talks we had had with Jacques Delors' cabinet office and especially with his social affairs advisor Patrick Venturini allowed us to positively influence the draft directive, assigning a large amount of autonomy to the social partners of the companies concerned, while including minimum provisions in the event of negotiations being refused or failing.

We should also stress that a certain number of companies were not completely opposed to a European directive, but were doing their best to water down its content. This was for instance the case with the French AGREF, an association representing major French companies, which had dropped its opposition, replacing it with a strategy of adapting the draft legislation. This stance led us, and especially Emilio Gabaglio, to work with the organisation to find a compromise on its content. The CNPF denounced "the ambiguous and parallel move of the AGREF, campaigning in various countries for an adapted directive. In doing so, it was bolstering the position of hardliner ETUC unions"²⁵.

23. See footnote 18.

24. The British pressure was particularly strong as the Conservatives hated the Irish Commissioner. Witness the headline of the article on Padraig Flynn in the *Daily Mail* of 1 November 1996, written by Bruce Andersen: "This man comes from a world of farm subsidies and corruption. Is that why he wants to destroy Britain's economic success?". On top of this, the article's three subtitles referred to Padraig Flynn as "bigoted", "incapable", and "naïve".

25. Ibid footnote 10.

Trouble at UNICE and a change of leader

In June 1994, UNICE got a new President. After four years (1990 to 1994), the Spaniard Carlos Ferrer stepped down, to be replaced by the Frenchman François Périgot, previously President of the CNPF. Though coming from a company (UNILEVER) which had not made any positive contribution to developing social dialogue in France, at the European level he worked hard to make the negotiations on parental leave a success. But as reported by the *European Voice* of 13-19 June 1996 on his re-election for a further two years (on account of the two German employer organisations, the BDA and BDI, being neutralised by infighting, "It is a defensive tactic, rather than a positive one. He does it to stop legislation being imposed on him from above". François Périgot was certainly the

man behind an attempted putsch against the UNICE Secretary General, promoting the candidacy of the former European Commissioner for Commerce, Henning Christophersen, in January 1995. But Zygmunt Tyskiewicz had no intention of letting himself be pushed out, and François Périgot was forced to issue an "ambiguous" press release denying the rumour. In it, he declared that, while saying how flattered he was that the former Commission Vice President had been considered for the position of UNICE Secretary General, Zygmunt Tyskiewicz **would remain Secretary General for the moment** (our emphasis). Relations between the Secretary General and the President had never been easy and this episode did nothing to improve them. The Secretary General was to stay on for a further three years, quitting in February 1998, just three months before François Périgot.

This context and the fact that Member State awareness had been raised by the Hoover affair paved the way for the adoption of the Directive on European Works Councils in September 1994 under the German Presidency²⁶. The ETUC hailed this as "a success for the trade union movement"²⁷. The way in which this directive had been drafted demonstrated that it was possible to create a European legal framework giving the social partners sufficient room to negotiate. Within the process of setting up a European works councils (EWC), the legislator gave priority to negotiations before the provisions contained in the directive's annex were applied. This allowed EWCs to be set up very flexibly and to start work very quickly, well-anchored in the different situations of the respective companies and the industrial relations traditions of each Member State.

For Jean Michel Baer²⁸, the former social affairs advisor of Jacques Delors, "in the long term, the EWC Directive has left the greatest mark on social policy".

5.5 A new Commission, a new President

The European Summit of 15 July 1994 designated Jacques Santer*, the former Luxembourg Prime Minister, as Jacques Delors' successor.

He was to be formally appointed by the European Parliament at its session at the end of July. In the view of the ETUC, he seemed a good choice, ensuring reasonable continuity. But his appointment was the result of John Major blocking the nomination of

26. Directive 94/45 of 22 September 1994.

27. In a press release of 22 September entitled *European works councils: a success for the trade union movement, the right of European workers finally recognised*, the ETUC called on "the European employers to not wait for the transposition of the directive into national legislation to sit down at the negotiating table with European employee representatives", while also mentioning that 33 European works councils had already been created on a voluntary basis (9 in the metalworking sector, 3 in services and banking, 2 in the food industry, 1 in construction and 9 in the chemical sector).

28. Interview on 25 November 2014.

Jean-Luc Dehaene, the former Belgian Prime Minister who the British considered to be too close to Delors and more pugnacious than Santer. The Santer Commission came to an abrupt end on 15 March 1999, for several good reasons though a lot of unfairness was also involved²⁹. The “Luxembourg” culture of Jacques Santer with regard to the social partners was to be fairly positive during his term of office, with his social affairs advisor Julie de Groote effectively liaising between the President, the Commissioner (or rather the head of his cabinet office, David O’Sullivan) and the social partners.

On 27 July 1994, the Commission presented a White Paper entitled *European Social Policy - A Way Forward for the Union*³⁰. This White Paper followed in the tracks of the November 1993 Green Paper, taking account of the results of the consultations conducted by the Commission. This new Paper focused on preserving and further developing the European social model on the basis of shared values: democracy and individual rights, free collective bargaining, the market economy, equal opportunities for all, and social welfare and solidarity; all held together “by the conviction that economic progress and social progress must go hand in hand”³¹.

The Molitor Group: Deregulation on the horizon

In mid-1994, the Commission set up a “working group on legislative and administrative simplification” made up of independent experts and tasked with “looking into the scope for simplifying legislative and administrative provisions at both national and Community level, while taking account of economic and social constraints”. On 7 November 1994, the group’s chairman, Bernhard Molitor, wrote to us, announcing that his group had started its work. This letter was accompanied by a questionnaire focused on four fields: rules governing machinery; food hygiene; the environment; the effectiveness of employment legislation. As the Commission could not ignore the unions, we had managed to smuggle “one of us” into the group: Pierre Carniti, the Italian MEP and former Secretary General of the Italian CISL. This also allowed us to influence the appointment of social policy experts, such as Professor Antoine Lyon Caen. It seemed clear to us that we needed to

sabotage from inside this group what I referred to as “Demolitor”. We were quite successful at this, thanks to Pierre Carniti and the devastating “expertise” of Antoine Lyon Caen, but also to the resistance of other members who saw the group’s mandate slipping towards deregulation as the natural extension and consequence of simplification. Our undermining work bore fruit in the form of three minority opinions issued on the final report by the Swedish and Danish members and by Pierre Carniti who denounced “a unilateral vision not fully motivated by requirements strictly related to simplification”. The report was also rejected by the European Parliament whose President, Klaus Hänsch, was to make the following statement at the Cannes Summit on 26-27 June 1995: “We say ‘yes’ to a simplification of European regulations. We say ‘no’ to a reduction of the jointly adopted minimum standards. Deregulation must not become a new ideology”. End of the story. The report was silently buried by the Commission... but the subject would rear its ugly head again later on.

29. The Commission resigned on 15 March 1999 to avoid being censured by the European Parliament due to allegations of corruption and bad management, centred around the French Commissioner Edith Cresson. The Spanish Vice-President Manuel Marín stepped in as interim President until the Italian Romano Prodi was nominated on 16 September 1999.

30. *European Social Policy - A Way Forward for the Union*, COM(94) 333.

31. Quoted in the Communication’s introduction.

A further enlargement of the European Union was in the making, but on 28 November 1994 Norway voted in a referendum against joining the Union³². Just Austria, Finland and Sweden were to join the Union on 1 January 1995. For the ETUC, their arrival helped boost its position within the European Union, as these countries had very representative unions, a strong industrial relations culture and a tradition of regulating matters by collective bargaining.

On 6 December, the Council adopted the Community Action Programme on Vocational Training (“Leonardo da Vinci”) as well as its first resolution in the context of implementing the Protocol on Social Policy.



Final speech of Jacques Delors at the ETUC Executive Committee meeting in December 1994, before his departure from the European Commission.

Source: ETUC archives

At the European Summit in Essen on 9-10 December 1994, the last one chaired by Jacques Delors, the guidelines for developing the strategy of the White Paper on Growth, Competitiveness and Employment were defined, with a focus on the fight against unemployment and the implementation of trans-European networks.

5.6 A first success: the negotiation of parental leave

Parental leave had been on the agenda of the Council of Ministers of Social Affairs for twelve years without any decision having been taken due to the systematic veto of the British government. Following the “failure” of the pre-negotiations on European works councils, we needed to start talks on a less conflict-laden subject, but nevertheless one remaining blocked within the Social Affairs Council: parental leave.

At the Social Dialogue Committee meeting of 20 February, this subject had been discussed in connection with the launch of the Commission’s first-stage consultations. We had intervened, raising the possibility of negotiations. At the ETUC Executive Committee meeting of 6 April, discussions were already focused on a negotiating mandate. After the failure of the negotiations on EWCs, we had again, in a letter sent to UNICE on 15 June 1994, proposed restarting negotiations especially on parental leave. A paper had been sent to our organisations, together with the representativeness survey carried out by the Commission, and our Executive Committee had discussed it, with regard to both the ETUC’s internal procedures and its content, at its meetings on 20 April and 5 June 1995.

32. On 1 May, Liechtenstein became a member of the European Economic Area, an organisation covering the countries of the European Union and those of the European Free Trade Area (EFTA). While Austria, Sweden and Finland joined the European Union, Norway and Iceland remained members of EFTA.

30 March 1995**European Social Conference in Paris**

Holding the Presidency of the European Union in the first half of 1995, the French government had held a European Social Conference on 30 March under the auspices of the Standing Committee on Employment, allowing it to invite, apart from the French members of the ETUC, UNICE and CEEP, organisations such as the CGT (see Chapter 1 on the composition of the SCE). It was the wish of French Prime Minister Edouard Balladur and his Minister of Labour Michel Giraud to greater involve the social partners in the employment strategy defined at the European Summit in Essen (9-10 December 1994) and in Jacques Delors' White Paper *Growth, Competitiveness and Employment*, with a special focus on three topics: the cost of labour and employment; flexibility and working time; the development of new, job-creating activities. In the tradition of the Standing Committee on Employment, the definition of the conclusions was in the hands of the country

with the Presidency, even if these had been heatedly discussed behind the scenes even before the conference had taken place. The one positive point emerging from the conference was the organisation of an annual social conference to discuss the Employment Report and the right of the social partners to be consulted on the multi-annual programmes at national level.

Through highlighting social dialogue and consultation and through expressing, in the words of Minister Michel Giraud, "everyone's desire to extend the EU's social dimension and to create a true European Social Model*", the French government was actually positioning itself in the run-up to the elections soon to be held in France. Through bringing together all French social partners in a non-conflictual environment and through highlighting the government's desire for open dialogue, the picture seemed quite rosy...

* Expression used in an AFP press release of 27 March following the Minister's announcement of the 30 March conference to the press.

The first-stage consultations ended in March and the second stage was due to start in June. The employers were hesitant, preferring to "undergo" the procedure set forth in the Maastricht Social Protocol rather than to be subject to an autonomous negotiating initiative. The decision taken by the UNICE Council of Presidents on 2 June 1995 related solely to accepting a consultation in the context of the procedures foreseen in the Social Protocol and formalised by the Commission's Communication on the application of the Agreement on social policy³³. Even if, in our informal discussions at Secretariat level, we had reached agreement to negotiate this subject, the employers wanted to be "forced" to do so.

They had said "no" to the first-stage consultations in February/March on the "possible guidelines for a Community action³⁴", as UNICE refused, and would continue to refuse, to consider in all first-stage consultations the necessity for any Community social initiative. The European employers waited to see whether and on which legal basis the Commission was going to continue with its initiative, before deciding whether negotiations would be opportune. Put in a nutshell, whether the employers were prepared to negotiate was dependent on the Commission's determination to present, in the second-stage consultations, a binding legal instrument.

In these second-stage consultations at the beginning of June, the Commission decided to present a directive on parental leave, consulting the social partners regarding the proposed content of the envisaged proposal and asking for an opinion from

33. COM(93) 600 final of December 1993.

34. Article 3.2 of the Agreement of 31 October 1991.

them³⁵. But the social partners also had the opportunity to “inform the Commission of their desire to engage the process foreseen in Article 4, i.e. negotiations, thereby suspending the Community initiative”³⁶.

After discussions between the ETUC/UNICE/CEEP secretariats in June 1995, the decision was taken to start negotiations. A joint letter was thus sent to the Commission informing it of our decision. Moreover, an inner-circle meeting of the UNICE/CEEP/ETUC Presidents and Secretaries General with President Santer was held on 30 June, in the course of which we announced our decision to start negotiations.

Things that are negotiable and things that are not

In 1995, the Commission consulted us on “The burden of proof in cases of gender-based discrimination”.

The joint response of the ETUC, UNICE and CEEP was to state that this was not a subject for negotiations and that this should be left up to the legislator. Legislation was later adopted in the form of Directive 97/80/EC.

The President talked of the pressure being put on the Commission by other employer and union organisations wanting to be party to such negotiations: the European Association of Craft, Small and Medium-sized Enterprises (UEAPME), the European Council of the Liberal Professions (CEPLIS), the European Confederation of Free Trade Unions (ECFTU) and the CEC European Managers. In our view, but also in that of the employers, the legitimacy of these organisations still needed to be demonstrated. Moreover, now was not the right moment to involve new partners. Negotiations should take place between organisations mutually recognising each other, and nobody could impose new partners. “If we have representativeness deficits, it is our duty to fill them”, said the UNICE Secretary General (for more on this subject, see Chapter 6).

Following internal discussions, UNICE announced its decision to include the British employer organisation, the CBI, in the negotiations. It had learned its lessons from the failure of the pre-negotiations on the European works councils. On our side, the TUC was naturally party to the negotiations, and its representative, Dave Feickert, was set to play a major role in the ensuing negotiations. It was important for the British to be fully involved in the negotiations, even if the application of any resulting agreement would be different due to the British government’s *opt-out*.

A further question was who should chair the negotiations. UNICE wanted a neutral person, someone who would not be involved in the content of the discussions and whose sole role it would be to organise them. A thankless job, but one accepted by Jo Walgrave, President of the Belgian National Labour Council. The task ended up being very frustrating for her. An official from DG Employment and Social Affairs assumed the role of her assistant, taking responsibility for the minutes and thus establishing the link to the Commission³⁷.

For the ETUC, as we had decided under Article 13 of our Constitution, a member of the Secretariat was responsible for leading the negotiations and preparing them internally. This task fell to me. We suggested a delegation made up of one member from each country (with it left up to the pluralist countries to appoint their delegate) and

35. Article 3.3 of the Agreement of 31 October 1991.

36. Articles 3.4 and 4 of the Agreement of 4 October 1991.

37. In this first round of negotiations, this was Olivier Brunet, a European official.

from three Industry Federations, one member from the ETUC Women's Committee and one from Eurocadres, together with three Secretariat members (myself and two assistants, my assistant François Ballestero and Penny Clarke, the assistant in charge of the Women's Committee and who would later become my advisor). It was interesting to note that our delegation had a perfect gender mix.

For the employers, their chief negotiator was to be the chairman of the UNICE Social Commission, Dan McCauley from IBEC, the Irish employer organisation. He was a man used to negotiations, cunning but upright, cool but determined. Our relations with him were frank, betimes difficult, but always respectful. The UNICE Secretariat seemed little more than an "administrative" body.

The negotiations began on 12 July 1995 with a get-to-know round. At the 7 September meeting, the decision was taken to form a select drafting group, as the plenary sessions with 70-80 participants were proving to be difficult to manage, and we needed a small group, taken from our respective delegations, to start drafting the text.

This group first came together on 18 September, drafting a first text in conjunction with the secretariats and Jo Walgrave. It was presented for discussion at the next plenary meeting on 4 October. At this juncture, we should point out that each plenary meeting was preceded by preparatory meetings of the two sides, ETUC on the one hand, and UNICE and CEEP, together with certain employer federations such as Eurocommerce, on the other.

For the ETUC, these preparatory meetings were extremely important. We had decided to have the members of our Industrial Relations Committee attend them for two reasons: to obtain better input for the discussions, and, above all, to involve all our organisations in the negotiations, thereby ensuring maximum transparency. These meetings took place before the plenary sessions of 7 September and 4 October 1995, and also before the following ones.

I calculated that we generally spent five times more time in preparatory meetings finalising our negotiating proposals than in plenary sessions. This was quite normal, as we needed to take account of the national and sectoral situations in order not to bring in any elements upsetting national agreements. These difficulties associated with defining supranational positions with real added value throughout the Community had a very positive effect on the development of the ETUC and its internal capabilities.

Before the negotiating meeting scheduled for 24 October 1995, a Social Dialogue Summit was due to take place in Florence (see box). One item on the Summit's agenda was the status of our negotiations, though without going into any detail of any difficulties still to be overcome.

The Social Dialogue Summit in Florence on 21 October 1995

This was the first summit with the new Commission President Jacques Santer. The inauguration of the European Centre for Industrial Relations took place concurrently (see Chapter 7).

The Summit agenda included the following items:
the contribution for the next European Summit of
heads of state and government leaders in Madrid

on the implementation of Jacques Delors' White Paper on *Growth, Competitiveness and Employment*; the adoption of a joint declaration of the social partners on fighting racism and xenophobia*; the status of the negotiations on parental leave and the possible contribution of the social partners to the work of the Intergovernmental Conference on Treaty revision.

*Prevention of racial discrimination and xenophobia and promotion of equal treatment at work.

The impression gained in Florence was that there was a willingness on both sides to reach an agreement and that therefore progress needed to be made in the negotiations.

At the 5th session on 24 - 25 October 1995, five items were still causing difficulties. I had already communicated these at the Executive Committee meeting on 5-6 October³⁸ (the minutes taken at each meeting were sent out to all member organisations).

These five items related to:

- the scope of application of parental leave: the ETUC wanted to extend the scope to also cover dependent elderly relatives, but also for exceptional circumstances (for instance when a child was ill or when an accident had happened at school);
- flexibility in the application of the right, with the possibility of being able to take leave in a piecemeal manner, to not take it directly following maternity leave, to take it at any time before a child reached a certain age dependent on a child's needs, etc.;
- the nature of the right, with the ETUC wanting an individual, non-transferable right for women and for men in order to better reconcile work and private life and to promote equal rights between women and men;
- the nature of the companies covered and the problem of thresholds, with the ETUC wanting the agreement to apply to all small, medium-sized and large companies, whether in the private or public sector;
- the preservation of social security rights and the right to a minimum income or to compensation with a view to ensuring effective access to the right to parental leave.

Though negotiations continued in the text-drafting group, legal interpretation problems quickly set in. A first meeting with the Commission's legal department had been held on 24 October, the day before a negotiating session, with a view to having our texts checked with regard to their future transposition into Community legislation. A second meeting took place on 22 November between the Commission's legal department and the three Secretariats to review the items in the draft agreement which might possibly give rise to legal problems. The Commission's legal experts were worried about the discussions within the European Council and the reaction of Member States, first with regard to subjects which they considered to be their prerogatives (in particular social security) and secondly due to the fact that this was an agreement to be extended via Community legislation.

A threshold or no threshold?

This was a problem posed by the employer delegation right from the start, with two solutions being put forward: the exclusion of SME workers from the agreement's scope, or the possibility for workers and employers to adopt "appropriate arrangements" for SMEs at national level.

The ETUC had always rejected the application of thresholds which excluded workers from individual rights dependent on the size of the company they worked for. Application flexibility dependent on specific situations was OK, but exclusion was very much not OK.

38. Item 4 of the agenda.

With regard to the final provisions on the application of this agreement/legislation at national level, the Commission's legal department stressed that "with regard to the procedure, this is the responsibility (of the Commission, ed.) together with the Council."³⁹ The diverging interpretation of whether the word "decision", with regard to defining the instrument used to extend the agreement, should have a capital "D" or not again arose. The Commission's legal department had already decided on a lower-case "d", defining the term "decision" in a generic sense, i.e. covering all legislative instruments, while "Decision" (with a capital "D") was a Community legal instrument, a Regulation directly applicable to all Member States without transposition into national law.

Taking account of the discussion, the final text was updated by the Secretariats, together with the text-drafting group. The decision was then taken to submit it to our respective decision-making bodies.

On 23 November, the ETUC Steering Committee issued a very positive opinion on the outcome of the negotiations. In the view of Nicole Notat, the CFDT Secretary General, "this is a key event, proving that the Social Protocol is finally working. It constitutes progress not just for those countries which currently have nothing, but also for those seemingly well covered, like France, with the reference to the age of 8 for a child and with leave for "*force majeure*" which did not previously exist in French law⁴⁰". For DGB President, Dieter Schulte: "It is important to have this first agreement, opening the door to further negotiations."⁴¹ As the consultations were not yet finished, the Steering Committee sent the draft agreement to the Executive Committee for its final approval at its 14 December meeting.

The results of the negotiations and the written consultation of ETUC member organisations were similarly looked at during the Industrial Relations Committee meeting of 30 November 1995, with a view to gaining approval for the draft agreement. Many national organisations had already voiced their positive opinions, with the Irish ICTU and the British TUC making very positive remarks to the press, as for them this was a major step forward. Their two negotiators, Dave Feickert from the TUC and Joan Carmichael from the ICTU, were also to play a decisive role vis-à-vis the employer negotiators from the CBI and the IBEC. These were the two countries in which, up to now, no right to parental leave existed. Even though the agreement was not extendible by legislation in the United Kingdom, it constituted a major victory over the Conservative government. The British employers had taken part in the negotiations and found themselves morally bound to take over the outcome. The echo from the European Parliament was similarly very positive. Jean-Paul Delcroix from the Belgian FGTB was to say: "Not bad for a first go!". The ETUC decided to draw up guidelines for our member organisations to implement the agreement.

The agreement was signed by the three organisations on 14 December 1995, following an ETUC Executive Committee meeting in which the draft had been unanimously adopted.

39. Notes taken by the author during the meeting.

40. Notes taken by the author.

41. Ibid.



The signing of the first European agreement between the ETUC, UNICE and CEEP on 14 December 1995. In the background, between Emilio Gabaglio and Fritz Verzetnitsch, Jo Walgrave (President of the Belgian labour Council) who chaired these first negotiations.

Source: ETUC archives

The Commission quickly “packaged” the agreement in order to present it to the Council in the form of a directive. The latter was adopted on 3 June 1996⁴² on the basis of the Maastricht Social Protocol under the Presidency of the Italian Minister, Tiziano Treu⁴³. Less than six months had passed between the adoption of the framework agreement and the adoption of the directive giving it Community legal status, a remarkable short period of time in Community terms⁴⁴.

I consider it important to highlight a few elements of this agreement in relation to the objectives we had set ourselves (in addition to the 3-month duration of leave):

— with regard to the scope: time-off from work on grounds of *force majeure* (Clause 3).

The problem of dependent elderly relatives was evoked in recital 7: “Whereas family policy should be looked at in the context of demographic changes, the effects of the ageing population, closing the generation gap and promoting women’s participation in the labour force.” For the ETUC, even if no explicit account of this problem was

42. Council Directive 96/34/EC of 3 June 1996 on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC.

43. Tiziano Treu was a university professor in labour law. He was a member of the Italian CISL and maintained close links with the ETUC. We worked a lot with him as an advisor, even when he was not yet or no longer Minister of Labour and of Social Security in the Dini and Prodi governments between 1995 and 1998. His actions played a decisive role in fighting precarious forms of work and in the reform of the Labour Code. He was Minister of Transport and Shipping in the Alemà I government between 1998 and 1999, then senator from 2001 to 2003, first for the centre-left Marguerite party, then for the Democratic Party.

44. In an article written for the ETUI, Philippe Pochet calculated that it took on average 733 days for a legislative act in the social field to be adopted, i.e. four times longer than in any other field.

taken under parental leave, it could be understood in the context of time-off from work on grounds of *force majeure*;

- on the nature of the non-transferable right: for the ETUC, one major objective of these negotiations had been to achieve better conciliation between work and private life and to trigger a cultural “revolution” through establishing a non-transferable right for men and for women with a view to “encouraging” men to assume their share of family responsibilities. Though not a complete success, this bode well for the future, as was to be seen in the recasting of the agreement/directive (see box opposite). We had achieved a reference to this objective in recital 8 (“Whereas men should be encouraged to assume an equal share of family responsibilities, for example they should be encouraged to take parental leave by means such as awareness programmes;”) and in Clause 2.2: “To promote equal opportunities and equal treatment between men and women, the parties to this agreement consider that the right to parental leave provided for under clause 2.1 should, **in principle** (our emphasis), be granted on a non-transferable basis”;
- on the nature of the companies covered: a great success, we had managed to have the right applied to all companies, whatever their size, whatever their sector and regardless of whether private or public. Though the employers, and especially SMEs, had wanted exemptions or a proportional right, we had stood by our guns on this point;
- on the flexibility of the right: it was explicitly stated that parental leave was not solely the automatic extension of maternity leave⁴⁵, but that it could also be used in a form other than full-time, i.e. part-time, in a piecemeal way or in the form of a time-credit system for men and women with small children (the agreement set an age limit of 8), including adopted children⁴⁶.
- on the minimum right status: two of the main objectives had been to eliminate all forms of no-man’s land in the application of the agreement and to reduce differences between our countries in order to avoid any such differences becoming elements of divergence, possibly even resulting in social dumping. It had to be clear that the Member States could go further than the minimum requirements⁴⁷, but that it was impossible for them to reduce any existing rights using the agreement/directive as a pretext. We therefore needed a non-regression clause, something that had already been used for maternity leave. This we also achieved⁴⁸. We should also emphasise that Clause 2.4 protected workers against dismissal on the grounds of an application for, or the taking of, parental leave, while Clause 2.5 stated that “At the end of parental leave, workers shall have the right to return to the same job or, if that is not possible, to an equivalent or similar job consistent with their employment contract or employment relationship.”

But we had been blocked on one point: that of social protection and the financing of parental leave. The Council and the Commission had told us that, should we want our agreement to be extended via legislation, there was no question of us interfering with rights to social security or to allowances dependent on national systems.

45. Recital 9.

46. Clause 2.1 of the Agreement.

47. Clause 4.1 of the Directive.

48. Clause 4.2 of the directive.

Cultural revolution

This agreement was to be revised in 2009 following a Commission consultation on the conciliation of work and private/family life. Negotiations commenced in September 2008 and an agreement was signed on 18 June 2009*. The main achievement of this revision was to extend parental leave from 3 to 4 months, with the fourth month being

non-transferable: "Clause 2.2: To encourage a more equal take-up of leave by both parents, at least one of the four months shall be provided on a non-transferable basis."

* Council Directive 2010/18/EU of 8 March 2010 implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC.

The employers were relying on this "veto" of the institutions in their refusal to address the problem. The battle over these two points lasted until the last minute of the sixth and final round of negotiations. For the ETUC, the continuity of social security and a guaranteed income were key elements for the effectiveness of parental leave. As for the employers, they were afraid the Council would block the agreement, should reference be made to social protection. "We accept the political risk, but not the legal risk."⁴⁹ To which I replied: "you can die from an overdose of caution. Our agreement is a risk. The ETUC is convinced that no Member State will assume responsibility for not taking any account of this agreement."⁵⁰ By holding out till the end, we were able to impose two recitals⁵¹ and a clause in the agreement on this subject. Clause 2.8 was a kind of "injunction" to Member States: "All matters relating to social security in relation to this agreement are for consideration and determination by Member States according to national law, taking into account the importance of the continuity of the entitlements to social security cover under the different schemes, in particular health care." Unfortunately, this was the limit of what we were able to achieve. With regard to the financing of parental leave, responsibility for the base funding was given to the Member States⁵², with

Eurocommerce/EuroFiet

In July 1995 during the second-stage consultations*, the employers belonging to Eurocommerce, in search of recognition (see Chapter 6), tried to bring the Commerce section of EuroFiet into a specific round of negotiations, even though the cross-industry negotiations had just begun. Indeed, these "negotiations" under the agreement of 6 November resulted in no new or complementary aspect to the text already negotiated at cross-industry level. The EuroFiet Secretary General, Bernadette Ségol, consulted me

on the situation and I managed to convince her that signing an agreement without any added value vis-à-vis the general agreement, and the sole aim of which was to contest the representativeness of UNICE and in turn of the ETUC, would be a big mistake. The sectoral "agreement" was thus not signed.

* By letter of 24 July for EuroFiet and of 9 August for Eurocommerce. Then a further letter from Eurocommerce on 7 September confirming the wish of these two organisations to negotiate and demanding the funding of these negotiations.

49. Expression recorded in the summary of the 6 November meeting, drafted for the President by Olivier Brunet, the Commission official responsible for taking the minutes. The author's archives.

50. Ibid.

51. Recitals 10 and 11.

52. For example, the Belgian Minister Miet Smet, on adoption of the directive, quickly gave a strong commitment with regard to the financing of parental leave in conjunction with the social partners.

complementary funding resulting from collective bargaining at national, sectoral and/or company level.

The objective of the ETUC was also to trigger more decentralised negotiations in the context of the directive's transposition, in particular at European sectoral level.

In our view, one of the main points in drafting the minimum requirements was to obtain concrete rights, and not just rights on paper.

In June 1996, a guide was published by the ETUC, for use by its member organisations, on how the agreement/directive was to be interpreted, with a view to ensuring its consistent implementation at national level⁵³.

In the agreement's closing provisions, there was a clause foreseeing a possible revision⁵⁴: "The signatory parties shall review the application of this agreement five years after the date of the Council decision⁵⁵ if requested by one of the parties to this agreement."

The case of Ireland: an attempt to water down the agreement's provisions

Problems quickly cropped up with the Irish government which wanted to apply the right to parental leave to the parents of children born after 3 June 1996, the date the directive was adopted. The Irish ICTU, supported by the ETUC, filed a complaint with the Commission, which in turn initiated an infringement procedure (1998/2398). The Commission convened a meeting with the social partners on 3 November 1999 to determine the interpretation of Article 2.1 on the compatibility with the agreement of a national practice imposing, with a view to opening the right to parental leave to workers, a maximum age for the children combined with a condition that birth must have occurred after a certain date.

It came as no surprise that the employers wanted utmost flexibility in interpreting the directive. The ETUC defended its application to all children not older than the age limit specified in paragraph 1 of clause 2 of the agreement, i.e. "until a given age up to 8 years to be defined by Member States and/or management

and labour". It was thus neither a child's date of birth or adoption nor the date the directive was adopted that counted. A joint interpretation was finally found together with the Commission's legal department on three aspects: the agreement was a framework agreement; the parties had no wish to make the agreement retroactive; the agreement applied to workers whose children were younger than the age limit set by national legislation, as foreseen under paragraph 1 of clause 2. We, and above all our Irish comrades, had won the battle over the agreement's interpretation.

This problem again arose in Luxembourg, Austria and the United Kingdom (the latter was to adopt the directive after Tony Blair took up office - Council Directive 97/75/EC of 15 December 1997 amending and extending, to the United Kingdom of Great Britain and Northern Ireland, Directive 96/34/EC on the framework agreement on parental leave concluded by UNICE, CEEP and the ETUC) which wanted, in transposing the directive, to make parental leave conditional on the date of birth. Though infringement procedures were initiated, the Irish case law put an end to any discussion.

53. The first implementation assessments were carried out by the ETUC in 1999, together with the ETUI and its NETLEX legal network, and by the Commission in mid-2000. They revealed wide diversity in transposition, but above all the necessity for us to carry out our own assessments in order to better identify the difficulties encountered.

54. Clause 4.7 of the social partners' agreement.

55. I.e. three years after the period of max. two years set for Member States to implement the legislative, regulatory and provisions of the agreement/directive.

This first agreement provoked a dispute with the organisations which considered themselves “excluded” from the social dialogue and which therefore contested the results through questioning the legitimacy of the signatory organisations (see Chapter 6), in particular the UEAPME, the CEC and the ECFTU. They started taking action in October.

These negotiations, conducted in a “testing-the-ground” manner, were to give a great boost to the ETUC’s supranational role. However, they also raised problems regarding its mandate and the clarification thereof, transparency and the conduct of the negotiations, all of which forced the ETUC to draw up internal rules to improve its procedures.

5.7 What bargaining mandate?

Ever since the June 1993 conference on European bargaining, the ETUC had been aware of the need for internal rules of procedure for managing European-level negotiations.

The ETUC Congress in Brussels in May 1995 had adopted, in Article 13 of its Constitution, the guiding principles for European-level negotiations⁵⁶. The pre-negotiations on European works councils, and above all the negotiations on parental leave started on 12 July 1995, had revealed the need to specify and organise the practical side of the principles set forth in Article 13 of the Constitution.

The ETUC Secretariat had thus been tasked with drafting a text to be discussed at the Executive Committee meeting of October 1995. In charge of drafting this text, I held preliminary discussions within the enlarged Industrial Relations Committee. These turned out to be very difficult and took much longer than expected, and a first text was not submitted to the Executive Committee until 6-7 June 1996.

This text was to determine:

- the consultation modalities regarding the bargaining mandate: the cross-industry nature; the expediency of the negotiations, the bargaining aims; the composition of the bargaining delegation (all countries concerned + at least three Industry Federations);
- the monitoring of the negotiations by the Steering Committee and the Executive Committee;
- qualified majority voting on the positive or negative outcome (Article 19) by show of hands or roll call;
- the control and monitoring of the implementation of the concluded agreement, and, where applicable, of its transposition into national legislation;
- the synergy between the cross-industry and sectoral levels to increase the effectiveness of the agreement and, wherever possible, to adjust it to sectoral realities.

56. Article 13: The Executive Committee shall determine the composition and mandate of the delegation for negotiations with European employers’ organisations in each individual case, in accordance with the voting procedures set out in Article 18. The decision shall have the support of at least two-thirds of the member organisations directly concerned by the negotiations. In cases of urgency, decisions concerning the mandate for composition of the delegation may be made in writing. The Executive Committee shall establish the internal rules of procedure to be followed in the event of negotiations. The Secretariat shall supervise the bargaining delegation. The Executive Committee shall be given regular progress reports on bargaining in progress. Decisions on the outcomes of negotiations shall be taken by the Executive Committee in accordance with the voting procedures set out in Article 18. The decision shall have the support of at least two thirds of the organisations directly concerned by the negotiations, which shall have had the opportunity to hold internal consultations. Regular reports on European sectoral bargaining, carried out by European Industry Federations, shall be made to the Executive Committee. Its consistency with ETUC policy shall thus be ensured.

The discussion during the Executive Committee meeting of June 1996 proved to be more than difficult, revolving around a confrontation with the Industry Federations, despite them having been involved in the discussions over the preparatory document, in particular within the Industrial Relations Committee. In defining the European-level bargaining modalities, we had done our best to respect the competences of national organisations and the autonomy of the European Industry Federations, while ensuring aspects of consistency and general interest at a cross-industry level. Both Emilio Gabaglio and myself came from national and sectoral organisations, and were used to the interaction and complementarity of bargaining at different levels.

At the outset of the discussions within the Executive Committee, the Industry Federations, in the person of EPSU Secretary General Carola Fischbach-Pyttel, stated their joint position and tried to block the debate, arguing that they had not had enough time to consult their national organisations and taking the view that further clarifications were necessary. They concluded that it was preferable to postpone any decision on the text. The Secretaries General of the Industry Federations then went on to criticise the lack of clarity in the distribution of responsibilities between the ETUC and the Federations⁵⁷ and the “centralist” approach⁵⁸. On the other hand, the Confederations supported a text whose elements had been discussed for almost two years. Josly Piette, Secretary General of the Belgian CSC, summed up the situation quite well, stating that the true problem lay in “a lack of trust in the ETUC and its confederal leadership, there’s no getting around it!”⁵⁹. Chairing the meeting, Johan Stekelenburg (President of the Dutch NVV who was standing in for President Fritz Verzetnitsch) decided, at the request of the Secretary General and in an attempt to defuse the situation, to postpone the decision until the Executive Committee meeting in October, while requesting the Secretariat to try and clarify certain issues by then.

We set to work again, though we were against giving up ETUC responsibilities for negotiations concerning cross-industry topics of general interest. After a further call for text amendments in June, I drew up a new text presenting on the one hand the Secretariat’s proposal, on the other hand the amendments proposed mainly by the Industry Federations, with the exception of two amendments tabled by the German DGB which were no problem.

We sent this text, accompanied by the Secretariat’s recommendations, to the Steering Committee, and discussions started in October 1996, in the run-up to the Executive Committee meeting. The spokesperson of the Industry Federations⁶⁰ again argued the expediency of the proposed text, wanting to postpone the debate as the proposal was not yet finalised... The meeting’s chairman was very irritated by this attitude of the Federations, stressing⁶¹ that this topic was being discussed a third time within the Executive Committee. He was unable to understand why the Federations still had no mandate to take a decision now.

To avoid deadlock, the decision was taken to postpone until early afternoon, in the plenary meeting of the Executive Committee, the discussion of Item 4 of the Executive Committee agenda, thereby allowing a final meeting between the ETUC Secretariat

57. Jan Cremers from the European Federation of Building and Woodworkers (EFBWW).

58. Bernadette Ségol from EuroFiet.

59. This and the preceding quotes are taken from the minutes of the Executive Committee meeting of 6-7 June adopted at the Executive Committee meeting of 10-11 October 1996.

60. Hugues de Villèle from the European Transport Workers’ Federation. Minutes of the Executive Committee meeting of 10 October adopted at the Executive Committee meeting of 21 November 1996.

61. Ibid.

(Emilio Gabaglio and myself) and the Secretaries General of the Industry Federations during the lunch break.

On what points did opinions diverge? These were clearly questions of who had which powers and legitimacy, but also reflected the Federations' desire for autonomy, not wanting to commit themselves vis-à-vis the ETUC to a confederal agreement.

The amendments proposed by the Industry Federations and the Secretariat's recommendations that we discussed during the lunch break were as follows:

- no rules of procedure but a simple code of conduct. **To which the Secretariat replied:** "No", we need clear rules of procedure committing all our organisations;
- certain subjects of consultation coming from the Commission could be of specific interest to certain Federations. **Reply:** "yes", that could be specified;
- in the event of the cross-industry character of the subject to be negotiated being contested, with a call instead for it to be negotiated at sectoral level, the ETUC and the Federations concerned must arrive at an agreement. **Reply:** it was strange that the Federations saw themselves as being a body independent of the ETUC. "No" to the amendment, as the ETUC was made up of national Confederations and European Trade Union Federations, with its Constitution clearly defining that the Executive Committee was its decision-making body;
- the contesting of the leadership of the ETUC Secretariat in the conduct of negotiations and the demand that "should the subject to be negotiated be of particular importance to certain Federations, the Secretariat would share the direction the negotiations were taking with the organisations concerned". **Reply:** "No", when the subject was cross-industry, there should only be one spokesperson within the union delegation, mirroring the situation in the employer delegation. No impression of differences or diverging opinions should be created. The problem lay in the quality of the preparations and of the control over the negotiations, involving all our organisations. Article 13 of the ETUC Constitution was clear on this point;
- a call for the participation of all Industry Federations in the negotiations, with the number of seats assigned to the Industry Federations to be discussed on a case-by-case basis with the ETUC. **Reply:** "No", this would be impractical, as all our Confederations also needed to participate. We suggested that the bargaining delegation be composed of one Confederation representative per country (i.e. 17 participants for our 36 Confederations) and at least 3 of the 14 Industry Federations, though this should be decided on a case-by-case basis when the subject was of particular relevance to the sectors.

With regard to this demand for the participation of the Industry Federations in the negotiations over atypical work, a subject on which we were in the course of preparing the mandate, we suggested 17 Confederation representatives and 8 Industry Federation representatives. The bargaining delegation would also include a representative from the European Economic Area and, at a later date, a representative from the CEE countries, as well as one representative from the Women's Committee, one from Eurocadres, and the Secretariat members involved. We also included the coordinator of our ETUI legal network, indispensable for us, first because we always carried out a study prior to any negotiations on the legislative and contractual situation regarding the subject under discussion at sectoral and national level (very useful for taking account of the various situations during the negotiations), and secondly to help us draft our texts. In this, Brian Bercusson*, a highly-reputed British legal expert, was always a valuable advisor, as were Klaus Lorcher from the DGB and NETLEX coordinator Stefan Clauwaert.

While the lunchtime discussions between the Secretariat and the Industry Federations were naturally quite tense, they did help us clear up a number of “misunderstandings”, reassuring certain Federations totally and loyally involved in the ETUC strategy of our commitment to support and promote the development of sectoral social dialogue through internal measures and with the Commission. The Secretariat’s determination to stick to its guns on the key issues, together with the growing irritation of the Confederations over the attitude of several Industry Federations, helped make the latter understand that they had to stop blocking the text. The afternoon discussions on 10 October 1996 subsequently took place in an excellent climate and the internal rules of procedure for negotiations were unanimously adopted!⁶²

These rules were amended in 1998 to take account of the experience gained and the problems encountered, and again in 2004, in step with the evolution of the ETUC Constitution.

