

**Between Europeanisation and Regime Competition: labour market  
regulation following EU enlargement**

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## **Editor's foreword**

The Warwick Papers in Industrial Relations series publishes the work of members of the Industrial Relations Research Unit and people associated with it. The papers may be work of a topical interest or require presentation outside the normal conventions of a journal article. A formal editorial process ensures that standards of quality and objectivity are maintained. In this paper Paul Marginson, Director of IRRU, analyses the complex and dynamic course of labour-market integration in the EU. The paper argues that the common distinction between 'Europeanisation' and 'regime competition', in which the latter is often argued to have undermined the former, disguises the simultaneous and sometimes contradictory processes involved. Likewise, though EU enlargement has clearly introduced a greater potential threat of 'social dumping', there remains counter-tendencies at work that make its realisation contingent, as has happened with previous incorporations of smaller and less-developed states. Perhaps more worrying for the future development of the industrial relations dimension of the European social model is the 'articulation gap' presented by absence of sector-level bargaining in the new member states at the same time as multi-employer arrangements are being hollowed-out throughout much of the 'old' EU. In the latter case, increasingly intense international competition might have more immediate implications within national systems than across them whether in terms of 'Europeanisation' or 'regime competition'. Either way, it poses fresh questions for how the actors involved might perceive the role of regulatory intervention.

**Jim Arrowsmith**

## Abstract

*Contending that regime competition and Europeanisation of labour market regulation are two competing tendencies which interact, the paper elaborates on the two processes in the context of the 'old' European Union of fifteen member states. The consequences of the EU's May 2004 eastern enlargement are then addressed. Simultaneously enlargement, by embracing a more diverse set of national labour market structures, wage and productivity levels, has both increased the scope for regime competition and threatened to stall the process of Europeanisation. Prospects for an augmented social dimension to accompany European economic and market integration rest on the emergence of pressure from the new member states of central and eastern Europe, as well as its renewal amongst the countries of the 'old' EU.*

### 1. Introduction

The contrasting scenarios which Europeanisation, on the one hand, and regime competition, on the other, might lead to – in terms of Europe's system(s) of labour market regulation – have been the focus of extended debate. Europeanisation refers to a tendency 'in which there is discernible movement with common policies leading to common outcomes achieved by common processes' (Marginson and Sisson, 2004: 8). Regime competition arises from the imbalance between economic and social integration within the EU (Streeck, 1992): as European product markets are progressively integrated the labour market regimes of individual member states are increasingly set in competition with each other. Recently the dynamics driving these widely perceived alternatives have shifted, from the former towards the latter. This shift is refracted in two major events in the evolution of the European Union (EU).

The first is the eastern enlargement of the EU, from May 1<sup>st</sup> 2004, to include 8 post-communist central east European (CEE) countries (plus Cyprus and Malta), with a further two post-communist countries, Bulgaria and Romania, due to join in 2008. The scale of the gap in labour costs and incomes, combined with the flexible labour market regimes embraced by most countries in the region, have triggered afresh fears of intensified regime competition within the EU – at worst resulting in widespread social dumping as production and employment move east motivated by the search for lower labour costs. In western Europe, the public mood triggered by these renewed fears is aptly captured by the description by Nicolas Sarkozy, then French finance minister, of Siemens' threat to shift a substantial proportion of production from two factories in Germany to Hungary, unless the German workforce agreed to work longer hours, as 'a form of extortion' (Financial Times, 20 July 2004).

The second is the fate of the EU's first constitutional treaty, adopted with some fanfare by the Heads of Government of the EU's 25 member states at their Brussels summit in June 2004. The constitutional treaty incorporates a Charter of Fundamental Rights which, should the treaty ever be adopted, provides a legal basis to a range of labour rights which are integral to the industrial relations dimension of Europe's so-called social model. These include the right to association, rights to conduct collective bargaining and take industrial action, the right to representation at enterprise level for the purposes of employee information and consultation, equality between

men and women at work and, more generally, non-discrimination in employment. The fear amongst some governments, including the UK's, and amongst the business community had been that the Charter could mark a further step towards Europeanisation of labour market regulation. But with its rejection in referenda in France and the Netherlands in May/June 2005 it looks as if the constitutional treaty is unlikely to be adopted in the foreseeable future. Hence fears of, or hopes for, any resulting further 'Europeanisation' have been put on ice.

The renewed impetus towards regime competition which the EU's eastwards enlargement has unleashed, combined with the absence of new measures to augment the social dimension of the economic and market integration across a larger and more diverse group of member states, will – it is feared – result in a 'race to the bottom'. Accordingly wages, working conditions and employment protection will be eroded under a downwards competitive spiral. Yet, as the EU's former Employment and Social Affairs Commissioner Anna Diamantopoulou observed, it is something of a 'cariacature' to view things in terms of 'the two extremes of social union versus a completely deregulated free-for-all' (Financial Times, 18 September 2000). Arguably, it is more productive to view Europeanisation and regime competition as competing tendencies which co-exist and interact.

The structure of the paper is first of all to elaborate the two dynamics in the context of the 'old' EU, starting with regime competition and then moving on to 'Europeanisation'. It will be shown how the latter has been propelled forward by concerns about the consequences of the former. The paper then turns to the impact of the EU's 2004 enlargement, arguing that at the same time it both exacerbates regime competition and threatens to stall Europeanisation. In the concluding section, prospects for a renewal of pressures towards Europeanisation are assessed.

## 2. Regime competition and Europeanisation

### 2.1. Regime competition

The scope that an integrated European market and production space opens up for countries and companies to engage in regime competition, and the potential for this to result in widespread social dumping (in which labour standards and wages and conditions are progressively undercut in the search for competitive advantage), has been a continuing concern for trade unions, several national governments and the European Commission.