**Communication from the Commission
concerning the development of the social
dialogue at Community level**

In September 1996, the Commission issued a Communication aimed at assessing the social dialogue, its functioning, its stakes and its development prospects. It took stock of the various instruments of consultation and negotiation: Cross-Industry Advisory Committees; Sectoral committees; the Standing Committee on Employment; Tripartite conferences; the Val Duchesse social dialogue; Article 3 of the Agreement on social policy. It also highlighted the Commission’s technical and financial engagement in support of the social dialogue (190 meetings held in 1995). The intention of the Commission was to use it to rationalise its interventions and to boost the effectiveness and efficiency of the various structures (mergers between Advisory Committees, review of the Standing Committee on Employment with which nobody was really satisfied). Further problems

included the representativeness and autonomy of the social partners with regard to bargaining. The Communication’s main thrust related to the sectoral dimension of the social dialogue which had developed “exponentially” and needed greater support.

In the Commission’s view, there was also a need to conduct a study on the representativeness of those involved at sectoral level, as had been done for the cross-industry social partners. Not wanting to intervene in who took part in cross-industry negotiations, as this was tied to the mutual recognition of the organisations concerned, the Commission undertook solely to extend its scope of consultation and, dependent on developments, to review its list of European organisations to be consulted.

The ETUC Executive Committee was to hold major discussions over its general contribution, while the Industry Federations worked separately, coming up with a specific contribution.

62. The two amendments of the DGB, related to a better definition of the role of the Industrial Relations Committee and to the extension of the period of internal consultations with our member organisations from 4 to 6 weeks, were included.

Chapter 6

Knock, knock – New players knocking at the door of the European social dialogue

"Ouvrez-moi cette porte où je frappe en pleurant."¹

Alcools

Apollinaire

Assuming a norm-setting role, the European social dialogue is becoming productive, awakening the interest and the envy of players other than the original ones, the ETUC, CEEP and UNICE. Via its Communication of 14 December 1993, the Commission had already extended the list of organisations participating in consultations, but without taking any action with regard to the partners of the European social dialogue. To become partners to the dialogue, organisations have to be mutually recognised as such, with the Commission assuming responsibility for verifying their representativeness at both cross-industry and sectoral level. The organisations knocking at the door consider that they are legitimised to take part, and sometimes even contest the representativeness of the existing social dialogue partners. Whether on the union or employer side, whether with or without conflict, each side is to deal with its "contestants" in its own way.

1. Open this door that I'm knocking on, crying.

6.1 The sectoral or specific employer organisations

On the employer side, the problems emanated mainly from organisations covering micro, small and medium-sized enterprises, whose main European-level organisation was the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME). However, there was also a further organisation for independent companies, the European Committee for Small and Medium-Sized Independent Companies (EuroPMI). These organisations did not feel themselves properly represented by UNICE, as in their view the latter only represented large companies. Companies in the commerce sector, organised at European level under the umbrella of Eurocommerce, had the same concern about not being adequately represented by UNICE.

Pressure on UNICE thus mounted. It also came from several MEPs upholding the interests of these sectors, and consequently from the Commission which was always sensitive to interventions from MEPs. Strong French organisations within the UEAPME, such as the General Confederation of Small and Medium-Sized Enterprises (CGPME) and the Union of Skilled Craftsmen (UPA), and within Eurocommerce, such as the Chambers of Industry and Commerce, were the ones most active in challenging UNICE's social dialogue monopoly.

In the following, we will take a closer look at the case of the UEAPME. Hans-Werner Müller*, its Secretary General since 1992, was a truculent character. The head of a family-owned metalworking business, he wielded great political influence. He was very good at lobbying the European Parliament and had built up a major network within the centre-right European People's Party. He adopted a strategy of "harassing" the institutions to get them to recognise the representativeness of his organisation vis-à-vis UNICE.

Eurochambres, an organisation representing the Chambers of Industry and Commerce at territorial level, was also knocking on the door of the European social dialogue. Its President was quick to send a letter to Commissioner Pádraig Flynn on the occasion of the European Week of Employment organised by the Commission in November 1993, writing: "It is quite clear that your Week of Employment was organised from the perspective of the current members of the social dialogue, none of whom has authority to represent SMEs." We will see later what this sweeping remark was all about.

The lobbying carried out by the UEAPME Secretary General was characterised by the following written question of 31 July 1995 submitted by the Dutch MEP, Elly Plooijs-Van Gorsel, from the centre-right European Liberal Democrat and Reform Party (ELDR): "(...) is there not a question-mark over the value of the social dialogue when the organisation representing European SMEs is not consulted? Will the UEAPME be invited to the next negotiations over the Social Protocol?", published together with the reply of the European Commission of 20 November 1995 in the *Official Journal* of 26 February 1996.

The Commission's line of action expressed in its response upheld the mutual recognition of the social partners. There was thus no question of the Commission deciding who was to take part in the European social dialogue, although it reserved the right to verify the representativeness and legitimacy of the employer and union organisations signing the agreements subject to legislative extension.

Maintaining contacts with the UEAPME since 1989, the ETUC had invested a lot of effort on the subject of SMEs in 1989 and 1990, holding four sectoral seminars (with the European Federations of Construction and Wood Workers, Metalworkers, Services and Transport Workers), as well as in 1991 and 1992 through a series of



The ETUC's first European Conference on SMEs. Held in March 1998 in Portugal, this conference was attended by the UEAPME Secretary General Hans-Werner Müller, who also gave a speech. Source: ETUC archives

twelve national seminars, four further sectoral seminars and a consolidating European conference in Albufera in Portugal. Hans-Werner Müller took part in the latter as a guest speaker, and, late that evening, we had the chance to discuss his participation in the social dialogue.

I explained to him that representation of the SMEs was not that clear, as it was split between his organisation and EuroPMI² (the two were to amalgamate in July 1999). In the view of the ETUC, any UEAPME participation in the social dialogue needed to be agreed with UNICE. We had no problem *a priori* on having SMEs represented within an UNICE delegation or in coordination with it, but the UEAPME wanted its place at the social dialogue table *ipse jure*, alongside UNICE. The whole energy of the UEAPME and its Secretary General was directed towards getting this organisation recognised as the “exclusive” representative of SMEs and thus gaining a right to a place at the negotiating table.

This strategy contested UNICE's representativeness. In a letter to the CNPF dated 14 May 1992, the UNICE Secretary General mentioned the difficulties encountered with the distribution sector (CECD/FEWITA), the skilled craft and SME sector (UEAPME) and their public declarations which “boiled down to these sectors wanting to pursue a very independent line of action”. Zygmunt Tyszkiewicz added: “It goes without saying that the interests of the employers will only be maintained when all organisations accept a certain discipline... All other sectoral organisations acknowledge this necessity. Unfortunately, the CECD/FEWITA and UEAPME have decided to air their opinions, at the risk of dividing the employers. Such a division would just be exploited by those with an interest in the ‘divide and rule’ principle.”

The negotiation of the first agreement on parental leave, and the resulting directive, led the UEAPME to file a case with the European Court of Justice, complaining about the signatories' lack of representativeness. This case called for the annulment,

2. In France for example, three organisations were members of the UEAPME: for the skilled craft sector, the *Assemblée permanente des chambres de métiers* (ACPM) and the *Union professionnelle de l'artisanat* (UPA), and the *Confédération générale des petites et moyennes entreprises* (CGPME) for SMEs.

under Article 173³ of the Treaty, of Directive 96/34 based on the agreement reached by the social partners on 14 December 1994⁴. If not annulled, the UEAPME demanded that the Directive should at least not be applicable to SMEs.

Hans-Werner Müller had chosen the wrong strategy and gone one step too far. The result was a humiliation for the UEAPME. In its ruling of 17 June 1998⁵, the European Court of Justice stated first that: "It follows that the Commission and the Council, acting in conformity with their obligations, in particular those derived from a fundamental democratic principle, properly took the view that the collective representativity of the signatories to the framework agreement was sufficient in relation to that agreement's content for its implementation at Community level by means of a Council legislative measure, pursuant to Article 4(2) of the Agreement", and secondly that: "It follows from all the foregoing considerations that, since the applicant was not affected by Directive 96/34 by reason of certain attributes which are peculiar to it or by reason of a factual situation which differentiates it from all other persons, it cannot in the present case be regarded as individually concerned by that Directive. The action must therefore be declared inadmissible.". The ECJ ordered the UEAPME to pay the costs. This failure of a strategy contesting the legitimacy of the signatories to the European framework agreement in court was to lead the UEAPME to start negotiations with UNICE, albeit from a position of weakness.

These ended with the conclusion of a cooperation agreement signed on 4 December 1998 in Vienna by the two Presidents, Georges Jacobs for UNICE and Jan Kamminga for the UEAPME. In this agreement, the UEAPME acknowledged that UNICE was "(...) the only European organisation representing companies of all sizes and operating in all sectors of the economy, and accepts that the majority of companies represented by UNICE are SMEs..." This "confidential" agreement meant that the UEAPME, the organisation which had always claimed to be the one best, if not exclusively, representing SMEs, had to "eat its hat".

While the UNICE-UEAPME agreement gave the latter a place at the social dialogue table, this place was under the thumb of UNICE. The other side of the coin was that the UEAPME was forced to abandon all current legal actions filed by it over directives implementing social dialogue agreements, i.e. those on parental leave and part-time work, concluded between UNICE, CEEP and the ETUC.

Despite this situation, the work done by the ETUC on SMEs required the continuation of a specific dialogue with the UEAPME, in particular to get it to acknowledge

3. Art. 230 (ex-article 173). The Court of Justice shall review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the ECB, other than recommendations and opinions, and of acts of the European Parliament intended to produce legal effects vis-à-vis third parties.

It shall for this purpose have jurisdiction in actions brought by a Member State, the European Parliament, the Council or the Commission on grounds of lack of competence, infringement of an essential procedural requirement, infringement of this Treaty or of any rule of law relating to its application, or misuse of powers... Any natural or legal person may, under the same conditions, institute proceedings against a decision addressed to that person or against a decision which, although in the form of a regulation or a decision addressed to another person, is of direct and individual concern to the former.

4. The subsequent agreement of 6 June 1996 on part-time work was similarly contested by the UEAPME, again on grounds of the non-representativeness of the three signatory organisations. In its press release of 25 June 1997 (the author's archives), it warned the Commission and the Council, stating that: "If this new agreement is going to result in a new Council directive, the UEAPME will again see itself obliged to take court action, as already taken against the directive on parental leave." The ruling of the European Court of Justice on its first action quickly brought it back to reason and to the negotiating table with UNICE. The abandonment of the court action was a *sine qua non* for the conclusion of the UNICE/UEAPME agreement.

5. Judgment of the Court of First Instance (Fourth Chamber, extended composition) of 17 June 1998, T-135/96.

the importance of social dialogue for SMEs. Continuing the work carried out in the early 1990s, the 1997/2001 period featured a series of five seminars (in France, Portugal, Bulgaria, Greece and the United Kingdom) and a wrap-up seminar in Brussels in April 2001. To underline the importance we attached to SMEs and their workers, we suggested to the UEAPME that we negotiate a joint declaration. These negotiations, which took more than one year (2000/2001), were to be difficult and sometimes painstaking. It turned out that this employer organisation, new to European social dialogue and the way it functioned, did not have much of a mandate from its members, meaning that it needed to “Europeanise” its practices.

Negotiations were stalled for six months, even though a text had been drafted at Secretariat level. The UEAPME just did not know how to achieve agreement in its own ranks, as it had never established a procedure for transferring (decision-making) responsibilities to the European level. In charge of the negotiations, I was to write the following, exasperated, to the two UEAPME negotiators, Gerhard Huemer and Liliane Volozinskis, on 19 February 2001, after they had just sent us a greatly amended version of the text, questioning the version developed jointly in September 2000: “I have taken note of the latest version updated by you after our meeting. I must let you know that I do not agree with the changes you have made. *Enough is enough* and in my view you have gone one step too far.” The changes questioned the fundamental importance of social dialogue in SMEs, with the UEAPME contesting the presence of unions in SMEs through trying to promote a direct relationship between employees and employers. After they had finally abandoned this demand, we managed to conclude an agreement, signed on 5 July 2001 by the two Secretaries General.

6.2 The other union organisations. The representation of engineers and managers as an important example

At European level, attempts to unite non-ETUC organisations in federations existed in two main forms: either via corporatist and marginal organisations, or via a desire for representation associated with a mainly Christian-Democratic political movement.

6.2.1 The European Confederation of Free Trade Unions and Eurofedop

A European Confederation of Free Trade Unions (ECFTU) existed, albeit with very little representation and activity. Its members were mainly civil servant organisations, often playing a totally marginal role in their respective countries.

There was also a movement associated with the Christian-Democratic parties, mainly in Germany, Switzerland and the Netherlands, made up of independent organisations, some of which also belonged to the ETUC despite the latter’s unitary design. This movement had strong links to the European Union of Christian Democratic Workers (EUCDW) and its attached training institute, the *Europäisches Zentrum für Arbeitnehmerfragen* (EZA), located in Königswinter in Germany.

A further grouping of public sector unions from several countries, the “autonomous” EUROFEDOP was also an element dividing the European union movement. As the ETUC developed, the question arose of the membership of federations affiliated to the ETUC at European level but to the WCL at global level. The “sectarianism” of certain European Federations saw them demanding membership of the respective Global

Federation (belonging to the ICFTU) at the same time as to the European Federation, which led to deadlocks. This demand went against the ETUC Constitution, which stipulated that “the European Industry Federations shall be open to all national trade union organisations affiliated to member Confederations” of the ETUC. This was normal because, while the ETUC was a unitary organisation, it was not a global organisation. For instance, the Belgian CSC or the Dutch NVV could be members of the ETUC without being obliged to be members of the ICFTU, therefore maintaining their membership of the WCL. The problem was particularly difficult with regard to EUROFEDOP⁶, an organisation made up of Christian or public corporatist unions. This was an anomaly that persisted despite the cooperation projects developed for enabling participation in the social dialogue in these sectors. An agreement was nevertheless reached with EPSU, a member of the ETUC, enabling EUROFEDOP representatives to take part in Sectoral Social Dialogue Committees, such as the ones for the public sector and for telecoms.

EUROFEDOP subsequently became a member of the European Confederation of Free Trade Unions and worked together with the EZA.

The representativeness criteria and the studies carried out for the Commission by universities such as the UCL in Louvain never accorded the ECFTU cross-industry representativeness. The Commission did its best to remain “neutral and balanced” in these representativeness disputes.

6.2.2 Engineers and managers: Eurocadres and the CEC

The developments described in this section refer mainly to the representation of engineers and managers. In the 1980s, unions catering for management staff became stronger and new ones emerged in many European countries, also among the national confederations belonging to the ETUC. Within the ETUC, a variety of situations existed: there were unions for management staff, white-collar workers and associations bringing together managers from many different unions. At global level, a committee of managers within FIET, the International Federation of Commercial, Clerical, Professional and Technical Employees (aka International Federation of White-Collar Workers’ Unions), had been responsible for coordination and exchanges since the 1970s. In Europe, organisations of university graduates were established in Scandinavia in 1960 (Nordiska Akademikerradet). Existing in various forms, these organisations had no European visibility.

There therefore seemed to be a need to respond to the call for representation of these categories of employees at European level.

In 1989, at the instigation of the CGC, the French confederation of management staff, the CEC European Managers was created, a European confederation bringing together a number of organisations representing managers in various countries (Italy, Belgium, Germany, Spain, etc.), though some of them were more associations than unions. This latest creation had no direct impact on the European trade union landscape, as noted by Commissioner Vasso Papandreou in a letter addressed to Mathias Hinterscheid on 4 December 1989: “The Commission intends in future to stick to its current policy, as in its opinion no change in Community trade union power has occurred...”

6. On this point, see the very interesting analysis of Carola Fischbach-Pyttel, the former EPSU Secretary General, in her book *Building the European Federation of Public Service Unions. The history of EPSU (1978 – 2016)*, Brussels, ETUI, 2017.

However, this situation led the ETUC to think hard about the representation of management staff, paving the way for a structural evolution at its 1991 Congress. This was to allow European sectoral organisations to become members, insofar as they became European trade union federations.

With this problem solved, the next problem was how best to improve the representation and voice of management staff. After a debate in the Executive Committee meeting of February 1991, prompted mainly by the French CFDT, the ETUC held a first meeting in March 1991. It was agreed to look into several representation possibilities, in conjunction with the FIET and its Committee of Managers to prevent work being done twice, in preparation for implementation after the ETUC Congress of May 1991.

This evolution was very much needed, given that the CEC was doing a lot of lobbying work targeting, via the CGC, initially the French government, but now the European Parliament, the Commission and UNICE. The CEC was going to play the role of a thorn in ETUC's side, forcing it to speed up organising engineers and managers in a special structure.

In the early 1990s, I had a meeting with CEC President Henri Bordes Pages (from the French CGC), discussing in an open and even friendly manner the representation of management staff and their place in the European social dialogue. These discussions would continue in the same good manner with his successor Maurizio Angelo (from the Italian CIDA) and Claude Cambus (from the French CGC), the CEC Secretary General. The CGC, the backbone of the CEC, provided office space to all European Industry Federations belonging to the CEC on the premises of its Federations in France (in Paris, Pantin and Rezé), with none of them having offices in Brussels. I tried to make the CEC understand that it could not participate in the European social dialogue on the same footing as the ETUC, but in the context of a specific representation.

On 13 May 1992, the CGC (now the CFE-CGC) published a *Memorandum on the recognition of the CEC European Managers*⁷, in which it stated that "the CEC is a union organisation representing European managers" and which ended by stating: "The CFE-CGC calls on the French government to put pressure on the Council for the Commission to officially recognise its representativeness. Moreover, in its view the French employer organisations should take similar action within UNICE and CEEP with a view to the two also publicly recognising the CEC and no longer being content with a reductionist expression of the social dialogue". Letters went back and forth between the CEC, the Commission and the UNICE President in an attempt to obtain this representativeness, but the response was always the same: keep your feet on the ground!

For example, in his reply of 19 May 1992⁸ to the CFE-CGC Memorandum, CNPF President François Périgot wrote: "I am fully aware of the importance for you and for all the social partners of having the representativeness of the CEC officially recognised, and will not fail to keep you informed of any initiatives I might have to take on this subject." Indeed, François Périgot, who was later to become UNICE President, did nothing else than what the Commission had done, i.e. to refer to the mutual recognition of those taking part in the European social dialogue. For François Périgot, just as the UEAPME was the problem of the employers, the CEC was a union problem to be solved first and foremost by the ETUC.

The CEC lobbying, finding backers in the European Parliament, was very effective in putting over the concept that the ETUC was "the European union for workers",

7. The author's archives.

8. The author's archives.

while the CEC was “the European union for managers”. We were thus convinced that the ETUC had to quickly demonstrate its majority representativeness among engineers and management staff.

The CEC on the other hand was beginning to understand that its strategy of recognition as a social partner on an equal footing with the ETUC had reached the end of the road, despite what it was saying in public. Following a meeting with the Commission President in June 1992⁹, the CEC (whose headquarters were still in Paris, in the same building as the CGC) issued a press release stating that “the Commission is officialising its relations with CEC European Managers”. Not mincing his words, the CGC President declared¹⁰ : “Just 48 hours after his official talks with Commission President Jacques Delors, CEC President Paul Marchelli has made a solemn declaration that he will fully participate in the European social dialogue.” This statement went a bit too far, as the Commission President’s commitment was not absolute but “within the limits of his responsibilities and in respect of the autonomy of the social partners”¹¹ to open “appropriate consultations over the future social dialogue at Community level”. All the CEC had gained was to be put on the list of organisations consulted by the Commission¹². As regarded its “full” participation in the social dialogue, the CEC would have to wait a further seven years, as we will see later on when we discuss the formation of Eurocadres.

Over the past few years, we had already been discussing, in particular with Michel Rousselot* from the French *Union confédérale des ingénieurs et cadres-CFDT* (UCC-CFDT), the possibility of demonstrating that management staff were represented by the ETUC, but the time had not seemed right at that stage. Two developments helped us to accelerate this perception. On the one hand, as highlighted by Michel Rousselot, the FIET’s Committee of Managers set up in the 1970s was confronted with two problems: weak representation and visibility at European level; moreover, it had a “problem of legitimacy, as the FIET is seen as representing the private tertiary sector, although all sectors should be represented”¹³. A further important development had also taken place in Scandinavia. The unions representing Scandinavian university graduates had formed an organisation called “Nordiska Akademikerradet (NAR)” to coordinate their action, but this had proved inadequate in the face of the developments in Europe. They therefore changed their strategy, individually joining the ETUC to ensure their representativeness at European level, while at the same time calling for the specific representation of management staff within the ETUC. Thus, “the national organisations were ready, whether they were members of the FIET Committee of Managers or those getting ready to join the European union movement, as was the case with certain Nordic confederations of university graduates following the dissolution of the NAR”¹⁴.

9. On 29 June 1992, CEC President Henri Bordes Pages and CGC President Paul Marchelli had a meeting with Jacques Delors and his advisor Patrick Venturini. This meeting took place in the context of the referendum to be held in France over the Maastricht Treaty, and it was clear that, over and above his natural interest in the trade unions and France in particular, the Commission President was aware of the position of the CEC Steering Committee on the Maastricht Treaty. Paul Marchelli was to make two successive declarations, one on 8 June in *Le Progrès* stating “No to Maastricht without the managers”, and one on 4 September 1992 in *La lettre Confédérale de la CGC* stating “Yes to Maastricht”.

10. CGC press release of 1 July 1992.

11. Letter from Jacques Delors to Henri Bordes Pages dated 30 June 1992, the author’s archives.

12. Communication from the Commission concerning the application of the agreement on social policy, COM(93) 600 final of 14 December 1993.

13. Brochure commemorating the 20th anniversary of Eurocadres, extract from a discussion between Michel Rousselot (the founding President of Eurocadres, 1993-2005) and Carlo Parietti (President of Eurocadres, 2005-2013).

14. Ibid.

The CEC strategy at this time was to try to gain recognition as a full partner and the exclusive representative of management staff. Following a discussion at the Executive Committee meeting in London on the game-changing establishment of Eurocadres, a constitutive General Assembly was held on 24 February 1993 in Luxembourg¹⁵. In 1992 and early 1993, a lot of work had been done by the ETUC and Michel Rousselot, together with the European Parliament, culminating in the resolution of 25 June 1993 entitled: *The situation of managers in the European Economic Community*. This resolution had been triggered in 1990 by CEC lobbying of MEPs, and especially the Spanish Christian Democrat Gil Robles.

The creation of Eurocadres was not immediately accepted by the whole of the ETUC. We had managed to convince it of the need to create this specific structure, as an organisation under the ETUC wing, while FIET maintained its monopoly of representing management staff at global level¹⁶. Michel Rousselot, at that time chairman of the FIET Committee of Managers was naturally the man destined to shape the creation of Eurocadres and its further development. The discussions proved to be difficult, as they involved the dissolution of the FIET European Committee of Managers, a move essential for the creation of a new structure under the ETUC wing.

The aim was not to duplicate a new organisation at the cross-sectoral European level, as the FIET Committee of Managers naturally had to continue its activities at global level. The discussions were also difficult because we needed to find a unique set-up involving the ETUC and FIET, but also covering management staff from other European trade union federations and/or organising them at national level in certain countries. Finally, despite all the problems, a solution was found. Alongside its own resources, Eurocadres would take up offices in Brussels in the EuroFIET building, partly resorting to the EuroFIET secretariat and with additional resources being provided by the ETUC.

Seven years after the establishment of Eurocadres and its recognition as an associated organisation¹⁷ in the ETUC Constitution adopted at the Helsinki Congress in June 1999, the decision was taken to give it greater autonomy. A cooperation protocol between the ETUC, UNI Europa and Eurocadres was signed on 18 October 2000¹⁸.

This strategy helped us demonstrate the representativeness of the ETUC and its organisations for this category of employees, even though it was clear in the 1990s that the future of the CEC lay in the hands of the French CGC. The figures showed however that the ETUC and Eurocadres represented many more unionised management staff than CEC European Managers. In 1993, the estimated figures were four million for Eurocadres and less than one million for the CEC.

Eurocadres was directly incorporated into the ETUC delegation to the Social Dialogue Committee in July 1994 and into the negotiating teams for parental leave in 1995, for part-time work in 1997, and for fixed-term contracts in 1999.

Following the establishment of Eurocadres, I made it quite clear to Henri Bordes Pages that there would be no direct agreement between the ETUC and the CEC, and

15. 40 organisations from 15 countries (representing some 4 million unionised managers) were to participate in the establishment of Eurocadres in Luxembourg.

16. Which was later to become UNI following its merger with the International Federations for telecommunications, printing and the media, and entertainment.

17. This concept of an associated organisation is enshrined in Article 5 of the Eurocadres statutes.

18. Its headquarters was transferred to the International Trade Union House, the home of the ETUC, the ICFTU and other organisations. It was decided to boost Eurocadres' own resources with the help of the ETUC and national organisations, in particular the Belgian CSC, certain Nordic organisations (the Swedish SIF and TCO and the Finnish AKAVA), the Italian Agenquadri-CGIL and the French UCC-CFDT.

that the only possible door open to the CEC was via an agreement between the two organisations, Eurocadres and the CEC. I told him that, should these two organisations sign a cooperation agreement, the ETUC could let a joint liaison committee featuring the two organisations become part of its delegation in its social dialogue activities. This duly took place, with a cooperation protocol between Eurocadres and the CEC signed on 8 July 1999 by CEC President Maurizio Angelo¹⁹ and Eurocadres President Michel Rousselot. In its preamble, the protocol stated, with regard to the social dialogue, that “The ETUC, the sole European cross-industry organisation representing all categories of workers in all occupational sectors, plays a key role in this process”. This protocol was also based on the mutual recognition of Eurocadres and the CEC and contained the decision to establish a joint liaison committee linking the two organisations. The protocol was countersigned by ETUC Secretary General Emilio Gabaglio, preceded by the following sentence: “At European level, the ETUC takes due note of this protocol and agrees, in the context thereof and of the establishment of the Liaison Committee, to include, on behalf of management staff, the European signatories in the European social dialogue, including its collective bargaining dimension.” The agreements and other texts regarding the cross-industry European social dialogue were signed by the ETUC Secretary General on behalf of the union delegation including the Eurocadres/CEC liaison committee.

This was a bitter pill to swallow for the French CGC, a front-line fighter for the CEC. In the course of the years to come, this Eurocadres/CEC protocol was implemented and regularly assessed, with each organisation maintaining its own identity and its priorities. While tensions sometimes arose, mainly at national level, the two organisations managed to work together in the European social dialogue, both in negotiations with the employers and in certain interventions addressing European institutions. They also participated in certain bodies²⁰.

It proved difficult to get UNICE involved in specific negotiations. In a letter of 22 October 1990 addressed to the UNICE Secretary General, we called for the establishment of a social dialogue working group on management mobility²¹, alas without success. Despite everything, the input from Eurocadres and the CEC to the European social dialogue was particularly significant in such fields as mobility, employment, qualifications and diplomas, lifelong learning, retirement programmes, working time and workloads. The concerns of management staff were thus taken into account in the debates and in the various texts emanating from the European social dialogue. Of particular interest was the framework agreement on gender equality signed in 2005, which listed as a priority “the access of women to decision-making functions” and acknowledged the “particular role of Eurocadres/CEC members” with regard to this priority²².

Finally, one might have thought that the CGC’s membership of the ETUC would logically have led to other CEC organisations becoming members. But this remained hypothetical, as the CGC had found a special place in the ETUC... and the CEC would have otherwise run the risk of becoming marginalised.

19. The Italian successor (from the CIDA) of Henri Bordes Pages.

20. The Social Dialogue Committee, the Tripartite Social Summit for Growth and Employment, the Pensions Forum... as it was not possible for the Liaison Committee to have two or more seats, a pragmatic solution was found: a rotating system of twice for Eurocadres and once for the CEC.

21. IISH archives, box 955.

22. Framework of Actions on Gender Equality, 1 March 2005, paragraphs 19-21 and 30.

Chapter 7

Successes and disappointments

"Don't tell me this problem is difficult.

If it wasn't difficult, it wouldn't be a problem."

Ferdinand Foch

Following the conflict over the information and consultation of workers at transnational level via European works councils, a new problem, triggered by the conflict at Renault Vilvoorde, arises over ensuring this right at national level. With employers' manoeuvrings making negotiations on this subject impossible, it similarly ends up becoming the subject of a Community directive. In this chapter, we will be looking at the success of the negotiations on part-time work and on fixed-term contracts. Agreements are becoming increasingly difficult to negotiate. Moreover, we are in the run-up to EU enlargement, with the social partners from the candidate countries set to be included in the social dialogue. This is a period where we will also witness the misfortune of a great idea, the European Centre for Industrial Relations. Tensions are growing, and Europe is becoming increasingly liberal.

7.1 Atypical work on the bargaining table: a difficult subject for the trade unions

We have already seen that work organisation and the different forms of work and working time had been addressed several times by the Commission and the Standing Committee on Employment (cf. Chapter 1).

With the diversification of employment contracts and the rise in precarious work and inequality, atypical work had for a long time been a matter of concern for the European trade union movement, not just in terms of European legislation, but also in terms of bargaining.

For instance, a resolution adopted at the May 1998 ETUC Congress in Stockholm stated that “every worker, irrespective of the form or duration of his work, must be covered by a collective agreement and/or social legislation... this is why we continue to insist that the Commission provide Community instruments guaranteeing workers’ rights, limiting abuse, and setting fundamental guarantees, for example on part-time work, fixed-term contracts and temporary agency work, for which the draft directives remain blocked...”

A Resolution adopted at the May 1991 Congress in Luxembourg, entitled *Precarious Employment in Europe*, called for “the limitation of this type of work (limitation of the motives stated for its use, of the number of employees concerned, of the duration of contracts and on the number of times they may be renewed)...” These objectives, dating back to 1988 and 1991, were at the core of the negotiations in 1996!

The development of employment since the early 1990s showed an increase in forms of little-regulated precarious work, with no or just few guarantees, especially in the United Kingdom and Ireland. Certain forms, such as part-time work, were often traps difficult for many women to extricate themselves from, without access to training, without career prospects, with low salaries, even if many of them headed single-parent families. Moreover, they were naturally penalised with regard to the height of their future pensions.

Despite the difficulties of such negotiations with the European employers, we had decided that, in the face of our commitments to reduce such precariousness, these negotiations were necessary.

We had defined five principles for these European-level negotiations:

- to eliminate all areas where workers were deprived of their rights, with a view to ensuring minimum standards in all 15 Member States. We wanted to prevent areas of social dumping emerging on account of the absence or weakness of standards in certain countries. While minimum standards did not mean a levelling of rights, their aim was to ensure social convergence and at least limit the effects of divergences. We wanted to prevent differences in social levels creating room for unfair competition. We also had to allow continuing social progress in those countries which had already gone one step further than the minimum standards, thereby maintaining their progressive momentum;
- to guarantee equal working conditions, especially for women, in such precarious contracts;
- to improve the quality of work and the free choice of forms of atypical work, through creating conditions enabling mobility and allowing choices to be reversed;
- to set usage conditions fighting the abuse of such forms of work;
- to ensure these rights for workers both in the private and public sector, and in all companies whatever their size, through a flexible form of application covering all circumstances.



Demonstration of the ETUC youth, protesting against precarious work during the European Day of Action in Nice on 6 December 2000.

Source: ETUC archives

Discussions revolved around the concept of flexicurity, with employers, governments and European institutions tending towards unlimited and uncontrolled flexibility, to the detriment of security¹.

7.2 Negotiations over part-time work

Early 1996 found us in consultations with the Commission over a document entitled *Flexibility in working time and security for workers*. This document covered all forms of so-called “atypical” work: part-time work, fixed-term contracts, temporary agency work and seasonal work. The first-stage consultations started on 27 September 1995 and ended in December. The ETUC naturally supported the Commission’s initiative on the necessity to fight discrimination, to ensure the security of such workers, to improve their working conditions and to fight social dumping. In the ETUC’s response to the Director General of the DG Employment and Social Affairs, Allan Larsson², Emilio Gabaglio was to add that other forms of work also needed to be covered by a regulation: work at home and teleworking. It came as no surprise that the UNICE response concluded that there was no need for either Community legislation nor a European agreement and that flexibility was a matter to be left to the discretion of companies, without creating any additional costs³.

Despite this response from the employers, the ETUC was convinced that the Commission was going to move on to second-stage consultations, putting forward a

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1. This flexicurity concept was initially based on the Danish model introduced by Poul Nyrup Rasmussen, the then Danish Prime Minister (as an economic expert of the Danish trade union confederation, he was a member of the ETUC Economic Committee for a while). In the midst of an employment crisis in 1993–1994, he launched a very Keynesian recovery programme. Its substantial financial backing permitted a major investment in training and requalifying the unemployed. On the occasion of a discussion in the European Parliament with a few fellow unionists, Poul told us that this had only worked because growth had set in just in time to avoid the funding being questioned. I always told anyone who praised the Danish model that “it was OK, but you needed to include the tax system!”.
 2. Letter dated 22 December 1995, ETUC archives.
 3. UNICE’s reply to the Commission dated 15 December 1995, the author’s archives.

legislative proposal which would oblige the employers to make a move. As expected, this second stage was initiated in April 1996.

In preparation for this, I compiled a memo for the Executive Committee meeting of 7-8 March 1996⁴, listing the aspects to be included in our response to this consultation, but also questioning what would be preferable: a legislative approach or a contractual approach. It was a question of having either a legislative or contractual framework, i.e. directives listing the general principles or specific agreements dealing with the individual aspects of each form of employment.

Within the ETUC Secretariat, we discussed a possible negotiating roadmap. This would not look at atypical work from an overall perspective, but at the various forms thereof successively.

At the end of the second-stage consultations, the question was clear: which forms of atypical work were to be chosen and what would be the content of the negotiations? It was finally decided to successively negotiate the various forms of employment, starting with part-time work. We drafted a negotiating mandate for the Executive Committee. First discussions took place in June, then at the Steering Committee meeting of 12 September 1996, ending with the finalisation of the mandate for the Executive Committee meeting of 5-6 October.

The debate on the scope of negotiations was heated. Should we take a wide-ranging approach including several forms of atypical work or should we concentrate on a single form with a view to having our general principles accepted which could then be applied in the next rounds of negotiations⁵? I upheld an approach by form of work, wanting to avoid increasing the difficulties and consequently the risk of failure. This approach was finally adopted.

The German government warned us that we should steer clear of fields linked to national social security systems. Through staying focused on the principle of non-discrimination, we thought we would be able to overcome this difficulty. The contributions in the Executive Committee meeting underlined the difficulties we were going to come up against in the negotiations (there was even scepticism about the outcome), though all agreed on the importance of going ahead.

As we saw in Chapter 5, the discussions within the ETUC on the adoption of internal rules of procedure for negotiations, in the wake of the negotiations on parental leave, had been very difficult. The drafting of the mandate and the composition of the negotiating delegation took place within this context. As regarded the mandate, the discussion arrived at a consensus. As regarded the delegation, we included a larger number of Industry Federations, the ones mainly affected by part-time work (8 of our 14 Federations).

On the employer side, their delegation was similarly extended, featuring several sectoral federations. The delegation was again led by Dan McCauley, the Irishman who was still chairman of the UNICE Social Commission. As Jo Walgrave was not available to chair the negotiations, the choice fell on Jean Degimbe, the former Director General of the DG Employment and Social Affairs. As in the first negotiations over parental leave, he was assisted by a Commission official tasked with taking the minutes.

A joint letter of our three organisations ETUC-UNICE-CEEP had been sent to the Commission on 19 June 1996, announcing our "intention to start negotiations in

4. Memo dated 27/2/1996, the author's archives.

5. Minutes of the Steering Committee meeting of 12 September 1996 adopted at the meeting of 10 October, ETUC archives.

the context of Articles 3(4) and 4 of the Social Policy Agreement annexed to the Treaty on European Union”, following the launch of the Commission’s second-stage consultations. Now in marching order, the first bargaining session was scheduled for 21 October 1996.

At this first session, three problems emerged: the reference to issues associated with social security, a delicate subject vis-à-vis the Member States; the scope of negotiations, i.e. all forms of part-time work; and the possible establishment of thresholds.

On the part of the ETUC, we were using as our references ILO Convention 175⁶, Recommendation 185⁷ and Community case law on equal treatment. Our one problem was that the ILO employers’ group had voted... against the ILO Convention and the employer delegation therefore wanted to avoid any reference thereto...

A first status report was presented to the ETUC Steering Committee on 21 November. The second bargaining session took place on 25-26 November 1996. A drafting group came together on 16 December, followed by a further plenary bargaining session on 20-21 January 1997. Discussions progressed at snail’s pace.

At a joint meeting of our Industrial Relations Committee and our negotiating delegation on 4 February, we drew up a list of proposals to be submitted to the employers at the next meeting scheduled for 24 February.

The points in the way of an agreement remained the same: social security (the employers thought that addressing this subject “would irritate the Member States and increase costs⁸”); the scope of the negotiations; and the thresholds. After three months of discussions, we had not progressed a single inch. Within the employer delegation, we perceived a certain hesitation, as it was having a problem with its negotiating mandate, which seemed too inflexible. At the meeting of the ETUC Steering Committee on 6 February 1997, in which I had reported on the status of the negotiations, a certain dissatisfaction was expressed. We foresaw the possibility of failure and we needed to be prepared for such. For a number of us, there was no point in wanting to reach agreement “at any price⁹”. Speaking for the Secretariat, I argued that the game was still ongoing, that we were in a “normal” stage of tension and that an agreement was possible after the Easter holidays in April. An agreement would strengthen the legitimacy of the social partners in the further work on the Treaty, the revision of which had already started and which would end with the Maastricht Social Protocol being incorporated in the Treaty.

The stalemate ended at the session of 24 February, followed 4 days later by a meeting of the drafting group. At this juncture, we need to highlight the decisive role played by this group¹⁰ in discussing and preparing the points to be discussed in plenum. The negotiations were more to the point in this select group, where any posturing was senseless. I would like to particularly highlight the role played by Dave Feickert (TUC) and Roger Sjostrand (LO Sweden), both of whom were very good at finding the right wording on equal treatment, taking account of the situations in the United Kingdom

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6. ILO Convention 175 on part-time work had been adopted on 24 June 1994 during the 81st session and came into force on 28 February 1998. Our negotiations took place right between its adoption and its enforcement.
 7. Recommendation 182 on part-time work adopted on 24 June 1994 during the 81st session of the International Labour Conference.
 8. Minutes of the negotiations on 25 - 26 November 1996. The author’s archives.
 9. Expression used in particular by Willy Wagemans from the Swedish LO and Luigi Cal from the Italian CISL. Minutes of the Steering Committee meeting of 6 February 1997, adopted at the meeting on 6-7 March. ETUI archives.
 10. On the part of the ETUC, this group was made up of Inge Kauffman from the German DGB, Roger Sjostrand from the Swedish LO, Dave Feickert from the TUC, Bernadette Ségol from UNI-Europa, Penny Clarke from the ETUC Secretariat and the author.

and Ireland (the two countries with absolutely no protection for part-time workers), but also the progressive situation of the Nordic countries. With the British employers, also members of this drafting group, playing a particularly negative role, the contribution of the British unionist, Dave Feickert, was all the more important.

Of the three points in the way of an agreement, the most difficult ones were thresholds (the minimum number of workers in a company to which the agreement or law would apply, for example more than 50 employees) and the conditions allowing workers to work part-time. The employers wanted to further develop part-time work, removing existing “obstacles” to its use. The ETUC accepted increasing opportunities to work part-time, conditional on this form of work not leading to workers being ghettoised, on it being voluntary and reversible, and respecting the principle of non-discrimination. A compromise needed to be found.

Following intensive discussions in the Steering Committee meeting of 6 March, the proposal was made to adapt our mandate to allow for the “obstacles” to be removed, conditional on the principle of non-discrimination being respected. As regarded thresholds, it was clear that they had to be justified, periodically reviewed and eventually abolished under the principle of non-discrimination. Given the importance of this change to the mandate, the Steering Committee referred the decision to the Executive Committee. At this juncture, we should mention that, to achieve transparency, all the minutes of the meetings were systematically distributed to all organisations, meaning that they were always up-to-date on the status of the discussions and the items blocking progress. A questionnaire¹¹ was also sent out, following the 20-21 January session, to the national and sectoral organisations to check thresholds in their respective countries. Supervising the negotiations, the Industrial Relations Committee discussed the findings on 4 February.

Since January, the Executive Committee had taken up the three issues blocking agreement raised by the employers: the agreement’s scope of application, with the employers arguing that they were exceeding their mandate and adding further conditions excluding companies from the agreement; the treatment of social security problems which the employers refused *a priori* to discuss; and the concept of equal treatment which the employers wanted to change into “fair treatment”.

In the face of this blocking stance of the employers, contrary to what had been jointly agreed, we decided to “go public” in an attempt to prevent being stuck in a deadlock and wanting to put pressure on the employers. Emilio Gabaglio wrote to the Secretaries General of UNICE and CEEP, requesting them to take off the brakes in order to make further progress. This letter we made public – with the desired effect. Although UNICE was “not pleased”, the ensuing meeting of the secretariats marked a significant development in the employers’ position, as seen at the next round of negotiations on 4-5 March 1997.