At macro-level, although Economic and Monetary Union (EMU) served to deepen European economic integration, it has not been accompanied by parallel measures aimed at social integration. Instead, regime competition between the different labour market systems of member states is widely held to have been further exacerbated by the onset of EMU, from the beginning of 1999. The economic adjustment required, particularly to bring inflation rates down and reduce public sector deficits, was in part secured through the conclusion of national social-level pacts between employers and trade unions, either directly involving or facilitated by national governments (Fajertag and Pochet, 2000). Such pacts have featured in the majority of the member states committed to join the Eurozone, France and Germany being the principal exceptions. Social pacts typically involve a package of measures embracing reform of welfare systems, active labour market measures to support training and employment, and wage restraint

– aimed not only at control of inflation but also at enhancing the economy’s competitiveness *viz-a-viz* others. Even in those countries not concluding social pacts there is widespread evidence of pressure on negotiators to restrain sector-based wage increases, so as to maintain and enhance competitiveness (Schulden, 2002). Capturing the essence of the process, Rhodes (1998) refers to a shift from ‘social’ to ‘competitive corporatism’.

At meso-level, regime competition is ongoing between regions and localities in order to maintain and/or attract production, service activity and new investment – and therefore sustain or create employment. A key driver is the location decisions of multinational companies, especially those in sectors characterised by internationally integrated operations – such as automotive. Such conditions are not solely confined to manufacturing but are emerging in some service sectors too – the call centre and back-office operations of banks being an example. Labour considerations are, of course, just one of a range of parameters which are involved in investment location decisions. Typically internationally integrated producers will organise a kind of ‘beauty contest’ between different possible locations – across different countries – in order to negotiate the best possible offer (Meardi, 2006). Labour quality, prevailing work attitudes and traditions of militancy, as well as labour regulation and labour costs are often to the fore in the calculus of these contests (Mueller, 1996; Traxler and Woitech, 2000).

Amongst member states, sensitivity to the potential for regime competition to give rise to social dumping has been particularly evident in Germany and France. In Germany, for example, there has been ongoing debate over whether high wages and extensive labour market regulation are deterring investment and therefore jeopardising the future of ‘Standort Deutschland’ (Germany as a production location). Adding impetus to the Standort debate ‘has been the sudden emergence of a large pool of cheap, but relatively well qualified labour on Germany’s eastern borders’ since 1989 (Ferner, 1997a: 176). In the UK, by contrast, governments of both political complexions have made considerable virtue of the role of a relatively lightly regulated labour market in attracting a substantial share of EU inward investment.

Yet the argument is not quite as straightforward as it seems. Member states are implicated differently in the twin processes of outwards relocation and inward investment. Hirst and Thompson (1999) and van Tulder et al. (2001) find French- and German-based companies to be more home, and less extra-European, focused than their Dutch and British counterparts. Yet France, which has noticeably higher labour costs and tighter labour market regulation than the UK, has also attracted substantial flows of inward investment throughout the 1990s and 2000s – notably in excess of Germany and almost on a par with the UK (UNCTAD, 2004). Moreover the flexible nature of the UK’s labour market is double-edged: it makes for easy exit as well as attracting investment in. This ‘perverse’ impact (Ferner, 1997a: 184) has become increasingly apparent as the more internationalised multinational companies rationalise and restructure their operations on a pan-European basis to secure the scale benefits that Europe’s single market offers.

A further distinction lies between cross-border investment flows which originate within the EU (involving companies in one member states acquiring or establishing new operations in others), and those coming from outside – principally involving inwards investment into the EU by companies headquartered in north America and Japan. The creation of Europe’s single market

has been accompanied by substantial inwards investment flows from the two other main global regions (UNCTAD, 2000) and companies headquartered in north America and Japan have been active players in the processes of cross-border restructuring and, on occasion, relocation prompted by the creation of a pan-European market for products and production locations (Ramsay, 1995; van Tulder et al, 2001). But although relocation decisions by non-EU multinational companies may prove controversial, most evidently in the 1993 Hoover ‘affair’ (see below), it is the production and investment decisions of indigenous (EU-based) multinationals which tend to be most potent in igniting political and public debate about the consequences of relocation for established systems of labour market regulation across the EU.

Overall, the evidence that European integration has unleashed widespread social dumping is limited (Ferner, 1997a; Marginson and Sisson, 2004: 221-23). This is because even confining our focus to labour considerations, the process of regime competition is multi-dimensional, ranging across labour quality, skills and productivity; different forms of labour flexibility – qualitative as well as quantitative; as well as labour regulation and labour costs, both direct and indirect. It is unit labour costs - a compound of these different elements - which matter to producers, rather than labour costs per se. Accordingly, regime competition is giving rise to rather more nuanced outcomes. Even in Portugal, which because of its relatively lower labour costs had been seen as a potential beneficiary of social dumping in the ‘old’ EU, a complex pattern emerges. The low cost base has been important in attracting inward investment in labour-intensive sectors such as clothing and footwear, as might be expected – but access to and presence in the local market appear also to be spurring inward investment into modern, more capital-intensive manufacturing sectors and commerce (Buckley and Castro, 2001). In Greece and Spain, also relatively poor countries at the time they joined the EU, wages (and social expenditures) have progressively increased towards those elsewhere in the EU (Alber and Standing, 2000). Within particular sectors, evidence points to a complex geography in which two-way investments flows into and out of particular countries are evident. Automotive and aerospace are both examples.

Such trends suggest a tendency amongst multinational companies to segment and stratify activities according to the varying characteristics of different national labour market regimes, in terms of labour costs, quality, flexibility and productivity. This is consistent with official data showing convergent unit labour costs across the EU-15 over the past decade, but around very different labour-cost and productivity configurations (Eurostat, 2003). For example, Austria, Benelux, Germany and the Nordic countries all have relatively high levels of productivity, and relatively highly qualified and skilled workforces, offsetting higher labour costs, as compared with the UK, Spain and Portugal.

Yet such a tendency seems not to have markedly attenuated the political potential that regime competition and the threat to relocate has offered multinational companies to lever changes in labour market regulation at macro- and micro-levels is considerable. One significant aspect of the Standort debate in Germany, and continuing controversies over ‘délocalisation’ in France, is to have augmented the pressures for reform of their respective industrial relations systems. The outcome has been a growing measure of decentralisation in both countries aimed at providing greater space for company-level negotiation – a development which MNCs have long been prominent in advocating (Marginson and Sisson, 1996).