At this meeting, our delegation, up in arms against the employers’ attitude, decided to turn up the pressure on the employer delegation. The employers’ spokesman, Dan McCauley, insisted that the employers did not want to take any step backwards and that they had “no Machiavellian intentions”¹². We came back to our proposals, even putting a question-mark over some of the points agreed in the drafting

11. Drawn up by two members of our negotiating delegation, Catelene Passchiers from the Dutch FNV and Rudy Delarue from the Belgian CSC, both of whom were International Labour Office specialists and legal experts on labour affairs.

12. Notes taken by the author during the negotiations.

group which we thought possible to defend in plenum. Confronted with this hardened stance, Dan McCauley adopted a more constructive position, certainly exceeding the positions of his delegation.

These developments and the remaining points blocking an agreement were discussed in the Executive Committee meeting of 6 March. We were now having difficulty keeping to the negotiation deadline. This led to the three organisations writing to Commissioner Padraig Flynn¹³ on 14 March to request a further three months to terminate our negotiations (the time set by Article 4(1) of the Social Policy Agreement annexed to the Treaty was 9 months).

The meeting of 21-22 April 1997 took place in a climate of extreme tension. On the trade union side, the status of the text remained unsatisfactory for several delegation members. They were especially opposed to its Article 4 on non-discrimination and possible exemptions, and Article 5 on the removal of obstacles to the further development of part-time work which the employers wanted, but which the ETUC made conditional on non-discrimination. This tension was naturally felt in the plenary meeting. Within our group, the question was even posed as to whether it was worth reaching an agreement¹⁴, despite the significant progress already made. The employers seemed trapped by an inflexible mandate which prevented their negotiator from going a few steps further, although they wanted to convince us that they were open to continuing negotiations. "They are too polite to be honest", said one member of our delegation¹⁵. Faced with our hardened stance, the employers' negotiator stated in the plenary meeting of 21 April that he was "very disappointed with the ETUC reaction" and the renewed questioning of points which seemed to have been agreed within the drafting group. He called for the meeting to be suspended, to allow an internal discussion among the employer delegation and stating that he would come up with answers to the ETUC demands the next day.

This firm stance of the ETUC was to pay off. The next day, 22 April 1997, significant progress was made, with many of our amendments being fully or partially accepted. But the employers continued to block Clause 5 (on the obstacles). The employer delegation declared that its mandate could be extended no further, that the discussions were deadlocked, and that each side needed to go back to its decision-making bodies to check out the possibility of continuing the negotiations.

On 5 May, the Industrial Relations Committee, together with which our delegation was preparing the next round of negotiations, played a decisive role in unblocking the situation by finding compromise wordings which, while not compromising our general principles, also drew red lines not to be crossed. The TUC representative, Dave Feickert, continued to play a key role within our delegation in this confrontation, declaring that what we were in the process of doing was better than the ILO Convention which up to then no EU Member State had ratified.

13. Letter dated 14 March and signed by the three Secretaries General, Zygmunt Tyszkiewicz for UNICE, Jytte Fredensborg for the CEEP and Emilio Gabaglio for the ETUC. The author's archives.

14. Extract from the notes taken by the author.

15. Jorma, the Finnish representative. All the elements in apostrophes are taken from the notes taken by the author during the negotiations.



Poster of the British TUC for the European Day of Action on 28 May 1997.

Source: ETUC archives

On 14 May 1997, the 8th bargaining session, a compromise text was compiled, based on a draft drawn up by the drafting group. On examining this text, the German DGB expressed its firm opposition. Its representative, Joachim Kriemer de Vries, agreed that we had no more room for manoeuvre, but in his view the result was too weak: “A breakdown of the negotiations would not be a drama. It would be a mistake to sign this agreement.”¹⁶ For the majority of our members who had taken part in the negotiations, the compromise text was in line with our mandate and, even if it did not lead to improvements in many countries, it did not create a less favourable situation, while at the same time greatly improving the situation for British and Irish workers. The principle of non-discrimination that we had obtained was politically important and, as Carmelo Cedrone, the Italian UIL representative, so charmingly put it, “There is always something you don’t achieve in any agreement.”

Our delegation was of the opinion that it would be impossible to get anything more out of the employers and that we needed to get an Executive Committee decision on this text. But what should we propose? To accept or reject the draft agreement? The discussion within the delegation on the assessment of the text had been difficult and we decided to take a vote among the participants with a view to presenting a clear position to the Executive Committee. The delegation voted unanimously for the draft agreement, with the German DGB¹⁷ abstaining and the Greek GSEE¹⁸ expressing reservations, voiced by its representative, Georges Dassis, who had made a major contribution to the discussion.

16. Notes taken by the author.

17. I had a meeting with a DGB official, Frank Hantke, on 3 June at the ETUC. He confirmed to me that the DGB was going to come out in favour of a “well-grounded No”, but that the discussion within the Executive Committee could lead to this being softened to a “neutral No”. Later on, the DGB departments of social affairs and Europe requested a meeting with me to discuss the matter. Taking place on 9 February 1998, the discussion dwelt on the path to follow at European level - either legislative or contractual -, whereby the DGB was clearly in favour of the legislative option “in contrast to the practice of the ETUC Secretariat”. In their view, the European Parliament was “rightly” demanding a legislative role, with a right to tell the Council to adopt or not to adopt an agreement reached by the social partners. Coming from German unionists, this was a surprising attitude. I was tempted to ask whether the German Bundestag could take action against an agreement reached by the German social partners! The discussion ended with the following statement: “We have no hope that an agreement will give us anything of benefit to us.” To me, this seemed to show little solidarity with the countries benefiting from these agreements and the principle of minimum requirements that we had adopted to launch negotiations at European level. The discussion also touched on the conduct of the negotiations, calling for a strengthening of the select drafting group, something which I considered quite normal.

18. The author’s notes.

Pending the decision of our Executive Committee and that of the UNICE Council of Presidents which was scheduled to meet on 6 June 1997, the CEEP Council of Presidents adopted the draft agreement on 30 May 1997.

The UNICE Council of Presidents followed suit on 6 June. The ETUC Executive Committee, meeting on the same day, was thus the last to have to take a decision.

At that time, the EU Presidency was held by the Netherlands. The ETUC Executive Committee had just held a high-level “select” social dialogue meeting during the afternoon of 6 June in The Hague (see box), bringing together the Presidents and Secretaries General of the three European organisations, President Santer, Commissioner Padraig Flynn, the acting President of the European Council, the Dutch Prime Minister Wim Kok and his Minister of Employment and Social Affairs, Ad Melkert¹⁹.

**Social dialogue meeting in The Hague
on 6 June 1997**

Over and above presenting the agreement on part-time work, this select meeting took place within an important context, on the eve of the end of the Intergovernmental Conference marking the path towards the revision of the Treaty, and, of particular importance for us as trade unions, towards the incorporation of the Social Policy Agreement in the Treaty itself. Two other subjects were also on the agenda: the social aspects of restructuring measures (we had

just gone through the Renault Vilvoorde episode) as reflected by the Commission initiative on the information and consultation of workers at national level, an initiative which the employers rejected and which the ETUC naturally supported; and the participation of workers, in line with the conclusions of a group of experts chaired by Etienne Davignon. Commissioner Padraig Flynn announced the start of first-stage consultations on information and consultation, requesting the social partners to become involved (see the next chapter for details of these consultations).

The debate within the Executive Committee was heated. While the majority of ETUC member organisations supported the draft, the German DGB was strictly against it, backed by a few other member organisations. The DGB representative²⁰ lambasted the text’s weaknesses. Under the qualified majority voting arrangements enshrined in our Constitution, a ballot was taken, with more than two-thirds of members voting in favour of signing the agreement (58 votes in favour, 11 against and 6 abstentions).

The agreement was signed and presented to the public on 6 June 1997, following the social dialogue meeting, at a press conference with the three Presidents and the three Secretaries General of the ETUC, CEEP and UNICE, and in the presence of Commissioner Padraig Flynn.

The agreement was sent to President Santer on 16 June via a joint letter requesting the Commission to submit this framework agreement to the Council for it to decide to implement it via a directive, pursuant to Article 3.2 of the Social Policy Agreement. A few rear-guard skirmishes took place within the Commission, in particular led by the Cabinet of British Commissioner Leon Brittan.

19. Adrianus “Ad” Melkert was a member of the same party as his Prime Minister, the socialist PvdA.

20. Klaus Schmitz considered the agreement to be not just insufficient but even to favour the employers. He insisted that the legislator would have done better (minutes of the Executive Committee meeting of 5-6 June 1997 adopted at the meeting of 16-17 October 1997), opening the door to the criticism from the European Parliament (see box opposite). ETUI archives.



The signing of the framework agreement on part-time work in The Hague on 6 June 1997.

Source: ETUC archives

An analysis of the results of the negotiations shows that, despite the difficulties encountered, we had kept true to the general principles we had set.

We had considerably improved the situation of some 5 million British and Irish workers who had previously not had any rights at all (as confirmed by the British TUC).

We had also opened up possibilities for women in particular to emerge from the “ghetto” of non-voluntary, under-qualified and badly paid part-time work, with terrible long-term consequences for their pensions.

Our gains included:

- the principle of the non-discrimination of a part-time worker vis-à-vis his full-time counterpart (clauses 1.a and 4.1);
- an improvement of the quality of part-time work and the necessity to take measures to facilitate part-time work (and its reversibility) in all layers of a company, including highly-skilled and management positions (clause 1.b);
- access to continuing vocational education and training (CVET) to further develop career opportunities and the mobility of these workers (clauses 1.1 and 3.d);
- the principle of voluntarily taking up part-time work, with no negative consequences for refusing workers (clause 5.2);
- the possibility of moving to full-time work or increasing working hours (clauses 3.a, b and c);
- a non-regression clause (clause 6.2);
- all private and public sectors covered by the agreement;
- the right of the social partners to conclude, at the appropriate level, including the European level, agreements adapting and/or complementing the provisions of the Agreement (clause 6.3).

With regard to the social security aspects associated with this form of work, we have already spoken about Member States’ reluctance to address this problem. However, we considered it important to write something, given the fact that certain forms of discrimination were associated with these systems. After overcoming a lot of employer resistance, we managed to address the subject in the 3rd paragraph of the Preamble, prodding the Member States to assume their responsibility: “This Agreement relates to employment conditions of part-time workers recognizing that matters concerning statutory social security are for decision by the Member States. In the context of the principle of

A critical European Parliament

At the end of August 1997, the Commission sent the proposed Part-Time Work Directive to the Council, while at the same time informing the European Parliament and the Economic and Social Committee. The European Parliament was very frustrated with the role assigned to it by the Social Protocol annexed to the Treaty, as this did not allow it to intervene with regard to the proposal's content. The social partners had been clear: when an agreement they had reached was to be proposed to the Council, this was a take-it-or-leave-it situation, with the European Parliament only allowed to give an opinion. The Parliament's opinion was entrusted to the German Social-Democrat MEP, Karin Jöns. Her report, adopted by the European Parliament, was very critical of the agreement, deeming that it was insufficient and that the trade unions had been too weak. Greatly influenced by the German DGB, she based her arguments on the DGB's vote against the agreement.

We should point out that the DGB President, Dieter Schulte, had written to her to state that the discussions within the ETUC had been very intense and that the decision had been taken with a qualified majority, in line with the ETUC Constitution. The agreement signed by the ETUC as a result of this vote covered all organisations, including the DGB.

We need to highlight here the position of the European Parliament, whose criticism was directed not at the agreement on part-time work, but rather at the role of the social partners, European-level collective bargaining, the procedure set forth on the Social Protocol and the upcoming incorporation of the latter in the Treaty. The Parliament wanted to be able to intervene on the content of agreements reached by the social partners. For us, this was unacceptable, as it would destroy the legitimacy of our agreements. This was a noteworthy attitude of a German socialist in relation to her country's bargaining culture.

non-discrimination, the parties to this Agreement have noted the Employment Declaration of the Dublin European Council of December 1996, wherein the Council *inter alia* emphasized the need to make social security systems more employment-friendly by 'developing social protection systems capable of adapting to new patterns of work and of providing appropriate protection to people engaged in such work'. **The parties to this Agreement consider that effect should be given to this Declaration.**" (our emphasis)

The Executive Committee meeting of 16-17 October 1997 reviewed the procedure for adopting the directive under the Luxembourg Presidency. Jean-Claude Juncker was convinced that he would be able to get the Council to take a decision in December. This directive on part-time work was to be finally adopted in December 1997²¹ at the end of the Luxembourg Presidency.

The ETUC Secretariat then made the proposal to the Executive Committee to draft a discussion paper on future bargaining prospects in the wake of this agreement²². Several paths were seen as possible, the most obvious one of which was on the other forms of atypical work: fixed-term contracts and temporary agency work, especially as we had taken care to write into the agreement on part-time work that "the social

21. Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC.

22. Item 6 of the "Social Dialogue' meeting agenda: report on negotiation developments and prospects", compiled by the author. It should be noted that in the preamble to the agreement on part-time work, we had written, together with the employers, that "This Framework Agreement is a contribution to the overall European strategy on employment. Part-time work has had an important impact on employment in recent years. For this reason, the parties to this agreement have given priority attention to this form of work. It is the intention of the parties to consider the need for similar agreements relating to other forms of flexible work."

partners wished to give particular attention to part-time work, while at the same time indicating that it was their intention to consider the need for similar agreements for other flexible forms of work” (recital 12). For the ETUC, the ball was already rolling. A study was quickly commissioned in late October 1997 on fixed-term work in the various Member States, together with the European Trade Union Institute and NETLEX, our legal network.

The Industrial Relations Committee met on 28 October to look at the general aspects of any negotiations on this topic, and a working meeting was scheduled for 24 November 1997. We did everything to be prepared for the opening of negotiations on fixed-term contracts. As regarded temporary agency work, conditions seemed more difficult due to complete or partial bans on such work in certain countries. All that was needed to get started was the green light from the employers... we did not have to wait for Commission consultations, as these had already taken place.

Further bargaining topics were listed in this paper presented at the Executive Committee meeting in October. The first concerned sexual harassment, but UNICE rejected the idea at the Social Dialogue Committee meeting on 3 July. The only path open to us was therefore to request the Commission to put forward a legislative initiative on the subject.

A further important topic already referred to above (cf. the box on the 6 June 1997 meeting in The Hague) was “information and consultation at national level”. The consultation document for the social partners had been adopted by the Commission on 4 June and the first-stage consultations were set to start soon. Wanting to quickly anticipate the possibility of negotiations, the Secretariat suggested to the Executive Committee to prepare our decision at its next meeting in December.

7.3 European Pact of Confidence for Employment

During the negotiations on part-time work, the social dialogue on other subjects continued. In February 1996, Commission President Jacques Santer had launched an initiative for a European Pact of Confidence for Employment²³, calling on the social partners to contribute to it. The employers were somewhat reticent about a joint contribution and the discussions proved to be long and difficult²⁴. On 8 March 1996²⁵, the ETUC Executive Committee gave its green light to the European Pact for Employment, emphasising that this “should bring true added value to the national pacts currently being finalised in several countries”.

A first round-table on the Pact, in the presence of Jacques Santer, was held in Brussels on 28-29 April 1996. While the ETUC Secretariat had drawn up “a roadmap of ETUC proposals for the Pact”, the employers remained very reserved towards the mere idea of a Pact, maintaining that it was the responsibility of Member States and companies at national level to come up with employment policies. The employers’ position was

23. This idea of a Pact came from Germany’s IG Metall metalworkers’ union which, in November 1995, had proposed wage restraint to encourage increases in employment. Committed to reducing working hours, with a focus on a 35-hour working week, Germany’s most powerful union was proposing converting overtime into new jobs. The IG Metall leader, Klaus Zwickel, had worked out that the amount of overtime done in 1995 was equivalent to 1.4 million new jobs.

24. The ETUC Secretary showing the greatest commitment in these long-running negotiations and playing a key role in their success was Peter Coldrick.

25. Press release 6-96 dated 8 March. The author’s archives.

diametrically opposed²⁶ to that of the ETUC. In the view of the UNICE President, François Perigot, it was up to the Member States to implement reforms: on public deficits, on reducing labour costs and on flexibility in order to be competitive abroad...

This position, not even going as far as the Community initiative, led to a letter being sent by the ETUC to UNICE on 6 May²⁷, stating that the Pact “contained a range of interdependent aspects calling on the responsibility of various players: the public authorities and the social partners at European and national level. Reciprocal commitments were therefore necessary to finalise a pact constituting something new”. Supporting the necessity of this Pact, the ETUC suggested discussing several points with UNICE: joint action on redirecting structural funds towards job creation; a European framework agreement on new forms of employment (the negotiations on part-time work had not yet been concluded, ed.); a European framework agreement on access to lifelong learning; the possibility of negotiating the extension of the Working Time Directive to excluded sectors; and an initiative for getting young people into work.

On 23 May 1996, an attempt was made at a Social Dialogue Committee meeting to raise the subject, proposing a tripartite conference organised by the Italian Presidency between governments, the social partners and the Commission on “Growth and Employment”. This would present the Commission’s economic guidelines and allow a discussion over “the direction of possible contributions from the social partners”. The UNICE Secretary General seemed to be at odds with the UNICE President. A few days before the meeting of the Social Dialogue Committee, the *Financial Times*²⁸ published an article written by UNICE President François Perigot, putting the Pact for Employment and the strategy proposed by the Commission in a very bad light. He even rejected the idea that the employers and the trade unions should seek a compromise on this subject and questioned the Commission’s role in fighting unemployment²⁹. The UNICE Secretary General however took a more positive attitude, stating, in contrast to François Perigot, that it was a question “of defending the Commission against those who claimed it did nothing at all, while criticising the Member States for not doing enough”³⁰. Proof of the employers’ good will, the Secretary General even suggested that UNICE could agree to negotiations with the ETUC on part-time work.

On the eve of the tripartite Conference in Rome on 14-15 June 1996, the UNICE Council of Presidents re-elected François Perigot for a second 2-year term of office and... put a stop to his strategy. There was a distinct change of tone on the eve of the Conference: “With regard to President Santer’s initiative, the Council (of UNICE presidents, ed.) approves the opportunity due to the acuteness of the unemployment problem. In its view, a mobilisation of all stakeholders on the conditions for a return to growth and

26. Article by Jean Louis Validire in *Le Figaro* of 8 May 1996. The author’s archives.

27. Letter dated 6 May 1996 sent by Emilio Gabaglio to Zygmunt Tyszkiewicz. The author’s archives.

28. *Financial Times* of 20 May 1996. This article drew a response from Emilio Gabaglio published in the *FT* of 22 May accusing François Perigot of questioning not only the Pact but also all the work done in the social dialogue. The author’s archives.

29. A commentary from Caroline Southey, the Brussels *FT* correspondent, in the same issue as the article written by François Perigot, gave a different explanation: “However, Mr Perigot’s aggressive intervention could also be designed to affect the selection of the new UNICE president next month. Although Mr Klaus Murmann, president of the BDA, the German employers’ federation, was until a few months ago considered the most likely candidate to succeed Mr Perigot, the view that Mr Perigot might serve a successive term has gained ground recently even though he has not declared his candidacy.” Well seen, Ms Southey...

30. Taken from the article written by Jean-Louis Validire in *Le Figaro* of 24 May entitled “*Les fils du dialogue social renoués*”.

employment is vital, and UNICE must play its part”³¹. This Conference did not however lead to any concrete measures in relation to our joint contribution for the Florence Summit which, despite the good will of the Italian government, turned out to be a disappointment. The ETUC Secretary General was to describe its conclusions as a “long list of missed opportunities”. It was “desperately slow and weighed down”, CFDT Secretary General Nicole Notat was to say. Nevertheless, we continued working on a hypothetical joint position in view of the Irish EU Presidency in the second half of 1996.

On 16 July 1996, at a meeting in Dublin with the Irish Presidency, the ETUC underlined the urgent need to kick-start growth and employment. The Irish government agreed to make this a priority, even envisaging dedicating a whole chapter to employment issues in the draft Maastricht Treaty II, which Dublin had to draw up in preparation for the Treaty revision planned for 1997.

As regarded the Pact of Confidence for Employment, the joint approach remained complicated, with the Macro group and the Secretariats continuing to discuss the contents of the joint contribution. A meeting of the UNICE/CEEP/ETUC secretariats with Commissioner Padraig Flynn on 16 September revealed that UNICE was dragging its feet on a joint contribution, while the ETUC wanted to make significant progress before the next European Summit, to be held in Dublin in December. The negotiations on part-time work had been concluded in October 1996.

At the meeting of the Social Dialogue Committee on 14 November 1996, together with the Commission director in charge of social dialogue, Odile Quintin*, a draft text incorporating the output of the various social dialogue working groups – macroeconomic, youth employment, structural funds, lifelong learning – was presented. Together with the launch of the negotiations on part-time work, this constituted an acceptable contribution ready for adoption before the European Summit in December.

A mini-Social Dialogue Summit on the Pact was held in Dublin on 29 November 1996, with the participation of the Presidents and Secretaries General of the three organisations. This was the last chance to achieve a joint contribution to the Pact of Confidence for Employment. Despite the difficulties, the joint declaration³² was finalised. In it, “the social partners confirm their support for the Pact of Confidence for Employment” proposed by Commission President Jacques Santer.

The European Summit of 13-14 December 1996 adopted the Declaration of Dublin, and in particular the establishment of Territorial Pacts.

The difficulties encountered with the employers during all these discussions on the Pact of Confidence for Employment and debated in the Steering Committee meeting of 6 February 1997 led CFDT Secretary General Nicole Notat to say that “UNICE perhaps only reflected the actual inconsistency of the national employer confederations who no longer have any weight vis-à-vis large companies”³³. But this was not to be the end of our problems with the European employers...

31. UNICE press release of 14 June 1996 *The UNICE Council of Presidents takes stock of the Pact of Confidence for Employment*.

32. “Action for employment in Europe - a Pact of Confidence”, contribution of the ETUC, UNICE and the CEEP, 29 November 1996. The author’s archives.

33. The author’s notes.

7.4 After the European level, information and consultation at national level

While we had managed to deal with the problem of the information and consultation of workers in transnational companies, this was ineffective at protecting these rights at national level. As Article 17 of the Community Charter of Fundamental Social Rights of Workers set down this principle, covering it at national level remained on the agenda. In the European Commission's 1995-1997 Social Action Programme, which was mainly focused on employment, Chapter 4 put forward a proposal for "Encouraging high labour standards as part of a competitive Europe". This included debates and studies, especially on the right of workers to be consulted on internal company matters which concerned them. But a trigger was needed to get a legislative initiative put forward: this was to be the Renault Vilvoorde affair (see box below).

In the same way that the Hoover affair had triggered information and consultation in the context of European works councils, the Renault Vilvoorde affair concerning the closure of the company's Belgian plant in 1997 was to be the trigger for the new legislative proposal on generalised information and consultation at national level.

Renault Vilvoorde: a score of zero for Renault's corporate management

A quick trip to Brussels by Thalys on 27 February 1997 was all Renault President Louis Schweitzer needed to announce the closure of the Renault plant in Vilvoorde (a suburb of Brussels). The brutal attitude of the Renault CEO in announcing the closure of the Belgian plant with the loss of 3,100 jobs appeared totally unacceptable. Belgian Prime Minister Jean-Luc Dehaene, nicknamed the "plumber" for his ability to find compromises, expressed his stupefaction (we found it difficult to believe that Louis Schweitzer had not spoken to him beforehand, especially as Dehaene lived in Vilvoorde, a suburb of which

he was to become mayor in 2000 and where his wife was also a municipal councillor). A protest march was held in Brussels on 15 March, supported by the ETUC and bringing more than 100,000 people out onto the streets. Following lawsuits filed both in France and Belgium by the French and Belgian unions, but also by the Renault European works council and the EMF, the Renault management was sentenced in the court of first instance and the appeal court for not respecting workers' information and consultation rights. This however had no effect on the closure decision, despite the alternative proposals put forward by the unions, and the Vilvoorde workers ended up voting for negotiating a redundancy package by a large majority. The plant closed its doors in July 1997.

This conflict at Renault Vilvoorde opened our eyes to the fact that, even in a company considered to be quite social and respectful of the information and consultation rights of its employees and formally complying with the letter of the agreement on the European Works Council, things could be circumvented.

The action of the European and national works councils in the face of restructuring measures demonstrated the deficits and gaps in the existing Community directives and thus the need to complement them.

In March 1997, the Executive Committee took a detailed look at the Renault Vilvoorde conflict which happily had given rise, in contrast to the Hoover case, to genuine solidarity between the Renault plants. Various proposals were made, including reducing working time and/or transferring production from one Renault plant to another to better distribute the overall workload. Having already invested a great amount of effort, the Vilvoorde workers would have accepted measures for boosting productivity.

The Executive Committee decided to campaign for Community legislation on the information and consultation of workers at national level over company decisions liable to affect them in relation to jobs, skills and restructuring. Stepping up the pressure, a resolution was adopted at the Executive Committee meeting on 16-17 March entitled *Proposal for a Council directive establishing a general framework for the information and consultation of workers in the European Community*.³⁴



European demonstration on 16 March 1997 in Brussels protesting against the closure of the Renault plant in Vilvoorde in Belgium.
Source: ETUC archives

The employers were aware that the Vilvoorde affair was going to cause them a few problems, especially as the Dutch minister chairing the Social Affairs Council had declared on 15 April³⁵: “We want to avoid a repetition of such unacceptable measures as the announcement of collective dismissals without the prior consultation of the workers concerned.”³⁶

The employers tried to counter-attack, with UNICE President François Perigot stating that “UNICE intends to discuss in a positive (non-punitive) manner ways of ensuring a ‘flexible’ social policy supporting the inevitable economic changes in Europe” and that it feared that “the consequences of the Renault Vilvoorde affair constituted a step backwards”. The UNICE Secretary General added: “We are ready to sit down with the unions, not to adopt a code of conduct but to review the directives with them and if possible to issue a joint opinion³⁷” (*sic*). The UNICE Secretary General even went on to say that he had not “discerned any current willingness on the part of the European Commission to reopen discussions on the directive (information and consultation at national level, ed.).

Happily, he was very much wrong, especially as two major Member States had experienced a change in government: the United Kingdom and France. Tony Blair (Labour) and Lionel Jospin (Parti socialiste) had each been appointed prime minister of their respective country.

UNICE thus knew that the wind had changed, now blowing against the employers. Used to saying that he could count on 28 “pro-employer” votes in the European

34. Drawn up by ETUC Secretary Willy Buschack, together with the Committee for the Democratisation of the Economy.

35. At the end of this meeting between the social partners, the Commission and the Dutch Presidency.

36. Reported in *Le Monde* on 18/4/1997.

37. The proposals made by François Perigot and Zygmunt Tyszkiewicz came from an interview with journalists after the 15 April meeting between the social partners, the Commission and the Dutch Presidency on restructuring measures, published by *Agence Europe* on 18 and 19 April 1997.

Council of Ministers (enough to constitute a blocking minority), Zygmunt Tyczkiewicz could now count on just 8 votes³⁸.

On 4 June 1997, the Commission adopted a Communication on *Information and consultation within the national context*. This was to serve as the basis for the consultations with the social partners.

Launched on 9 June, these consultations took place as foreseen in two stages. The first stage involved assessing the relevance of the European level for dealing with this subject. The responses of the ETUC and CEEP, submitted within the set period of 6 weeks, were positive. UNICE however encountered internal difficulties, obliging it to ask for more time to consult its members.

On 9 July 1997, the UNICE Secretary General wrote³⁹ to the Commission Director General, Allan Larsson, requesting an extension, as “the text (of the consultations, ed.) raised a number of quite delicate issues going beyond simple aspects of opportuneness and the general direction of a possible Community initiative in this field”. UNICE seemed divided in its response, mainly on its possible involvement in the second stage of consultations related to the possibility of negotiations, and thus it “did not feel itself able to submit its observations on the consultation document before the first week of October 1997 at the very earliest” (the UNICE Social Commission was set to meet on 30 September to draw up the UNICE response, ed.). The extension requested was thus for more than 2 months! At the end of the day, the employers’ response was *as usual* negative, seeing no use in a Community initiative on this subject. The employers even contested the “fundamental right” nature of the information and consultation of workers, even though this right was enshrined in the December 1989 Community Charter of Fundamental Social Rights of Workers!

**The Social Dialogue Committee meeting of
3 July 1997**

The atmosphere among the employers was bleak at the start of the consultations, with the discussions mainly centred on the “Davignon” Report on the social implications of restructuring measures. Also addressed were the new Chapter on Employment incorporated into the new Treaty of Amsterdam, the

creation of a new Employment Committee, and economic policy, backed by a working paper from the DG Economic and Financial Affairs with the sober title: *The strengthening of the broad guidelines of economic policies and improved procedures for coordinating the economic policies, including the role of the social partners, in view of the third stage of Economic and Monetary Union*.

Despite the employers keeping their foot on the brake, the second stage of consultations started on 13 November 1997, with the Commission having decided to pursue its proposal (reflecting the decisive role played by the Commission). These consultations related to the content of the legislative initiative and the question as to whether the social partners wanted to negotiate the proposal.

Despite heavy employer lobbying and the manoeuvres of the British employer organisation, the CBI, which could count on the complicity of the Blair government (see box below), the Commission had decided to forge ahead, considering that “with regard

38. Article in the *Financial Times* of 6 June 1997.

39. Letter dated 9 July with the reference Department of Social Affairs s/9.3.1/cl/in&out/zt970709.doc. Archives of the DG Employment and Social Affairs, 1997.

of the deficits already highlighted in national legislation and the fragmented nature of Community law on information and consultation, it is necessary to establish appropriate and binding rules at Community level"⁴⁰. Hammering home the nail, the Commission announced that, in the absence of any social partner willingness to negotiate, it would "envisage pursuing this initiative on the basis of Article 2 of the Social Policy Agreement", i.e. by adopting a directive. Maximum pressure was thus being put on the employers.

The signing of the Treaty of Amsterdam on 2 October

The signing of the Treaty of Amsterdam on 2 October (it entered into force on 1 May 1999) went hand in hand with the incorporation of the provisions of the Social Protocol into the new Treaty (Articles 138 and 139). The Treaty also enshrined the principle

of enhanced cooperation allowing certain Member States (at least 8) to forge ahead at a quicker pace. It also included, for the first time, a chapter on employment. Two changes of government were also to have major consequences: in the United Kingdom with Tony Blair (elected in May 1997) and in France with Lionel Jospin (appointed by François Mitterrand in June).

UNICE again found itself in the midst of a difficult internal debate. It requested further time to draw up its response, but the ETUC and the Commission wanted to have it before the end of February 1998. The deadline theoretically ended in mid-January. On 29 January, Commissioner Padraig Flynn sent UNICE a letter stating that he would accept the extension under one condition: "I will agree to a short extension," but "I would point out that the launch of the conventional legislative procedure cannot be further postponed if the social partners do not jointly indicate that you wish to initiate negotiations on this issue"⁴¹. UNICE stressed the need for intensive consultations with its national organisations (*to the grassroots* in the words of Zygmunt Tyszkiewicz) and spoke of the employers' discontentment with the second-stage consultation document which had taken no account of the criticism raised by them in their first response. The Commission naturally rejected this criticism, becoming impatient with the employers' procrastinations.



European protest demonstration of the ETUC in Luxembourg on 5 November 1997.

Source: ETUC archives

40. Commission document for the second-stage consultations.

41. Letter from Padraig Flynn to Jytte Fredensborg et Zygmunt Tyszkiewicz dated 29 January. The author's archives.

Indeed, many employer organisations were opposed in principle to a fundamental information and consultation right for workers on a company's industrial, economic and social strategy. Tony Blair, who on taking up power had made several important gestures in the social field (for instance signing the European Charter of Fundamental Rights of workers, adopting the directive on European works councils), did not want to see a strong Community social policy developing. During the British Council Presidency in the first half of 1998, the British government, hand in hand with the CBI, carried out certain manoeuvres to block the initiative (see box below).

Commissioner Pádraig Flynn held a meeting with UNICE on 2 March 1998 in an unsuccessful attempt to convince the employers to negotiate the proposal.

The ETUC had responded positively, stating its availability for negotiations, and had adopted its bargaining mandate at its Executive Committee meeting of 5-6 March 1998.

Despite the position of its president who seemed in favour of negotiations, UNICE decided to turn them down. The Anglo-German tandem had managed to sabotage the negotiations.

Anglo-German wheeler-dealing

Behind the scenes, Tony Blair's government was manoeuvring to block not only the Commission's initiative but also any negotiations which could end in an agreement extended by law. We were naturally aware of this, especially through the press. In an *Observer* article of 12 April 1998, it was stated that "the British Government was known to have strong objections to plans which it believed infringed management's right to manage... Then a Downing Street official telephoned Helmut Kohl's office in Bonn with the request that the Chancellor persuade the German employers to pull out of the talks. Kohl obliged and the talks were abandoned. So the TUC received a call from Bonn which told them that the British Labour Government had successfully sabotaged plans for unions to be consulted on redundancy, investment and relocation decisions. It is not the sort of humiliation that is quickly forgiven."

TUC Secretary General John Monks was given a frank explanation by Tony Blair "*in a private conversation*" on 20 March 1998. A letter sent on 2 March by the German BDA's Director of International and European Affairs, Rolf Thüsing* to the Director General of the British CBI, Adair Turner, with UNICE on .cc, made things particularly clear: "I think it is important to let you know how the German Government understands the outcome of the discussion they had

with the British Government on the question of an information and consultation directive: the German Government agreed to support the British Presidency to make the Commission not submit a proposal for a directive; If nevertheless, particularly because of pressure by European Parliament, the Commission submits a proposal at whatever time, the German Government is free to decide on their position. There is no obligation to join a blocking minority."

After having sabotaged the negotiations, the British government was now trying to block the legislative initiative. But the German employers were aware that the German government was embarrassed by the blocking of a Delors initiative as, even though it considered the directive to be unnecessary from a German point of view, it backed its objectives. "Because of that and because of general political reasons regarding as well internal policy as the European Parliament, it cannot be expected that a German Government could make a Directive fall through in the Council." The German employers were all the more cautious, as Bundestag elections were scheduled for 22 September 1998 and any new coalition government would very probably include the social democrats. The battle over the directive continued to be the subject of wheeler-dealing until its final adoption in March 2002.

*The author's archives

An “extraordinary” meeting of the UNICE Council of Presidents was convened on 11 March 1998 in Brussels. On 6 March, President François Perigot had written to CBI chairman Sir Colin Marshall to tell him that the BDA President would be ringing him up on Saturday 7 March between 6 and 8 o’clock in the evening to explain the position of the German government and the BDA’s assessment of the negotiations on information and consultation. Confirming the 11 March meeting, he insisted that the CBI take part “with full authority to take a decision in the light of the discussions, since the final decision must be taken during that meeting and **CBI holds a key position** in this matter⁴²” (our emphasis).

In its response to the Commission⁴³, the UNICE Secretary General started by stating that “UNICE has not been able to put together the necessary majority to start negotiations with the ETUC (crocodile tears?, ed.)”, adding that “very nearly all UNICE members are convinced that the European legislator must not intervene in this matter”.

New heads at UNICE

February 1998: Zygmunt Tyszkiewicz announced that he would be leaving UNICE after twelve and a half years at its helm. His successor would be sought by a headhunter. At the meeting of the UNICE Council of Presidents of 19 February (also celebrating the organisation’s 40th anniversary), UNICE appointed Dirk Hudig, a Dutchman working for the

British chemicals company, ICI, and who had already worked for UNICE as head of its “State Aid” working group, as its new Secretary General. The transfer of power from Zygmunt Tyszkiewicz to Dirk Hudig took place on 1 May 1998, shortly before UNICE’s President François Perigot was replaced by Georges Jacobs, the former president of the Belgian employer federation, FEB and now CEO of the Belgian chemicals company, UCB.

Over and above its opposition in principle, UNICE put forward three arguments for rejecting negotiations: the first was the principle of subsidiarity, i.e. this subject was a matter to be dealt with at Member State level; the second was the existence of well-tried rules at national level; while the third was that it was a corporate management prerogative to take decisions on a company’s organisation and internal management. In an attempt to demonstrate that the employers were not questioning the principle of European social dialogue, Zygmunt Tyszkiewicz announced in his letter that “UNICE is preparing to start negotiations with the ETUC on fixed-term work”.

A new and significant development was that the CEEP had decided to disassociate itself with UNICE, despite the fact that the UNICE employers had managed to get the CEEP to sign a request for an extension of the consultations.

In a letter dated 16 March 1998, the very day UNICE announced its refusal, CEEP Secretary General Jytte Fredensborg wrote to Commissioner Padraig Flynn and Director General Allan Larsson, putting the UNICE and ETUC Secretaries General on .cc.

This letter⁴⁴ was a reaction to UNICE’s refusal to negotiate. The CEEP wanted to “reaffirm its willingness to strengthen the social dialogue, also through actively supporting the provisions enshrined in the Social Protocol... The CEEP regrets that the position

42. Fax sent on 6 March by President François Perigot to the CBI chairman, with the BDA president on .cc. The author’s archives.

43. Letter dated 16 March 1998 addressed to Commissioner Padraig Flynn. The author’s archives.

44. Letter dated 16 March 1998 address to Commissioner Padraig Flynn, with a copy faxed on 17 March to UNICE, the ETUC and the DG Employment and Social Affairs (Allan Larsson and Odile Quintin). The author’s archives.

expressed today by one of the partners does not seem to allow the opening of negotiations on the information and consultation of workers at national level.” But this was not just a case of the public employers expressing their regrets. The CEEP also considered “that the solution of problems arising in relations between the representatives of the employers and workers lies in negotiating. This is why, for its part, it is prepared to do everything, under terms still to be defined, to start exploratory talks with the ETUC in an attempt to define the framework of an agreement to be discussed, possibly by all three sides, within the social dialogue...” At the end of the day, there were to be no talks between the ETUC and CEEP, as the legislative path for adopting the directive had been chosen.

In a press release⁴⁵ that same day, the European Commission deplored UNICE’s decision not to negotiate on information and consultation: “President Jacques Santer and Commissioner Padraig Flynn have expressed their deep disappointment at the news that the Union of Industrial and Employer Confederations of Europe (UNICE) has decided not to enter into social dialogue negotiations on information and consultation at national level. This is a serious setback for the social dialogue.” As a consequence, the Commission undertook to quickly present a draft directive.

A meeting of the secretariats of the social partners with Commissioner Padraig Flynn on 3 April 1998 took place in a tense climate, due to UNICE’s refusal to negotiate. Reproaching the UNICE Secretary General for his permanent “No”, Padraig Flynn was at the receiving end of the following sharp retort: “We always say NO because it’s always the employers who have to foot the bill!” In the course of this meeting, Emilio Gabaglio suggested for the first time the possibility of looking into “voluntary” negotiations. We used the term “voluntary” in preference to “autonomous” to refer to negotiations on a topic which would be decided by the social partners themselves and not dictated by a Commission initiative. This proposal from the union side initially fell on deaf ears and was not taken up until early in 2000.

At the end of the day, two UNICE Presidents were going to be banging their heads against the wall over this attempt at negotiations. Indeed, after the failure of François Perigot, his successor Georges Jacobs tried to reverse this refusal, convinced that negotiations would lead to better results than a law which in his view was inevitable. A leading Belgian CEO, Georges Jacobs upheld a culture of social partnership based on strong contractual relations with the unions. He had even gained a reputation among employers as being a “progressive”. On 9 July 1998, shortly after his election as UNICE President, he gave an interview to the Belgian *Le Matin*, making a number of noteworthy remarks⁴⁶. With regard to information and consultation, he preferred not to consider the subject closed: “The majority of our members are not opposed to it. I would like to check whether there is still hope for any new move: I am not satisfied with this decision (the refusal to negotiate, ed.).” He went on to say: “The consensus rule is not set in stone. I could envisage things changing.”

His attempt to revive the debate on information and consultation within UNICE would however end with an even more decisive failure than that experienced by François Perigot. This failure would, unfortunately, leave its mark on his presidency⁴⁷, despite his

45. Press release IP/98/256 of 16 March 1998. The author’s archives.

46. They were also commented on by ETUC Secretary General Emilio Gabaglio: “The ideas put forward by Georges Jacobs on the future role and functions of his organisation can help give the social dialogue a new breath of life”, *Agence Europe Bulletin* dated 11 July 1998.

47. One day during a round-table discussion, I treated Georges Jacobs as someone on the employer sidelines. He took this very badly, but it was more of a compliment on my part... He was a tough yet positive man whose uprightness and commitment I always greatly appreciated.

attempts, and partial success, to “modernise” UNICE. I wanted to explain this in order to demonstrate how a hard core of employers were still very much ideologically opposed to strengthening the information and consultation of workers.

In an interview later on⁴⁸, Georges Jacobs again discussed the problem of achieving consensus⁴⁹ among the employers. The result was always the lowest common denominator and this, in his view, was the reason why negotiations with the ETUC had been refused: “We have failed twice: first on works councils, and secondly on information and consultation in the event of plant closures or restructuring measures.”

We should emphasise that it was on the basis of the arguments put forward by the UNICE Secretary General in his response to the Commission that the European and national employers started lobbying their governments, the Council and the Commission to water down the legislative proposal which the Commission had presented following the employers’ refusal to negotiate. After having sabotaged the possibility of negotiations, the British government, arm in arm with the Irish and Italian governments (Silvio Berlusconi had just returned to power), spearheaded the demolition campaign, culminating, after three and a half years of negotiations with the Council and the European Parliament, in the adoption of a watered-down and ambiguous directive with little operational effectiveness in March 2002⁵⁰. Even so, it did introduce reference values, in particular for the new Member States.