An implicit – if not explicit - threat to relocate is bound up with the ‘coercive comparisons’ of labour costs and performance across sites and countries which are central to the management systems of the more integrated multinational producers. Insofar as similar activities are undertaken at sites in different countries, and the tendency towards segmentation and stratification of activities between countries is a partial one, parallel sites come under continuous pressure to improve performance. Poorly performing sites are punished by directing investment and allocating production mandates towards better performing sites in other countries, and risk being run down and closed (Mueller and Purcell, 1992; Mueller, 1996). The comparisons of labour costs, labour flexibility and labour performance which underpin these business decisions are deployed by management to place pressure on local workforces, and through local negotiations to lever cost-reducing and flexibility concessions. The result can be a cross-border round of concession bargaining through a process of ‘strategic interactions’ (Hancké, 2000; Kvist, 2004). Indeed management’s cross-border comparisons through benchmarking need not be explicitly coercive, but operate instead through ‘context setting’ in negotiations, in order to have the desired effects (Arrowsmith and Marginson, 2006).

In terms of policy, the relocation consequences of regime competition and fears of social dumping have provided important impetus towards the European-level regulatory measures outlined below. The European Commission of Jacques Delors viewed a social dimension (*espace sociale*) as a necessary accompaniment to the creation of the single European market in the early 1990s. This took the shape of a series of legislative initiatives aimed at constraining the scope for social dumping and at guaranteeing employee voice (through new information and consultation rights) in the widespread restructuring and rationalisation of industry that the single market was expected to trigger.

Specific instances of relocation or social dumping served to spur on the legislative process. For example, the 1993 decision of Hoover to transfer part of its production from France to Scotland, on the basis of extraordinary wage and flexibility concessions extracted from the Scottish workforce – under threat of closure - became a political cause celebre, providing the final impetus towards the adoption – in 1994 – of the European Works Councils directive. This directive for the first time gave workers’ representatives rights to be informed and consulted about transnational business decisions which affected workforce interests. Four years later, Renault’s decision to close its Vilvoorde plant in Belgium and transfer production to its Spanish facility – without properly consulting either the Belgian workforce or its European Works Council – signalled the start of a long campaign to strengthen consultation rights under the 1994 directive, which is currently under review.

As well as prompting ‘top-down’ European interventions, regime competition can also promote ‘bottom-up’ Europeanisation through encouraging processes of cross-border learning and collaboration. In this vein, for example, Dølvik (2000) has suggested that insofar as they reference common European economic indicators, such as average wage movements or labour market participation rates, social pacts might be seen as promoting regime collaboration rather than competition. And insofar as workers’ representatives in multinational companies are able to develop effective cross-border networks so as to counter management comparisons with ones of their own, local negotiations might focus on concerted improvements to conditions and not only common concessions.

## 2.2. Europeanisation

Even though the EU-wide, supranational industry-based collective bargaining structures which would underpin and vertically-integrated system have not been established, the European Union can point to a growing social dimension and the creation of new European-level institutions in industrial relations. The social dimension comprises a range of legislative measures (directives and regulations) and also the output, much of it ‘soft’ in regulatory nature, from the social dialogue between employers and trade unions at cross-sector and sector levels. In addition, cross-national developments of a horizontal nature have appeared involving national-level actors and/or European-level organisations of capital and labour which rest on cooperation, coordination or concertation across a given level. These too are contributing to the Europeanisation of labour market regulation.

### *The changing nature of EU regulation*

Recent developments have been characterised by changes in the form that ‘top-down’ regulation has taken, including the emergence of new regulatory processes. The period since the adoption of the Maastricht Treaty in 1991 has seen less reliance on uniform statutory measures than previously; directives have tended to specify frameworks in which there are enhanced possibilities for member state governments to take different options and elaborate detail in transposing them into national law. Some directives also include possibilities for options or derogations which can only be triggered by collective agreement between employers and trade unions in the member states. The EU’s 1993 Working Time Directive, for example, embraces both these possibilities.

At the same time EU legislation has enhanced the role of the industrial relations method of collective agreement as a regulatory means. In addition to the possibility for the social partners to negotiate agreements under the procedures of the Maastricht Treaty’s social chapter (see below) and the options and derogations under the Working Time Directive which are only available via collective agreement, a further instance is the precedence under the European Works Councils Directive given to arrangements negotiated between the parties – central management and employee representatives in multinational companies – over the statutory model EWC specified in the Directive. All the 750 EWCs which have been established to date arise from such agreements (Hall and Marginson, 2004).

The recent period has also been marked by the growth of ‘soft’ forms of regulation – framework agreements, joint declarations and guidelines, codes of conduct - which have emanated from the cross-sectoral and sectoral social dialogues, and also from some EWCs. Although not binding on national affiliates, the intention that these should be implemented is backed up by the softer enforcement mechanisms of monitoring and review.

Newer still is the emergence of the so-called ‘open method of coordination’, which combines processes of common target setting across member states, cross-country benchmarking and periodic review. The method originated under the EU’s Employment Strategy, which is essentially a coordinated and Commission-facilitated inter-governmental process. The method’s advantage lies in the fact that it allows the parties to agree on a common set of principles or standards to be aimed at, but leaves decisions on the actions to be taken to achieve targets to individual national actors – thereby circumventing the considerable institutional and cultural



differences which exist between member states (Arrowsmith et al, 2004). Trade unions' cross-border bargaining coordination initiatives also seek to deploy the softer regulatory tools of the open method of coordination.

A key question arising out of the last two sets of developments is whether the regulation involved is likely to be at all effective? In a series of publications Berndt Keller (see, for example, Keller 2000; 2003), contends that because the bulk of the output 'is not binding for the signatory parties' (2000: 38), it is more difficult to implement than the collective agreements commonly associated with national systems, which do tend to be binding. Moreover, any commitment to implementation through national collective bargaining, as under the cross-sectoral agreements on teleworking and stress at work or agriculture's working time agreement, is only realisable to the extent that collective bargaining coverage is extensive across all member states.