7.5 Negotiations on fixed-term contracts

At the same time as the debates on the information and consultation of workers at national level were in difficulties, the decision to enter into negotiations on fixed-term contracts was taking shape.

At the ETUC Executive Committee meeting of 4–5 December 1997, the decision in principle had been taken to enter into negotiations on both fixed-term contracts and the information and consultation of workers at national level, with priority given to the second subject. As Emilio Gabaglio wrote to UNICE and CEEP following the Executive Committee meeting, we were also of the opinion that the employers needed to clarify their position on information and consultation, as such “clarification was a *sine qua non* for starting negotiations on fixed-term contracts”.⁵¹

In preparation of these negotiations, the ETUC had, together with the ETUI, carried out a study of the situation regarding fixed-term contracts in the different Member States. A comparative table was reviewed by our Industrial Relations Committee on 12 January 1998 to draw up a negotiating mandate to be decided at the March Executive Committee meeting. The discussions revealed diverging views between the majority of Committee members who wanted negotiations, and the German DGB who tended towards a legislative initiative.

48. *Le Monde* of 30 March 1999, with Alain Faujas as editor.

49. One of the reforms initiated by Georges Jacobs was to introduce qualified majority voting for a decision to start negotiations, though the vote on the outcome thereof remained subject to a consensus being reached.

50. Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation.

51. Letter dated 22 December 1997 to the Secretaries General of UNICE and CEEP, in which the ETUC stated its opposition to an extension of the second-stage consultations called for by UNICE. The author’s archives.

In a letter of 14 January 1998 responding to the letter sent by the ETUC Secretary General on 22 December 1997, the UNICE Secretary General reported that the UNICE Council of Presidents had reached agreement on opening negotiations on fixed-term contracts, though he went on to state that, with regard to the information and consultation of workers at national level, “UNICE does not want the two totally different subjects to be linked. Moreover, it does not believe it will be possible to have two sets of negotiations at the same time”. The employers called on us to submit “a joint request to extend the deadline for responding to the second-stage of consultations on the information and consultation of workers at national level until the negotiations on fixed-term work had been concluded in a letter announcing the opening of negotiations on the latter topic”⁵². UNICE dared to say that no link was to be made between two! The ETUC naturally rejected such wheeler-dealing.

In a letter to the UNICE Secretary General on 27 January, Emilio Gabaglio was to write: “We have taken note of your agreement to start negotiations on fixed-term contracts, but your arguments for deferring your decision on the information and consultation of workers at national level is unacceptable.” He went on to say: “From the beginning of June 1997 until February 1998, you have had, in our opinion, sufficient time to conduct your consultations at national level to arrive at a clear position. We cannot accept any delaying measure liable to postpone the clarification of your position for several months, with the intent, in view of your unwillingness to negotiate, to block or slow down any legislative initiative on the matter.”

At its meeting of 5-6 March 1998, the ETUC Executive Committee took note of the employers’ refusal to move forward on information and consultation, concluding that it was now necessary to put pressure on the legislator. It also adopted the negotiating mandate on fixed-term contracts.

The diversity of the social dialogue

Although attention was focused on the difficulties and major negotiating strands, the social dialogue was making progress in other fields of interest. In the course of 1997, three social partner seminars

were held: on 30 April on the subject of preventing sexual harassment; on 26 May on safeguarding occupational pension rights for persons making use of their right to job mobility (a subject initiated by Eurocadres); on 18 June on equal opportunities for the disabled.

The discussion within the Executive Committee was very heated, with certain organisations such as the German DGB and the Dutch FNV calling for the negotiations on the two subjects to be packaged together.

In their view, all that UNICE wanted were negotiations on fixed-term contracts with a view to loosening regulations and gaining flexibility in this field, while aiming for deadlock on information and consultation. The final decision of the Executive Committee on negotiations on fixed-term contracts was well-argued and related to the following points: restrictions on the duration of fixed-term contracts; protection against dismissal; the number of possible renewals; equal treatment; the inclusion of public

52. Letter from Zygmunt Tyszkiewicz to Emilio Gabaglio dated 14 January 1998. The author’s archives.

services and sectors...⁵³ It was clearly stated that the mandate was not to be too detailed and that no agreement “at any price” should be sought⁵⁴.

At the Executive Committee meeting on 5-6 March 1998, a proposal put forward by the Secretariat to improve negotiating procedures was also adopted. Its aim was basically to enhance effectiveness and transparency, as the major problem arising in the previous negotiations had been in the relationship between the negotiating delegation (some 30 persons) and the select drafting group (some 6 persons). Given the importance of the drafting group, we needed to strengthen the link between this small group made up of delegation members and the rest of the delegation.

In my response to the interventions of the Executive Committee, I underlined the need for preparatory work as, given our previous experience, for every 10 hours of plenary discussions some 120 hours of preparatory talks were needed⁵⁵.

On 9 March 1998, a joint UNICE/CEEP/ETUC letter⁵⁶ was sent to Commissioner Padraig Flynn announcing our willingness to start negotiations on fixed-term contracts.

The first two rounds of negotiations, on 23 March and 21-22 April, served to present each side's respective objectives and mandates: for the ETUC, these included restrictions on the duration of such contracts and on the number of times they could be renewed, and equal treatment; for the employers, the focus was on the flexible and less regulated use of such contracts. The second session on 22 April could be labelled as a “technical session”, as, backed by the presence of the Commission's legal department, it served to clarify the respective roles of the Commission, the social partners and the Member States in drafting and transposing Community legislation.

With regard to transparency and enhancing our internal negotiating procedures, we focused on the composition of our select drafting group⁵⁷ and how it interacted with the negotiating delegation⁵⁸, as well as on the flow of information between the two groups. We also clarified the role of this group, summarising it in three points: compiling draft texts for points on which agreement had been reached; compiling draft texts for discussions on points where consensus seemed to reign; compiling alternative draft texts to clarify points where opinions diverged.

This group held its first meeting on 8 May to begin drafting the points to be negotiated and to lay down the scope and definitions related to fixed-term contracts. It met a second time just before the next round of negotiations on 26 May to finalise a first (partial) draft of the text to be discussed in a preparatory session that afternoon and in a plenary meeting the next day.

53. Minutes of the Executive Committee meeting of 5-6 March 1998, adopted at the meeting of 11-12 June 1998; ETUC archives.

54. Ibid.

55. Ibid.

56. “In their joint contribution to the European Employment Summit held in Luxembourg on 21 November 1997, the ETUC, UNICE and CEEP confirmed that they were jointly examining the need to start negotiations on an agreement on another form of flexible work in accordance with the preamble of their framework agreement on part-time work. We have the pleasure to inform you that the ETUC, UNICE and CEEP want to start negotiations on fixed-term work...”. The author's archives.

57. It was made up of eight members of and appointed by the negotiating delegation: for the confederations: Carmelo Caravella from the CGIL, Jean-Paul Delcroix from the FGTE, Roger Sjöstrand from LO-S and Inge Kaufmann from the DGB. For the federations making greatest use of fixed-term contracts: Reinhard Kuhlman from the EMF and Bernadette Ségol from Euro-Fiet. For the Secretariat: Penny Clarke and the author. We had what we considered to be a well-balanced group, given the sensitivities expressed by the Executive Committee.

58. The delegation was made up of 32 members: 15 representatives from the confederations of the 15 Member States; 2 representatives from the EEA countries; 10 representatives from the federations; 1 representative from the ETUC Women's Committee; 1 representative from Eurocadres; 3 representatives from the Secretariat, including one from ETUI/Netlex. The delegation was less mixed than the previous one, including just 8 women, though 3 of the 8-man drafting group were women.

At a meeting on 22-23 June with the negotiating delegation, the Industrial Relations Committee took stock of progress, which remained slow, and of the major divide between the regulatory approach of the unions and the deregulatory approach of the employers. The discussion revealed a general concern for the need to set minimum standards for a form of employment that was quickly gaining ground. Any agreement had to avoid conflicting with existing national legislation as found in the Netherlands and Denmark, where fixed-term contracts had forms of protection other than a ban on dismissal during the term of the contract. We thus needed to establish a balance between the national situations and the general European interest. This obliged us to focus on a framework agreement setting down guidelines and leaving their concrete implementation to the national and/or sectoral levels. For the ETUC, the sole requirement was that such implementation flexibility be enshrined in a cross-industry national or a sectoral agreement, but under no circumstances at company level.

Negotiations dragged on, with little or no progress made at the meetings on 30 June, 9-10 July, 23 September and 12-13 November. In the 9th round of negotiations on 26-27 November, the employer delegation replied to a text proposal put forward by the ETUC with its own text, offering much lower, and more dangerous, standards than those agreed by the Council in November 1994. Another provocation! The ETUC tabled a new text setting forth our general principles on the need for “objective reasons” for the use of fixed-term contracts, on restrictions on their duration and the number of times they could be renewed, but also with a new (and courageous) proposal of very flexible exemptions allowing certain specific or cyclical sectors (construction, public works, agrofood, tourism, hotels and catering, etc.) to adapt the conditions of use of such contracts through national-level collective agreements.

Despite several tos and fros between the drafting group and the plenary meeting, we had come to a standstill. At the start of the plenary meeting on 27 November, the employers announced that they refused to make any counter-proposal to the ETUC text which they considered “not negotiable”, stating that the text they had presented the previous day was their last offer! The ETUC was left with the choice of either accepting the employers’ proposal or amending its own proposal. We rejected both options, denouncing the attitude of the employer delegation which had led to the breakdown of negotiations. We decided to tell the employers that we were suspending negotiations to inform and consult our Executive Committee on the deadlock.

In the view of the ETUC delegation and the Industrial Relations Committee, working very closely together in these negotiations, the points causing the deadlock seemed insurmountable.

The negotiating delegation believed that it could not continue negotiations without the opinion of the Executive Committee, which was due to hold its next meeting on 15-16 December 1998. A report was thus addressed to it, showing that we had arrived at a break-off point⁵⁹, as there was no question of us changing our negotiating mandate. The memo I drew up for the Executive Committee⁶⁰ presented two hypotheses: the first was to announce the failure of negotiations; the second was to propose a final round of negotiations to verify the “absolute limits of negotiations”.

59. EuroFiet Secretary General Bernadette Ségol, a member of both the negotiating delegation and the drafting group, even went as far as saying that she “personally had major doubts whether an acceptable agreement could be reached”. Ibid footnote 53.

60. Item 6 of the agenda *Status of the negotiations on fixed-term contracts* 138.ex/12.98/5 with a comparative table listing all texts discussed, the employer proposals, the ETUC proposals and the commentaries.

The Executive Committee decided to continue negotiations, setting a deadline of 31 January 1999. This situation led us to request the Commission to extend the negotiating period beyond the foreseen 9 months⁶¹.

Pressure from the ETUC and the Commission saw the employers finally shifting. The drafting group began its work on 11 January in preparation for a non-stop round of negotiations on 13-14 January 1999.

**Mini-Social Dialogue Summit in Vienna on
4 December 1998**

The Austrian President of the European Council, Viktor Klima, and his Minister of Labour, Eleonora Hostasch, invited a delegation made up of the Presidents and Secretaries General of the ETUC, UNICE and CEEP to a meeting in Vienna on 4 December. Commission President Jacques Santer and Commissioner Padraig Flynn were also invited. The idea was to take stock of the European Employment Strategy, to debate the Communication from the Commission on work organisation and its implications with regard to social

dialogue, but also to check the status of negotiations on fixed-term contracts. With regard to the last point, the employers, with Georges Jacobs as their spokesman, stated their willingness to continue discussions, though without saying how the deadlock could be broken. In the view of the ETUC Secretary General, we were still a long way from reaching agreement in this field, though negotiations could be opened on other fields: telework and the right of access to training. At this mini-Summit, UNICE announced the agreement concluded between the UEAPME and UNICE for the UEAPME to be represented under the UNICE umbrella.

Positions softened, especially on the need for “objective reasons” for using fixed-term contracts, their limited renewal and their maximum duration. A joint text was finally achieved. We had reached the end of the road. In the view of our delegation, the draft text was now in a state to be sent to our Executive Committee for approval.

Nevertheless, we took the precaution to first discuss the result with our Industrial Relations Committee on 26 February 1999 (where all organisations were represented) to get a first evaluation of the negotiation results, but also of the procedures and working methods used by the ETUC in the negotiations.

With regard to the agreement’s content, the assessments were generally positive, as many organisations found themselves confronted with the increasing use of such contracts, in many cases abusively. Three organisations were however more critical: EuroFiet, the German DAG and the Portuguese CGT, all of which deplored the gap between the mandate and the result, in their view weak, and the risks for future negotiations. Such criticism remained however marginal.

The Executive Committee meeting on 16-17 March 1999⁶² was called upon to take a decision on the draft agreement resulting from the negotiations. A heated debate ensued. For the majority of organisations, and especially for the British and Irish, true added value had been achieved for workers in their countries who had absolutely no

61. Letter of 17 December 1998 signed by the three Secretaries General (of UNICE, CEEP and the ETUC) requesting a 3-month extension from Commissioner Padraig Flynn. This was granted via a letter from the Commissioner on 21 December, though the latter considered the 3-month extension to be too long and therefore requested a meeting with the social partners at the end of January “to review the situation and to decide whether the full three months extension is necessary”, the author’s archives.

62. This Executive Committee meeting of March 1999 would also vote on the French CGT becoming a member of the ETUC. There were two votes (FO) against the motion and one abstention. The support of the CFDT was vital in this vote.

protection when employed through such contracts. For the majority of other countries and federations, certain elements of the agreement were considered suitable to create a bargaining momentum at national level. Moreover, the agreement was deemed not to endanger more advanced national situations.

The German DGB, which had voted against the agreement on part-time work, announced that it would vote in favour of the agreement on fixed-term contracts, but called on us to continue improving our negotiating procedures. Others, like the Belgian FGTB and the Dutch FNV, approved the agreement, albeit without any great enthusiasm.

Nearly all organisations voted in favour of signing the agreement, with one abstention and with the Portuguese CGTP voting against it. It should be added that two organisations were not present at the meeting but had sent a letter to the ETUC opposing the agreement: EuroFiet and the German white-collar union, the DAG.

1999: the year the European social dialogue was enlarged

With the Communist regimes collapsing in Central and Eastern Europe (CEE), the ETUC had established cooperation agreements with the new or reformed CEE unions to encourage the development of democratic societies and to propose coordinators tasked with preparing for the enlargement of the European Union. A conference was held on 18-19 March 1999 in Warsaw on the role of the social partners in the

enlargement process. Its "historic" aim was to encourage the development of social dialogue structures and activities, to achieve strong, representative and independent union and employer organisations able to negotiate, and to contribute to the negotiations currently taking place between their governments and the European Union on adopting Community standards, especially in the social field. With the support of the Commission, the ETUC, UNICE and CEEP launched joint training activities, or their own specific ones.



In the 1980s, Solidarnosc was the first independent CEE union. Its activities helped bring down the Communist regimes in Central and Eastern Europe.

Source: ETUC archives

The agreement was signed on 18 March 1999. With this agreement, we had achieved a key general principle, one that had not featured in the previous agreement on part-time work: **"Whereas employment contracts of an indefinite duration are the general form of employment relationships and contribute to the quality of life of the workers concerned and improve performance"**⁶³ (our emphasis). There

⁶³. Recital 6 of the agreement of 18 March 1999 and of Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

was thus no encouragement of the use of fixed-term contracts. To the contrary, contracts of indefinite duration were encouraged, as these were considered more beneficial to workers' security and to company competitiveness.

My first agreement on precarious contracts, concluded on... 3 June 1968

In the factory in which I used to work, CSF-Cescosem (which was to become Thomson-CSF in 1969) in Voreppe near to Grenoble, we found ourselves confronted with a high level of fixed-term contracts. With a workforce of 2,500, the factory had two parts, one making electronic tubes, the other electronic components. Many women, and especially young women, worked on precarious contracts. The strike

of May/June 1968 saw us highlighting this problem with the CSF and Cescosem management. At that time, I was secretary of the local CFDT branch. We managed to bargain an agreement, signed on 3 June 1968, stipulating that: "The number of temporary contracts shall be limited to 5% of the workforce, and their duration shall not exceed 4 months. At the end of this period, the contract shall either be terminated, or the person shall be hired on an open-ended contract". Happy days!



The author on the roof of the CSF Grenoble factory entrance in May 1968. Precarious employment was already an important topic for the union movement.

Source: ETUC archives

The other major achievements of this agreement were:

- the improved quality of fixed-term work through ensuring the application of the principle of non-discrimination and establishing a framework to prevent abuse arising from the use of successive fixed-term employment contracts or relationships⁶⁴;
- non-discrimination: fixed-term workers should not be treated in a less favourable manner than comparable permanent workers⁶⁵, prevention of abuse of this type of contract with regard to one or more of the following three criteria: a) objective reasons justifying the renewal of such contracts or relationships; b) the maximum total duration of successive fixed-term employment contracts or relationships; c) the number of renewals of such contracts or relationships. This clause further stipulated that Member States (after consultation with the social partners) and/or the social partners should, where appropriate, determine under what conditions fixed-term employment contracts or relationships: a) should be regarded as "successive" b) should be deemed to be contracts or relationships of indefinite duration⁶⁶.

64. Clause 1 a) and b) of the agreement.

65. Clause 3 of the agreement.

66. Clause 5 of the agreement. This clause was particularly hard to negotiate.

- the taking into account of fixed-term contracts in determining the thresholds above which workers' representative bodies provided for under national and Community law could be constituted.

The directive was adopted by the Council on 28 June 1999⁶⁷.

7.6 The establishment of the European Centre for Industrial Relations (ECIR): life and death of a splendid idea

While European social dialogue had already gone through three evolutionary phases – initiation, taking over responsibility and the negotiation of standards –, we remained a tight circle of *aficionados*. Throughout Europe, it was considered, a mere 200 union officials were even aware of the European social dialogue, with awareness levels even lower among UNICE and CEEP members. In our informal discussions with certain leading officials, including Renate Hornung Draus from the German BDA and UNICE Director of Social Affairs, Enzo Avanzi from the CEEP, Carlo Savoini from the Commission and myself, we were very much aware of this cultural deficit in our respective organisations. Setting the compass towards a decentralised social dialogue based on the European social dialogue required having union and employer practitioners trained and well-informed about Europe and its political, social and economic dimensions, both within the confederations but also, and more importantly, at sectoral level and in large companies.

The new Prodi Commission

(September 1999 - November 2004)

Following the abrupt fall of the Santer Commission (resignation of the College of Commissioners following allegations of mismanagement with regard to some of its members), an interim Commission headed by the Spanish Vice-President, Manuel Marin, took over, remaining in office until the election of the

former Italian Prime Minister, Romano Prodi. The social affairs portfolio was given to the Greek representative Anna Diamantopoulou, who was to become a serious and dedicated Commissioner. In the reshuffle of 1st May 2004 linked to the enlargement of the EU by ten new countries, she was replaced by the Greek Stavros Dimas. Six months later, on 21 November 2004, the catastrophe happened, with José Manuel Barroso taking over as Commission President.

The attempt to negotiate information and consultation at national level in early 1994 had also revealed this need. In the paper I wrote for the ETUC Executive Committee meeting in June 1994, I included a section (No. 6) on *Creating a culture of European social dialogue* in which I wrote that “it seems indispensable to introduce tools for developing industrial relations at European level in the medium to long term... only a small group, those directly involved in the European social dialogue in Brussels, have gained a certain common understanding of industrial relations at EU level and reciprocal knowledge of national systems and practices. This is why a discussion, at the level of the ETUC, UNICE and CEEP secretariats, has been initiated with the Commission and

67. Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP.

the European University Institute⁶⁸ to set up a European centre for social dialogue and industrial relations, tasked with providing training for employer and union officials alike.”

These discussions led to the conception of this joint training instrument. While each of us obviously already had its own instruments (the ETUC had its Association for the European Training of Workers on the Impact of New Technologies – AFETT⁶⁹ for training our union officials), we considered that training courses bringing together trade union officials and HR managers were the only way of obtaining a common and shared industrial relations culture within Europe, able to interact with other national, regional and sectoral levels.

We thus conceived an instrument that we were to call the European Centre for Industrial Relations (ECIR). The objectives set for it were as follows:

- to gain mutual knowledge of industrial relations in each country, as it was by no means obvious that a Greek employer would understand a Danish union official or that a British HR manager would understand an Italian union official. In our negotiations over joint opinions, we had noticed that this lack of understanding, for instance of why a German union official would want to incorporate certain elements in a collective agreement or of why a British employer would be opposed to the concept of a statutory minimum wage, constituted a serious handicap and a source of misunderstandings and errors. One could only envisage a European system of industrial relations if we were able to transcend our national systems and achieve a common concept respecting the bargaining culture of each country;
- to understand the process of European integration, decision-making processes, the prospects of the European Economic and Monetary Union, the challenges associated with EU enlargement;
- to provide comparative methods and tools allowing the industrial relations of each EU country to be analysed;
- to incorporate the achievements of the European social dialogue and its implications at national level, in the sectors and in companies.

Our concern was to find the right academic support and expertise to ensure top-quality courses. After having examined various suggestions for where the ECIR should be located (France, Germany or Belgium), our choice fell on Florence, the home of the European University Institute (EUI). In our view, this Institute was the ideal partner for developing our training courses, aided by EUI professors. The first step was to discuss the idea with the head of the Institute, Patrick Masterson⁷⁰. He turned out to be very

68. Set up in 1972 by the six Member States and inaugurated in 1976, it was established in Fiesole close to Florence in historic buildings. It hosts 3rd-cycle research students.

69. We were in the middle of a period where the ETUC was looking for ways of analysing and influencing on the one hand the consequences of the realisation of the Single Market on health and safety standards associated with the freedom of movement for goods and machines which had led in 1988/1989 to the establishment of the European Trade Union Technical Bureau for Health and Safety (TUTB), and, on the other hand, the consequences of accelerated technological change on qualifications, work organisation and employment, a discourse which had led to the creation of the AFETT in 1987 in the wake of the joint opinion of March 1987 on “*Social dialogue and new technologies*” and which would be followed by the establishment of the European Trade Union college (ETUCO) in 1989. Tasked with conducting all training measures for union officials, it was to absorb the AFETT. The European Trade Union Institute, in charge of research, the ETUCO and the TUTB merged in 2005 to become the European Trade Union Institute (ETUI) with two departments: the Research Department with its three units - the Europeanisation of industrial relations; Economic, social and employment policies; Working conditions, health and safety - and the Training Department.

70. An Irish professor of religious philosophy, he was Dean of the University College in Dublin from 1986 to 1993, before becoming President of the EUI from 1994 to 2002.

open to our proposal, assuring us of his support for it. We also gained valuable support from Professor Yves Meny⁷¹, the head of the EU's Robert Schuman Centre.

But we were questioned about our "exotic" choice of Florence, even though it was an excellent choice. Our aim was to get participants involved in personal research and, more broadly and under the auspices of the EUI, to encourage academic research on this topic, including the establishment of a Chair of European industrial relations.

This "obsession" with training, and if possible joint training, was at the heart of our concern to give the European social dialogue a dimension matching the issues at stake at that time and to offer union and employer officials tools for analysing social situations. As summed up by Yannick Moreau, SNCF deputy head of human resources and chairwomen of the CEEP Social Commission, in March 1999: "Training is a key asset, as the developments on the horizon will be anything but simple. It is very important that we have a forum for exchanging views and for raising the level of debate without anything immediately at stake. It is similarly important that this forum be international, as one can only properly position what should be dealt with at European level and what should be kept at national level when one has a good knowledge of the diversity of national histories at the source of the representations and legal instruments."⁷²

7.6.1 Florence, 21 October 1995: Inauguration of the ECIR

What a great inauguration ceremony! On 20 October 1995, the venerable *Salone dei Cinquecento* in Florence's *Palazzo Vecchio* hosted a meeting worthy of the ambitions we associated with the ECIR. We could obviously count on the Italian government and the presence of our "friend" Tiziano Treu, at that time Italian Minister of Labour, who had helped us make Florence the home of the ECIR. The inaugural speeches all highlighted what we intended to do: from the Mayor of Florence to Commission President Jacques Santer, via Commissioner Pádraig Flynn, Spanish Minister of Labour and Social Security José Antonio Grinan Martínez, the Dean of the UEI, Patrick Masterson, the respective presidents of UNICE and CEEP, François Perigot and Antonio Castellano, and ETUC Secretary General Emilio Gabaglio.

The spirit of our project was summed up by President Santer in a speech underlining the importance of this initiative as "an active and creative contribution to our European democracy... In a period of economic and social uncertainty, it is more than ever necessary to have milestones marking the way. On the one hand, we will soon have a stable economic framework, the Economic and Monetary Union. But on the social side, while paying attention to making our model even more successful and positive, we need to know how to adapt to a new context... Our project has a constant need to be fuelled by new ideas, to rub against what is actually happening on the ground, to be the subject of debate. In my view, the ECIR is the ideal place for developing many of these new ideas."

Patrick Masterson enthusiastically promised the support of the EUI: "We now have a splendid opportunity to initiate a fruitful cooperation between the EUI's fundamental research and the practical understanding and experience of the European Centre for Industrial Relations. Our researchers will gain privileged access to the knowledge

71. A French professor of political science, he set up and headed the Robert Schuman Centre in Florence in 1993, becoming Dean of the EUI from 2002 to 2009.

72. Speech of Ms Yannick Moreau to the social partners on the future of the ECIR on 9 March 1999, the author's archives.

and expertise of the European social partners' best practitioners. Similarly, ECIR participants will profit from direct and immediate access to the latest research work carried out by the University, pushing back the frontiers of their knowledge in topics closely connected with industrial relations."

The inauguration was rounded off by a round-table discussion with the title *From social dialogue to the contractual space: a European industrial relations models?* chaired by Jacques Delors⁷³.

7.6.2 The first training courses

In the first year, four types of training were offered. The first, the most important one, was a 6-week cycle in three phases, addressing young union and employer leaders. The second was a short 3-week training cycle for union and employer officials with roles/functions directly associated with collective bargaining. The third was a 1-week thematic seminar for social partner representatives designated for work in Community consultative bodies. The fourth was a "teach-the-teachers" seminar lasting 2-3 days, the aim of which was to help develop the training measures offered by the ECIR.

We also decided to hold a 2-day symposium once a year for union and employer leaders to analyse the development of industrial relations at various levels. In the first academic year, we managed to set up three of these courses.

The long residential cycle consisted of six modules lasting a total of three weeks spread out over four months. The two modules in the first week were dedicated first to the global and EU economic context, and second to an understanding of the EU (functions, competences and instruments) and its social policy. The two modules in the second week addressed first the systems governing industrial relations in the Member States, and second the collective bargaining systems and contractual practices. The third week looked at the parties involved in industrial relations, the structure and development of the European social dialogue and the role of the social partners. Participants had to submit a dissertation at the end of the cycle⁷⁴.

The thematic seminar, held in November 1995, related to *The social security of migrant workers in the European Union*. Held in March 1996, the theme of the symposium was *The globalisation of markets and the development of industrial relations in Europe*.

7.6.3 The difficult relations with the European Parliament

We could not realise the ECIR activities without the support and funding of the Commission and the European Parliament.

As head of the ECIR, we had nominated, after an open call for candidacies, an Italian trade unionist who in the 1980s had worked in the ETUC Secretariat, but who was above all a training specialist: Antonio Miniutti. He possessed many of the qualities

73. 94 The following participated in this round-table discussion: Nicole Notat, CFDT Secretary General, Georges Jacobs, President of the Belgian employer organisation, FEB, Jacques Fournier, the former CEEP President, Heinz Kessler, President of the Austrian employer organisation VOİ, Sergio Cofferati, CGIL Secretary General, Inger Ohlsson, President of the TCO and Professor Spiros Simitis from the University of Frankfurt.

74. The first residential cycle in 1996 was attended by 11 employer representatives and 10 union officials from 10 EU Member States.

needed to head the ECIR, but had difficulties in managing public relations. This weakness quickly showed in our interaction with the European Parliament. It was not the only one, as we, both unions and employers, had certainly failed to develop a better information campaign within our organisations, engendering a low level of involvement on their part. This was felt all the more as negative forces on both sides were speaking out against the ECIR, as witnessed by this letter from the director of the British CBI, Howard Davies, to the UNICE Secretary General⁷⁵ in the run-up to establishing the ECIR: "In the culture here it is unlikely that companies would wish to be educated in a Centre that was funded by the Commission and in which the trade unions have a strong role in its running. While we do not have bad relations with trade unions now in this country, the trend in UK HR management is away from collective bargaining of all kinds and union membership and representation continues to fall. That is a trend which most of my members hope will continue." The CBI Director General thought that this initiative could enhance the European social space, stating that: "The Centre will be seen as part of that process. That is why I reacted against the notion of the promotion of a true European industrial relations culture."

A number of people on the ETUC side considered that the development of the ECIR would be to the detriment of the Trade Union College we had set up. For me, this was the wrong view, as the two were meant to complement each other. Moreover, in the European Parliament certain EPP MEPs supported the European Centre for Workers' Questions (EZA), a Christian Democrat organisation⁷⁶ offering training alongside the ETUC, and were therefore unwilling to support the ECIR established by the ETUC, UNICE and CEEP.

As we have already seen, the European Parliament had had a great problem digesting the system of negotiating and validating agreements reached under the Maastricht Social Protocol which excluded them from intervening on the content of an agreement reached by the social partners and being able to vote on its legislative extension.

As a result of the Communication from the Commission on the creation of the ECIR⁷⁷, a report was compiled in November 1996 for the European Parliament by Labour MEP David Morris.

This Morris Report, commissioned by the Employment and Social Affairs Commission in the context of drawing up the budget, was preceded by a parliamentary visit to Florence on 17-18 October, in the wake of the European Parliament resolution of 23 May 1996 calling for an assessment of the Centre's activities in 1996 and wanting to monitor these activities in relation to other activities conducted within the context of social dialogue.

This visit gave MEPs⁷⁸ the opportunity to meet the management board, the EUI rector and to take part in Centre activities, including the final appraisal of long-cycle participants. The visit certainly left a positive impression on the participating MEPs, as judged by the assessment of the rapporteur: "Generally speaking your rapporteur has come back from Florence firmly convinced of the value of this joint experiment."⁷⁹

75. Letter dated 30 January 1995. The author's archives.

76. Eurofedop, but also ETUC member organisations including the French CFTC, the Swiss CSC, the Spanish USO, the Dutch CNV, the German Christian unions...

77. COM(95) 445 final of 25.09.1995.

78. The parliamentary mission was made up of David Morris, Wim Van Velzen, Nikolaos Papakyrizias and Barto Pronk (a Dutch Christian democrat MEP and a former CNV official, and very much involved in the European Union of Christian-Democrat Workers and in the EZA, its training body).

79. Background paper for the working document on the ECIR of 4 November 1996 written by David Morris. The author's archives.

However, the Morris Report, while reiterating the European Parliament's support for the social partner initiative creating the ECIR, also included criticism from participants on the organisation of the courses. Despite their generally positive assessment, participants considered the courses to be too long and called for their content to be reviewed and reduced. The rapporteur even supported the creation of a Chair for Industrial Relations at the EUI in Florence in connection with the ECIR. We had postponed creating this Chair, given the uncertainty surrounding ECIR funding.

The Report ended with a proposal to progressively cut back ECIR funding from 100% in 1996 (with a budget of 1,500,000 Belgian francs) to 0% in 1999. This was unworkable, and there was nothing else we could do but to close down the ECIR.

A last-ditch attempt to save this great experiment was made by Director General Odile Quintin who, in a Communication from the Commission in 2002, called for the Dublin Foundation "to organise joint training session open to representatives of the authorities and social partners and thus foster partnerships on subjects relevant to the guidelines defined in Lisbon".

Neither the Foundation nor its management board acceded to this request.

**Communication from the Commission on
adapting and promoting the social dialogue
at Community level**

The aim of this Communication (COM(1998) 322 final) was "to establish arrangements which serve their purpose effectively and to enable all relevant European organisations representing employers and employees to participate, to lay down provisions governing the access of representatives of the two sides of industry to the social dialogue, and their functions in it, on the basis of clear criteria, in order to avoid any unnecessary delay in the conclusion of essential agreements on important European social topics" (as already demanded by the ETUC in its response to the 1996 Communication...). The Commission also wanted to make the representativeness criteria in these Committees more flexible by changing the 1993 wording from: "to be, as far as possible, representative in all Member States" to "to be representative in several Member States". In our view, these criteria were not strong enough. We therefore called for a representativeness study for all organisations wanting to participate on the SSDCs, taking the enlargement of the EU into account. On the part of the ETUC we had anticipated this through our contacts with the CEE countries. We knew that the unions there were currently in the process of being democratised or created and that employer organisations were non-existent. In the view of the ETUC, "promotion

of the model of European economic and social development was of fundamental importance. If integration did not take place on the basis of strong social cohesion and the participation of all stakeholders, it would fail". We demanded that "the representatives of the social partners of the candidate countries be systematically included in the social dialogue activities and in the main advisory committees". It was of fundamental importance for us to put these countries in a position to take over Community arrangements. We also backed the establishment of a European Monitoring Centre for Industrial Change, as proposed by the Gyllenhammar Group (see next chapter). The Commission was also proposing a review of the Standing Committee on Employment, a body not meeting anybody's expectations.

With regard to the European Centre for Industrial Relations, the Commission supported continuing the initiative, but in its response to the Communication the ETUC stated that "unfortunately the conditions imposed by the European Parliament's Budget Commission (financial independence within 3 years, ed.) oblige the founding members (ETUC, UNICE and CEEP) to put a stop to the current ECIR set-up and to envisage a new phase of activities for an interim period". We considered it possible to find new sources of funding via Article 6 of the Social Fund, but alas this was not to be the case...

Chapter 8

Failure, autonomy and the "soft law" era

**"Oh, how nice it is to lie back while everything
around you is in turmoil."**

Livret de Galathée, Opéra-Comique

Michel Carré and Jules Barbier

The failure of the negotiations on temporary agency work are hard to digest, as little more was needed for success... but the ETUC is wont to say "try, try and try yet again", tirelessly pursuing proposals for possible negotiations. The next step are to be the "autonomous" negotiations on telework and the conclusion of a very innovative agreement, though its implementation will turn out to be disappointing. The door is open for drawing up a work programme for the social partners. We are entering a rather "soft" period both from a social dialogue point of view and from that of Community social policy. It is a period of clarification, marked by the European Summit in Laeken, but also problems with the 2001 Treaty of Nice. "Negotiations" on managing corporate restructuring are to end with a disappointing result, with the subject remaining a bone of contention between unions and employers.

8.1 Temporary agency work: a failure leaving a bitter taste in our mouths

The agreement on fixed-term contracts signed on 18 March 1999 announced in its preamble the intention of the social partners “to consider the need for a similar agreement relating to temporary agency work”. The ETUC had been preparing for this for many years, with the ETUI and the NETLEX network (our network of trade union legal experts) having conducted a survey in 1997/1998 among its national and sectoral organisations.

Making Europe the world's most competitive and dynamic knowledge economy!

At the European Summit of 23-24 March 2000, an integrated strategy – a combination of economic and social strategy – was adopted with a view to making employment policy more effective. The ETUC was working in complete harmony with the Portuguese EU Presidency, and in particular with the Prime Minister's special advisor, Maria Joao Rodrigues, the efficient architect of this ambitious strategy aimed at creating “the world's most competitive and dynamic knowledge economy, capable of sustainable growth with more and better jobs and better social cohesion”*. Alas, a great ambition exceeding the

means available to carry it out... The UNICE positions were to prevent the social partners coming up with a joint contribution for the Summit in Lisbon. We had rejected a contribution which would be nothing but an “anecdotal status report”**, but we strongly supported the Portuguese proposals.

* The wording used in the letter sent by Portuguese Prime Minister Antonio Guterres to the Presidents of the ETUC, CEEP and UNICE to invite them to a high-level Forum in Brussels on the following 15 June; archives of the DG Employment and Social Affairs, European Union 2000.

** The words of the author, reported in the minutes of the Social Dialogue Committee meeting of 7 March 2000; archives of the DG Employment and Social Affairs, European Union 2000.

We knew all about the situations regarding fixed-term contracts and temporary agency work in each country, from both a legislative and contractual perspective. This last aspect was very important as, in certain countries, temporary agency work was completely or partially banned in certain sectors, or well-regulated by collective bargaining, as in France with its many sectoral collective agreements. This form of work was expanding rapidly. The 1999 Joint Report on Employment in the European Union had revealed that one third of the increase in employment in 1996 was attributable to temporary work, among both men (36%) and women (35%). In fact, temporary work had risen from 11% of total employment in 1991 to 13% in 1996. This situation explained the high level of lobbying by the International Confederation of Private Employment Services (CIETT), the organisation representing the sector's employers and in which the French were very influential.

The CIETT contacted us, while at the same time trying to start separate specific negotiations with EuroFiet, the union federation representing workers from the temporary agency sector. Prompted by the impending ratification of ILO Convention 181 on Private Employment Agencies and the accompanying Recommendation, the CIETT was exceptionally active. Its sole objective was the deregulation of the sector, removing the obstacles to and/or bans on developing temporary agency work and getting the temporary agencies recognised and legitimised in employment policies. The whole tenacity of the ILO Workers' Group was needed in the debates to get aspects related to the protection of the workers incorporated.

Informal meeting between Commission President Romano Prodi, Commissioner Anna Diamantopoulou and the social partners in Brussels on 25 May 2000 and the Forum of 15 June

This meeting was all about the role of the social partners following the Lisbon Summit of March 2000, the preparation of a Forum organised by the Portuguese Presidency on 15 June, and the integrated (economic and social) strategy instituted by the Council as a result of the decisions taken at the Summits of Cologne, Cardiff and Luxembourg. This Forum was to bring together representatives from the Member States, the Commission, the European Parliament, the ECB and the social partners.

Following up our proposals put to the Social Dialogue Committee meeting on 7 March 2000, we kept up the pressure with work and negotiating proposals. We again proposed negotiations on temporary agency work, a framework agreement on access to training, action on teleworking, the revision of our 31 October 1991 agreement, a joint position on setting up a Monitoring Centre on Industrial Change, etc. – all points for UNICE procrastination.

In the context of the new “Lisbon” strategy, we put forward a proposal for rationalising the many tripartite consultation fora (the Standing Committee on Employment, meetings with the various Councils or with the Troika, etc.) and setting up a single consultation instrument. We hoped that the Forum to be held on 15 June could take over this role in the future, meeting shortly before every Spring European Summit. UNICE, CEEP and the ETUC announced that they were preparing a joint declaration for the Forum on the European Employment Strategy. Presented in support of this European strategy, it would announce our decision to negotiate over temporary agency work. This joint declaration also expressed support for the development of lifelong learning and announced the commencement of talks on telework. The social partners also announced the drafting of a declaration on the missions and the fields of intervention and action of a European Monitoring Centre on Industrial Change. Last but not least, we called for the participation of social partner observers from the candidate countries in all Community social dialogue and consultation bodies. At the end of the day, the declaration turned out to be more important than we had thought, given the employers’ reticence with regard to many of these topics.

At European level, the employers’ objective remained the same: to ensure the unfettered development of temporary work without restrictions on its use!

Thanks to our good preparations together with the ETUI, we had sufficient information to draw up our negotiating mandate.

First discussions took place in the Collective Bargaining Coordination Committee¹ meeting of 3-4 November 1999. A draft mandate was presented at the Executive Committee meeting on 2-3 December 1999.

While the bargaining principle was accepted, the mandate needed to be re-drafted. A “technical” seminar was therefore scheduled for 13-14 January with a view to finalising a draft for the Executive Committee meeting in March 2000. This seminar was extremely important for clarifying our negotiating position. This form of work was based on a triangular relationship between the temporary work agency, the using company and the worker concerned. It was thus an issue of general cross-industry interest and not a sectoral problem only concerning temporary work agencies and their employees. But we had a further problem: the unions in certain countries/sectors wanted temporary agency workers to be given open-ended contracts with the temporary agency, while other unions were very much opposed to this proposal.

1. Following the May 1999 Congress, the “Industrial Relations Committee” had become the “Collective Bargaining Coordination Committee”.

We also considered the occupational health and safety aspects to be very important, given the tasks performed by agency workers working for subcontractor companies in high-risk companies. Marc Sapir, director of the Trade Union Technical Bureau (TUTB)², had highlighted the many deficits of Directive 91/383/EC (supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship) and of its inadequate link with the framework directive on health and safety. Our negotiating mandate was adopted at the March 2000 Executive Committee meeting, but the employers always needed an extra prod... We thus had to wait until 3 May for the UNICE Council of Presidents to take the decision to start negotiations with the ETUC on agency work³.