However, it does not follow that because an agreement is a binding or legal contract it is more likely to be implemented, as Keller seems to assume. Non-compliance, it seems, is no more a problem in Ireland and the UK, which are characterized by 'voluntarism', than in the majority of west European countries where collective agreements are legally enforceable. Even in Germany, whose tradition of 'hard' regulation providing for standard provisions seems to be the benchmark Keller draws on, increasing numbers of companies are failing to comply with the key wages and working time provisions of sector agreements. Non-binding agreements, then, are not necessarily ineffective. Successful implementation need not be legally-backed but can rest on the 'moral weight' (Visser, 1998: 306) of jointly agreed principles together with effective monitoring and benchmarking processes. The question for European-level actors is whether and how they can mobilise such 'moral weight'.

The 'open method of coordination' is a different matter. Set against its central advantage of combining centrally agreed objectives with devolution of measures and mechanisms to achieve these, come a number of offsetting problems. These are effectively set out by Goetschy (2005). First, resort to the open method of coordination does little if anything to redress the prevailing imbalance between instruments and mechanisms to promote economic integration, and the alignment of member states' economic policies, on the one hand, and the coordination of member states social (including labour market and industrial relations) policies, on the other. Second, the open method of coordination threatens not only to displace the traditional Community method of legislation, but also the more recent one of collective agreement. Implementation problems are at least as great as those associated with 'soft' or non-binding agreements, and the mobilisation of 'moral weight' at European level becomes even more problematic because there is not even a common commitment to a substantive measure, only a target or quantified objective. Third, although the open method of coordination increases the number and range of actors involved, it does so in a way which relies on expert networks, thereby exacerbating the complexity and opaqueness of the policy-making process and creating 'difficulty for democratic transparency' (Goetschy, 2005: 76).

#### *Developments at three European levels*

Recent developments reach across three European levels: the cross-sector or Community level, the sector level and the company level.

At *EU Community level*, the key development lay in the provisions of the ‘social chapter’ of the 1991 Maastricht Treaty. This accorded rights to the EU-level social partners – employers organisations and trade unions – to be consulted on proposed legislative measures in the social policy field, and - if they wished - to negotiate an agreement on the matter in question in place of the traditional legal instruments of either a directive or a regulation. Such agreements, could – if requested by the social partners and agreed to by the EU’s Council of Ministers - be subsequently given the binding force of a directive.

To date, the use of these procedures has given rise to five framework agreements – dealing with parental leave, rights of part-time workers, rights for temporary workers, teleworking and stress at work – the first three of which were subsequently accorded the binding force of a directive. There have been failures under the procedures too – most recently over a proposed measure regulating the terms and conditions of temporary agency workers.

Until the recent negotiations on teleworking and stress at work, negotiations had remained confined to issues on which the Commission proposed to bring forward draft legislative proposals. In other words, bargaining between the EU-level social partners has largely occurred ‘under the shadow of the law’ (Bercusson, 1992), reflecting employer reluctance to engage until it became clear that the Commission was determined to legislate. Since the Commission has now largely fulfilled the ambitions of the original social dimension proposed by Jacques Delors, and since no new agenda of similar scope and substance has emerged, some have concluded that the impetus created by the shadow of the law is now ‘fading’ (Falkner, 2003: 24). Accordingly, this Community-level aspect of the regulatory process might be running out of steam.

Developments at *European sector level* are apparent on both the vertical and horizontal dimensions. The European Commission’s 1998 relaunch and revamp of the sector social dialogue, involving sector-based European federations of employers and trade unions across a range of industries and services, has had the effect of both increasing the sectoral coverage of dialogue at this level, and prompting the conclusion of new forms of regulatory output. The establishment of sector social dialogues for local and regional government and chemicals in 2004 took the proportion of the EU’s workforce covered well past the 50 per cent mark – compared to around 40 per cent prior to the 1998 relaunch (Marginson, 2005). The changes in regulatory output have been two-fold. First, the procedures of the Maastricht Treaty’s social chapter have been used to reach agreements on working time in three transport sectors, which have been given binding force. More widely, a number of sectors have adopted so-called ‘framework agreements’, ‘joint guidelines’ or ‘codes of conduct’ on a range of substantive matters which whilst not binding on their affiliate members commit the parties to monitor implementation in the member states and take follow-up action.

The second key development is horizontal, and involves the cross-border bargaining coordination initiatives launched by national and European-level trade union organisations in several sectors. Prompted by fears of a downward spiral of terms and conditions in the face of growing regime competition, these aim to co-ordinate the agenda and outcomes of sector-level negotiations on wages, but also on working time and other conditions of work, across the different countries of the EU. Two kinds of initiative are apparent: EU-wide, organised under the auspices of the relevant European industry federation of trade unions, and inter-regional

initiatives involving cooperation between unions in a given sector from neighbouring countries. Inter-regional initiatives have tended to focus on Germany and its neighbours and the Nordic countries, and both kinds of initiative are most prominent in the metalworking and construction sectors (Schulten, 2003; Marginson, 2005).

At *European company level*, the key development was the adoption of the European Works Councils directive. There are now EWCs in some 750 multinational companies involving an estimated 15,000 employee representatives (ETUI, 2004). Around 25 have gone on to negotiate joint texts and agreements between central management and employee representatives, thereby exceeding the information and consultation remit which the directive lays down. Important also is the cross-border dimension to local company bargaining which the coercive comparisons drawn by the management of multinational companies are driving forward. In a few instances, trade union representatives are using the potential that EWCs provide to network across borders and compile comparisons of their own to be used in local negotiations (Marginson and Sisson, 2004: 239-42).

### *Summary*

Overall, although the core issues of wages and working time largely remain the province of regulation by national actors, the refraction of the industrial relations dimension of the European social model at EU-level has become increasingly well-defined. There is, of course, no supranational, co-ordinated collective bargaining of the kind found in most west European member states. Yet, the organisation of interests at European level is reasonably well established, if less well resourced than at national level, amongst both employers and trade unions. These interest organisations have acquired a defined role in shaping European-level regulatory initiatives, including space for the method of collective agreement. Rights to worker representation within companies at the European level have been established, along with those to be informed and consulted. Crucially, the recent growth in soft forms of regulation has itself depended on the elaboration of what a distinguished labour lawyer has called a ‘fundament of hard regulation’ (Wedderburn, 1997: 11) at European level.

Important too is the interaction between vertical, top-down and horizontal, bottom-up developments in contributing to an emergent process of Europeanisation. The deployment of coercive comparisons by management, and its pursuit of similar outcomes for local negotiations in different countries, has been the cue for several EWCs to develop a negotiating role aimed at agreeing a common framework. Unions in some sectors where there is as yet no social dialogue structure, such as metalworking, have used cross-border bargaining coordination initiatives to place pressure on employers to ‘come to the dialogue table’. Union cross-border bargaining coordination initiatives also place the issue of wages firmly onto the European-level agenda, something which is precluded under the social dialogue. Recognising the growth in ‘soft’ texts being agreed under the social dialogue and by European Works Councils, the European Commission in its new social policy agenda (European Commission, 2005), proposes an ‘opt-in’ legal instrument for transnational agreements concluded autonomously at sector and company levels. This would give firmer legal standing to such agreements and most likely facilitate their implementation. Such interaction also has implications for debates over widening or deepening the regulatory capacity of the EU, where the conventional view is to present the two as

alternatives (Kvist, 2004). The case for regarding them as complements, in which widening creates new possibilities for deepening, and vice versa, would seem to be at least as compelling.

### 3. EU eastern enlargement: intensifying regime competition *and* stalling Europeanisation?

By embracing eight central eastern European countries where 1998 gross wages and salaries and GDP per capita were on average 15 per cent of the levels prevailing across the EU-15 (Kittel, 2002), the EU's 2004 eastern enlargement has placed the European social model under unprecedented strain. Of the CEE new member states, only Slovenia reached levels of wages and salaries comparable with those of Greece and Portugal – the lowest two amongst the EU-15. Even allowing for differences in purchasing power, differences in living standards remain large, with the CEE new member states averaging only 32 per cent of the prevailing level in the EU-15 (Kittel, 2002). An analysis of more recent (2001) Eurostat data finds that employment costs in the EU-15 were, on average, over four times those in the new member states (Mercer, 2005). Unemployment rates, which averaged 8 per cent across the EU-15 in 2003, were on average almost double amongst the ten new member states at just under 15 per cent (European Commission, 2004).

The eastern enlargement has far-reaching implications for the institutional arrangements of labour market regulation which are integral to the European social model. Crucially, it brings into the EU six countries whose collective bargaining arrangements do not conform with the norm of co-ordinated, sector-based multi-employer bargaining structures. Hungary, Poland, the Czech republic and the Baltic states all – like the UK – have single-employer collective bargaining arrangements in which, also like the UK, only a minority of the workforce come under the coverage of collective agreements (Carley, 2002; Kohl and Platzer, 2004). Only tiny Slovenia, and to a lesser extent Slovakia, have sector-based arrangements which mirror those found across most of western Europe.

For these reasons, the EU's eastern enlargement has also re-ignited debates about what the 'end-point' for European labour market regulation might be. Sinn and Ochel (2003) provide a strong statement of the virtues of market-led harmonisation between the labour markets of the 'old' and 'new' Europes, arguing that any social policy intervention aimed at creating a level playing field would most likely damage economic growth in the new member states. Reviewing the implications of industrial relations in Poland for arrangements in the 'old' EU, Meardi (2002) suggested that enlargement might turn out to be the 'trojan horse for the Americanisation of Europe' (title of article). Alarmed by such a prospect, other commentators have underlined the necessity of EU-level intervention to establish and entrench the core sectoral and cross-sectoral institutional architecture of industrial relations in the CEE new member states, arguing that relying on internal dynamics within these societies will not suffice (Mailand and Due, 2004: 195).

The central contention of this section is that the 2004 enlargement both exacerbates the scope and nature of regime competition within Europe's integrated market *and* threatens to stall the further Europeanisation of the institutions and processes of labour market regulation.

#### *Exacerbating regime competition*

In assessing the implications that eastern enlargement poses for regime competition, the dynamics in the service sector – where market access is the dominant motivation for inward investment into the new member states – need to be set apart from those in manufacturing. Here efficiency-seeking motives predominate amongst the growing numbers of multinational companies investing in central Europe (see Marginson and Meardi, 2006 for a review of the evidence). Only in a few sectors, such as food and drink manufacture, is market access an important consideration. Elsewhere in manufacturing re-export rates to western Europe well in excess of 50 per cent testify to the efficiency-seeking nature of much inward investment into the new member states.

By combining geographic proximity of production locations to EU-15 product markets, with abolition of tariff and non-tariff barriers to trade, and differences in labour costs and labour market regulation, the EU's eastern enlargement has substantially increased the opportunities for the international reorganisation of production to supply the enlarged and integrated European market. The combination of lower labour costs, relatively high levels of workforce qualification and more lightly regulated labour markets as compared to most of the EU-15, makes the CEE countries an attractive location for investment in industries where production is integrated across borders and market presence is defined in terms of 'Europe' rather than individual countries.

Initially there were fears of widespread social dumping occurring in manufacturing as mobile international capital took advantage of markedly lower labour costs in CEE countries to relocate production. But this appears to have been confined to a first wave of inward investment in the early 1990s, which focused on labour-intensive 'outward processing' sectors and activities, such as clothing and footwear and assembly of electrical components. From the second half of the 1990s, inward investment into central Europe has both increased rapidly *and* shifted towards higher value-added sectors and activities – a structural shift which has been widely documented (e.g. Galgoczi, 2003; Ladó, 2001; Radosevic et al., 2003; Tholen and Hemmer, 2004). Under this 'second wave', foreign direct investment has increasingly focused on more technologically advanced operations which constitute integral elements of companies' international production networks.

Although wage costs in manufacturing operations in central Europe are still on average lower than in those in the west, under the regime competition associated with this second wave of efficiency-seeking investment the search for lower labour costs per se is no longer the prime consideration. The attractiveness of central European production locations lies also in the availability of labour skills, the potential for labour flexibilities, less stringent labour codes and greater autonomy for company-based employment relations. The result is productivity levels which are approaching, or even match, those prevailing in western Europe and – due to lower wages and longer working hours – unit labour costs that in several countries are below those in the 'old' EU. Aggregate unit labour costs in 2000 were comparable to those in the EU-15 in Poland and Slovenia, and as much as 30 per cent lower in Hungary and the Czech and Slovak republics (UNCTAD, 2004).