The Gyllenhammar Group on industrial change

One of the results of the November 1997 Employment Summit in Luxembourg was the establishment in April 1998 of a "high-level group of experts on the economic and social implications of industrial change". This group spent the next six months working on a report entitled *Managing change* and published in November 1998. We had managed to slip two ETUC-friendly members into this group of mainly very liberal business leaders: the Italian MEP, Bruno Trettin, and the French former Minister responsible for regional planning, Jacques Chérèque. These two trade unionists and ex-metal-workers knew each other well. The two faced a tough struggle against very ideological business leaders wanting to "simplify" legislation, synonymous with leaving everything up to the markets and self-regulation. The chairman of this high-level group was Pehr Gyllenhammar, *inter alia* the ex-CEO of Volvo and ex-head of the European Roundtable. With his roots in Swedish culture, he was much more open to the importance of information and consultation

and above all of lifelong learning to facilitate reclassification and redeployment in the event of corporate restructuring and to anticipate change. While the final report was quite neo-liberal, it did contain some interesting aspects and proposals, initiated by Bruno Trettin and Jacques Chérèque in conjunction with the ETUC:

- that companies should assume the main responsibility for anticipating change;
- that the Commission should support this by establishing a Monitoring Centre on Industrial Change (this was set up in October 2001 as part of the European Foundation for the Improvement of Living and Working Conditions (Eurofound) in Dublin);
- that large companies should be encouraged to compile an annual "Report on change management";
- that any company dismissing workers without having taken the measures to safeguard their employability should be refused access to state aid.

The employer arguments, presented by UNICE President Georges Jacobs, were clear: "In many Member States, temporary agency work is still subject to outdated constraints. The employers are prepared to discuss ways of avoiding the unfair discrimination of

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2. The Trade Union Technical Bureau for health and safety (TUTB) was set up in 1989 in response to the realisation of the Single Market which brought with it regulations on the working environment. The TUTB was responsible for monitoring their drafting, transposition and enforcement. It played a critical role among the European institutions dealing with aspects associated with the working environment, running a major network of national experts on occupational health and safety issues. This also allowed it to anticipate subjects not yet on the Community agenda (for instance, the TUTB, which became a unit of ETU's research department in 2005, carried out major studies on stress, carcinogens, musculo-skeletal disorders, nanotechnologies, etc.).
 3. Press release of 3 May: *UNICE to start talks on temporary agency work*. The author's archives.

agency workers. However, if the trade unions want to get Europe back on the road to full employment, they must recognise that temporary agency work is an integral part of well-functioning labour markets and of the solutions to Europe's problems."⁴

On 22 May 2000, the ETUC, CEEP, UEAPME and UNICE wrote to the Commission, announcing their intention to start negotiations in the context of Articles 138 and 139 of the Treaty. Taking place on 27 June, the first round of negotiations set a timetable for the rest of the year. The negotiations were again chaired by Jean Degimbe, the former Director General of the DG Employment and Social Affairs. On the union side, I again headed the delegation. We set up a select negotiating group⁵. The participation of CIETT on the employer side and UNI Europa⁶ on the union side was to play an important role, without actually interfering with the general negotiations.

The employers came up with a new chief negotiator. Dan McCauley had stepped down as chairman of the UNICE Social Commission, being replaced by Wilfried Beirnaert*, head of the Belgian employer federation, FEB. The latter was thus in charge of negotiations on the part of the employers. In the words of Wilfried Beirnaert, "The negotiations over fixed-term work had turned on hazard warning lights in several employer federations" and "I had to defend this draft agreement at the meeting of the UNICE Council of Presidents in Oslo where I was expecting a lot of criticism. Certain federations, above all the Italian Confindustria, considered this agreement 'disruptive' at their national levels. But the consensus rule prevailed. 'Consensus' meant that, when a significant majority was in favour of an agreement, it could not be blocked by a minority. It was however clear that the upcoming negotiations on temporary agency work were going to be anything but easy."⁷

Our organisations were always very concerned with negotiation transparency to avoid any information gaps on this difficult subject. We therefore set up a group tasked with monitoring the negotiations, scheduled for 11-12 September (where we had a Eurofound researcher speak at the ETUC's preparatory meeting), 11-12 October, 16-17 November and 11-12 December 2000.

This series of negotiating rounds reflected an intense pace at Community level, interspersed with meetings of the drafting group on 24 October and 23 November and our preparatory meetings within the ETUC.

Immediately after the first round of negotiations on 27 June, we held a meeting of our Collective Bargaining Committee on 3 July. A further meeting was held on 20 October. The Steering Committee was also involved, itself meeting on 22 September and 22 November. The Executive Committee similarly assessed negotiating progress at its meetings on 26-27 October and 13-14 December. We had considerably improved our internal monitoring of the negotiations to avoid any information deficits liable to detract from understanding the evolution of the texts discussed and to prevent a gap arising between the drafting group and the negotiating delegation.

4. Ibid.

5. The ETUC negotiating delegation was made up of 32 members (including 13 women): 17 confederations, 8 industry federations, 1 representative from the Women's Committee, 2 from the Eurocadres/CEC Liaison Committee, 1 from the ETUC Youth Committee (in an observer role), 2 Secretariat members - Penny Clarke and the author - and the NETLEX coordinator, Stefan Clauwaert. Designated by the negotiating delegation, the drafting group was made up of Cateleene Passchier (from the Dutch FNV), Dave Feickert (from the British TUC), Miguel Gonzalez Zamora (from the Spanish CCOO), Jorma Rusanen (from the Finnish SAK), Carmelo Cedrone (from the Italian UIL), Bernadette Ségol (from UNI Europa), Bart Samyn (from the EMF) as well as Penny Clarke and the author from the Secretariat.

6. FIET and EuroFiet had changed their names to UNI and UNI Europa.

7. Interview of 13 January 2015.



"For full employment in Europe": the Porto "Euro-Demo" on 19 June 2000.

On the occasion of the European Summit held in Porto on 19-20 June, the ETUC decided to organise a major European demonstration.

Source: ETUC archives

The first rounds of negotiations ended quickly with deadlock over two key issues for the ETUC: equal treatment, in particular with regard to agency workers being paid equivalent wages to those received by regular employees in the user company; and the concept of preventing the abusive use of temporary agency work, and thus the employment conditions of agency workers (objective grounds, a restriction to the number of successive assignments to the same user company, maximum/minimum duration of successive contracts at the same user company).

After eight months of negotiations, we were still far from achieving either of these two objectives.

While the ETUC's negotiating delegation had been able to establish a clear proposal on the principles, while being flexible in their application to take account of the existing diversity and engender a negotiating momentum at national and sectoral level, the employer delegation seemed paralysed by its internal divisions, in particular on equal treatment with regular workers in the user company. These divisions within the employer group reduced the probability of any positive development, especially in the face of the way UNICE functioned, with consensus needing to be reached over any decision regarding the outcome of our negotiations. The employers were not prepared to move one inch, insisting on the total deregulation of the use of temporary agency work and upholding the positive contribution of agency work to overall employment.

On 13 February 2001, the negotiations were centred on employment conditions, i.e. equal pay and working conditions for agency workers vis-à-vis their regular equivalents. We jointly requested an opinion of the Commission's legal department on the reference to pay and the right to strike (a ban on using agency workers to stand in for regular workers on strike), but this ended up going against us, a cold wind for

**The European Foundation for the
Improvement of Living and Working
Conditions (Eurofound) on Dublin**

Eurofound is a tripartite European agency (representatives from Member States, employer organisations and the trade unions) set up in 1975 by Council Regulation 1365/75. Its role is to provide research-based findings and knowledge to help develop social and work-related policies, with the ultimate aim of improving living and working conditions in Europe. Its governing body adopts a 4-year work programme.

Three observatories have been set up to monitor developments in specific fields: The European Monitoring Centre on Change (EMCC) is an information resource established to promote an understanding of changes in the world of work, employment and restructuring; the European Observatory of Quality of Life, Society and Public Services (EurLIFE); and the European Observatory of Working Life (EurWORK) focused on industrial relations, working conditions and qualifications, work organisation and working time, and the reconciliation of working and private life. The observatories are supported by a network of European correspondents across all EU Member States and Norway.

our delegation which did not understand the position taken, as we were negotiating an agreement between social partners. In our view, even if the Commission's legal department stated that we should not make reference to pay, either explicitly or explicitly, it was clear that the term "employment conditions" also covered pay. This definition had incidentally already been used at Community level, even in the Council.

The drafting group came together on 26 February, the day before the plenary meeting. We had carefully prepared this meeting together with the members of our delegation, but the employers were again not ready to move a single inch. Our subsequent debriefing was telling: Bart Samyn from the EMF railed against the "employers' arrogance"; Bernadette Ségol from UNI Europa stated that "we've got hardly any room to manoeuvre left"; Carmelo Cedrone from the UIL said that "increasing the ambiguities will lead to destabilisation in Italy, where the situation is already chaotic"; while even Dave Feickert from the TUC, who was doing everything to isolate the British employers, considered that "all doors have now been shut". Despite everything, a certain willingness to continue the negotiations remained, with Catelene Passchier from the Dutch FNV stating that "even if we fail, the legislator will find itself faced with the same difficulties as us", while the Spaniard Miguel Gonzales Zamora said that "we need to continue pushing the employers, getting them to further contradict themselves". The final words came from the Finnish delegate: "Things might not be so bad tomorrow"⁸.

This said, we had no high hopes for the next negotiating session. In our preparatory meeting the next day, we informed our delegation of the situation and of our sole objective: to get the employers to move by producing a new text. But as summed up by the Swedish delegate, "though we may agree on the principles we put down on paper, it is precisely on the principles that our opinions diverge..."⁹

In the plenary meeting, the spokesman for the employers, Wilfried Beirnaert, came up with a "solemn" declaration, saying that they were "negotiating in full awareness that, in the national transposition of our agreement, pay will be part of the 'employment conditions'." It was clear that the employer delegation was very much divided. The internal difficulties within UNICE on the implicit reference to pay were compounded by

8. All these expressions are taken from the author's notes.

9. Ibid.

the media campaign of the German DGB which wanted to apply the principle of equal pay between regular and agency workers in the user company, even when the agency workers had open-ended contracts with the temporary agency, something that was not the rule in Germany. This public stance of the DGB firmly shut the door for the BDA, the German employer organisation.

The Steering Committee meeting of 14 February 2001 was informed of the situation before the next round of negotiations scheduled for 14-15 March. Positions remained deadlocked on the employment conditions of agency workers, in particular on pay and the conditions for making use of such contracts. The impression gained by our delegation was that “the employers have got their back to the wall”¹⁰, and that we needed to continue trying to divide them, and in particular to isolate the British employers.

The next meeting of the ETUC Executive Committee was scheduled for 21-22 March and it was clear that it needed to decide on whether to continue or break off the negotiations, dependent on the progress (improbable) made up to then.

At the meeting of the Social Dialogue Committee on 20 February, I stated that the negotiations on temporary agency work were at a “critical stage”¹¹, with the employers saying that they were “unable at this stage to give any indication of their outcome”.¹²

A request to extend the negotiating period was made to the Commission on 28 February, despite the fact that the negotiations were heading for failure¹³. A meeting of the drafting group took place on 28 February and it seemed clear that the employers from the CIETT wanted an agreement, while UNICE was against any agreement.

During the next round of negotiations on 14-15 March 2001, an attempt to come up with a compromise text was made by Jean Degimbe. For the ETUC, this proposal was closer to the employer position than the union one, as it allowed the discrimination of agency workers vis-à-vis comparable regular workers in the user company **or** vis-à-vis comparable workers employed by the agency. For us, it was of key and non-negotiable importance for the comparison to be made between agency workers and comparable regular workers of the user company. At the Executive Committee meeting held in Stockholm on 21-22 March during the Swedish EU Presidency, the decision on whether to continue or break off the negotiations, considered to be deadlocked after 10 months and 10 rounds, had to be taken.

In a preparatory discussion with Emilio Gabaglio, we considered that it might still be possible to get the employers to shift their position on the concept of equal treatment between agency and regular workers, though this remained very uncertain. The difficulty was not solely attributable to the employers, as there were also rifts within the ETUC, in particular with regard to the German DGB which was not very much in favour of continuing the negotiations as it was already engaged in negotiations at the national level, and thus wanted as little European-level interference as possible.

Many confederations questioned the relevance of continuing negotiations, as did Emilio Gabaglio. Shortly before the meeting of the Executive Committee in which I was

10. Ibid.

11. Minutes of the Social Dialogue Committee meeting of 20 February 2001, taken by the Commission, the author's archives.

12. Ibid.

13. So much so that in the ETUC Secretary General's letter of reply on the 12th to the UNICE President proposing negotiations on teleworking (see chapter 8.4 below), Emilio Gabaglio emphasised “that such a proposal should not obscure the critical situation of the negotiations on temporary agency work where the employer delegation rejects meaningful clauses on equal treatment and all conditions of use for this form of work”.

supposed to present the Secretariat's position, I had a discussion with Peter Seideneck, Emilio's German advisor who spoke perfect French (with a touch of a Marseilles accent). He came from the DGB where he had been the advisor of its iconic president, Heinz Oscar Vetter. Peter told me that "it was better to let the negotiations fail and to stay united, rather than to achieve a partial success that would divide us". This thought convinced me not to continue pushing for the negotiations to be continued. Trying to force things through would be very detrimental, even if we had achieved so much collectively. After a difficult discussion, the Executive Committee decided to break off the negotiations. The Scandinavian confederations, the German DAG and the Dutch FNV were the only ones wanting to continue them.

Stockholm: a mini-Summit confirming the breakdown of the negotiations

This mini-Social Dialogue Summit held on 22 March 2001 was monopolised by the negotiating situation on temporary agency work, though its primary goal lay elsewhere. In their joint declaration of June 2000, the social partners had called for an annual meeting with the heads of state and government leaders before each Spring European Summit to examine the implementation of the economic and social strategy defined at the Lisbon Summit and to make their contribution to it. As a result of this request, the Nice Summit in December 2000 "specially invited the social partners to contribute to the implementation and management of the European Social Agenda, in particular at the annual meeting to be held before the Spring European Summit". The French, and especially the French Minister of Labour, Elisabeth Guigou, had upheld the social dimension, even accusing the Commission of a lack of ambition. This greatly irritated Commissioner Anna Diamantopoulou who, as was headlined in the *European Voice* of 15-21 March, "takes the gloves off". In this interview, the Commissioner went on to say "... Mrs Guigou and people from other delegations like the Benelux

countries and Italy have all expressed concerns but they have not come forward with a single positive proposal". The climate in the run-up to the Social Summit of 22 March was therefore frosty. For the Summit, the social partners were supposed to come up with a contribution on "The lifelong development of skills and qualifications", but major differences in opinion still existed, in particular on the link between "an individual right and collective guarantees", on access guarantees, on work organisation and on the recognition of qualifications. An "interim report" was sent to the Council. The European Summit of 23-24 March emphasised the importance of the social partners' role in managing change and decided to set up a European Monitoring Centre on Change at Eurofound in Dublin. A further Council statement expressed the hope "that the current negotiations between the social partners on temporary agency work and telework shall end with positive results...". The Stockholm Summit was followed by a further Summit in Gothenburg in June 2001 to incorporate the environmental dimension into the Lisbon strategy, alongside the economic and social dimensions. This annual "spring" meeting was institutionalised in Article 152 of the Treaty.

The Social Dialogue Summit took place on 22 March 2001 (see box) immediately after our Executive Committee meeting and the day before the European Summit. Commission President Romano Prodi, Commissioner Anna Diamantopoulou, the Swedish Prime Minister, the Minister of Labour and the Council troika¹⁴ took part.

To turn up the pressure, the ETUC issued, after its Executive Committee meeting but just before the Social Dialogue Summit, a press release with the title *The employers'*

14. The troika consists of the respective past, current and future presidents of the Council.

refusal to guarantee true equal treatment for temporary agency workers leads to the breakdown of negotiations.

UNICE tried to prevent this breakdown by showing a semblance of openness, with its Council of Presidents, in a press release issued on 21 March, “calling on the ETUC to continue negotiations”¹⁵.

But the employers’ attitude and their refusal out of principle to guarantee equal treatment with respect to a comparable worker of the user company and conditions of use of this form of contract preventing its abusive use, were unacceptable for the unions.

Commission President Romano Prodi nevertheless tried to reconcile the two sides, but without success. He requested Commissioner Anna Diamantopoulou to make one last attempt in the next few days in Brussels, especially as the European Council, at its Stockholm Summit, had clearly called for the negotiations to continue.

This last-ditch attempt involved two episodes. A first meeting was held on 6 April in the Commissioner’s office¹⁶, as a result of which the two parties agreed, albeit without any great hopes, to explore possible compromises to arrive at an agreement. Three meetings then took place¹⁷ at Secretariat level, but without any side making any significant change to its position.

A final, final meeting with the Commissioner was held on 10 May 2001.

It seemed to us that we were quite near to convincing UNICE to accept our equal treatment principle through allowing the possibility of national agreements defining other equivalence aspects/conditions¹⁸.

It was UNICE’s Thérèse de Liedekerke who mainly blocked the possibility of a compromise which the UNICE President seemed ready to accept. The employers’ chief negotiator, Wilfried Beirnaert, similarly wanted an agreement but was well aware that a number of employer organisations were very much against a compromise, in particular the German BDA, the British CBI and the Swedish SN. Wilfried Beirnaert told Georges Jacobs: “Believe me, that will not be accepted.”¹⁹ Together with Thérèse de Liedekerke, they were certainly right from an employer point of view in fearing that their members would question such a compromise. With the UNICE President agreeing with this analysis, that was the end of the discussion. The ball was now in the Commission’s court.

The Steering Committee meeting of 21 May 2001 took the decision to definitively break off the negotiations, calling instead for the adoption of a directive. In the press release issued by the ETUC following this decision, it stated: “UNICE bears much of

15. Press release of 21 March “UNICE calls on the ETUC to continue negotiations on temporary agency work”. This press release accepted the equal treatment principle, but only with regard to health and safety, as well as accepting, “in a spirit of compromise”, a clause in which “the Member States could ban or restrict the use to agency work in specific sectors or activities for specific reasons, though these would have to be regularly reviewed to verify their justification”. The author’s archives.

16. Three people took part on behalf of UNICE: President Georges Jacobs; Wilfried Beirnaert, UNICE’s chief negotiator; and Thérèse de Liedekerke, UNICE’s Director of Social Affairs. There were two participants from CEEP: Secretary General Rainer Plassmann and Charles Nolda; and, on the part of the ETUC, Emilio Gabaglio and the author.

17. On 9 and 23 April and 8 May.

18. We had prepared a final compromise proposal which, without questioning our principles, allowed flexibility in the application of equal treatment, making it possible to cover the situations in Denmark and Germany. “As regards the other essential employment and working conditions (i.e. the health and safety conditions, ed.), the comparable worker shall be considered to be, during the period of the assignment, a worker of the user company insofar as no other explicit regulation established by legislation or a collective agreement concluded by the social partners at an appropriate level ensures an equivalent general level of protection, especially for temporary workers on fixed-term contracts.” In making this proposal, we exposed ourselves to a great risk vis-à-vis our organisations... but even this proved to be insufficient. Due to conflicts between the Council, the Parliament and the Commission, we had to wait a further seven years for a directive to be adopted.

19. Interview of 13 January 2015.

the responsibility for the failure of the negotiations on temporary agency work.”²⁰ That same day, the employers similarly issued a press release, announcing that “UNICE regretted the end of the negotiations” and condemning “the ETUC’s inflexibility”.

We should state at this juncture that, on the part of the trade unions, any attempt to continue the negotiations on a weaker basis would have been blocked by a minority.

In conjunction with the ETUC, UNI Europa issues a joint declaration together with the CIETT in an attempt to influence the preparation of the directive which the Commission now had to put forward. This excellent declaration²¹ listed the main points defended by the unions during the negotiations and which the sector employers, members of the employer delegation, were also prepared to accept.

8.2 Clarifying and deepening European governance and the European Summit in Laeken

Social dialogue: EU CEE enlargement

We had held first talks in March 1999 in Warsaw on the place of social dialogue in the enlargement process. For the ETUC, which had established – as a result of efforts of Peter Seideneck – so-called “Integration Commissions” in all CEE candidate countries, the inclusion of the trade unions from these countries in the social dialogue was of crucial

importance. On 11-12 May 2000, a first conference on European social policy and EU enlargement was held in Prague. It was vital that these countries and their social partners should, first, prepare to take over the “Community acquis”, and, second, to assume collective bargaining responsibility, even though the trade unions were still in the middle of the process of restructuring and employer organisations were virtually non-existent.

The European Summit held in Nice on 7-9 December 2000 was set to be a difficult one, with the reform of the Treaty on its agenda. The reform was intended to further develop the system of European institutions and to finalise new working methods and a new distribution of votes assigned to each Member State in the Council. The latter featured a new way of calculating a qualified majority in view of an enlargement to 28 Member States. Here was a reform way above the heads of average European citizens, as witnessed by the new drop in public confidence in the EU with the refusal of the Irish population in a referendum to ratify the Nice Treaty (France, cautious after scraping past the winning post in the referendum on the Maastricht Treaty with 51.1%, would this time opt against a referendum). We had to wait until 19 October 2002 for the Irish to vote in favour of the Treaty in a second referendum!

20. ETUC press release of 21 May CP23-01, the author’s archives.

21. Declaration of 25 September 2001, in particular the cited paragraphs: 4.2 “The equal treatment obligations which arise from the fact that agency workers are assigned to work for and under the control of a user enterprise”. 5.2 “To recognise that certain prohibitions, restrictions and/or regulations may be considered necessary in order to prevent potential abuses, such as the potential undermining of employment conditions of workers in the user enterprise and/or any other worker in non-agency employment.” and 7 “To ensure that employment agencies do not make workers available to a user enterprise to replace workers of that enterprise who are on strike.”

Industrial relations in question

In February 2001, the European Commission announced the establishment of a high-level group to draw up recommendations for the European policy-making institutions and the social partners on the contribution of industrial relations to change in Europe. This group of ten experts was chaired by Joao Maria Rodriguez, the former Portuguese Minister of Labour and ex-advisor of the Portuguese Prime Minister during the country's EU Presidency. It was she who had drawn up the Lisbon integrated economic and social strategy. We succeeded in smuggling three union "experts" into the group: Inger Ohlsson, the former chairwoman of the

Swedish LO and Director General of the Swedish Institute of Living and Working Conditions; Patricia O'Donovan, the former Deputy Secretary General of the Irish ICTU and head of the ILO's social dialogue programme; and José Maria Zufiaur, the former Deputy Secretary General of the Spanish UGT and head of international industrial relations at the Madrid Complutense University. The employer side included Renate Hornung-Draus, in charge of international and European affairs within the German BDA, and Jean Gandois, a leading French industrialist and former president of the CNPF. The other participants were mainly labour law experts, including Marco Biagi who was assassinated in March 2002 in Bologna by the New Red Brigades.

At the Nice Summit under the French Presidency, the Presidents of the European Parliament, the European Council and the Commission formally proclaimed the Charter of Fundamental Rights of the European Union, with the Council reaffirming that this Charter should be made known as widely as possible among EU citizens (see Chapter 9).

The ETUC was convinced that the European social dialogue had reached the end of its third stage of development. Following the initiation period from 1985 to 1989, the shift from being lobbyists to players between 1989 and 1991, and then to the concrete achievements in the period from 1992 to 2000, the social partners needed to start getting on with their own work programme complementing that of the Commission, defining their role in a strategy integrating economic, social and environmental aspects.

On 12 September 2000, Emilio Gabaglio and I had presented, at a meeting of the three Secretariats²², the architecture for this new strategy, including social dialogue and consultation instruments, with a view to arriving at a joint declaration on the Commission's upcoming White Paper on European governance²³. Preparation of this White Paper had been initiated by the new Commission President, Romano Prodi, a few months after he took up office in Brussels in September 1999, in the middle of a legitimacy crisis caused by the resignation of the Santer Commission. After months of work by leading experts and many consultations, the Commission published this *White Paper on European Governance* on 21 July 2001.

While this document made the proposal to involve civil society to a greater extent in the governance of the EU, in our view its definition of the role of the social partners did not go far enough. We therefore put forward 4 proposals: to dissolve the Standing Committee on Employment; to set up a new tripartite body taking into account the integrated strategy and featuring an annual Social Summit; to strengthen the Social Dialogue Committee through holding two meetings a year; and to establish a joint Social Dialogue Secretariat independent of the Commission.

22. The minutes were taken by CEEP Secretary General Rainer Plassmann who hosted the meeting. The author's archives.

23. Communication from the Commission of 25 July 2001 *European governance - A white paper* [COM(2001) 428 final - *Official Journal C* 287 of 12.10.2001].

Macroeconomic dialogue with the European Central Bank

The Economic and Monetary Union (EMU), together with the introduction of the single currency, the establishment of the European Central Bank and the latter's governance of budget deficits and inflation, created a new situation for the union movement at both a European and national level. As one of the conclusions of the European Summit in Cologne in 1999, a macroeconomic dialogue had been initiated between the social partners, the Council Presidency, the Commission and the European Central Bank (ECB). This was an

important aspect for the European unions, as the ECB was liable to take action on subjects directly involving them, in particular on wage policies which, in the view of the ECB, were linked to the inflationary situation, but also on public budgets, with permanent pressure exerted on cutting back public services. These meetings, soon to become regular, whether in "technical" or "policy" groups, were also an occasion to discuss analyses of the situations and economic prospects of the different countries. The stated aim of the ECB was to create a climate of "mutual trust"*.

* Terms used by Peter Coldrick, the leader of the ETUC delegation, in a report on the technical meeting of 5 April 2001.

The employers were not at all prepared for such a development, preferring instead to uphold the autonomy (i.e. the right to do nothing) of the social partners and calling on the Commission not to come up with any new social initiatives, while remaining inactive with regard to initiatives of their own. We had to wait until mid-2001 for UNICE and CEEP to accept the ETUC's proposal to "explore, at Secretariat level, the possibility of a joint contribution for the Laeken Summit (under the Belgian EU Presidency) at the end of the second half of 2001 on strengthening the role of the social partners in Community decision-making"²⁴.

The debates took place almost exclusively at the level of the European Secretariats of the social partners, with the texts prepared being verified by the Social Dialogue Committee (SDC) and the respective bodies of the participating organisations. At the SDC meeting of 26 November, the contribution started to take shape.

For the ETUC, the key points were:

- the necessity to clarify the concept of bipartite social dialogue, distinguishing it from other forms of institutional consultation or tripartite consultation;
- to better integrate the various elements of tripartite consultation (employment, social protection, the environment, etc.);
- for the social partners to draw up their own multi-annual work programme in tune with the Commission's social agenda and the Lisbon Strategy;
- the establishment of an independent SDC secretariat able to support the social partner secretariats in executing the work programme, driving and supporting the cross-industry and sectoral social dialogue, monitoring the agreements concluded, and acting as an arbiter in any disputes.

We managed to get the employers to agree to all of these proposals, apart from the one on the joint secretariat which, in the view of UNICE, was "premature"²⁵. This proposal would remain permanently premature.

²⁴. Communication from the ETUC Secretary General to the Executive Committee meeting of 10-11 October, Item 4 of the agenda.

²⁵. Term used in the draft minutes of the SDC meeting of 26 November taken by the Commission, archives of the DG Employment and Social Affairs, EU, 2001.

Summit, mini-Summit and a third type of Summit

Right from the very first Val Duchesse meeting on 31 January 1985, different types of Summits had taken place between the social partners, the Commission and the Member States.

There were the “plenary” Social Dialogue Summits involving all national organisations in the period from 1985 to 1997, and the mini-Summits, such as the ones in Vienna in December 1998 and in Brussels in

March 2000, bringing together the Presidents and Secretaries General of the European organisations. But there was also a third type of Summit (sometimes referred to as “high-level”) with the troika, such as the ones in Stockholm in March 2001 and in Laeken in December 2001 which brought together the Presidents and Secretaries General of the European organisations plus the Presidents and/or Secretaries General of the national organisations belonging to the troika*.

* See the list of Summits held between 1985 and 2003 in the annex.

Good progress had been made, and the draft contribution was ready for adoption before the Social Summit scheduled for 13 December. This Summit just had to be a success. On the day before it took place, the Commission issued a press release²⁶ in which the President stated: “Now, perhaps more than ever before, is the hour of the social partners. Rapid economic and social change is a fact of life but must be skilfully managed. In this, governments have their part to play. But social partners now have a new, motor role in promoting a competitive and cohesive EU.”



With Michel Rocard, former French Prime Minister, at a meeting of the MEP/trade union Intergroup in the European Parliament.

Source: ETUC archives

The joint contribution of the social partners to the European Summit in Laeken was submitted on 13 December 2001 to the Social Summit attended by Commission President Romano Prodi and three prime ministers, Guy Verhofstadt from Belgium, Anders Fogh Rasmussen from Denmark and José Maria Aznar from Spain. Also present was Michel Rocard in his capacity as head of the European Parliament’s Social Committee. We had experienced a few difficulties of “comprehension” between the social partners and the European Parliament on the procedures set forth in the Social Protocol which excluded the latter from making any changes to agreements reached by the social partners and to be extended by legislation (see the chapter on the negotiations over part-time work). It was therefore important to make sure that our social dialogue was at least

26. IP/01/1809 of 12 December 2001.

transparent, i.e. involving the Parliament in an “observer” role in this type of Summit. Michel Rocard, at that time head of the EP’s Social Committee, was moreover the best person for establishing such a link²⁷.

This contribution of the social partners to the Laeken Summit was certainly a major social dialogue achievement. Focused on Europe and its governance²⁸, a subject of great debate at that time, the consequences of EU enlargement and the evolution of the Economic and Monetary Union, this contribution highlighted the specific role of the social partners, clarified the distinction between bipartite social dialogue and tripartite consultations, and announced our willingness to develop a work programme for a more autonomous social dialogue. The ETUC, UNICE and CEEP also demanded that the tripartite consultations on the Lisbon Strategy take place in a single forum. While the heads of state and government leaders had already taken the decision to jointly cover economic, structural and employment policy in an annual Spring Summit, an umpteenth reform of the Standing Committee on Employment (SCE) had not led to any similar integration. The social partners therefore called for the SCE to be dissolved and to be replaced by a new committee linked to the EU’s integrated strategy.

In the conclusions of this Social Summit, the Belgian Presidency included the proposals made by the social partners, calling on the Commission to put forward proposals for institutionalising a Social Summit directly before each Spring European Summit. The Belgian Prime Minister, Guy Verhofstadt, also called for the social partners to be associated “as such” with the Convention to be established at the Laeken Summit on 14-5 December 2001 and tasked with revising the EU Treaties to make them into the draft European Constitutional Treaty.

For the Belgian EU Presidency, “the Laeken Social Summit is a major milestone, with the contribution of the social partners directly fuelling the work of the European Council and that of the Convention on the Future of the Union set to be established in Laeken. These proposals constitute the start of a new era for the European social model”²⁹.

8.3 The first “autonomous” negotiations on telework: a good agreement, but bad implementation

Telework was one of the subjects listed in the Commission’s proposals on work organisation. At the mini-Social Dialogue Summit in Vienna on 4 December 1998, the ETUC had suggested negotiations on this subject, without however obtaining any response from the employers. A “technical” seminar for the social partners was held on 9 June 1999 to discuss the problems of this new form of working which, although at that time still little used, was spreading without any legislative or contractual framework. In the view of the ETUC, the person responsible for this subject was the German member of the Secretariat, Willy Buschak.

27. Throughout his term at the European Parliament, I was to work closely with Michel Rocard. We got to know each other during the extraordinary LIP dispute. He was Secretary General of the PSU, while I was a member of the Secretariat of the French metalworkers’ federation CFDT which was very much involved in the dispute through its Secretary General Jacques Chérèque. The dispute gave rise to the first dossier on a company’s industrial policy, compiled by the management consultancy Syndex.

28. In July 2001, the Commission had published a White Paper on European governance, highlighting five principles (transparency, participation, responsibility, efficiency and consistency) and proposing the growing participation of various stakeholders, and most of all civil society.

29. Press release of the Belgian Presidency of the European Union, European Social Summit, 13 December 2001, the author’s archives.

In a joint declaration dated 15 June 2000, the social partners had spoken of their discussions on telework, but the employers still had no desire to start formal negotiations on a framework for this form of working.

The Commission decided to launch first-stage consultations on 20 June 2000 on "Modernising and improving employment relations". The Commission's questions related mainly to the modernisation of the legislative, regulatory and collectively agreed framework, telework and economically-dependent workers.

The ETUC's response to the Commission initiative was positive, in particular with regard to telework, a subject for which joint groundwork had already started. The employers' response, dated 5 October, was "as usual", rejecting the goal of establishing a legislative framework. In the view of UNICE, the Community initiative should be restricted to "open coordination... facilitating structured exchanges of experience between Member States... the Commission can ensure real progress towards increased labour market flexibility... and thus, in the opinion of UNICE, it would be premature at this stage to set down general principles. Moreover, it will not comment on those put forward in the Commission document"³⁰. Move on, please, there's nothing to see...

Nevertheless, on 13 November, a social partner working group came together to continue examining the aspects defining telework and its exercise. The employers, still reticent about the idea of a regulation, put forward the idea of establishing a code of conduct, citing as an example what had been done in Ireland. The ETUC approach was more comprehensive, also covering call centres. At the request of the ETUC, it had been clearly stated that the work on this subject was to complement, and not replace, the consultations already taking place.

Meeting in Paris on 21 November, the Social Dialogue Committee took stock of telework³¹. The employers tried to gain time to prevent the Commission from launching the second-stage consultations too quickly, although the ETUC was very much in favour of such. UNICE would have liked to have had one or two more "technical" meetings before this second stage. I argued in favour of having the work of the social partners conducted in parallel with the consultation launched by the Commission, pointing out that "synergistic competition between the social partners and the Commission is neither incompatible nor detrimental"³².

The technical group met on 8 January 2001 to discuss the questions and possible solutions with regard to the various teleworking situations, but without discussing ways of fixing them.

At the 20 February meeting of the Social Dialogue Committee, the Director General of DG Employment and Social Affairs, Odile Quintin, announced the Commission's decision to launch the second-stage consultations in mid-March. While the ETUC was impatient to get this second stage of the consultations launched, the employers kept on saying that the subject was not ready for regulation.

30. Response from UNICE, 5 October 2000. The author's archives.

31. This Committee was also to discuss the approval of a common compendium of social partner initiatives for employment. It adopted a joint declaration on the establishment of a Monitoring Centre on Industrial Change, possibly hosted by Eurofound in Dublin. It also reviewed the progress made by the *ad hoc* working group on training. A further person attending this meeting was the new CEEP Secretary General, Rainer Plassmann, the successor of Jytte Fredensborg.

32. Proposal listed in the minutes of the Social Dialogue Committee meeting of 21 November taken by the Commission, the author's archives.

Although UNICE was generally opposed to negotiations over telework, certain members, including the MEDEF³³ representative, Emmanuel Julien, were proposing a different strategy to avoid negotiations/legislation which in their view were inevitable. They called for an experiment to be made with autonomous negotiations, even anticipating the second-stage consultations to be launched by the Commission.

At ETUC Secretariat level, we were not *a priori* opposed to negotiations not ending in legislation. I even considered that this would help boost the credibility of the social partners' ability to conclude and implement an agreement by themselves.

Aware of the imminent launch of the second-stage consultations, UNICE President Georges Jacobs wrote to the ETUC Secretary General on 8 March 2001³⁴, making his position public via a press release. He emphasised that "while a regulatory approach would not in his view serve to encourage the development of telework, this subject could lend itself to voluntary negotiations between our organisations". And he added: "I have the pleasure to inform you that, at the end of the decision-making process foreseen in our statutes, UNICE has been authorised to start negotiations with a view to concluding a legally non-binding agreement on telework." The ETUC was not naive enough to believe in the good intentions of the employers.

In a letter dated 12 March³⁵ the ETUC Secretary General replied, stating that he had taken note of the UNICE proposal and that the ETUC's response would be forthcoming in the context of the second-stage consultations to be launched by the Commission: "Once this Commission proposal has been made public, we will propose a meeting of our Secretariats to discuss your proposal and to clarify its various points."

For the ETUC, caution was the name of the game, as we were well aware that the employers were great friends of ambiguity: while they did not want a legally binding agreement, they were similarly vague about the "binding" contractual nature of a possible agreement. Especially as, at the same time as sending the letter to the ETUC, they had issued a press release stating that "telework is a way of working, not a legal status". Emilio Gabaglio replied: "What do you want? An agreement on a way of working? You are well aware that all the preceding discussions, as well as all the preparatory work done by the Commission, have identified a certain number of employment and working conditions which need regulating. We therefore – and I insist on this point so that there is no misunderstanding in our further discussions – need to formalise the status and rights of these workers, finding appropriate ways of ensuring their equal or equivalent treatment and thereby upholding the quality of their employment."³⁶

It was clear that the employers' position was ambiguous with regard to the nature of an autonomous framework agreement.

Georges Jacobs' letter stated that "such an agreement would include a commitment of the signatory parties to ensure the monitoring of the European agreement in

33. In October 1998, Ernest-Antoine Seillière, CNPF President since 1997, had decided to change the organisation's name to MEDEF (Mouvement des entreprises de France). On becoming UNICE President, he repeated this, changing UNICE's name to BusinessEurope.

34. UNICE Press release(S/6.8.1/2001/presso80301-F) entitled "UNICE proposes negotiations on telework". The author's archives.

35. Letter dated 12 March (EG/jl.GT/Télétravail.12.3.2001). At the end of his letter, Emilio Gabaglio was to state that: "The ETUC remains convinced, even more now following the adoption of the Social Agenda by the heads of state and government leaders, of the rationale of our proposal (that of the ETUC, ed.) of 22 March 1999 on the establishment of an autonomous work programme of the social partners. One of its priority topics will be access to lifelong learning, something the ETUC has been calling for for many years, and in response to calls from the European Council."

36. Ibid.

the Member States, in accordance with national traditions". In the view of the ETUC, this commitment was not enough: "We cannot accept as a 'national tradition' the stance of any UNICE member country to refuse to implement a European framework agreement." We called on the employers to conclude a preliminary agreement on the procedure to be used, "with a view to arriving at a definition of these voluntary negotiations, the nature of a European framework agreement possibly emerging from them, and the responsibilities for its implementation by the member organisations of our respective organisations³⁷".

As a result of this correspondence between UNICE and the ETUC, the Commission finally decided, on 16 March 2001, to move on to the second-stage consultations, with the aim of establishing a general framework of Community-level rules governing telework.

At the European Social Dialogue Summit on 22 March in Stockholm, UNICE President Georges Jacobs continued to defend the notion that telework only "merited" a code of conduct, thereby relativizing the employers' request to negotiate the subject.

The employers' strategy

Achieving a shift towards a new "non-binding" period of social dialogue seemed to be the employers' strategy, as witnessed by a memo from the UNICE Secretariat to its Social Affairs Commission meeting of 18 May 2001 with the title: *Internal reflections on possible future social dialogue topics*.

This stated *inter alia*: "With the new social agenda focusing on the social partners and open coordination rather than legislation, negotiations on further legally binding agreements are improbable in the near future. Nevertheless, active legally non-binding proposals of a nature of interest to the ETUC could help prevent steps backwards, i.e. towards introducing new regulations at EU level."

Archives of the DG Employment and Social Affairs, European Union, 2001.

On 9 April 2001, acting UNICE Secretary General³⁸ Daniela Israelachwili wrote to the Commission in response to the second-stage consultations³⁹, expressing the organisation's expectation of a response from the ETUC on the former's request to start negotiations.

Following various contacts between the European Secretariats to establish the conditions for such "autonomous" negotiations, the UNICE President wrote to the ETUC to clarify the nature of a possible agreement⁴⁰: "In our view, a voluntary agreement is one not implemented by a Council decision, but by the parties to this agreement. It constitutes a solemn commitment of the signatories but is not legally binding." After

37. Ibid.

38. Secretary General Dirk Hudig – a mistaken appointment – had been ousted by the UNICE Council of Presidents. Daniela Israelachwili was in charge of UNICE's Economic Department and Acting Secretary General. Always reliable, she was a tough person to negotiate with. She held this position until the October 2001 appointment of the new Secretary General, Philippe de Buck, who took up office on 1 January 2002. The new Secretary General had been selected by a headhunter (Egon Zehner International) in conjunction with an internal commission, then proposed by President Georges Jacobs. After having been Secretary General of the employer federation Fabrimetal, Philippe de Buck had been appointed Director General of AGORIA, a new employer federation covering nine industrial sectors.

39. Letter dated 9 April 2001 (ref :6.8.1/LiComm on second consultation telework) from the Acting Secretary General to Commissioner Anna Diamantopoulou. The author's archives.

40. Letter of 1 January 2001 from Georges Jacobs to Emilio Gabaglio. The author's archives.

discussions within our Secretariat, we decided to propose to the Executive Committee meeting of 13-14 June 2001 to accept this offer of negotiations. We were well aware that this was a risk, but in our view it could also help boost credibility in the capabilities of the European social partners.

In the meantime, the ETUC had responded to the Commission's second-stage consultations, which had been widened to cover not just telework but also the modernisation of work organisation.

While the ETUC affirmed its readiness to negotiate telework – subject to UNICE clarification –, it also addressed the subject of “economically-dependent workers” or “quasi-subordinate workers”.

This was a subject which was beginning to interest many of our national and sectoral organisations, and in a number of countries, including Spain, Italy and the Netherlands, the unions had already taken up this problem, organising these people working in a “grey” employment zone. The ETUC had already scheduled a conference on the topic for 5-6 October 2001 in Rome (see box).

**Economically-dependent workers: Rome,
5-6 October 2001**

This conference was to be held in the context of the Communication from the Commission on “Modernising Work Organisation”. A number of national union confederations and industry federations found themselves confronted with the development of a “grey zone” of workers, working in an area between a commercial contract and an employment contract, with problems regarding their status, their working conditions, occupational health and safety and, above all, social protection. But this was not just a question of social rights, but also of commercial law, labour law and tax law.

The definitions set forth in labour law and/or social security law were restricted to two categories of workers: the self-employed and employees. But what about this fast-expanding grey zone?

In the view of the European trade union movement, backed by the experience and actions of unions in various countries and sectors which had already taken measures, there were three possible roads to take:

1. The reclassification of the contracts of such “bogus self-employed” workers into regular employment contracts;
2. giving such self-employed workers employee status, allowing them to organise and collectively bargain their protection and conditions of employment, and with social security systems covering all workers regardless of their occupational status;
3. getting the unions to adapt to represent all types of workers, including those on atypical contracts: i.e. adapting to the new forms of work organisation and company structures.

After several debates, the Executive Committee accepted the principle of “voluntary” negotiations at its 13 June meeting, but the mandate proposed by the Secretariat was not adopted, as the deadlines for informing and consulting our national and sectoral organisations set forth in our rules of procedure had not been met. This mandate was thus to be the subject of a written consultation of our organisations.

In a letter⁴¹ informing UNICE of the Executive Committee's agreement in principle to the negotiations, the ETUC Secretary General, repeating the wording used in the

41. Letter of 19 June 2001 from Emilio Gabaglio to UNICE Secretary General, Daniela Israelachwili. A copy was sent, that same day, to the CEEP Secretary General, Rainer Plassmann; the author's archives.

UNICE letter dated 1 June, emphasised that the implementation of such an agreement would be based on “the solemn commitment of the signatories” and that there would be “an implementation obligation at national level taking account of the diversity of cross-industry and sectoral procedures and instruments”.

The ETUC launched its written consultation on the negotiating mandate⁴² requesting national organisations to send in their replies by 20 July. As it was the holiday period, the finalisation of the mandate was planned for September. The ETUC decided to extend the consultation period until 5 September and to go through the results of the written consultation together with the Steering Committee at its meeting on 19 September 2001, where the final decision was taken to go ahead with negotiations.

These started on 12 October 2001. On the part of the ETUC, the negotiations were led jointly by Willy Buschak and the author. On the part of the employers, it was Jorgen Ronnest from the Danish employer organisation. He had replaced Wilfried Beirnaert as head of the UNICE Social Committee, making him the employers’ spokesman.

The negotiations took place in a constructive atmosphere. Neither side was dependent on an agreement being reached. We forged ahead into virgin territory, with high hopes of finding innovative solutions. This did not however prevent a few skirmishes, for instance on the “occasional” nature of telework, on an employer’s responsibility for health and safety, on the link with the company and the collective representation, etc.

The ETUC delegation also had to clarify its own position on several points, such as the possible inclusion of call-centres within the scope of the negotiations. While Willy Buschak was in favour of this, I was a bit reticent. At the meeting on 12 November 2001, the decision was taken to not include call-centres, but to consider them as companies, and therefore to have such companies come within the scope of collective agreements.

The negotiating session on 6 December 2001 was above all overshadowed by the nature of the agreement we were to conclude and whether it would be binding at national level.

Europe, that’s us!

**Euro-demonstration in Brussels on
13 December 2001**

More than 100,000 union activists from all EU countries marched through Brussels to say “Yes” to the Euro, for growth and employment but not to unemployment, austerity and recession. A Social Summit was planned that evening between the social

partners and the Belgian Presidency, in the presence of the Belgian Prime Minister, Guy Verhofstadt. His first words congratulated us on the success of our demonstration!

Next in line for the EU Presidency was Spain. With a view to continuing mobilising in support of union demands and to capitalise on the success of the Brussels demonstration, the Spanish unions called for a further European demonstration in Barcelona.

By March 2002, we had staked out the chapters to be covered: definition and scope of application; the voluntary nature of telework and its reversibility; equal treatment and equal conditions of employment (management of working time and workloads); data

42. This draft mandate (dated 7 June 2001, the author’s archives) had been drawn up by Roger Sojstrand, the former LO-S representative in the preceding negotiations on temporary agency work where he had played a very effective role (he had since become an ETUC advisor), and the author, and not by the person in charge of the case, Willy Buschak. The ETUC Secretary General was to request me to lead the negotiations together with Willy Buschak. While not easy, this proved to be very effective, in a “good guy, bad guy” manner.

protection and data privacy; equipment (purchase and maintenance); health and safety; work organisation; training; union rights; implementation and monitoring. But with regard to the content of the agreement, we had only sewn up three of the eleven chapters.



ETUC's European demonstration in Barcelona on 14 March 2002.

Source: ETUC archives

At the meeting on 18 March, the Commission official present as “secretary” of the meeting’s chairman pointed out what he considered to be “a potential problem”⁴³. “In speaking of data protection, Jean Lapeyre has insisted that reference be made to Directive 1990/270 on the minimum safety and health requirements for work with display screen equipment. He has suggested the following text: ‘The employer respects the privacy of the telework. When supervising or monitoring work the employer informs and consults teleworkers and/or their representatives.’ Obviously, UNICE does not accept the word ‘consults’... In this context, Jean Lapeyre has threatened to seek the opinion of the Commission’s legal department.” Neither the employers nor the chairman of the negotiations, Jean Degimbe, were in favour of doing so. To tell the truth, the legal department had never been any great help, and we had even seethed at one opinion, in the context of the negotiations of temporary agency work, which had gone against us. But the threat was enough to get the employers to alter their position in the next round of negotiations.

The negotiations stretched on until the final round on 9-12 April 2002, always with the goal of achieving a result⁴⁴. Going back and forth between drafting group

43. Memo from Stefano Martinelli to Marie Claire Argent and Jackie Morin, with Director General Odile Quintin on .cc. Archives of the DG Employment and Social Affairs, EU, 2002.

44. I would like to highlight here the availability, efficiency and commitment of the Commission and its officials in establishing the best negotiating conditions for the social partners in a difficult context, as well as thanking the interpreters who supported us throughout these negotiations, often going beyond the limits of “official” conferences and their time-out “principles” with a view to enabling us to develop our arguments at crucial moments.

meetings and plenary meetings, we slowly made progress on the outstanding issues. Within the ETUC delegation, many questions arose, mainly on the implementation of this “voluntary” agreement, with a lot of scepticism regarding the UNICE commitment. The unions wanted its clear enforcement at national and sectoral levels to trigger a negotiating momentum based on a European agreement and to give the negotiations a true added value vis-à-vis national and sectoral negotiations. The drafting group drew up texts on such difficult issues as health and safety and data protection. The employers eventually gave in, allowing the references to the Community directives on health and safety (Directive 89/391/EEC) and on data protection (Directive 90/270/EEC) to be included. The references to these two directives were very important as they created legal obligations which, though also existing elsewhere, were to be found within the precise context of telework. At the last plenary meeting on 12 April, we were able to finalise the first eight chapters of the draft agreement.

Taking the decision to sign the agreement at its meeting on 5 June, the Executive Committee expressed a very positive opinion of the result, even if doubts still existed on the implementation capabilities of the employers. As the TUC representative was to say when summarising the general sentiment, “It is not solely an acceptable compromise, but indeed a good agreement”⁴⁵.

A final meeting on 23 May was needed to finalise the text, the result of 8 months of negotiations. The ETUC delegation unanimously decided to submit this text to the member organisations for approval.

Given the deadlines for the internal consultations with our member organisations, a written procedure was chosen, with replies due back by 3 July. The Executive Committee meeting scheduled for 5-6 June 2002 still had the option of giving an opinion on whether or not to accept the draft agreement – which it ended up doing, having been convinced by the three aspects presented by the Secretariat:

- on the innovative content of the agreement with regard to teleworkers’ working conditions and the fact that the agreement served as a good base for implementation at the cross-industry and sectoral levels on a subject as yet little regulated;
- on the “implementation obligation”, a procedure we had created to trigger decentralised negotiations with an obligation to achieve a result;
- on the geographical scope, which over and above extending to the countries belonging to the European Economic Area, also called on the candidate countries to implement the framework agreement.

Though we were right about the first and third points, we had our doubts about the second point... Implementation turned out to be quite a mixed bag, with only four countries (Belgium, Spain, France and Italy) transposing the European agreement into a national agreement.

I would like at this juncture to highlight a few significant aspects of this agreement:

- The agreement provides a definition of a teleworker, assigning him a clear status regardless of the nature of the company or whether he works in the public or private sector.

45. Notes taken by the author during the Executive Committee debate.

- It enshrines the voluntary character of opting for this form of work, clearly stating that “the passage to telework... does not affect the teleworker’s employment status. A worker’s refusal to opt for telework is not, as such, a reason for terminating the employment relationship or changing the terms and conditions of employment of that worker” (Article 3).
- Article 4 ensures the equal treatment of teleworkers vis-à-vis comparable workers at the employer’s premises.
- With regard to a teleworker’s privacy: “If any kind of monitoring system is put in place, it needs to be proportionate to the objective and introduced in accordance with Directive 90/270 on visual display units” (Article 6).
- Article 7 stipulates that: “As a general rule, the employer is responsible for providing, installing and maintaining the equipment necessary for regular telework unless the teleworker uses his/her own equipment.”
- With regard to health and safety, “the employer is responsible for the protection of the occupational health and safety of the teleworker in accordance with Directive 89/391 and relevant daughter directives, national legislation and collective agreements”.
- For the ETUC, it was important for the teleworker to maintain contact and relations with a company’s other workers. In this respect, Article 9 states that “the employer ensures that measures are taken preventing the teleworker from being isolated from the rest of the working community in the company, such as giving him/her the opportunity to meet with colleagues on a regular basis and access to company information”.
- Similarly, we were successful in gaining equal access to training: “teleworkers have the same access to training and career development opportunities as comparable workers at the employer’s premises” (Article 10).
- Finally, with regard to collective rights, the same equal treatment applies: teleworkers are subject to “same conditions for participating in and standing for elections to bodies representing workers or providing worker representation...” and “are included in calculations for determining thresholds...” (Article 11).

The agreement was to be signed in Brussels on 16 July 2002⁴⁶, in the presence of Commissioner Anna Diamantopoulou, by the Presidents of UNICE and UEAPME, Georges Jacobs and Andrea Bonetti, and by the ETUC and CEEP Secretaries General, Emilio Gabaglio and Rainer Plassmann.

With this agreement, we entered a new era of the European social dialogue. Looked at from an objective perspective, we need to say that, during the period between 1994 and 2000, negotiations had taken place, in the words of Professor Bercusson*, “in the shadow of the law”⁴⁷. Brian Bercusson was always a great help, supporting us with his vast expertise in our negotiations.

In this context, we should emphasise the importance of the legal network established by the ETUC Secretariat for assessing in advance the legal and/or contractual situations already existing in our different countries as well as verifying, during the actual negotiations, that what had been negotiated did not impact the existing *acquis* but represented a new *acquis* permitting social convergence, and finally to ensure proper

46. See the commented text “Implementation of the European Framework Agreement on Telework” at https://resourcecentre.etuc.org/linked_files/documents/Framework%20agreement%20on%20telework%20EN.pdf

47. In his book *European Labour Law* (Butterworth, 1996).

implementation through guidelines for interpreting the agreement and for identifying any possible legal obstacles.

We were always concerned about the “voluntary” implementation of this agreement. In the view of the ETUC, it was clear that the national social partners had an “obligation” to implement this European framework agreement. This was something we had wanted to verify with UNICE before starting negotiations. It seemed to us that UNICE shared this conviction, highlighting the credibility of our autonomous negotiations. I sincerely believed this, but reality was to prove otherwise. On re-reading the minutes regarding agenda item 4 of the 14 June 2002 meeting of the UNICE Council of Presidents⁴⁸, it seemed that the European employers had made a true commitment: **“Remember that any commitment made in the context of the social dialogue – even if only regarding a text not to be implemented by EU legislation – is binding for both the employers and the unions, in accordance with national practices. Without this, the parties concerned will lose their credibility, and the ‘flexible’ instruments devised in the context of the social dialogue will not be considered as acceptable alternatives to EU legislation”** (emphasis by the those drafting the text, ed.). I could not have put it better. BusinessEurope should be mindful of this text...

8.4 The shift towards autonomous work programmes

The ETUC Secretariat had for many years (in particular at the mini-Social Dialogue Summit in Vienna in December 1998) been proposing the drawing up of a work programme specifically for the social partners, not exclusively dependent on Community initiatives.

The evolution of the European organisations

The development of European-level negotiations obliged the national organisations to transfer powers, to restructure and to strengthen their European structures. As regarded the ETUC, several Congress decisions (Stockholm in 1987, Luxembourg in 1991, Helsinki in 1995, Brussels in 1999 and Prague in 2003) helped it further develop its capabilities and take decisions by a qualified majority. As regarded the employers, this seemed more difficult, especially for UNICE. We have already looked at the efforts of UNICE President Georges Jacobs, but it was mainly the work of an internal working group set up in

late 1994 and chaired by Sir Brian Corby, CEO of the Prudential Corporation insurance company and UNICE Vice-President, that drove change at UNICE. The European employer organisation strengthened its structures and its way of functioning, modified its voting system for deciding on opening negotiations through introducing qualified majority voting, but without changing the need for general consensus on the outcome of any negotiations. There was a great difference in development speeds between the ETUC and UNICE with regard to the transfer of power, decision-making procedures and the management of negotiations.

UNICE obstinately rejected a clear commitment to a work programme for the European social dialogue, with its “Social Manifesto” published in September 1999 confirming its

48. Text obtained and sent by an official to Director General Odile Quintin, archives of the DG Employment and Social Affairs, EU, 2001.

minimalist approach. UNICE was at that time at the end of its discussions on strengthening its structure and way of functioning (see box) and was seeking to gain time.

On the occasion of a “technical” meeting of the social partners on the Communication from the Commission on modernising and improving labour relations on 29 August 2000⁴⁹, I repeated ETUC’s desire for an autonomous work programme and an implementation timetable.

Faced with the employers’ inertia, we considered the Commission, backed by its Communication, to be the right player to stimulate the discussion on topics which UNICE refused to negotiate!

At this meeting, the skirmish with the employers was mainly over the objectives of the “Training” working group which the employers maintained to be in the field of “joint opinions” while we wanted to have a framework agreement in order to trigger an implementation momentum at national and sectoral levels.

As with everything at European level, we needed a great deal of patience and obstinacy to get things moving.

In the wake of our proposals put to the Laeken Summit in December 2001, the Social Dialogue Committee meeting of 21 June 2002 decided to set up a committee to draw up a draft 3-year autonomous work programme. The first two meetings of this committee were difficult, as the employers were against having either a work programme or binding instruments such as agreements committing their national members. We finally started making a little progress on the methodology suggested by the ETUC, which revolved around three steps: the first defining the subject to be worked on; the second defining the instrument to be used in implementation; the third setting a timetable for the next three years⁵⁰. In the discussions on the ETUC proposals, the difficulties continued to relate to the instruments, and especially to the identified negotiating prospects.

The employers were not prepared to shift, upholding their position expressed while preparing our joint contribution to the Laeken Summit: “The work programme should be designed as a list of subjects of joint interest to be worked on using a wide range of instruments and not as an agenda for negotiating legally binding agreements.” In this way, under the pretext of diversifying social dialogue instruments, the employers stepped up their proposals for action frameworks, discussion seminars, assessment reports... thereby eliminating any possibility of reaching agreement. For the ETUC, there was no question of this programme not containing at least negotiations on an autonomous agreement.

The Executive Committee meeting of 9 October 2002 examined a draft⁵¹, to be discussed at the meeting of the drafting group on 10 October, to check whether we were on the right track and to decide whether to continue negotiations. Its assessment showed that it was not up to our expectations and that we would have to do everything to enhance it. But as our Secretary General said in winding up the discussion, “It is important to nail down UNICE and CEEP on a work programme in a period where the social and political winds are blowing against us”⁵².

49. Minutes of the technical meeting on modernising and improving labour relations held on 29 August 2000 (S/13.2/CR2908.doc), archives of the DG Employment and Social Affairs, EU, 2000.

50. This was the methodology used by Jean Monet and Jacques Delors... One objective, one instrument, one expiry date...

51. Agenda item 7 calling on the Executive Committee to take the decision to conclude the discussions with UNICE-UEAPME and CEEP.

52. Minutes of the Executive Committee meeting of 9-10 October 2002, Agenda item 7. ETUI archives.

We were given the mandate to continue the negotiations, with the aim of finalising a text at a meeting of the Social Dialogue Committee on 7 November. The Executive Committee meeting of 19-20 November was to be informed of the status, and the text was to be presented for adoption at the Social Dialogue Summit scheduled for 28 November in Brussels.

At the 7 November meeting of the Social Dialogue Committee, one difficulty, that of the nature of the programme, was finally overcome. For the ETUC, the programme could be neither exclusive, as it needed to take account of Commission initiatives launched during the defined period, not exhaustive, as subjects needing to be dealt with could emerge over the course of the three years. Initially wanting to confine us to a “closed” programme, the employers finally accepted our flexible approach.

Two subjects remained to be discussed: the tool for dealing with equal opportunities; and... the whole subject of corporate restructuring. With regard to the former, the employers wanted a joint declaration rather than the framework of actions proposed by the union. Turning to the latter, they wanted to continue with the already started case studies, rather than negotiating a code of conduct or a guideline document as proposed by the ETUC. A compromise was finally found, with the employers accepting a framework of actions on equal opportunities and, in the programme’s “employment” section, a reference framework “which should reflect the complex character of the concept of corporate restructuring and the diversity of situations”⁵³.

The ultimately finalised work programme had three sections: employment, with twelve proposals (including negotiations on stress); mobility, with one proposal on identifying obstacles to mobility, in particular with regard to supplementary pension schemes; and the enlargement of the European Union, with six proposals focused on supporting the implementation of the legislative *acquis* and help in developing the capabilities of the unions and employer organisations with regard to industrial relations, and a study on corporate restructuring in the candidate countries.

The Social Dialogue Summit of 28 November 2002, held in Genval, a suburb of Brussels, adopted this first work programme of the social partners for the period 2003-2005.

This Summit was also to discuss that status of the debates within the Convention on the Future of Europe with its vice-chairman, Jean-Luc Dehaene, and the key question of incorporating the Charter of Fundamental Rights into the Treaty.

The third item on the Summit’s agenda was to discuss, in the run-up to the European Summit in Copenhagen on 12-13 December 2002 which was to conclude the accession negotiations⁵⁴, EU enlargement and its social dimension.

8.5 Negotiations on corporate restructuring: the circle is complete!

We have seen throughout this book that the information and consultation of workers and their representatives was a subject of great dispute with the employers, and this was again going to be the case in these last negotiations of which I was in charge, in late 2002 and early 2003.

53. Extract from the draft minutes of the Social Dialogue Committee meeting of 7 November 2002, archives of the DG Employment and Social Affairs, EU, 2002.

54. This was the first time the social partners of the candidate countries took part in a Social Dialogue Summit, together with those from the fifteen Member States and two EEA countries. Some 120 participants attended this Summit, the ninth in this form.

Between the first joint opinion concluded in March 1987 and the “status report” highlighting the dearth of results of these negotiations, we had not made an inch of progress. The directives on European works councils and on information and consultation at national level were the only instruments forcing employers to respect a minimum of rights on this field...

The late 1990s and early 2000s were marked by a spate of corporate restructuring measures associated with mergers, acquisitions, relocations of activities and plant/branch closures⁵⁵. As seen previously, a High-Level Group chaired by Pehr Gyllenhamar had even been commissioned by the Commission to work on this subject. Apart from the establishment of the European Monitoring Centre on Change (inaugurated by the social partners on 23 October 2001 in Dublin), nothing had been done to ensure Community supervision of the proper handling of corporate restructuring.

“The European social dialogue, a force for modernisation and change”

This Communication from the Commission adopted on 26 June 2002 was based on two elements, the first the Report of the High-Level Group on the Economic and Social Implications of Industrial Change published in early 2002, the second the proposals put forward by the social partners in their contribution to the Laeken Summit.

The main points of this Communication as seen by the ETUC were the following:

- clarification of the difference between social dialogue and civil dialogue as desired by us in the face of the confusion which had developed over the two terms;
- the will to strengthen the autonomy of the social partners, unfortunately without reaffirming the Commission's capacity to put forward initiatives and stimulate progress;
- the privileged position accorded to the Open Method of Coordination, to the detriment of legislative instruments;
- the greater involvement of the social partners in the actions of the Structural Funds, as desired by us;
- stimulation of new practices regarding the European social dialogue agreements and

actions to better disseminate them (websites, round-tables, transposition negotiations, monitoring procedures, etc.) – this was a major problem, as the European social dialogue remained confidential...

- support in developing sectoral social dialogue, but without additional resources and without any willingness to play a stimulating role in those sectors without such dialogue;
- the determination to boost support for the social partners in the candidate countries and for social dialogue in the face of the existing weaknesses, and their integration into the main EU consultation processes;
- the creation of an annual “Tripartite Social Summit” to be held immediately before the Spring European Summit to integrate the two pillars of economic cooperation, the Council of Ministers of the Economy and Finance and the ECB, and consultations on employment policy with the Council of Ministers of Employment and Social Affairs. The troika and the heads of state and government leaders were expected to attend the Summit. This new institution would obviously sound the death knell for the Standing Committee on Employment, the functional difficulties of which were discussed in the first chapter.

55. One of the final shocks involved Marks and Spencer which took the decision in early 2001 to close down all its stores outside the United Kingdom and Ireland. A major European demonstration was organised by UNI Europa with the support of the ETUC on 17 May 2001 in London, with the participation of Marks & Spencer employees from France, Belgium, Spain, Ireland and the United Kingdom.

We needed to go beyond just analysing how these restructuring measures which, though perhaps necessary from a business perspective, needed also to be fair and effective from a social perspective. Aware of the sensitivity of the issue⁵⁶, the Commission launched first-stage consultations on 15 January 2002 on its Communication entitled “Anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring”.

The aim of this Communication was to “strike the right balance between flexibility for businesses – which is more important than ever in times of permanent restructuring – and security for workers – which is necessary to maintain human capital and employability”.

The Commission proposed five main principles for action:

1. Employability and adaptability, to be ensured through CVET and the proper management of “human capital”;
2. Effectiveness and simplification through streamlining the legal and regulatory frameworks;
3. External responsibility, taking into account both territorial responsibility and downstream responsibility (the effects of corporate restructuring on subcontractors);
4. Modalities of implementation, including the involvement of workers and “fair compensation”.
5. Conflict prevention and the SME dimension.

The Commission asked the social partners to give their opinion on possible orientations for Community action with regard to “the usefulness of establishing at Community level a number of principles for action which would support business good practice in restructuring situations; the method of drawing up and developing these main principles and, in this context, whether they consider that agreements between the social partners at cross-industry or sectoral level represent the appropriate way of proceeding”.

For the ETUC, it was crucial that a debate be held within the Executive Committee on this consultation document, but the next meeting was not scheduled until 11-12 March 2002, beyond the deadline for responding to the consultation. Secretary General Emilio Gabaglio therefore wrote to Commissioner Anna Diamantopoulou⁵⁷ telling her that our grounded response would not reach the Commission before 13 March. In anticipation of our response, he took care to clearly state that the ETUC supported the Commission’s initiative and the proposal for a framework of Community principles. He added that “the ETUC would like to see the social partners assuming their share of responsibility through creating a framework of rights and conditions for managing corporate restructuring in a way both economically efficient and socially acceptable with regard to employment and workers’ rights. The ETUC intends to call on UNICE and CEEP to start negotiations on this subject”.

The UNICE response⁵⁸, as always, was dismissive: first, “it is crucial to avoid imposing additional regulatory constraints on companies”, and second, “the transnational

56. To justify its initiative, the Commission had stressed that the number of company mergers and acquisitions at European level had risen from 8,239 in 1991 to 12,796 in 1999.

57. Letter dated 7 March 2002, sent by fax, the author’s archives.

58. UNICE response addressed to the Commission on the first-stage consultations on the anticipation and management of change, dated 8 March 2002. Commission archives.

dimension of economic change does not mean that decisions on minimising the negative social consequences may be taken at EU level". The employers proposed exchanging experiences of company practices, stating that "UNICE will be available to discuss corporate restructuring in the context of the social dialogue". Not a very encouraging start!

The CEEP response, also dated 8 March, was hardly more encouraging on the issue of negotiations, but did contain one interesting statement: "Restructurations are presented as 'a driving force for positive change', that is absolutely not obvious; the change is set out as unavoidable, positive in itself, unquestionable, without any regulation and whatever be its content; one cannot share this idyllic and non-realistic vision."

The ETUC Executive Committee meeting on 11 March 2002 discussed a draft resolution and a supporting document in response to the Commission, drawn up after internal consultations with our member organisations. The ETUC position contained three main elements. The first was that legislative and contractual rules needed to be established and that therefore the Commission and the Council should not give up their responsibility for the legislative framing of this issue through just leaving it up to the social partners to exchange good practices. The second was the call for an annual report on company developments affecting employment, working conditions and the environment. The third was a proposal to start exploratory talks lasting three months to identify possible items of negotiation and the possibility of a contribution from the social partners. The ETUC also called on all Sectoral Social Dialogue Committees to look into the issue.

On the eve of the European Summit in Barcelona on 15-16 March 2002, a mini-Social Summit was held. As usual, it was attended by the EU Presidency, the Commission Presidency, members of the troika (Spain, Denmark and Greece) and the social partners. At this Summit, the "Framework of Actions for the Lifelong Development of Competences and Qualifications" was finally presented – it had been discussed for nearly two years within the UNICE/CEEP/ETUC working group on "Education & Training". During this meeting, the ETUC strongly denounced the deregulation of markets, public services and the labour market, a course set forth in a joint Blair/Berlusconi document⁵⁹ adopted at the meeting of these two leaders in Rome on 15 February 2002, i.e. just before the European Summit. Emilio Gabaglio was also to express our "concerns regarding the growing use of *soft law* which (in his view) detracted from the effectiveness of the social dialogue"⁶⁰. With regard to corporate restructuring, "the social partners have presented contributions showing divergences in their analysis and approach. They have nevertheless agreed to open discussions – for a limited period – with a view to exploring the possibilities of a social dialogue on this subject (for UNICE, the exchange of good practices, for the ETUC the negotiation of an agreement)"⁶¹.

At this meeting in Barcelona, the heads of state and government leaders were to call for "workers to be better involved in changes concerning them. With this in mind, the European Council invites the social partners to find ways of better handling

59. Blair continued his work of undermining the European left and moving it to the right. Following his declaration, issued together with Gerhard Schröder, on *The Third Way* and his *entente cordiale* with the ultra-liberal J-M Aznar, here was an agreement with the new Italian Prime Minister (he had been appointed in June 2001). This was to be what *The Guardian* would term the "BAB" axis, an acronym referring to the first letter of the names of these three leaders (article by Rory Carroll in *The Guardian* of 16 February 2002).

60. Unsigned minutes, taken by a Commission official, of the Barcelona Social Summit on 14 March 2002, archives of the DG Employment and Social Affairs, EU, 2002.

61. Ibid.

corporate restructuring on the basis of dialogue and a preventive approach; it commits them to actively exchange good practices with regard to corporate restructuring measures"⁶². This last proposal was right up the employers' street!

The subject moreover remained pending, in expectation of a follow-up on the first-stage consultations from the Commission. Meetings at UNICE/CEEP/ETUC Secretariat level during May 2002 only helped accentuate the major differences on the approach to handling industrial change and corporate restructuring in a European context.

The Executive Committee meeting of 5-6 June 2002 adopted a hard-hitting resolution⁶³ on the attacks on labour laws and social protection in many European countries and the weakening or even destruction of collective bargaining. In it, the ETUC also highlighted a growing problem, that of the rise of populism, racism and xenophobia, in particular in the context of the current enlargement of the European Union. The ETUC repeated its proposal to UNICE and CEEP to negotiate the measures necessary for introducing a framework for the handling of corporate restructuring.

Without success. The employers were against the 3-month exploratory talks as a prelude to negotiations. In our view, we were going to have to go through a stage of "exchanging good practices"... Following discussions between the European Secretariats, we decided on 2 July 2002 to send a letter to the Commission announcing that we would be holding a joint seminar in October, before the second stage of the consultations, to examine restructuring examples with a view to gaining orientations on the management of change. I had never been any great fan of codes of conduct or of lists of good practices, instead thinking that it was always better to look at bad practices with a view to establishing minimum standards. But there was no other way open to us to make progress on our proposal for negotiations. This might also correspond to the three months of exploratory talks we had suggested to UNICE and CEEP.

This seminar was to take place on 17-19 October in Knokke on the Belgian North Sea coast, behind closed doors, thereby allowing three days of uninterrupted formal and informal talks. On the part of the ETUC, we mobilised the members of the Social Dialogue Committee and all industry federations not belonging to this Committee.

Six cases of corporate restructuring were to be looked at, all of them involving multinational companies from various sectors and from both the public and private sector. Norsk Hydro⁶⁴, Danone⁶⁵, Marzotto⁶⁶, Deutsche Telekom⁶⁷, Barclays Bank⁶⁸ and Siemens⁶⁹. The very "descriptive" presentations of the cases, each time introduced jointly by representatives of the company's corporate management and by union representatives, left little room for debate and for lessons to be learned. The employers were quick to highlight these good practices of companies well-known for their social practices. We were unable to get to a point where we could start defining Community instruments and frameworks, whether of contractual and/or legislative nature. The conclusions drawn from this seminar differed. The employers were set

62. The Barcelona European Summit, 15-16 March 2002: conclusions of the Presidency Doc/02/08.

63. "The social situation in Europe", resolution 154.Ex./06.02/14 final. The author's archives.

64. A Norwegian corporation specialised in the production, refining and manufacture of aluminium products, with 13,000 employees in more than 40 countries.

65. A French food company with more than 100,000 employees in more than 130 countries.

66. An Italian textile company with 4,100 employees in 5 countries.

67. A German telecom company with 228,000 employees in more than 20 countries.

68. A British bank with more than 140,000 employees in more than 50 countries.

69. A German technology and mechanical and electronic engineering company operating in the manufacturing, energy, health and infrastructure sectors, with more than 350,000 employees in more than 200 countries.

on good practices⁷⁰, while the unions wanted a European framework for corporate restructuring with a transnational dimension, even if it only concerned just one establishment of a corporation, as any restructuring was always part of the corporation's international strategy.

The debate over the instruments for handling corporate restructuring was all the more difficult as we were engaged, in line with our contribution to the Laeken Summit, in discussions on drawing up a joint "autonomous" work programme and one the ETUC's proposals was for negotiations on corporate restructuring. As pertinently noted by the Commission official responsible for social dialogue, Jackie Morin, in his report on the seminar⁷¹, "UNICE is trying to dissociate the response of the social partners on corporate restructuring from the discussion on the work programme (seeking to gain time). It could finally concede to having a Compendium of (good?) practices compiled".

Though this seminar was unable to get the employers to move away from their minimalist positions, we nevertheless decided to continue the discussions at the Social Dialogue Committee meeting scheduled for 7 November. The one positive aspect to emerge from this meeting was the decision to hold a second seminar on 24-25 March 2003 in Brussels to incorporate the territorial and SME dimensions in the discussions over corporate restructuring and, at the request of the ETUC, to discuss how these two workshops would be followed up in the work programme for 2003-2005 currently being finalised by the social partners.

In an attempt to put more pressure on the employers, the ETUC Secretary General wrote to the Commission President, Romano Prodi, and to all Commissioners on 14 November⁷², insisting on the urgency of measures in the face of the many restructuring measures taking place, while at the same time castigating the Commission's inertia: "We note, without surprise it must be said, that employer organisations are lobbying you intensely to prevent any initiatives in this area. In the current situation, where tens of thousands of redundancies are being announced, this attitude is highly regrettable."

Work-related stress on the Commission agenda

On 19 December 2002, the Commission launched consultations on work-related stress. This subject

featured in the social partners' 2003-2005 work programme, with a seminar scheduled for 25-26 February 2003 intended to lead to negotiations on an autonomous agreement (i.e. without a legislative outcome) in the context of Article 139 of the Treaty.

The letter listed the subjects the Commission should address: the recasting of the Directive on European works councils; the directive on the obligation to produce an annual report on industrial change; the development of the European Monitoring Centre on Change to anticipate changes affecting employment and working conditions at territorial and sectoral levels; an enhanced role for the social partners in defining and implementing the actions of the Structural Funds regarding change and training; the

70. In its conclusions, UNICE stated: "this means that the EU level will be relevant if the changes concern sites in several EU countries. If the changes envisaged only concern one country, this can occur in that country in accordance with the national system in place", the author's archives.

71. Archives of the DG Employment and Social Affairs, EU, 2002.

72. Letter dated 14 November 2002, ref. JL/EG.restruct(2)/9.11.01, the author's archives.

recasting of Regulation 4064/89 on the control of concentrations between undertakings with regard to workers' rights; the establishment of a right to lifelong learning (CVET); tougher sanctions for companies not respecting the rules on the information and consultation of workers in cases of collective dismissals, transfers of companies and European works councils.

The 3-year work programme (2003-2005) of the social partners, adopted at the Social Dialogue Summit of 28 November 2002, contained a reference, albeit weak, to corporate restructuring: "Identify orientations that could serve as a reference to assist in managing change and its social consequences on the basis of concrete cases." In the chapter on EU enlargement, we had included a *Study on restructuring in candidate countries* to allow our comrades in these countries to get ready for joining the EU and for the major restructuring that was going to take place in their various sectors.

The seminar on 23-24 March 2003 saw the case studies being rounded off by two cases of regional restructuring, that of the Region of Asturias in Spain, and that of a small German cleaning company with a headcount of 217 (Auwera). But all we were doing was to describe cases. We were making no progress on achieving our union objectives.

As pertinently noted by the Commission official responsible for social dialogue, Jackie Morin, in a report on this seminar: "The ETUC finds itself trapped in the 'analysis of good practices'. It has opened a few doors to drawing up recommendations, or even conducting negotiations (especially on the annual report on the management of industrial change) which restate its starting position without being able to gain any real sustenance from the presented case studies."

A new meeting was set for 6-7 May 2003 to verify the drafting of joint "conclusions" resulting from the two seminars. The May discussions were no help in getting the ETUC out of the "trap". Despite everything, a text was finalised following painstaking negotiations. It was given the title *Orientations for reference in managing change and its social consequences*. It was a weak text giving rise to debate within our delegation, but we knew that it would be impossible to get anything more out of the employers.

The ETUC was working flat out in preparation for its 10th Congress on 26-29 May in Prague. The discussion was therefore postponed, to be taken up by the future Secretariat team led by the new ETUC Secretary General, John Monks, and the new Executive Committee due to meet for the first time on 16-17 October 2003.

A new round of negotiations was nevertheless scheduled for 10-11 June, as it was clear that this text was inadequate.

A question-mark over industrial policy

The negotiations over corporate restructuring, in particular at sectoral level, made it all the more necessary to analyse the industrial strategies of multinational companies and industrial sectors. Industrial policy had been generally skirted at Community level, apart from dealing with crisis situations as in the textile industry or shipbuilding. We would have to wait until 2002 for the Commission to publish a Communication on Community investment and

development policy, though it did not even go as far as the Delors 1993 White Paper (to this day, this White Paper remains a reference document). We, the ETUC and the European Industry Federations, decided to hold a conference on industrial policies within the European Union. It was prepared with the support of Syndex, the union-affiliated management consultancy, which compiled a report for debate at the conference on 31 March/1 April 2003, *inter alia* attended by the European Commissioner, Philippe Busquin.

Sad to say, but we had not made an inch of progress on the subject of handling corporate restructuring between the first joint opinion negotiated in March 1987 and this text of 7 May 2003. A last round of negotiations was to take place on 10-11 June, but it was already clear that this would not see any change in the employers' position. Our delegation decided to present this text to the Executive Committee to decide whether it was acceptable or not.

The Executive Committee meeting of 26 June 2003 was asked to take note of the outcome of the negotiations, but without voting either for or against it. Before leaving the ETUC, I had written a paper analysing the situation, which was taken up by John Monks and Maria Helena André, the new deputy Secretary General in charge of the social dialogue.

In her presentation at the Executive Committee meeting of 16-17 October 2003, Maria Helena André emphasised the "modest character" of the text and put forward four options for discussion: to reject the text; to request the Commission to take action instead of leaving this subject up to the social partners; to request the European Parliament to take the initiative; to accept the text, while at the same time keeping up the pressure on the Commission and the employers, highlighting our disappointment with the text and the need to revise it. The last option was the one proposed by the ETUC Secretariat. The debates within the Executive Committee were very heated, with member organisations divided over the content of the text and the absence of the sectoral dimension. They were also sceptical about continuing the discussions. At the end, it was decided that the Executive Committee would take note of the text, as a first example of a joint effort needing to be continued⁷³.

The Tripartite Social Summit in Brussels on 20 March 2003

This was the first "official" Spring Summit, following a Council Decision of 6 March 2003 to establish "a tripartite social summit for growth and employment". This Summit took place under the Greek EU Presidency. Attendees of this tripartite meeting with the troika included the Commission President, the Greek Prime Minister Kostantinos Simitis, the Italian Minister of Labour, Roberto Maroni, and the Taoiseach (Prime Minister) of the Irish Republic, Bertie Ahern.

Following reports on the implementation of the Lisbon Strategy and the Barcelona Summit of March 2002, the social partners presented their contribution, which can be summed up in four points: the agreement on telework signed on 16 July 2002; the adoption of their work programme for 2003-2005 on 28 November 2002; their Joint Declaration on the

European Year of People with Disabilities adopted on 26 January 2003; and the publication of their first report on their actions at national and European levels to promote lifelong learning and the development of skills and qualifications. This Summit preceded the European Summit of heads of state and government leaders on 20-21 March which had the following objectives: to increase the number of jobs and social cohesion; to give priority to innovation and entrepreneurship; to link up Europe and strengthen the Single Market; to protect the environment in the interest of growth and employment. Those against this, please raise their hands! This Summit also discussed ways of "modernising" the European Social Model, but the main focus was on the enlargement, with ten new states due to sign their accession to the EU in Athens on 16 April: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia. Last but not least, the Summit discussed the start of the conflict in Iraq, which the ETUC was very much against.

73. Minutes of the Executive Committee meeting of 16-17 October 2003 regarding agenda item 7. ETUI archives.

John Monks coped best with this paltry result. In a letter to UNICE and CEEP, he wrote⁷⁴ that the Executive Committee, following a very critical debate, considered the result “was a step in the right direction, albeit modest in the face of the dramatic consequences of many current restructuring measures”. He announced that the ETUC Executive Committee had “taken note of it as a first example of a joint effort of the social partners on corporate restructuring... and (the necessity) of analysing the conditions for future discussions on this subject both in the context of the European social dialogue and in that of a Community initiative”.

Several years have since passed, but the Commission has still not moved on to the second stage of consultations needed to trigger negotiations. Quite the contrary, Commission President José Manuel Durão Barroso (2004-2014), particularly sensitive to employer lobbying and ably assisted by his “antisocial” Secretary General, Catherine Day, was to block any legislative initiative in this field.



Quo vadis, Europe?

Source: ETUC archives

74. The following quotes come from a letter from the ETUC Secretary General to the CEEP Secretary General dated 19 October 2003. The author's archives.

Chapter 9

Social dialogue and civil dialogue: a pair yet not a pair

"What interests me is not the happiness of the whole world, but the happiness of every individual."

L'Écume des jours

Boris Vian

Why has it become so difficult for the trade unions and non-governmental organisations to understand each other and develop synergies mutually benefitting the two? This link to society, deeply rooted in the labour movement and even inherent to it, has become much more complicated. However, it is clear that we are going to have to work together to combat poverty and social exclusion, and indeed we will end up successful. A union action for training and employing people with a disability and a cooperation project with the European Disability Forum also prove to be extremely rewarding. The development of the Charter of Fundamental Rights and the campaign to have it incorporated in the Treaty constitute milestones, exemplifying the synergy between social dialogue and civil dialogue desired by the ETUC. Avoiding confusion between a civil dialogue encompassing the whole of society and bipartite social dialogue, the ETUC manages to build bridges between the two.

9.1 The fight against social exclusion

The rise of precarious employment, long-term unemployment, social exclusion and poverty were of great concern to Jacques Delors. Launching a campaign against poverty in 1991, the Commission President wanted to involve not only the third sector, but also the social partners.