The country where inward investment is most clearly efficiency-seeking in nature (because of the local market's relatively small dimensions) but where labour costs are relatively high as compared to elsewhere in central eastern Europe is Slovenia. Rojec and Stanojevic (2001)

demonstrate that inward investment into Slovenia frequently results from cross-border reorganisation and restructuring of multinationals' international operations, and is attracted by labour quality, know-how and flexibilities which promise inward investors comparative advantage in terms of unit labour costs.

The labour dimension is, of course, not the only ingredient to the intensified regime competition which enlargement has unleashed. Also important are fiscal incentives: inward investment has been attracted by a combination of generous subsidies and low corporate taxation regimes. Slovakia's flat-rate corporate and individual taxation regime, set at 19 per cent, has quickly been emulated across the region and forced neighbours such as Austria into lowering rates of corporate taxation.

The automotive sector offers an instructive illustration of the dynamics involved. The sector approximates a critical case because of the scope and scale of the potential – and actual – reorganisation of international production which is underway across the enlarged European economic space. The sector is dominated by foreign firms – west European, north American and Japanese owned – which in both components supply and final manufacture re-export around 90 per cent of their production to western Europe. Because of the previous limited development of the sector in the CEE countries, inward investors also have a considerable degree of freedom in shaping the labour relations environment at what are frequently greenfield sites.

The scale of the shift of production in the sector towards the new CEE member states is striking. Most of the large car manufacturers operating in western Europe have established new CEE production facilities over the past few years. The same goes for the first-tier automotive supply giants, such as Bosch, Delphi and Valéo, where manufacturers requirements that their suppliers should be geographically close – or even on the same site – have added to the momentum. The most recent car manufacturing facility to open was the joint venture between Toyota and Peugeot Citroen in the Czech Republic, an event which prompted the chief executive of Peugeot, Jean-Marie Folz, to observe that 'I don't see us ever building a new plant in western Europe again' (Financial Times, 8 March 2005). In the components part of the sector, a recent review reported that one-half of all of the sizeable body of German-owned automotive supply companies now have operations in central eastern Europe (Financial Times, 1 March 2005).

Regime competition is at its most visible in the so-called 'beauty contests' between the countries in the region over the location of large car manufacturing facilities by the major multinationals. Early on in the planned investment project, location offers are invited from all the CEE countries, following which two or three locations are short-listed. Negotiations between the company and the public authorities then proceed over items such as public infrastructure support, access to business and communications infrastructure, subsidies and tax exemptions. Eventually a decision is taken, but without indicating the reasons for the final choice. Hence local actors are left to infer what the critical factors might have been. In the past two years Poland has lost out on three large car manufacturing investment projects involving some 20,000 jobs to the Czech (1 instance) and Slovak republics (2 instances). Meardi (2004b) shows how – despite the absence of any clear cut evidence – labour costs and labour regulation are assumed to have been the crucial, negative, factors operating against a favourable outcome.

Once new investment projects are up and running, or acquisitions have been absorbed and integrated into international production networks, the ‘orbits’ for the ‘coercive comparisons’ of costs and performance across the sites of internationally integrated producers – deployed in local negotiations to secure concessions from the workforce – are correspondingly extended. The potential involved is highlighted by two cases, one in France the other in Germany, which became headline news across Europe over the summer of 2004. Workers at a Bosch plant near Lyon producing fuel injection systems, faced with the loss of an investment project to a Czech facility where labour costs were said to be 40 per cent cheaper, voted to breach the 35-hour week by working an additional hour, thereby securing around 200 jobs at the plant (Le Monde, 11 September 2004 – Bosch: Retour à Vénissieux). And faced with the company’s threat to transfer 2000 jobs to its operation in Hungary, 4000 workers at two Siemens electronics plants in North-Rhine Westphalia agreed to move from a 35 to a 40 hour week for no extra pay (Financial Times, 16 July 2004 – Carworkers protest at drive for longer hours).

Public concern about these and other threats of *délocalisation* – to use the French term – is such that the issue has rated number one anxiety in public opinion polls in France and number two in Germany (Libération, 14 September 2004; Der Spiegel, 24 April 2004). The extent of such popular concerns underlines the political potency of relocation decisions by major EU-based multinationals, companies which are widely regarded as pillars of their domestic industrial relations systems. Indeed, in the eyes of some, multinational companies headquartered in the existing member states had a key role to play in diffusing the industrial relations dimension of Europe’s social model into the new member states:

The activities of EU companies with their overwhelming share of FDI in each of the accession countries, have been assigned a key role in closing the various gaps between the CEE and EU by the architects of transition; in other words, in improving company performance within an emerging culture of business ethics, corporate social responsibility and *European labour standards*. (emphasis added) (Gradev, 2001: 9)

Fulfilment of such aspirations turns out to be the exception rather than the rule, being highly contingent on factors including the motivation for inward investment, the capital-labour ratio, institutions and actors in the different host economies of central eastern Europe and the capacity of unions to develop east-west cooperation (Marginson and Meardi, 2006). Perhaps the most telling instance is that of German MNCs, companies which in their domestic operations uphold a robust system of co-determination based on works councils with strong rights and supervisory board representation for employees, and participate in sector-level collective bargaining arrangements. Any presumption that such features will be transferred eastwards has been widely questioned by research examining German inward investment into central eastern Europe (Bluhm, 2001; Dörrenbächer, 2002; Fichter et al, 2004). Studies consistently reveal a striking contrast between a high level of technological transfer, involving the production model, and an extremely limited industrial relations transfer: works councils are permitted, but have few consultation rights and companies avoid joining employers associations. Insofar as there is collective bargaining, it is with company-based union or employee representatives.

Meardi and Toth (2004) argue that the dynamics involved between the ‘new’ and ‘old’ Europes require some rethinking of established analyses of the diffusion of employment practice across borders within multinational companies. These have been framed in terms of either

transplantation of home country practices to the overseas operations or, in the face of local resistance due to institutional and cultural differences, hybridisation of home and host country practice (eg Boyer, 1998; Ferner, 1997b). This two-fold frame, they argue, is conceptually inadequate to capture the reality of multinational companies' behaviour in their central east European operations. They propose in addition the possibility of 'pull hybridisation', under which the host country model of labour market regulation 'attracts' inward investors, looking to 'escape' aspects of their home market model. Put another way, CEE environments can be more conducive for innovation in employment practice than home country locations in the densely regulated labour markets of most west European countries.

There are feedbacks from these concessions and innovations into industrial relations systems in western Europe. These are not confined to particular instances of working time, flexibility or other cost-reduction measures. Such feedbacks are one ingredient augmenting the more general, long-running pressure from employers for a shift from the sector to the company level in collective bargaining. Employers argue that the need for scope at company-level to conclude arrangements governing working time and working practices which are suited to business circumstances is even more paramount given the pressure on costs coming from central eastern Europe, not to mention locations further afield in south and east Asia. Emboldened by their success in defeating Germany's powerful metalworkers trade union – IG Metall – in a strike for working hours parity in the eastern part of the country in 2003, and by the spread of company-level deals to take advantage of extended possibilities for 40 hour working under agreements in the west, the metalworking employers' federation – Gesamtmetall – has called for the role of sector agreements to be confined to specifying standard pay and a few core conditions (EIRO, 2003 – Employers' organisations demand more flexible industry-wide agreements). In France, the employers' confederation – Medef – has recently met with success in its persistent campaign for changes in the established hierarchy of agreements, whereby agreements at lower levels can only improve on- and not derogate from – the standards set at a higher level. The 2004 labour law introduced by the centre-right government introduces the possibility of downwards derogation by lower, e.g. company, agreements on a range of issues (EIRO, 2004 – Collective bargaining reform law passed).

The result is that sector-level agreements are being emptied further of their substantive content, with the prospect that they retreat towards becoming largely procedural shells. Indeed, one influential European scholar contends that 'only by denying itself most of the characteristics that have in the past forty to fifty years defined it may the sectoral agreement survive' (Visser, 2005: 24). The consequence too, is that corrosion of a fundamental pillar of the industrial relations dimension of Europe's social model appears to be accelerating.

### *Stalling Europeanisation*

In examining the implications of the EU's eastern enlargement for the further Europeanisation of the institutions and processes of labour market regulation, the starting point is to recall the transformation to the prevalent pattern of collective bargaining structures in the EU. Prior to enlargement, the UK with its single-employer, company-based bargaining arrangements was the exception to the continental west European rule of multi-employer, sector and cross-sector bargaining structures which provided comprehensive coverage of the labour market. Following



the 2004 enlargement, the EU now has a bifurcated pattern – a continuing group of countries with multi-employer-based arrangements is now joined by a second group - which includes 6 of the 8 CEE member states - with single-employer bargaining structures. Put starkly, one of the fundamental characteristics of Europe's social model – co-ordinated collective bargaining – no longer holds as a (near) universal truism.

Importantly too, the sector-level – which in most west European countries forms the cornerstone or lynchpin of a multi-level framework which reaches up to the macro, cross-sector level and down to the company and workplace level – is weak or absent across most of the new CEE member states: the 'hole in the middle', as Kohl et al. (2000: 15) put it. Sector-level organisations of trade unions and employers are poorly developed across most of central eastern Europe, with the exception of Slovenia and to a lesser extent Slovakia. Indeed the very existence of sectoral employers associations is at best patchy (Kohl and Platzer, 2004; Mailand and Due, 2004). This institutionally weak link has implications for both the vertical and horizontal processes of Europeanisation.

Commencing with the vertical dimension, at EU Community or cross-sector level, the admission of ten new member states into the EU in 2004 has increased opposition within the EU's Council of Ministers to new regulatory interventions in social policy. The reasons are at least two-fold. First, the new member states are still implementing and coming to terms with the considerable *acquis communautaire* in the social policy field, and for this reason alone they are unlikely to be enthusiastic supporters of fresh legislative initiatives. Second, governments in several CEE member states favour the UK – and US – flexible labour market model which is often seen as the antithesis of the European social model. They are likely to stand alongside the UK in opposing further regulatory interventions which are regarded as impairing labour market flexibility. Already, the potential for such new alliances between member states is evident in the likely retention of the UK's much coveted individual opt-out from the 48 hour weekly maximum under the revised working time directive.

At sector level, the absence of strong sector-level organisations of employers and trade unions and of industry-wide collective agreements in most CEE member states could well prove a brake on the new impetus apparent in the sector social dialogue. Voluntary European-level agreements and undertakings can hardly be implemented effectively in countries where the institutional means to do so are absent and the capacity to monitor progress hardly exists amongst the parties (Kohl and Platzer, 2004). To the extent that they rely on multi-employer collective arrangements at sector rather than cross-sector level for implementation, the same applies to the recent autonomous agreements on teleworking and stress at work concluded under the cross-sector social dialogue.

Only at the company level are there reasons to be other than pessimistic. Geographical extension of the orbits of coercive comparisons available to international management within multinational companies has been paralleled by extension of the coverage of the European Works Councils directive to the ten new member states. Two-thirds of the almost 750 multinational companies with established European Works Councils have operations in at least one of the new member states, according to authoritative estimates compiled by the European Trade Union Institute (2004), and will therefore have to enlarge their EWCs to include employee representatives from

the countries concerned. Evidence from several studies suggests that amongst a substantial minority of these companies – approaching one-half - representation for employees from the new member states was already in place by the time of the enlargement. In addition, a small number of companies headquartered in the new member states now fall within the scope of the EWCs Directive, because of the scale of their international operations in the EU (Hall and Marginson, 2004).