Up to then, the ETUC had done little work on this subject. I had started building up contacts to ATD Fourth World, a non-governmental organisation (NGO)¹ whose leader was a Frenchman based in Brussels, Xavier Godinot, but the subject was not a priority among our European-level organisations, and one sensed a climate of mutual mistrust and a lot of misunderstanding between the NGOs and the unions. The former seemed to think that “the unions were not interested in those excluded from the labour market, instead only interested in workers with a job and earning their living”. They thus had a corporatist vision of the unions. On the other hand, the unions thought that “charity work was not their playing field”, and questioned “the legitimacy of the NGOs, their democratic functioning and their financial independence”.

“(...) I have never met a union member not sensitive to the fate of his less endowed comrades... The sub-proletariat are part of the working world... You ask me what the unions can do? They can focus on the sub-proletariat, learning from them how to restore an inclusive labour movement.”

Father Joseph Wresinski, the founder of ATD Fourth World

Upon the arrival of Emilio Gabaglio at the head of the ETUC, I informed him of my first contacts with NGOs. He was very much aware of this situation, understanding the necessity to develop contacts with the third sector. We wanted to work hand in hand with the NGOs, building bridges between the two worlds – the working world and the non-working world – to develop actions to combat social exclusion. Though I held responsibility for this within the Secretariat, there were two people who played an important role in implementing this strategy: Gérard Fonteneau and Ariane Meunier*.

The ETUC's first steps in fighting social exclusion took place in 1992/1993 and concerned the homeless. We launched the IGLOO (*Insertion Globale par le Logement et l'emploi*) project in partnership with the European Liaison Committee for Social Housing (CECODHAS)² and the European Federation of National Organisations Working with the Homeless (FEANTSA)³. Though this action was to remain fairly low-key, it taught us to work together and allowed our organisations to gain awareness of the subject.

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1. Third sector organisations (NGOs) is a term used to describe the range of organisations that are neither public sector nor private sector. It includes voluntary and community organisations (both registered charities and other organisations such as associations, self-help groups and community groups), social enterprises, mutuals and co-operatives. Cf <https://www.nao.org.uk/successful-commissioning/introduction/what-are-civil-society-organisations-and-their-benefits-for-commissioners>
 2. Set up in 1988, the European Liaison Committee for Social Housing is a network of 43 national and regional federations from 23 countries. It counts as its members 43,000 public, third-sector and cooperative companies providing housing.
 3. The FEANTSA has 130 member organisations working in 20 European countries. The majority of them are national or regional federations of service providers supporting the homeless (with housing, jobs, social aid).

In its 1 May 1992 rallying call, *United against social exclusion and racism*, the ETUC highlighted the consequences of social exclusion such as it being levered by populists and demagogues and contributing to the rise of racism and xenophobia.

In a circular dated 29 September 1992⁴ addressed to ETUC member organisations, I reported on our actions against social exclusion. The work initiated by the European Commission⁵ had already led to three conferences (in Aalborg, Brussels and Porto) being held, all with ETUC participation. The circular appealed to our national member organisations to develop contacts to member associations of the European Anti-Poverty Network (EAPN) with which we were in constant touch. Moreover, we proposed a number of actions. The first targeted the Council of Europe, calling on it to include the fight against social inclusion in the revision of the European Social Charter. It was launched with the establishment of a “Charter Relaunch Committee” supported by the ETUC. A second action was proposed in support of the idea that the criteria for accessing the Social Fund include the new Treaty-enshrined Community competence of fighting exclusion. Last but not least, the ETUC Secretariat proposed looking into the possibility, together with the employers, of issuing a joint opinion or recommendation, within the context of our social dialogue, on getting the long-term unemployed back to work through joint actions in companies⁶.

In December 1992, the Communication from the Commission *Towards a Europe of solidarity. Intensifying the fight against social exclusion, fostering integration*⁷ targeted both the third sector and the unions. The ETUC drew up a contribution to this Communication, underlining the strategic importance of “positioning the fight against exclusion as one of the political choices for boosting the economic and social cohesion crucial to getting people back to work again, on the basis of a fair redistribution of income”.

In 1992/1993, we launched “*Faire l’Europe de la Grande Solidarité*”, a major campaign involving the organisations fighting social exclusion and poverty and NGOs working on development and an alternative economy. We worked together with Emmaus International, the European Anti-Poverty Network (EAPN); the European Co-ordination Via Campesina (ECVC); European Federation of National Organisations Working with the Homeless (FEANTSA); International ATD Fourth World; Research Group for an Alternative Economic Strategy (GRESEA) and the Youth Forum.

The aim was to conduct an awareness-raising campaign targeting the public at large, politicians and public authorities, showing another possible path for constructing Europe, a path based on greater solidarity and more respectful of social rights.

At the same time, the ETUC set up a union network on the subject, which proved to be no easy task given the gap existing between the national organisations and local actions on social exclusion. Fortunately, I was able to draw on five or six highly motivated national union leaders who helped us initiate a very proactive campaign. Being

4. This circular was sent out with six annexes: the list of national EAPN members; the author’s speech to the Brussels conference on 2-3 April 1992; an article by Emilio Gabaglio which has appeared in the May 1992 issue of the magazine *Pauvreté III*; an article by the author which had appeared in the 7 August 1992 issue of *Euro-Echo*; the 1 May 1992 ETUC rallying call and the letter written, together with the EAPN, on the 1993 EEC budget for which we were calling for increased funding for fighting exclusion. The author’s archives.
5. The head of unit in charge of this subject and the person upon whom Jacques Delors relied was Odile Quintin, the future Director of the Social Dialogue and later the Director General of the DG Employment and Social Affairs.
6. The ETUC was not able to convince the employers to set up a working group on this subject until the end of 1993. See further down.
7. COM(92) 542 final of 23 December 1992.

able to hire a full-time assistant able to travel to where actions were taking place and fully focused on just this subject also played an important role.

The establishment of our union network was funded by the Commission for two years, allowing us to hold two conferences (one in Liverpool in May 1994 and the other in Naples in September 1994) to take stock of the actions taken by the unions in their fight against exclusion, to conduct a questionnaire-based survey and to attend local actions, gathering different experiences in 16 countries which reflected the richness of the union action. A first summary report⁸ was published by the ETUC on 13 May 1993. The action was to play a major role in support of the resolution against social exclusion adopted on 28 October 1993 by the European Parliament.

On the basis of the two conferences and the survey of our organisations, we published in 1996 a brochure entitled: *The unions' fight against social exclusion and precarious jobs: a summary of the actions taken by the ETUC and its member organisations*.

At long last highlighting the work of the unions on this subject, the document listed the many actions conducted by the unions on the ground: with the unemployed, with workers in precarious employment, certain vulnerable groups, migrant workers and asylum seekers, cooperatives and companies providing work for the disabled, re-training centres, etc. The subjects dealt with related above all to appropriate training, housing, insertion processes, etc. In the brochure's introduction, I wrote: "In the face of the crisis and the problems it is causing to men and women forced into situations of social exclusion and poverty by unemployment, the union movement has re-found its fundamental values and its *raison d'être*, returning to its roots... This is not a manifesto. This is all about real life and the ways we can change it, provided we want to... It is our intention to highlight this aspect of union action of which many of us are unaware since it is by nature humble, and to illustrate the importance we attach to this action complementing the work of the NGOs fighting poverty on the ground."

We soon discovered that the players on the ground were systematically looking for partners to help them in their fight against exclusion.

Following the commitment made by Jacques Delors to double the funding earmarked for fighting exclusion, the Commission had held a conference on 3-4 June 1993 in Copenhagen, entitled *Fighting social exclusion: a challenge for the 1990s*. The social partners were invited, as were the European Anti-Poverty Network (EAPN) and various regional economic and social players. The ETUC Secretary General committed union support to the Community action, rejecting the rise of a parallel society which would be a melting pot for many different forms of intolerance. He also recognised the role of the NGOs as indispensable partners in the fight for social integration and working hand in hand with the unions and their shopfloor actions. The EAPN spokesman "grabbed the hand reached out to him, with the NGOs recognising the role of the unions and wanting to develop cooperation and joint actions"⁹. This exchange marked an important step in the ETUC's work with the NGOs. Speaking on behalf of the employers, Zygmunt Tyszkiewicz was somewhat warier, "outlining the limits of any such partnership"¹⁰. Companies obviously supported the goal of fighting exclusion, but "was this not because the excluded are non-consumers (*sic*)?"... and though

8. A first report on the projects undertaken by the union organisations in their fight against exclusion, 13 May 1993, 7 pages. The author's archives.

9. Minutes of the round-table talks held by the Commission, DG Employment and Social Affairs, entitled *Partners for a Europe more active in fighting social exclusion*, the author's archives.

10. Ibid.

“companies may take part in projects and programmes fighting exclusion”, “it would be a serious mistake to regulate the subject, imposing unbearable constraints on companies and especially SMEs, the job-creating backbone of the economy”¹¹. These statements were in direct response to the ETUC and its call to introduce a minimum income. Concluding his article in *Le Figaro* of 8 June 1993, Jean-Louis Validire was to write: “Put in a nutshell, the social dialogue on a crucial problem is deaf on both ears, leaving room for nothing but charity.”

Jacques Delors’ commitment and the holding of this conference nevertheless signalled the start of a task which the ETUC wanted to develop in the context of the social dialogue. At the end of 1993, UNICE accepted the setting up of a working group to discuss a joint opinion on long-term unemployment. Right from the start, we agreed with the employers on stating that the primary cause of exclusion from the labour market was the absence or low level of suitable qualifications and the lack of training matching labour market demands. Our joint opinion, entitled *The contribution of vocational training to the fight against unemployment and getting the unemployed back to work* was concluded on 19 September 1994.

The European employers, via UNICE, did not unfortunately seem much concerned. This prompted the Commission President to create a network of large companies with leaders he could count on, and in particular Étienne Davignon. The latter was to be the initiator of European Business against Social Exclusion, which in turn created “CSR-Europe”, an organisation dedicated to corporate social responsibility (see box below), a subject for which UNICE again did not want to assume any responsibility, considering that this was the playing field of companies themselves and not a subject for Community supervision. In January 1995, European Business against Social Exclusion, pursuing an idea put forward by Jacques Delors and with his participation, launched the *European Companies’ Manifesto against Exclusion*. Initially signed by some twenty companies, and later by more than a hundred, this Manifesto referred to exclusion as a waste of human resources and a threat to social cohesion. It listed several goals that we would never have heard from UNICE: “Fostering integration in the labour market, participating in the improvement of vocational education, avoiding exclusion within companies and preventing dismissals or providing for appropriate measures when they cannot be avoided, encouraging the creation of new jobs and new enterprises, contributing to solidarity with vulnerable areas or groups of people.”¹² These commitments came from “socially-minded” employers like Jan Gandois, the leader signing on behalf of Cockerill-Sambre who had already stated his company’s intention to be a “citizen”. This unfortunately only involved companies on a “voluntary” basis, and the European employer organisations did not feel any compunction to join in.

We continued to develop our work with the European Anti-Poverty Network and the Confederation of Family Organisations in the European Union (COFACE).

In its opinion on the *Medium- and long-term action programme for fighting social exclusion 1994/1999* presented by the Commission, the ETUC called for an overall vision for addressing and handling actions fighting exclusion, the establishment of objective criteria for assessing the impacts of national policies, and the acknowledgement of the responsibility of the social partners in the choice of economic and monetary policies. The Executive Committee meeting of 9-10 June 1994 adopted a resolution *For*

11. Ibid.

12. Introduction to the Manifesto. The author’s archives.

a Europe without exclusion, proposing three priorities for European union action: preventing exclusion; taking action in favour of getting people (back) into the labour market; engaging in these fights in an active partnership. The Liverpool conference¹³ had set three roads of actions: strengthening the European network; extending the local or national dimension to the European level; raising the awareness of the various union partners to the fight against social exclusion.

Corporate social responsibility: vacillating between doubt and interest...

On 18 July 2001, the Commission adopted a Green Paper entitled *Promoting a European framework for corporate social responsibility (CSR)*. Union positions varied greatly across the European Union, tending to be more positive in the Scandinavian countries where CSR was high up on union agendas, but more negative in the Southern European countries which regarded CSR as bringing rights down to the level of the ILO fundamental norms. It was true that the trend towards "CSR" corresponded to a retreat of state responsibility through legislation. Within the ETUC, we worked on preparing a resolution for our Executive Committee meeting of 10-11 October 2001. In the view of the ETUC, CSR had to be developed within a legislative and contractual framework. Codes of conduct, charters and labels could be used, but only as steps in the transition to more binding rules and dependent on their being subject to monitoring, control and assessment.

The first European Conference on CSR was held under the Belgian EU Presidency on 27-28 November 2001. In October 2002, the Commission launched the European Stakeholder Forum with the aim of getting companies and employer representatives to work together with representatives from NGOs and the unions. The only problem was that the design of this Forum intended to give the employers a dominant position, i.e. instead of being tripartite, it was to be "quadripartite", with 25% of participants representatives from companies, 25% from employer organisations, 25% from the NGOs and 25% from the unions. Despite the joint efforts of the NGOs and

the unions, we were unable to significantly influence European policy on CSR.

Our aim was to achieve a framework allowing a joint policy on CSR and its independent assessment (in contrast to the normal practice of self-assessment). CSR thus remained completely dependent on company goodwill. The only path to success for the unions and sometimes the NGOs was to take action at company level, making CSR a tool complementing social rights, legislation and collective agreements, in particular with regard to meeting ILO norms on subcontracting in developing countries.

CSR Europe, the successor of European Business against Social Exclusion, led by the wily and efficient Étienne Davignon and encouraged and supported by the DG Enterprise and Industry (which had managed to sideline the DG Employment and Social Affairs in this field) was to achieve a nice coup, getting the Commission to sponsor a European CSR competition (*Company prizes and list of best employers in Europe*), with prizes awarded by Commissioner Anna Diamantopoulou. With CSR dissected into various aspects, the Commission even managed to award a prize to Ryanair, a company notorious for its opposition to unions, on its equal treatment (men and women) policy.

CSR was not however something to be neglected, and in the long term could help in the transition from voluntary measures to contractual and/or legislative norms. Describing our attitude towards CSR, I just have to quote Romain Rolland: "You need to know how to combine reasoned scepticism with optimistic thinking."

¹³ John Monks, at that time TUC Secretary General, took part, as did Richard Exell, a TUC organiser who was to play a major role there.

Relations between the unions and the NGOs had unfortunately never been easy, but nevertheless in our view they were indispensable. The ca. fifty shopfloor actions listed by our unions revealed a systematic quest for partnerships between the unions and the NGOs, demonstrating that the discourse between the *insiders* (those employed by companies) and the *outsiders* was a fallacy, only serving to mask a wish to weaken the social conditions of those with work under the pretext that this would help those without work to gain a foothold in the labour market. A never-ending discourse on deregulation.

9.2 Rewarding work with the European Disability Forum

In early 1990, I had the opportunity of meeting several disabled union activists working in unions in Italy, Luxembourg, France, etc. They were not only representatives of the disabled, but also activists like anyone else, well integrated into the union movement.

Representation of the disabled at European level was exclusively in the hands of organisations belonging to the European Disability Forum (EDF) established by the European Commission. It seemed to me that our presence in the world of work and the union actions aimed at getting people into work should be exploited.

At ETUC level, a network was set up, following a call to national organisations to nominate members for a committee which was to become a beehive of extraordinary commitment. A first European conference held by the ETUC in London on 4-5 November 1993 allowed us to take stock of the situation in the various countries and the respective national-level commitment of the Confederations and Federations. We also invited UNICE and the European Disability Forum. The key issues revolved around equal rights, the extension of anti-discrimination legislation and the introduction of quotas for the employment of disabled persons.

These issues were to be looked at in greater depth in the coming years, with our cooperation with the EDF further developing. A first major joint conference was held in Lisbon in March 1997 on the problems the disabled had in gaining employment. It ended with a Joint Union/Third-Sector Declaration to be submitted to the heads of state and government leaders at the European Summit in Lisbon on 23-24 March 1997. We tried several times to get this topic onto the social dialogue agenda, but without success.

We had a very active network which encouraged us make further progress, working together with these exceptional activists where one often wondered who was the disabled person, me or them? My heartfelt thanks to Nina, Flavio, Joël, José Maria, Huguette and all those whose forenames I have since forgotten...

We finally managed to convince the employers to create a working group. Meeting for the first time in July 1997, its stated goal was to draw up a compendium of good practices undertaken by companies and unions to integrate disabled persons at work. This work was to end, in early 1999, with a document entitled *A Question of Perspective*. Our compendium listed 36 actions from 13 different countries, broken down into four categories: raising awareness; recruitment; maintaining employment; training. It also took stock of legislation in the Member States. This document, together with a Declaration¹⁴ from the social partners, was submitted to the European Summit on 3-4 June 1999 in Cologne.

14. Declaration of the social partners on the employment of the disabled, dated 11 May 1999. The author's archives.

Over and above this compendium, the ETUC wanted to promote, via national conferences, pilot actions in the context of the European Social Fund (ESF) and to prepare a joint contribution in the run-up to the revision of the Treaty (incorporation of Fundamental Rights) under the French EU Presidency in the second half of 2000. With the employers focused solely on raising awareness and insisting on the wide range of different situations and practices, we therefore continued our work without them.

Our work took place in the wider context of the Community debate over Article 13 of the Treaty of Amsterdam on anti-discrimination. A social partner seminar was held on 26 May 1999 on the “Article 13 Package”¹⁵.

In the face of imminent proposals for directives based on this Article, the employers tried to gain time by suggesting a further seminar “before the end of the year” for looking at practical cases...

The ETUC replied that the topic of discrimination had already been jointly studied, for instance in the compilation of the compendium on the employment of the disabled. While we certainly needed to update our 1995 Florence Declaration (see box) to include a stronger commitment, we also now needed to start taking concrete action, at a minimum adopting a code of good conduct for companies.

The fight against racism and xenophobia

Via its national organisations, the ETUC was heavily committed to fighting the racism and xenophobia which began spreading in the 1990s. We were to introduce this subject into the European social dialogue.

On 21 October 1995, the social partners adopted, at the initiative of the ETUC, a joint declaration against racism and xenophobia with direct implications for company practices. On the occasion of

the 1997 European Year Against Racism, the ETUC adopted a resolution on 12 December 1996 committing itself to the campaign through supporting the establishment of a European Monitoring Centre on Racism and Xenophobia (EUMC)*, and through developing joint initiatives with the Union of North African Workers (USTMA), with which the ETUC had already worked together in the context of the Euro-Mediterranean partnership.

* The Monitoring Centre was established in June 1997. Based in Vienna, it was to become, in March 2007, the EU Agency for Fundamental Rights.

With regard to quotas, we did not see eye to eye with the employers who rejected the principle, despite our positive approach. The system of quotas was certainly the best way of reversing exclusion.

Together with the European Disability Forum, the ETUC wanted to see a specific Community directive based on Article 13 and covering aspects specific to the disabled. Nina Daïta from the CGIL (a key driver of our network) had become the ETUC’s representative to the Forum and to the annual conference with the Commission. A directive was adopted in 2000¹⁶, covering more generally equal treatment at work with regard to employment and work, regardless of religion, convictions, possible disability, age or sexual orientation.

In September 2002, we held a further European conference in Barcelona in preparation of our campaign in the context of the 2003 European Year of People with

15. This referred to the Treaty’s article on discrimination.

16. Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Disabilities. We decided to conduct a joint campaign including a poster in different languages, a series of country initiatives, an Executive Committee resolution and a speech to be given by Nina Daïta, on behalf of the network, at the ETUC Congress in Prague in May 2003. But above all we had to find a slogan for the campaign. It was to be: “One for all and all for one: a European year promoting equal rights for the disabled.”

At its meeting on 19-20 November 2002, the Executive Committee adopted a resolution¹⁷ upholding the three priorities of the union movement: the right to employment; the right to education and training; and the right to dignity. The European Year was launched in Athens on 26 January 2003 under the Greek EU Presidency. We decided to hold a further joint ETUC/EDF conference in Thessaloniki at the CEDEFOP headquarters. The Commission attended the conference, underlining the importance of the synergy between the ETUC and EDF actions.

EDF President Yannis Vardakastanis turned out to be a valuable partner in this joint action.

**The European Centre for the Development of
Vocational Training: CEDEFOP**

As with Eurofound in Dublin, this was a tripartite Community agency. Established in 1975*, its goal was to support the policies of the European Commission, the Member States and the social

partners in the field of teaching, vocational training, qualifications and occupational skills. The first head of the Berlin-based CEDEFOP was a union official, Roger Faist, the former Secretary General of the French UCC-CFDT.

* Council Regulation EEC 337/75 of 10 February 1975

On 29 May 2003, Nina Daïta spoke to the 13th ETUC Congress, taking stock of 10 years of work, recounting the battles fought to ensure the rights of disabled workers and to get this goal into the programmes of our national organisations. This was the first time (and up to now the last time) that a disabled person had given a speech at an ETUC Congress, not just in a disabled capacity but also as a union activist like everyone else.

Cooperation projects also developed with many other NGOs: the European Women's Lobby, NGOs dedicated to the environment, consumer protection, social tourism, but also with mutuals.

Of particular note was the work carried out together with the social economy organisations.

In preparation for the European Summit in Lisbon in December 1997 which, in anticipation of the Treaty ratification, was supposed to implement the Employment Chapter, a joint declaration was discussed and adopted¹⁸. The social economy had always been close to the heart of the union movement, with the two sharing common values: solidarity, individual advancement and a better distribution of wealth. The ETUC and the social economy organisations were aware that there were “large reserves of skilled jobs in the social economy sector to meet currently unfulfilled needs in the fields of improving the habitat, the environment, childcare, social and health services

17. 2003, the European Year of. People with Disabilities, agenda item 12(b). The author's archives.

18. The signatory social economy organisations of this declaration included the European Council for Voluntary Organisations (CEDAG), as well as the following organisations coordinating European cooperative associations: CECODHAS, UEPS, CECOP, KOOPI (Sweden), FEBECOOP (Belgium), REMCI (Italy), CEPS (Spain).

(and in particular support for elderly dependants and the disabled), education, culture and leisure activities, help in integration and, more generally, in organising social interaction”¹⁹. In a market economy, production cooperatives for instance had never had any access to the European social dialogue. In my view, the best way to give them access would be for these European social economy organisations to become members of CEEP, but this never happened.

9.3 The Charter of Fundamental Rights

9.3.1 The first step (1999-2000)

The June 1999 European Summit decided to have a Charter of Fundamental Rights for Europe drawn up, extending the 1989 Charter which applied solely to workers (see Chapter 3). In October 1999, in Tampere in Finland, the Council decided to set up a Convention made up of national MPs and MEPs, as well as government representatives, to draw up the Charter. The Convention was chaired by Roman Herzog, the former German President. Hearings – in which the ETUC was very active – were held, together with civil society. The ETUC also decided, together with the European NGOs, to conduct a joint campaign on a jointly crafted draft Charter: “Fundamental rights: the heart of Europe! A campaign document for incorporating the fundamental rights into the Treaties of the European Union and the European Economic Community.”



ETUC campaign together with social NGOs: the signing of the European Charter of Fundamental Social Rights. The ETUC Secretary General with MEP Marie-Claude Vayssade, signing on behalf of the
Source: ETUC archives

19. Joint declaration of the ETUC and the social economy organisations of 5 November 1997. The author's archives.

After 8 months' work, the Convention arrived at a compromise in July 2000. The ETUC was furious, as the text ignored the right to strike, European-level recognition of the freedom of association, and protection of the elderly. Similarly, there was nothing on employment or the right to a minimum wage. We had a meeting with two important members of the Convention, Guy Brabant representing the French government and Pervenche Bérés, vice-president of the European Parliament delegation and a socialist MEP. Both defended the July compromise and warned us against the risk of the compromise being weakened by the undermining efforts of the British, should we see fit to restart the discussion.

This threat did not shake the ETUC, and Emilio Gabaglio spent August 2000 trying to bring the shortcomings of the Charter text to the attention of President Jacques Chirac, with the help of Olivier Dutheillet de la Mothe, his social advisor. This intervention and others targeting other heads of state, coupled with the threat of conducting a public campaign against the Charter in its current state, bore fruit. The discussions were reopened in September, with a more satisfactory compromise reached in October 2000. The Charter was formally adopted by the respective Presidents of the European Parliament, the Council and the Commission on 7 December 2000 during the European Summit in Nice.

Looking at this Charter, there was nothing revolutionary about it. Of its 54 articles, 28 referred to the Council of Europe's European Convention of Human Rights²⁰ and its case law, 18 to the Council of Europe's Social Charter and 15 to the Community Charter of Fundamental Social Rights of December 1989, itself inspired by the Council of Europe's Social Charter.

The "small" remaining problem was the status of the Nice Charter²¹. Although unsatisfactory, this Charter constituted significant progress insofar as its status could be enhanced through having it incorporated in the Treaty. That was to be the next step, and it was to be the next major battle for the unions and NGOs at European level.



ETUC's European demonstration in Nice on 6 December 2000.

Source: ETUC archives

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20. The Council of Europe served as a "breeding ground" for many Community proposals, with even the European flag being taken over.
 21. It seems that a meeting between the French Prime Minister Lionel Jospin and the British PM Tony Blair on 4 September in London was necessary to arrive at a compromise allowing the latter to accept the Charter's social rights against a guarantee that the Charter would not be binding.

9.3.2 The second step (2002-2007)

As part of the revision of the Treaty, made necessary by the upcoming major enlargement of the European Union, a new Convention on the Future of Europe was agreed at the Laeken Summit on 14 December 2001. Jacques Delors seemed the ideal person to chair the Convention, but French Prime Minister Lionel Jospin proposed Valéry Giscard d'Estaing, who was ultimately chosen.

This Convention started with a wide-ranging consultation of civil society. During the debates, the ETUC boosted its cooperation with the NGOs with the aim of mobilising all social organisations in favour of incorporating the Charter of Fundamental Rights into the Treaty, thereby greatly enhancing its legitimacy. The ETUC Secretary General, Emilio Gabaglio, played a leading role in the debates, developing close links with other civil society players. The discussions were not always easy, but the President of the social NGOs' platform and Secretary General of Solidar²², Gian Piero Alhadeff, proved to be a valuable ally. The European Economic and Social Committee, in the person of its president, Roger Briesch, was similarly very active.

We did our best to consolidate the role of the social partners in the future Treaty and to strengthen the status of social dialogue, an effort mainly in the hands of the ETUC Secretary General and CEEP President Joao Cravinho. Though not a complete success, we did manage to make progress on the social front. The definition of the objective of the EU as a "social market economy" was an important milestone, as was the institutionalisation of the annual tripartite Social Summit.

Through continuing to develop cooperation projects between the unions and the NGOs, the ETUC wanted to clarify the distinction between bipartite social dialogue and a civil dialogue involving all NGOs and the social partners, while at the same time building bridges and establishing synergies between the two. We had examples for instance from Ireland where pacts had been negotiated by the government, the employers and the unions on company-related matters, or where non-governmental organisations had joined forces to discuss societal matters.

The game was a tough one, as the Convention's chairman completely shut out social rights. Luckily, the two vice-chairmen, Giuliano Amato and Jean-Luc Dehaene, both former prime ministers of their respective countries, Italy and Belgium, were more receptive to our arguments.

Finally, during the 12 December 2007 sitting of the European Parliament, EP President Hans-Gert Pöttering, the Portuguese Prime Minister and Council President, José Socrates, and Commission President, José Barroso, solemnly signed the Charter of Fundamental Rights, announcing that it would be incorporated into the Treaty to be signed the next day, 13 December 2007, in Lisbon. Its Article 6 conferred on the Charter the same legally binding character as that of the Treaties.

The work of the two Conventions turned out to a very good way of creating synergies between the third sector and the unions. At the Executive Committee meeting on 5-6 June 2002, the ETUC Secretary General presented a document entitled *The unions and civil society*, highlighting what had been achieved.

22. SOLIDAR is a European network of civil society organisations working to promote social justice in Europe and around the world. With more than 60 members (22 from EU Member States), the organisation is based in London.



ETUC/NGO postcard for the campaign for incorporating the Charter of Fundamental Rights into the Treaty.

Source: ETUC archives

Conclusion

Should we be nostalgic about this period spent constructing the European social dialogue? Since then, financial and economic crises have swept through Europe, producing considerable social damage. With regard to the European institutions, the role of the Commission has become much weaker vis-à-vis the Council and the European Parliament; the institutional triangle has become flawed. Over the last few years, the unions themselves, confronted with national difficulties, have kept their heads down, a situation leveraged by the employers to devalue the European social dialogue and the quality of negotiations.

The passage from the role of a lobbyist to that of a player on the playing field of social regulation in the context of the Single Market, formalised by the agreement of 31 October 1991, constituted a milestone in creating the right conditions for horizontal subsidiarity. This agreement enabled the development of the two key pillars in the European social area: the legislative and the contractual (collectively bargained) pillar.

This new dimension of collective bargaining was no substitute for the national, territorial and sectoral dimensions, instead complementing them through establishing minimum standards to avoid social dumping and allow an upward convergence in the social situations of the Member States. This social standardisation, whether legislative or contractual, helped ensure that the differences in our respective levels of development did not lead to divergence. Unfortunately, the crisis has aggravated not just inequality between the EU Member States, but also the inequality in work situations and between genders. Often interlinked, precarious work and poverty are ravaging societies. There is an urgent need to get the EU growing again, backing this growth with a progressive social dimension. No economic success is sustainable without good employment and working conditions,

lifelong learning and occupational health and safety. There is thus plenty of work ahead of the social partners, even though the social dialogue is at present on the back burner. Though this social dialogue, which the Commission should be stimulating, is by nature cross-industry, in the current climate it is the sectors and the European works councils of multinational companies where the music is playing.

We are now in a new era with new players and, in particular, a new Commission President, Jean-Claude Juncker, but also in a situation where the very existence of the European Union is at stake, destabilised by a series of crises, including the refugee crisis and age-old inclination of Conservative leaders in the United Kingdom to transform the Union into a free trade area (with Brexit a manifestation thereof). The rise of extreme right-wing, populist and xenophobic parties, as witnessed in France, the Netherlands, Poland, Italy and Hungary, is undermining the future of a Europe which has not yet found a way to revive economic and social growth. Yet certain recent political developments are providing signs of hope for relaunching the construction of Europe.

The European social dialogue has a past, but it also has a future. It will be up to historians to take stock. In the course of the last few decades, the European social dialogue has greatly contributed to deep transformations: European agreements between the unions and the employers have been signed, social legislation, the Charter of Fundamental Rights, amendments to the Treaties have been adopted, all of which have allowed progress to be made in such important fields as safety at work, the development of qualifications, working conditions and new forms of work, the information and consultation of workers (together with the European works councils), the fundamental freedoms. From the starting point of highly divergent national and sectoral situations, progress has been made, but it remains unbalanced, with compromises remaining unsatisfactory and many needs still unsatisfied. Yet, despite all the difficulties encountered, the European players have found their place in Brussels, procedures have been established, and the tools are there to be used in the coming steps. But are the leaders of the EU, and especially the Commission President, the employer and union organisations, ready and prepared to restore economic growth to Europe, creating jobs and driving social progress. To be effective, this needs the involvement of all sides and the ability to conclude agreements committing the social and business stakeholders to subjects of benefit to all European workers and citizens. Concrete and visible progress is what is needed to restore the credibility and legitimacy of the European Union. The Eurozone is in a position to drive this new momentum.

New union leaders, as found in Germany and France, are calling for “more Europe”. Now is not the time for despair, but to mobilise our forces to give back to the Union its virtues of solidarity, economic and social progress, respect for the environment and social cohesion, all the while bearing future generations in mind. This revival of the social dialogue requires committed players, but unfortunately it would seem that the employers are in retreat. It also requires a Commission able to make proposals and “prod” the social partners.

The account given over these many pages shows that a good dose of obstinacy and will are needed to drive negotiations at a European level in a legitimate, credible and productive manner.

We are not talking about waving a magic wand over Europe, as there is no Sleeping Beauty waiting for her Prince Charming. We are talking about re-founding Europe on the basis of its fundamental values of democracy, solidarity and social justice. We need unions with commitment and a will to drive things forward. As usual...

“The greatest danger for Europe?
- A lack of ambition and nostalgia for the past.”

Jacques Delors *L'unité d'un homme*
Entretiens avec Dominique Wolton
Éditions Odile Jacob (1994)

Afterword

Looking back, via this account of Jean and his portrayal of the various contributors to the establishment of the European social dialogue, at how this dialogue slowly took on form, in the face of difficulties and failures, but also driven by the dynamism and visions of these “pioneers”, we can draw hope for the future. Yes, it is possible to give life to a social Europe, insofar as those involved have the determination to achieve it.

At the European level, it is undeniable that the European social dialogue has made considerable progress within a relatively short space of time. Having picked up the glove thrown down by President Delors in 1985, the social partners have taken major steps, at both cross-industry and sectoral levels, to develop a European system which does not mirror the respective national systems, but meets the challenges posed by European integration.

Social dialogue at all levels must not only be considered as a key factor, a pillar supporting the European social model, but also as a driver of innovation. The social partners have a growing need to play an autonomous role, making major joint commitments which will need to be executed, monitored and assessed.

In 1995, the cross-industry European social partners successfully conducted their first negotiations, resulting in a (since revised) framework agreement on parental leave. Since then, the European social dialogue as such, its players, its procedures and its results have evolved in a decisive manner. These fundamental changes are reflected mainly in the conclusion of autonomous framework agreements, action frameworks and social dialogue work programmes, true roadmaps negotiated by and for the social partners. We now have five framework agreements: on telework, stress at work, violence, inclusive labour markets and, last but not least, active ageing. Although not packaged as directives, these agreements are being implemented by member organisations of the signatory parties at national level.

The social partners have also negotiated three action frameworks on skills and qualifications, gender equality and youth employment. These tools give priority to practical considerations and are set to give inspiration to member organisations. Monitoring actions are also included in these less-binding texts.

The social partner work programmes have included and extended the subjects of these texts. The first programme was negotiated for 2003-2005, and four further 3-year

programmes have followed. An exhaustive list of subjects jointly addressed would be very long, as the many subjects have been very diverse. About one hundred joint initiatives have been taken, including projects, declarations, studies and online actions. Subjects such as digitalisation, climate change, flexicurity, learning, restructuring or the better involvement of the social partners in the European Semester have also been addressed. The most recent illustration of this progress is certainly the quadripartite declaration initiated by the social partners and co-signed by the European Council and the European Commission.

Starting in 2000s, extensive work has been jointly performed on *capacity building*, initially in the context of the support extended to organisations in the ten new Member States, and since extended to all ETUC member organisations. Seminars for exchanging good practices, training courses at different levels, translations and “resource centre” websites have been implemented as part of this work by each of the parties.

With social dialogue now having reached adulthood, it is necessary to adopt a more qualitative approach, analysing its strengths and weaknesses at all levels.

Given the complexity of the labour market and a changing society, the European social partners must be able to display initiative. They need to continue jointly examining issues of strategic interest to both sides, presenting their conclusions to the European institutions and public authorities at all levels in the hope that they will be carried out when the opportunity arises.

Studies conducted in the past few years unanimously highlight the political will of the ETUC member organisations to strengthen this European social dialogue. Despite the difficulties encountered, the large majority of member organisations consider that the European social dialogue brings added value to workers, regardless of the sector or region.

According to the national social partners, one of the main achievements of this process is the involvement of the European social partners in European decision-making.

However, the content of the texts agreed is considered to be increasingly deteriorating, mirroring the transition from agreements transposed into directives to autonomous agreements implemented by the social partners.

With regard to instruments, it is fair to say that these have become more diversified and complex over the past few years, resulting in a need to clarify the rights and obligations from an implementation, monitoring and assessment perspective. Unfortunately, implementation is sometimes limited, being dependent on the goodwill of an employer and on the coverage levels of collective agreements at national level.

The negotiations of the 5th social partner autonomous work programme for 2018-2020 are set to be a further step in this direction, upholding a strong social dialogue. In addition to identifying subjects of common interest, the European social partners must also set down which binding instruments they have at their disposal to better address such questions at both cross-industry and sectoral levels.

Social dialogue must not be limited to a discussion forum or a showcase, instead being able to generate change, agreements and implemented agreements. It must not be confused with civil dialogue. Employer organisations and unions are not public opinion movements, but structured organisations with truly democratic foundations.

The strengthening of the European social dialogue is certainly the best way of finding the right path through the maze of new challenges facing the European labour market.

Top priorities at the moment are employment, or rather quality employment, the fight against unemployment and poverty, without forgetting the struggle against the dismantling of social security systems and public services.

We are on the eve of a radical transformation of the labour market, with jobs set to be destroyed, changes made to existing jobs, and redeployment. In the longer term, this transformation will take place in an economic context made more uncertain by the one overriding challenge: climate change. Our whole economy is going to have to adjust to the hardly predictable consequences of global warming.

Social dialogue is a lever, for use in overcoming these challenges. Massive investment in negotiations at all levels and in all sectors is needed to anticipate as best as possible these radical transformations, and much effort is still needed to get there. It is of crucial importance not to shut our eyes to the digital economy and climate change. There is no use in ascertaining the social damage *a posteriori*, closing the door when the horse has already bolted.

We must display initiative and an unfailing will to respond to this complexity, this lack of coordination on the labour market and more generally in social development.

The next work programme for 2018-2020 will be the occasion for the social partners to express their joint priorities and above all the tools they will be choosing to implement them.

The European union movement calls on all of us to face up to these new challenges. To achieve this, we – hand in hand with the employers – have at our disposal a unique tool: the social dialogue.

A handwritten signature in black ink, appearing to read 'Luca Visentini', with a stylized, flowing script.

— Luca Visentini,

General Secretary of the European Trade Union Confederation (ETUC)

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Annexes

Annex 1

List of joint opinions, framework agreements, autonomous agreements and frameworks of actions (1985-2003)

16/10/2003	Orientations for reference in managing change and its social consequences + Annex: case studies
14/03/2003	First follow-up report on the implementation of the framework of actions of 28/02/2002
20/01/2003	Declaration of the social partners for the European Year of People with Disabilities – Promoting equal opportunities and access to employment for people with disabilities
14/01/2003	Joint contribution of the social partner representatives in the working group on the future of social Europe
16/07/2002	Framework agreement on telework
28/02/2002	Framework of actions for the lifelong development of competences and qualifications
13/12/2001	Joint contribution of the social partners to the European Summit in Laeken
17/03/2001	Conference on social dialogue in the candidate countries – press declaration, Bratislava
21/11/2000	European Monitoring Centre on Change – Contribution of the European social partners
21/11/2000	Compendium of Social Partner Initiatives relating to the Employment Guidelines of the European Employment Strategy
21/11/2000	Introductory statement to the compendium of social partner initiatives relating to the employment guidelines of the EU employment strategy
15/06/2000	Joint statement of the social partners to the Forum on 15 June 2000
02/06/1999	Statement of the European social partners to the European Summit in Cologne
11/05/1999	Statement of the social partners on the employment of the disabled
18/03/1999	Joint statement on the occasion of the Warsaw Conference on EU Enlargement
18/03/1999	Framework Agreement on Fixed-term Work
01/01/1999	Compendium of good practices for the employment of disabled persons
09/12/1998	1999 Employment Guidelines: Joint statement of the European social partners to the European Summit in Vienna
09/12/1998	Joint opinion on the reform of the Standing Committee for Employment
01/10/1998	Joint opinion of the draft decision establishing the second phase of the Community Action Programme on Vocational Education Leonardo da Vinci II
13/11/1997	Contribution of the social partners to the Employment Summit
06/06/1997	Framework agreement on part-time work
29/11/1996	Action for Employment in Europe - a Pact of Confidence
14/12/1995	Framework agreement on parental leave

21/10/1995	Joint statement on the prevention of racial discrimination and xenophobia and promotion of equal treatment at work.
16/05/1995	Guidelines of the social partners for turning recovery into a sustained and job-creation growth process. Joint opinion drafted by the macroeconomic group of the social dialogue.
04/04/1995	Joint opinion on the contribution of vocational training to combating unemployment and reabsorbing the unemployed into the labour market in the light of the new situation created by the White Paper
05/12/1993	Joint opinion on the framework for the broad economic policy guidelines
03/12/1993	Joint opinion on women and training
29/10/1993	Proposals by the social partners for implementation of the agreement annexed to the protocol on social policy of the Treaty on European Union
28/07/1993	Joint opinion on the future role and action of the Community in the field of education and training, including the role of the social partners
01/06/1993	Joint recommendation on the functioning of interprofessional advisory committees
13/10/1992	Joint opinion on vocational qualifications and certification
03/07/1992	A new cooperation strategy for growth and employment
03/07/1992	Joint statement on the future of the social dialogue
20/12/1991	Joint opinion on ways of facilitating the broadest possible effective access to training opportunities
31/10/1991	Agreement on the role of the social partners in developing the Community social dimension
05/04/1991	Joint opinion on the transition from school to adult and working life
10/01/1991	Joint opinion on new technologies, work organisation and adaptability of the labour market
19/06/1990	Joint opinion on education and training
13/02/1990	Joint opinion on the creation of a European occupational and geographical mobility area and improving the operation of the labour market in Europe
26/11/1987	Joint opinion on the Annual Economic Report 1987/88
06/03/1987	Joint opinion concerning training and motivation, and information and consultation
06/11/1986	Joint opinion on the cooperative growth strategy for more employment

Annex 2

Social Dialogue Summits 1985-2003

Dates and places	Content
31 January 1985 Val Duchesse I	Launch of the Community social dialogue. The aim of the President of the European Commission was to involve the social partners in the construction of a social area in the realisation of the Single Market.
12 November 1985 Val Duchesse II	Establishment of two working groups: Macroeconomics and New Technologies and Social Dialogue
7 May 1987 Palais d'Egmont I	First "critical" examination of the work of the social dialogue. Social partner dissent on the nature of social dialogue outcomes: binding or non-binding
12 January 1989 Palais d'Egmont II	Establishment of the Steering Committee and two Working Groups: Education and Training; and Labour Market. Overcoming of the opposition to "wanting to regulate everything/fireside dialogue" (<i>in the words of Jacques Delors</i>).
3 July 1992 Palais d'Egmont III	Joint statement on the future of the social dialogue as a result of the agreement of 31 October 1991 and of the Maastricht Treaty Social Protocol. Creation of the Social Dialogue Committee
28 September 1993 Palais d'Egmont IV	Preparation of a joint contribution on the White Paper on <i>Growth, Competitiveness, Employment</i> . Discussions on the implementation of the Social Protocol and employer opposition to the Social Action Programme, and in particular to the proposed European works councils.
30 March 1995 Paris, Tripartite Social Conference under the French EU Presidency (in fact for the French Presidency, this represented an informal meeting of the Standing Committee on Employment).	In its work programme, the French Presidency had announced a social dialogue initiative: "It shall encourage, at Community level, a large-scale consultation on social Europe and contractual policy, involving the European Commission, the Ministers and the social partners". The Paris Conference served as a forum for discussing the implementation of the conclusions of the Essen European Summit on employment.
21 October 1995 Florence, plenary Social Dialogue Summit	Adoption of a joint contribution on the follow-up to the declaration issued by the European Council at its Summit in Essen. Inauguration of the European Centre for Industrial Relations (ECIR).
14-15 June 1996 Rome, Tripartite Conference between the governments, the Commission and the social partners on growth and employment, with the same participants as those in the Standing Committee on Employment.	Discussions focused on optimising the contribution of Community policies to growth and employment and on modernising the labour market in the context of the "Pact for Employment" proposed by the Commission.
6 June 1997 The Hague, mini-Summit (select social partner delegations)	Presentation of the agreement on part-time work. Confrontation over the social aspects of corporate restructuring.
13 November 1997 Palais d'Egmont V	Adoption of a joint contribution for the Employment Summit in Luxembourg.

4 December 1998 Vienna, mini-Summit	Talks on the EU's Employment Strategy and on the Communication from the Commission on the organisation of work.
25 May 2000 Brussels, mini-Summit	Talks in the aftermath of the Lisbon European Summit on the integrated Economy/ Employment/Social strategy and on preparations for the Forum of 15 June.
22 March 2001 Stockholm, "high-level" Summit (the third type of summit). Participation of the "Troika", i.e. the current EU Presidency plus the two following ones.	Failure of the negotiations on temporary agency work and disagreement on the contribution on lifelong education and training. An "interim" report is the only document sent to the Summit.
13 December 2001 Laeken, "high-level" Summit (as in Stockholm) with the "troika".	Contribution of the social partners clarifying the role of social dialogue, proposing a single tripartite consultation body on the integrated economic, social and environmental strategy. The social partners also proposed the drafting of an autonomous work programme. The decision was taken for the next summits always to be held directly before each Spring European Summit.
14 March 2002 Barcelona, same participants as in Stockholm and Laeken, together with Council President, José Maria Aznar	Presentation of the agreement on the "framework of actions for the lifelong development of competences and qualifications", discussions on the Commission consultation on "Anticipating and managing change: a dynamic approach to the social aspects of corporate restructuring", which was leading to divergences in the analysis of the problem and ways to deal with it between the employers and the unions. Nevertheless, the decision was taken to "explore" the possibilities of social dialogue on this subject. Announcement of the drafting of an autonomous work programme, expected to be ready by autumn 2002.
28 November 2002 Genval (a suburb of Brussels)	Adoption of the first autonomous work programme 2003-2005. Debates with the Convention on the Future of Europe on incorporating the Charter of Fundamental Rights into the Treaty. Status report on the perspectives of EU enlargement on the eve of the Copenhagen European Summit which was to wind up the negotiations with the ten candidate countries.
20 March 2003 The first "Tripartite Social Summit for Growth and Employment*" under the Greek EU Presidency. The participants were the same as at the previous "high-level" summits, including the EU Presidency, the representatives from Ireland and Italy (the troika), the Commission President and the Social Affairs Commissioner.	The aim of this Summit was to strengthen the contacts between the social partners and the European institutions on economic and social policies and to send out a strong signal regarding the importance of tripartite consultations. The social partners presented their first annual report on the implementation of their Framework of Actions for the lifelong development of competences and qualifications, as well as taking stock of the discussions underway on managing corporate restructuring.

* 2003/174/EC: Council Decision of 6 March 2003 establishing a Tripartite Social Summit for Growth and Employment

Annex 3

List of organisations consulted in the context of COM(93) 600

Communication concerning the application of the agreement on social policy presented by the Commission to the Council and the European Parliament.

List of social partners meeting the criteria set by Article 24 of the Communication and needing to be consulted on any Commission social initiative:

General cross-industry organisations:

- Union of Industrial and Employers' Confederations of Europe (UNICE)
- European Centre of Enterprises with Public Participation (CEEP)
- European Trade Union Confederation (ETUC)

The sectoral organisations of UNICE and committees of the ETUC are also consulted as required.

Organisations representing certain categories of workers or undertaking:

- European Association of Craft, Small and Medium-Sized Enterprises (UEAPME, EuroPmi and other associated organisations)
- CEC European Managers
- Eurocadres

Specific organisation:

- Eurochambres

Sectoral organisations not affiliated to a cross-industry organisation:

- Eurocommerce
- COPA/COGECA
- Association of European Cooperative Insurers, AECI
- International Association of Insurance and Reinsurance Intermediaries, BIPAR
- European Insurance Committee, EIC
- Banking Federation of the European Community
- Savings Banks Group of the European Community
- Association of Cooperative Banks of the EC
- European Timber Association, ETA
- Confederation of the National Hotel and Restaurant Associations in the European Community, HOTREC
- European Construction Industry Federation
- European Regional Airlines Association, ERA
- International Civil Airports Association, ICAA
- Association des transports aériens à la demande
- Association of European Community Airlines, AECI
- Association of European Airlines, AEA
- Organisation européenne des bateliers
- International Union for Inland Navigation
- European Community Shipowners Association
- Community of European Railways
- International Road Transport Union

Annex 4

Index of names and biographies

A

Maria Helena André — Unionist from the Portuguese UGTP, member of the ETUC Secretariat from 1991 to 2003, then Deputy Secretary General until October 2009, when she became Minister of Labour and Social Solidarity in the cabinet of the socialist José Socrates. She was very much involved in the European social dialogue, with a focus first on VET, then on the fight against discrimination. She assumed overall responsibility for social dialogue at the Prague Congress in 2003.

B

Jean-Michel Baer — A French journalist for *Le Monde* and *Libération*, he came to Brussels in 1985 as the social advisor of Commission President Jacques Delors. In 1989, he headed the European Commission's representation in France, later returning to Brussels as Director of the DG Communication.

Martin Bangemann — A German liberal party (FDP) politician, Commissioner for the Internal Market and Industry from 1989 to 1995 in the Delors Commission, then Commissioner for Industrial Affairs, Information & Telecommunications Technologies in the Santer Commission from 1995 to 1999.

Giorgio Benvenuto — An Italian union leader, Secretary General of the UIL confederation from 1976 to 1992. As a leader of the Socialist Party, he helped bring down the government of Bettino Craxi. After the party broke up, he chose to join the left, while many of his socialist comrades went over to Silvio Berlusconi. An MP for the leftist democratic party, the Olive Tree, a coalition between the Communist Party and the centre-left, from 1996 to 2006.

Brian Bercusson — A British professor of European labour law, he taught at the European University in Florence and at Siena University. He was retained as a consultant by Thompsons, the trade union solicitors headquartered in the British TUC building. Close to the British and European trade union movement, he provided valuable input to our discussions on the European dimension of collective bargaining, on proposed Community legislation and on drawing up the Charter of Fundamental Rights. He was a founding member of NETLEX, the network of labour law experts organised by the European Trade Union Institute for the ETUC.

Pierre Bérégovoy — A French socialist politician and former member of the French Resistance, he started his career as a worker for the SNCF, before moving to Gaz de France in 1950. After a spell at the SFIO, he participated in the founding of the PSU together with Michel Rocard. He worked with Pierre Mendès France on social issues. In 1969, he joined the "New Socialist Party". In 1971, he took part in the "founding" congress of the Socialist Party together with François Mitterrand. In 1981, following Mitterrand's election as President of France, he was chosen as Secretary General of the Presidency. One year later, he joined the cabinet as Minister of Labour. After various ministerial posts, he became French Prime Minister from April 1992 to March 1993.

Wilfried Beirnaert — He was Director General of the Belgian employer federation FEB from 1981 to 1998. A tough negotiator known for his expertise, firmness and openness, he negotiated with the Belgian trade unions within a national system which accorded great power to the social partners and was characterised by regulation through collective bargaining (which did not however rule out some very tough power struggles). He was convinced of the importance of social dialogue and of the necessity to give concrete shape to its outcomes.

Marco Biagi — An Italian labour lawyer with a reformist vision of industrial relations, he was assassinated by the New Red Brigades on 19 March 2002.

Robert Boulin — A French Gaullist politician and former member of the French Resistance, he was an MP for the UNR, then the UDR and RPR from 1958 until his brutal and unsolved murder in 1979. His period as MP was interspersed with various ministerial functions under President de Gaulle, Georges Pompidou and Valéry Giscard d'Estaing, under whom he was Minister of Labour from 1978 to 1979.

Bernard Boussat — Director of International and European Affairs at the CNPF, the French employer association, he was greatly involved in setting up the social dialogue, belonging to that section of employers who were against systematically opposing legislation and European-level negotiations. He was also in favour of adopting the Opinion of the European Economic and Social Committee on the Community Charter of Fundamental Social Rights of Workers.

Ernst Breit — A unionist from the German Postal Union, which he headed as of 1971. He was President of the German trade union confederation, the DGB, from 1982 to 1990. He was elected ETUC President from 1995 to 1991, a period characterised by a decisive evolution of European trade unions.

Roger Briesch — The head of the steelmaking branch of the French CFDT, he was a member of the ECSC Advisory Committee. After a spell as Secretary of the metalworkers' federation CFDT, he became Director of the confederation's International and European Department where he played a valuable role in the development of the ETUC. He was to become chairman of the Workers' Group, then chairman of the European Economic and Social Committee (2002-2004).

Leon Brittan — A British Tory, Commissioner from 1989 to 1999, first in charge of competition, then of commerce and finally of external relations. He took over from Lord Cockfield who, though a true-blue Conservative, had been ousted by Margaret Thatcher for being too "Delorist".

C

Cardoso e Cunha — The first Portuguese Commissioner, a politician from the centre-right PSD, he was Commissioner first for Fishing, then for Energy, Enterprise and Industry under both Delors presidencies Delors I (as of 1 January 1986) and Delors II (1989-1993).

Guido Carli — Governor of the Bank of Italy from 1960 to 1975, he became president of the Italian employer association Confindustria in 1976, then president of UNICE in 1980.

Pierre Carniti – Secretary General of the trade union federation FIM-CISL (1979-1985) and a friend of Emilio Gabaglio, at that time President of the ACLI, he shared the same convictions as him on the possible socialist commitment of militant Christians. He was a great Secretary General of the CISL, developing the independence of trade unions vis-à-vis the political parties. A socialist MEP (1994-1999), we had the occasion to work with him in particular in the Parliamentary Intergroup of trade union MEPs.

Paolo Cecchini – An Italian legal expert, Deputy Director General of the DG Internal Market and Industrial Policy. Enjoying close ties to Jacques Delors, he compiled a report in 1988 entitled "The Cost of Non-Europe" highlighting the potential benefits of realising the Single Market.

Jacques Chérèque – A steelworker from Lorraine, he was to become Secretary General of the metalworking branch of the CFDT in 1971, where he gave the federation a very strong European and international orientation. He became Deputy Secretary General of the CFDT in 1979. Engaged in the Assizes of Socialism, a movement to unite French socialists, he became, on a proposal of then Minister of Industry Laurent Fabius, deputy prefect in Lorraine in charge of planning, and then deputy Minister of Industry in the Rocard government (an old acquaintance of the PSU).

Claude Cheysson – A French socialist and development specialist, he was a member of the Ortolí, Jenkins and Thorn Commissions between January 1973 and 21 May 1981, when he was appointed Minister of Foreign Affairs in the Mauroy government (1, 2 and 3), and then in the Laurent Fabius government. He was appointed to the Delors Commission (1985-1988), taking charge of the Mediterranean policy and North/South relations.

Arthur Cockfield – A high-ranking British civil servant, he became Minister of State at the Treasury in 1979 following the election of Margaret Thatcher. He was Chancellor of the Duchy of Lancaster from 1983 until 1984, when he left to join the European Commission in September 1984, becoming Commissioner first for the Internal Market then for Taxation under Jacques Delors. Supposed to toe the eurosceptic line of Margaret Thatcher, he ended up committed to the strategy of Jacques Delors on the realising the Internal Market. He was to pay for this in 1988, when he was replaced by Leon Brittan.

Peter Coldrick – A British TUC official, he became the ICFTU's economic advisor in 1973. From there he moved on to the ETUC, joining its Secretariat team on 1 February 1976. He was elected as the confederation's secretary at the ETUC Congress in London in May 1976, working in this capacity until the end of his mandate in 2003 at the Prague Congress. Throughout his period working in the Secretariat, he was in charge of economic policy and was thus particularly involved in the social dialogue. The first outcome of this dialogue under his responsibility was a joint opinion on macroeconomic policy concluded in November 1986. After 2003, he was appointed head of the TUC office in Brussels.

Robert Cottave – A social advisor working for the French permanent representation to the EEC and former Secretary General of FO-cadres, he was a member of the French Socialist Party and a close ally of Pierre Bérégovoy who tried to revive the social dialogue in 1984. Contacts were always close between him and the ETUC, in particular with François Staedelin and the author.

Henning Christophersen — A Danish politician, he was his country's Minister of Foreign Affairs from 1978 to 1979 and Minister of Finance from 1982 to 1984. He became a European Commissioner in 1985, heading the DG for Economic and Monetary Affairs until 1995. He supported the strategy of Jacques Delors throughout the latter's presidency of the European Commission.

D

Georges Dassis — A Greek trade unionist, he has been chairman of the European Economic and Social Committee since 2016. Imprisoned under the colonels' regime (1967-1974), he fled Greece, becoming a political refugee in Italy and Belgium. A leading trade union activist in the Greek union confederation GSEE, but also very European-minded, he was very active within the ETUC and in the European social dialogue. During his political exile, he worked for the Belgian General Federation of Labour (FGTB).

Etienne Davignon — A Belgian politician and leading businessman, he wielded considerable influence at Belgian, European and international level. He was a Commissioner from 1977 to 1985 and Commission Vice President from 1981 to 1985. Between 1977 and 1981, he was responsible for the Internal Market, the Customs Union and Industrial Affairs, and from 1981 to 1985 for Industrial Affairs and Energy.

René Decaillon — Secretary General of the French CFTC Federation, then of CFDT Gas-Electricity (1962-1970), he became a member of the confederation's Executive Committee in 1970, assuming responsibility for training and organisation.

Jean Degimbe — A Doctor of Law, he headed the Belgian European Movement in 1944, moving on to the Movement's European secretariat in Paris (1951-1957) where he maintained contacts with the CFTC. He was recruited as chief of staff by Roger Reynaud (CFTC) when the latter was appointed to the High Authority of the ECSC. He went on to become chief advisor in the staff of European Commission Vice-President Raymond Barre in 1967, then advisor to Commissioner François Xavier Ortoli. He ended up as Director General of the DG Employment and Social Affairs from 1976 to 1992. In the second half of 1984, he was involved in preparing for the arrival of Jacques Delors as Commission President.

Robert D'Hondt — A CSC leader, he belonged to the left wing of the French-speaking Christian Democrat Party. He even attempted to create a new party, Solidarity and Participation, with the aim of offering Christian trade unionists an alternative to the Social-Christian Party. With close ties to the CFDT, he was one of the most European trade unionists. He died much too young at the age of 57.

Anna Diamantopoulou — A Greek politician, she was a member of the Greek socialist party, PASOK. Trained as a civil engineer, she started her government career as Minister of Development, Competitiveness and Merchant Shipping, then becoming Minister of Education, Training and Religion. In September 1999, she became a European Commissioner, in charge of employment and social affairs, a post she held until 2004.

Mario Dido — Born in 1926 in Livry-Gargan (France) into a family of Italian migrants which returned to Italy in 1941 following the German occupation of France, he became a metalworker at the age of 15. A CGIL activist with socialist leanings, he was very much involved in the creation of the ETUC. He was a socialist MEP from 1979 to 1994 and Vice-President of the European Parliament between 1984 and 1989. Together with François Staedelin, he set up the ETUC/EP Coordination Committee in 1976, a committee that met once a month when the EP sat in Strasbourg.

Georgina Dufoix — A French socialist, she was Minister of State for the Family, Population and Migrant Workers in the Mauroy III government, before becoming, in July 1984, Minister of Social Affairs and National Solidarity in the Fabius government.

E

Werner Ellerkmann — A German jurist, he first worked for the Euratom Commission, then as Director General of ELSA, the European laboratory for structural assessment, a European Commission research centre. He was Secretary General of the CEEP from 1983 to 1994.

F

Carlos Ferrer Salat — A Spanish businessman, he founded the employment confederation CEOE, acting as its first President from 1977 to 1984. A successful sportsman and tennis champion, he was president of the Spanish Olympic Committee and worked hard to bring the Olympics to Barcelona in 1992. He was UNICE President from 1990 to 1994.

Dave Feickert — A trade union activist and high-ranking official in the British National Union of Miners (NUM), he broke with Arthur Scargill over the miners' strike in 1984-1985. He moved on to become the TUC's representative in Brussels, before moving back to his home country, New Zealand, where he worked as a respected top consultant in the field of health and safety in China's mining industry.

Carola Fischbach-Pyttel — A German union activist, she was Secretary General of the European Public Service Union (EPSU) from 1996 to 2014. She played a key role in the development of her federation and in the establishment of social dialogue in the various sectors covered by her federation (public administration, energy, healthcare, etc.) but also in the cross-industry social dialogue conducted by the ETUC. Her book on the development of the EPSU was published by the ETUI in 2017.

Pádraig Flynn — An opportunist and ambitious Irish centre-right politician (Fianna Fáil), he held several ministerial posts in successive Irish governments before moving to the European Commission, where he stayed until the resignation of the entire Santer Commission in September 1999, during its second term of office. Flynn himself was not particularly in tune with social ideas, but his excellent chief of staff David O'Sullivan (who was later to become the Commission's Secretary General) made some wise choices for him, in particular with regard to the proposed Directive on European works councils which he saw through to its adoption.

G rard Fonteneau – A French union activist from the shoemaking branch of the CFTD and its president from 1964 to 1970, he became deputy Secretary General of the WCL in 1971 and then head of the International Labour Office with responsibility for the Benelux countries. He then became an advisor to the ETUC on matters involving cooperation with developing countries in the context of the EU/Africa-Caribbean-Pacific agreements, and very engaged in the problems of social exclusion and the discussions on the Charter of Fundamental Rights, both at Council of Europe and European Union level.

Jacques Fournier – A high-ranking French civil servant and state counsellor, he was appointed a member of the *Commissariat g n ral au Plan*, where he worked closely with Jacques Delors. After having been Secretary General of the government, he became CEO of Gaz de France, followed by a spell as chairman of the SNCF board (1988-1994).

Klaus Fuchs – A Bavarian jurist and high-ranking civil servant with the Council of Europe, for many years he was in charge of the Governmental Committee of the Social Charter, before being ousted for his progressive positions. He was always a lively participant in the debates over the Charter, arguing with conviction and always providing valuable support to the ETUC.

G

Emilio Gabaglio – An Italian trade unionist, secretary for international and European affairs with the Italian CISL, he was deeply involved in establishing the ETUC in the 1970s. He was president of the Catholic association of Italian worker organisations (ACLI), an umbrella organisation bringing together many associations founded during the period of trade union unity between 1944 and 1948 as the Christian faction of the CGIL, following the creation of the CISL as a non-confessional organisation. After breaking with the CGIL, the ACLI continued to exist as a social movement. Emilio Gabaglio was relieved of his duties as president at the behest of the Vatican in 1972 for having spoken out in favour of the socialist option for Italian Catholic workers. He re-joined the CISL secretariat, of which he had already been a member. He was a good friend of Pierre Carniti who, at the time of his "exclusion", was Secretary General of the metalworking branch of the CISL (FIM/FLM) and would later become CISL Secretary General. He was also a great friend of the CFTD and in particular of Edmond Maire.

Pierre Guillen – Vice-President of the CNPF and Secretary General of the UIMM, the powerful French employer federation in the metalworking industry. A man with whom I negotiated a lot in the early 1970s over job descriptions in the metalworking sector. He was very disappointed with the attitude of the European metal employers' organisation (WEM), which rejected any social competence.

Pehr Gyllenhammar – A Swedish employer, he was to be the first chairman of the European Roundtable, the employer organisation lobbying on behalf of large companies. Having moved to the financial sector, he was later to be found in London in 1997/1998 as chairman of a high-level group of experts established by the Commission to look into the economic and social consequences of industrial change.

J

Georges Jacobs — A Belgian industrialist, he was CEO of the Belgian chemical company UCB. He was elected president of the Belgian employer federation FEB in 1993 and 1996, before becoming UNICE President from 1998 to 2002. He tried very hard to introduce reforms, against much opposition from the European employers.

Tom Jenkins — A British trade unionist working for the TUC where he was in charge of international and European policy, he played a major role in steering the TUC towards Europe in the late 1980s and early 1990s.

Roy Jenkins — The son of a Welsh miner, he was 28 when he became a Labour MP in 1948. He held several positions in the Labour governments of Harold Wilson. Very much in favour of the UK joining the Common Market, in 1970 he opposed the official Labour Party positions which were against such a move. He was President of the European Commission from 1977 to 1981 (the only English holder of the position since the creation of the EEC and EU). In 1981 he quit the Labour Party to found the Social Democratic Party (SDP).

K

Jan Kulakowsky — A young resistance fighter in the Warsaw uprising and later a refugee in France and Belgium, he gained a PhD from the Université Catholique de Louvain (UCL). His trade union career started in 1954 in the WCL. He became Secretary General of its European organisation and, upon the creation of the ETUC, a member of its secretariat. The blocking of his appointment as ETUC Secretary General (replacing Théo Rasschaert) saw him returning to the WCL, where he became its Secretary General in 1977. Appointed Poland's ambassador to the European Commission in 1990, he became Secretary of State in 1998, responsible for negotiating Poland's accession to the EU.

L

Manfred Lahnstein — A social democrat and trade unionist, after gaining a degree in economics in 1961 he became secretary responsible for labour and apprenticeships with the German Trade Union Confederation (DGB) based in North Rhine-Westphalia, and was Secretary of the European Confederation of Free Trade Unions in Düsseldorf until 1965. He then moved to the DGB representation in Brussels, where he represented the DGB until 1967, the year in which he started working for the Vice-President of the European Commission, Wilhelm Haferkamp, becoming his chief of staff in 1971. The latter, a German social democrat, was a member of the Commission between 1967 and 1985. Lahnstein headed the Federal Chancellery under Helmut Schmidt from 1980 to 1982, before becoming Federal Minister of Finance until the Social-Liberal coalition was overthrown in October 1982.

Catherine Lalumière — With a PhD in public law, this French socialist was several times a minister (in the Mauroy I and II governments and under Fabius). She was Secretary General of the Council of Europe from 1989 to 1994, a socialist MEP (1994-2004) and vice-president of the European Parliament (2001-2004). Since 2003, she has been head of the *Maison de l'Europe* in Paris.

Allan Larsson — A Swedish social democrat, journalist and trade unionist, he was in charge of research for the Swedish metalworkers' federation LO Metall, before becoming Secretary of State at the Ministry of Labour (head of the Labour Office from 1974 to 1976). He was Swedish Minister of Finance from 1990 to 1991 and an MP, before becoming the Director General of the DG Employment and Social Affairs from 1995 to 2000. Backed by his wealth of experience and his many skills (also gained through his work as Minister of Social Affairs and of Finance), he was a very good Director General, able to hold his own in struggles with other DGs (the DG Economic and Financial Affairs and the DG Enterprise). He was very good at presenting difficult cases.

David Lea — A British trade unionist tasked with managing economic issues at the TUC, he was very much involved in the European social dialogue, especially within the Macroeconomic Working Group. He played a major role in converting the TUC from its anti-European stance to a pro-European one.

Klaus Lorcher — A German jurist originally working for the German postal union, he was behind the creation of the Netlex network of European labour experts. He played a key role in the ETUC delegation to the Governmental Committee of the Social Charter of the Council of Europe and as an advisor to the ETUC in the debate over the EU Charter of Fundamental Rights.

M

Patrick Masterson — Dean of University College Dublin, he became dean of the European University Institute (EUI) in Florence, serving from 1994 to 2002. He provided valuable support in the establishment of the European Centre for Industrial Relations and setting up a high-quality study programme. This support was backed by Yves Meny, the head of the EUI's Robert Schuman Centre.

Ad Melkert — A Dutch politician and member of the Dutch Labour Party (PvdA), he was Minister of Social Affairs and Employment in the Wim Kok government from August 1994 to May 1998.

Albert Mercier — A French trade unionist and engineer for Peugeot, he was active for the CFTC from 1952 onwards. Resolutely anti-colonial, he fought for Algerian independence. On becoming secretary of the Franche-Comté branch of the metalworkers' union in 1960, he became a member of the FGM's Federal Council. He joined the organisation's secretariat in 1966, becoming Jacques Chérèque's deputy in 1971. He moved up to the CFDT in 1976, together with Edmond Maire. Not very proficient in foreign languages, Albert was nevertheless very much involved in the CFDT's department for international and European affairs.

Ariane Meunier — A Belgian union activist in the social field, she was initially hired by the ETUC to help organise a conference in memory of François Staedelin and all he had done for Europe (a conference held at the EESC on 29 January 1992 and attended by Jacques Delors). She carried on working for the ETUC, with a focus of social exclusion.

Gianni de Michelis — A Professor of Chemistry at the University of Venice, he was a socialist member of Bettino Craxi's government, where he worked as Minister of Labour and Social Security from 1983 to 1987. He was vice-president of the Council of Ministers from April 1988 to July 1989, and Minister of Foreign Affairs from July 1989 to June 1992.

Flavio Mondello — Chief of staff at Confindustria's, the Italian employer federation, representation in Brussels, he played an important role on the employer side in raising the quality of the social dialogue.

John Monks — Joining the TUC in 1969, he became head of its industrial relations department in 1977. He was elected TUC deputy Secretary General in 1987 and its Secretary General in 1993. He was subsequently elected ETUC Secretary General in 2003, where he stayed until 2011, heading the ETUC in a difficult period and constantly denouncing what he called "casino capitalism", a brand of capitalism which would lead to the dramatic crisis that lasts until this day.

Hans-Werner Müller — Managing director of a small and very successful family metalworking business in Germany, he was Secretary General of the UEAPME from November 1992 to December 2007. He then became a Christian Democrat MP, first in the German Bundestag and then in the European Parliament (in the EPP), all of which explains the efficiency of his lobbying network.

N

Emile Noël — A Frenchman and dedicated European, he was a very effective Commission Secretary General, discretely wielding considerable influence between 1958 and 1987. At the service of Jacques Delors, he was always a valuable and faithful friend. He compiled an exhaustive 12-page report on the first Social Dialogue Summit on 30 January 1985 (IISH archives, box 2100). Emile Noël was also dean of the European University Institute in Florence, greatly helping us in establishing the European Centre for Industrial Relations in Florence.

O

François Xavier Ortoli — A French politician who held several ministerial positions under Prime Minister Georges Pompidou, he was also the *Commissaire général au Plan* (1966-1967) where he got to know Jacques Delors, with whom he maintained an excellent relationship in the *Plan* and in other functions, in particular as President of the European Commission from 1973 to 1977, and then as Commissioner for economic and monetary affairs until 1984. He was the main architect of the European Monetary System and the ECU, the currency that preceded the Euro.

David O'Sullivan — A European civil servant with an Irish background, he enjoyed a long career within the Commission. He was a member and then deputy head of Commissioner Flynn's cabinet during the struggle over the information and consultation of workers in European multinationals. He was Secretary General of the Commission from 2000 to 2005 and EU ambassador to the USA.

P

Vasso Papandreou — A Greek socialist and the first female EU Commissioner, she was a member of the second Delors Commission, taking over from Manuel Marin as Commissioner for Social Affairs. Coordination between the Delors cabinet and her cabinet were much better than under her predecessor, as were relations with the ETUC.

Lord Pennock — A British industrialist, he was chairman of the British employer confederation, the CBI, from 1980 to 1982. He served as UNICE President from 1984 to 1986 during the initial development of the European social dialogue.

François Perigot – A French industrialist, he spent his whole career at Unilever, ending up as its CEO. He was President of the French employer organisation, the *Conseil national du patronat français* (CNPF) from 1986 to 1994, when he was appointed UNICE President, a position he occupied until 1998. Succeeding the Spaniard Carlos Ferrer Salat at the head of UNICE, he owed his re-election for a further two years in 1996 to dissent among the German employers, a member of whom would succeed him. Though little recognised in France for his contribution to the European social dialogue, he is curiously well recognised for this at European level.

Alois Pfeiffer – A German trade unionist and a leading SPD politician, he was Secretary General of the German Agricultural Union. In the early 1980s, he took part in many ETUC Executive Committee meetings as a member of the DGB delegation. Appointed Commissioner in the Delors Commission (1985-1989), he played a major role in boosting the Commission's social engagement, supporting Jacques Delors in driving the European social dialogue and working hard in the Macroeconomic Working Group. He died on 1 August 1987, in the middle of his term of office.

Sergio Pininfarina – A leading Italian industrialist and car designer (in particular Ferrari), he was President of Confindustria from 1988 to 1992, making a very active and positive contribution to the European social dialogue.

Q

Ruairi Quinn – An Irish Labour politician, Minister of Labour between 1983 and 1986.

Odile Quintin – A French civil servant, she worked for the European Commission from 1971 onwards. She started working with Jacques Delors when she took over as head of the unit fighting social exclusion and poverty, a subject prioritised by the President in the early 1990s. She became head of social dialogue at the DG Employment and Social Affairs, the directorate she was to herself head from 2000 to 2005.

R

Théo Rasschaert – A leader of the Belgian *Centrale générale des services publics* (CGSP-FGTB), he quickly moved to the European stage, working for the ICFTU. He became Secretary General of the European Trade Union Secretariat, the predecessor of the European Confederation of Free Trade Unions, an affiliate of the ICFTU. Theo was very involved in the preliminary talks on setting up the ETUC.

Ivor Richard – A British politician and member of the Labour Party, he worked for the Thorn Commission from 1981 to 1985, in charge of employment policy, social policy, education and training.

Karl Gustaf Ratjen – A German industrialist, he was elected UNICE President from 1986 to 1990. He was a fervent supporter of the Single Market and was involved, cautiously but determinedly, in the establishment of the European social dialogue.

Keith Richardson – An Englishman in charge of public relations at BAT Industries in London, he then became a journalist for the Sunday Times and the Financial Times' Brussels correspondent on industrial policy. He was Secretary General of the ERT from 1988 to 1998.

José Isaías Rodríguez — A representative of the Spanish employer organisation, the CEOE, he was very active in the development of the European social dialogue and one of the employer representatives with whom we maintained constructive relations.

Antonio Ruberti — An Italian socialist and scientist, he was Commissioner for science, research, technological development and education in the third Delors Commission.

S

René Salanne — A French trade unionist, a Basque (and proud of it), a former president of the JOC and Secretary General of JOC International, he became a member of the CFDT Executive Committee (after an intermezzo as Confederal Secretary of the CFTC-CFDT from 1962 to 1970), in charge of its international section (1970-1979). He organised the CFDT's departure from the WCL in 1979.

Carlo Savoini — A Professor of Political Science at the University of Florence, he was also a professor at the ICFTU management training centre in Fiesole (Florence). As of 1958, he was in charge of the "Europe-International" section of the Italian CISL. In 1965, he became a member of the European Trade Union Secretariat affiliated to the ICFTU. He became a European official, serving as the first head of the Social Dialogue Unit of the DG Employment and Social Affairs. He appears a lot in this book on account of his fundamental role in establishing and driving the European social dialogue.

Peter Schmidhubert — A Christian democrat from Germany (from the CDU's Bavarian sister party, the CSU), he replaced the deceased Alois Pfeiffer in 1987. He was a member of two Delors Commissions until 1995.

Ludwig Schubert — A German social democrat, trade unionist and Commission official, he worked with Jacques Delors when the latter had a report compiled for the DG Economic and Financial Affairs on the structural causes of inflation. He was requested by Pascal Lamy to become a member of the President's staff, but refused. He was then recommended to become a member of Alois Pfeiffer's staff. He ended his career as deputy Director General. Throughout his career he headed the USF, the main union of European civil servants.

Padoa Schioppa — An Italian economist and Director General of the DG Economic and Financial Affairs (1979-1983), he chaired a group which published a report on the economic and social consequences of realising the Internal Market in 1987. In the view of the unions, the report upheld deregulation. He became a member of the ECB Board of Directors and was Economics Minister in Italy. Enjoying close ties to Jacques Delors, he headed the association *Notre Europe-Institut Jacques Delors* until his death in December 2010.

Peter Seideneck — A German trade unionist from the DGB, he was very much engaged in the confederation's international and European policy, in particular together with its president Heinz Oscar Vetter and Ernst Breit. On becoming advisor to the ETUC Secretary General in 1992, he worked in the 1990s on preparing and organising, with remarkable skill, the democratic transition (of the unions) in Central and Eastern Europe in the run-up to EU accession. Enjoying expert knowledge of the Balkans and North Africa, he was the architect of the close links between the ETUC and the unions in these countries in the most turbulent periods, in particular in ex-Yugoslavia, in Serbia and Bosnia-Herzegovina.

Jean-Pierre Soisson — A French centre politician, a Giscard supporter, a minister in the Chirac and Barre governments, he became Minister of "Openness" in the Rocard, Cresson and Bérégovoy governments during the presidency of François Mitterrand.

Johan Stekelenburg — A Dutch trade unionist, he was president of the FNV from 1988 to 1997. He authored the "Stekelenburg Report" in 1990 entitled *For a more efficient ETUC* which, after being adopted at the Luxembourg Congress in May 1991, was to drive the reform of the way the ETUC functioned.

Altiero Spinelli — An Italian communist and anti-Fascist imprisoned by Mussolini in 1927, then exiled to the island of Ventotene in 1937, he was ousted from the party for his criticism of Stalin during his detention. In 1941 he wrote a "Manifesto for a free and united Europe" together with Ernesto Rossi. In August 1943, he founded the European Federalist Movement in Milan, which became a member of the Union of European Federalists in 1946. He took part in the construction of the European Community, becoming Commissioner for industrial policy and research from 1970 to 1976. He was then elected to the European Parliament as an independent (but with ties to the Communist party) in 1976, where he sat until his death in 1986. Despite the often heated debates between the two, he was a great friend of Jacques Delors.

Peter Sutherland — An Irish politician and businessman, he worked as European Commissioner for Competition from January 1985 to January 1989.

T

Gaston Thorn — Liberal Prime Minister of Luxembourg from 1974 to 1979, he became President of the European Commission from 1981 to 1985, supported by the United Kingdom but not by France and Germany.

Bruno Trentin — An Italian, he was born near Toulouse in December 1926. Son of a professor who had refused to swear allegiance to Mussolini and had sought refuge in France, he spent his childhood and adolescence in France before joining the Italian resistance. He then turned to politics and the union movement, working for the PCI and the CGIL. He was a leading theorist in the fields of the development of work and production systems.

Tiziano Treu — A professor of labour law at the University of Milan and a left-wing reformist politician, with close ties to the unions and in particular to the ETUC, he was Minister of Labour and Social Security in the Dini and Prodi I governments from January 1995 to October 1998. Author of the "Treu Package" instituting "Standards for promoting employment", he was behind the legislative and regulatory recognition of atypical forms of work to combat precariousness.

Zygmunt Tyszkiewicz — An Englishman with Polish roots, he took over from Bernard Sassen as UNICE Secretary General. Speaking five languages, he made his career at Shell (a member of the European Round Table) where he headed its branches in Africa, Latin America, the Netherlands and Greece, before being sent to Brussels in a period when the multinationals wanted to control the European employer organisation which he considered was not properly representing the interests of business. As well as Zygmunt Tyszkiewicz, the first three UNICE heads of social affairs with whom I worked also came from large companies: Philippe Mayer from IBM, Jean-Yves Terrier from Rhône-Poulenc and Bernard Arnold from Unilever. Although always attentive to what the British employers had to say, Zygmunt Tyszkiewicz was by no means "true-blue", always careful to represent

the general interests of companies throughout Europe. He was a tough negotiator in the European social dialogue, but always reliable. He became convinced of the importance of this dialogue, highlighting its value in the courses which we gave together at the College of Europe in Natolin (Warsaw). On account of his Polish roots, he remained very attached to the country. He worked hard for its democratisation, even before the collapse of communism.

V

Johan van Rens — A Dutch trade unionist from the FNV where he was in charge of international and European policy, he unsuccessfully tried to be elected as ETUC Secretary General in 1991. He then became director of CEDEFOP, the Thessaloniki-based EU agency responsible for vocational training and qualifications.

Patrick Venturini — A French economist trained at the HEC, an ex-official of the CFDT's economics section, a social adviser in the Delors cabinet, he became Secretary General of the EESC in Brussels. He is currently Secretary General of AICESIS, the International Association of Economic and Social Councils and Similar Institutions.

Henk Vredeling — A Dutch socialist, he was a member of the Jenkins Commission (1977-1981) and its vice-president in charge of employment and social affairs.

Yannis Vardakastanis — Greek and blind, he was president of the national Greek Disabled Confederation. At present (2017), he heads the European Disability Forum. In July 2012, he also became president of the International Disability Alliance (IDA). We always worked perfectly with him.

Annex 5

Biography of Jean Lapeyre



Jean Lapeyre was born in Paris on 22 November 1943.

He holds a Certificate of Vocational Ability (CAP) and an Industrial Training Certificate (BEI) in glassblowing.

He worked at the Thomson CSF factory in Grenoble from 1966 until the end of 1972, where he was a trade union activist for the CFDT. He was elected to the Secretariat of the CFDT's Metallurgical Federation from 1972 to 1981, before becoming editor and then chief editor of the Confederation's *Syndicalisme Hebdo* publication, a role he occupied until 1986.

He was elected to the European Trade Union Confederation's Secretariat in September 1986 and was Deputy General Secretary from 1991 to June 2003. At the ETUC, he was in charge of the social dialogue for 17 years. In July 2003, he was appointed as social advisor to the French Embassy in Rome, before returning to Brussels in 2007 as adviser to the Secretary General of the European Economic and Social Committee. He held his last position from 2009 until the end of 2013, overseeing the establishment of the European office of the consultancy for economic and social policies at national and European levels, Syndex.

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"Compared to other works on the European Social Dialogue, this book stands out because it is an insider's story, told by someone who was for many years the linchpin, on the trade unions' side, of this major accomplishment of social Europe."

– *Emilio Gabaglio*,
ETUC General Secretary (1991-2003)

"The author, an ardent supporter of the European Social Dialogue, has put his heart and soul into this meticulous work, which is enriched by his commitment as a trade unionist, his capacity for indignation, and his very French spirit. His book will become an essential reference work."

– *Wilfried Beirnaert*,
Managing Director and Director General at the Federation of Belgian Enterprises (FEB) (1981-1998)

"This exhaustive appraisal, written by a central actor in the process, reminds us that constructing social Europe means constructing Europe itself and aiming for the creation of a European society; something to reflect upon today in the face of extreme tendencies which are threatening the edifice."

– *Claude Didry*,
Sociologist and Director of Research at the National Centre of Scientific Research (CNRS)
(Maurice Halbwachs Centre, École Normale Supérieure)

This book provides a history of the construction of the European Social Dialogue between 1985 and 2003, based on documents and interviews with trade union figures, employers and European officials, as well as on the author's own personal account as a central actor in this story. The Social Dialogue was a key component in the construction of a European social area, which remains inadequate today. This is not a story without conflicts or failures. However, it shows that a strong European conscience and a profound understanding of the general interest can produce concrete results for citizens. The European construction, this "human adventure" as Jacques Delors called it, now needs to be relaunched on the basis of its fundamental values: social progress and solidarity, cohesion and democracy, and sustainable development. The European Social Dialogue is one of the best tools for achieving these goals.

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