Information on the practice of these newly enlarged EWCs is scant. The few available studies of the experience of integrating employee representatives from the new Member States into enlarged EWCs tend to suggest that enlargement exacerbates the existing difficulties which all EWCs tend to face, rather than entailing new kinds of obstacle. Crucially there is little evidence of systematic 'east-west' rivalry undermining their functioning (Hall and Marginson, 2004). An investigation of EWC employee representatives in six companies with operations in Poland (Meardi, 2004) found that both 'established' and 'new' representatives had little familiarity with the prevailing industrial relations and labour law situation in the new and old Member States, respectively. 'Established' representatives suggested that developing such mutual understanding was made all the more difficult when standards were so different across the enlarged EU. Yet, neither group of representatives identified any systematic obstacles to developing 'east-west' cooperation and in several cases were able to point to practical examples of such cooperation.

Turning to the horizontal, cross-country, dimension to Europeanisation, there has been speculation as to whether the phenomenon of national-level 'social pacts' might spread to central eastern Europe, particularly as countries in the region start to prepare for a further phase of European integration with entry into the single currency – envisaged for several by the end of the decade. Yet with the exception of Slovenia, where a social pact anticipating restructuring measures necessary for entry into the single currency was concluded in 2003, there have been few initiatives in this direction. Where they have arisen, as in Poland in 2003, they have foundered on disagreements over key issues between the parties. Elsewhere, as in Hungary and the Baltic states, the weakness of trade unions makes it doubtful that governments might see any additional legitimacy deriving from measures agreed under a 'social pact', as compared to the current practice of tripartite social dialogue (Toth and Neumann, 2004).

At sector-level, the enlargement of the various trade union initiatives aimed at cross-border coordination of collective bargaining over wages and key conditions to embrace unions from the new member states face formidable difficulties. The most pressing of these is how, operationally, to mesh the company-based bargaining found across most of central eastern Europe into sector-based coordination arrangements. The capacity to coordinate the agenda and outcomes of negotiations across a range of companies, and to monitor settlements, within any given sector calls for levels of discipline, organisation and resources which are considerably beyond those of the fragile sector union organisations found in most new member states.

At company level, amongst the operations of multinational companies the capacity of management to mount comparisons of performance between established operations in western Europe and their more recent counterparts in central eastern Europe, as a means of leveraging concessions from western workforces, has already been referred to. Equally, there are well documented instances of the process operating in reverse, where newly acquired operations in

the east are placed under pressure by comparison with operations in the west (Marginson and Meardi, 2006). Signs that trade unions are responding in kind across the enlarged European production space are, however, few and far between. Meardi (2004) suggests that where EWC structures exist and representation has been secured, local trade unions in Poland tend to be positively disposed towards cross-border collaboration with trade unions in the west. Such collaboration can focus on exposing unfair working conditions in CEE countries, where adverse publicity in western Europe can be a potential lever for change.

#### 4. Concluding remarks

The open question is whether the consequences of intensified regime competition are likely to result in the renewal of pressure for European-level intervention and, if so, whether such a renewal is likely to command sufficient support amongst the new member states of central eastern Europe as well as the old ones of western Europe. Will the motor behind the process of Europeanisation laid out earlier be re-engaged in the years ahead?

The paper has shown how, in the late 1980s and into the 1990s, the pressures accruing from regime competition gave important impetus towards EU-level regulatory intervention. This was the *raison d'être* for the original initiative for a social dimension to accompany the creation of the single European market. And it was specific instances of regime competition resulting in social dumping that, by becoming headline cases, propelled the European Works Councils onto the statute book. In short, the two dynamics of regime competition and Europeanisation, although contradictory can also be mutually reinforcing.

Yet in the context of a new round of actual and threatened relocations accompanying the EU's eastern enlargement, a parallel EU-level policy response in the current period has been largely noticeable for its absence. The opportunity for strengthening the common, cross-country basis on which an augmented social dimension might rest, in the shape of the constitutional treaty's Fundamental Charter of Rights, has been blocked following the negative outcome to the French and Dutch referenda. The European Commission itself has taken a neo-liberal turn under the incoming presidency of José Manuel Barroso. The Commission's new social policy agenda – published in February 2005 – proposes a single relevant new legislative measure, namely an instrument to underpin transnational collective agreements. It also refers to possible revision of the EWCs directive albeit in a passage which stresses the need for new measures to promote 'socially responsible restructuring' (European Commission, 2005). However, one authoritative source sees little prospect that the Commission will propose amendments to strengthen the directive in the immediate future (EWCB, 2005). Measures to curb the fiscal dimension of regime competition look equally unlikely to materialise. For example, the German government amongst others has called for a measure to harmonise taxation rates on business - a step which would, however, be fiercely opposed by several new member states.

Public concerns over the consequences of threatened and actual relocations in the two largest 'old' member states, Germany and France, testify, however, to a renewed popular appetite for further European-level intervention in parts of western Europe. One indication of the influence of public pressure, reinforced by some national Governments, comes from the fate of the draft services directive proposed by the European Commission. The measure envisaged the creation of

a single market for services, in which providers located in one country would have open access to all other countries' markets – something which doesn't exist at present. The proposal stimulated widespread fears in France and Germany in particular that nationally-based service providers would be undercut by cheap-labour service companies operating from the new member states. At the EU summit in Brussels in March 2005, the current proposal was in effect ditched and the Commission sent away to come up with a more palatable alternative – amidst fears, ironically, that popular concerns would be mobilised in support of a 'No' vote in France's May referendum.

The ingredients which might coalesce to build pressure for intervention from the new member states are at present more diffuse. The consequences of regime competition – both labour-market related and fiscal - between the countries of central eastern Europe, particularly in respect of large investment projects, might become a source of pressure for counter-measures. National legislators may no longer remain as willing to respond to the bidding of foreign investors as hitherto. Rising incomes and tightening labour markets in some new member states might be accompanied by growing workforce resistance to the flexibilities inherent to prevailing workplace regimes. Experience of existing transnational structures, such as EWCs, in the context of ongoing corporate and industrial change might persuade trade union representatives from the new member states to make common cause with their counterparts in the west in campaigning to strengthen their rights. There are at least some grounds for believing that the stalling of Europeanisation which has accompanied enlargement will not necessarily become an enduring feature of the EU landscape.

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