

1976

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Recommended Citation

Hans Gunter, Erosion of Trade Union Power through Multinational Enterprises?, 9 *Vanderbilt Law Review* 771 (2021)

Available at: <https://scholarship.law.vanderbilt.edu/vjtl/vol9/iss4/3>

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EROSION OF TRADE UNION POWER THROUGH MULTINATIONAL ENTERPRISES?

*Hans Gunter**

I. INTRODUCTION

A. *National Focus of Trade Union Efforts*

The present article explores the effects of the operations and growth of multinational enterprises (MNEs)¹ on power, role, and legitimation of the trade unions within the national industrial relations systems in the industrialized countries of Western Europe and North America. This study neglects the effects of MNEs on international union cooperation and labor solidarity, which are dealt with in other contributions to this issue. This focus reflects the author's thesis that the main trade union concern and strategy in the countries in question is the integration of MNEs into the existing national industrial relations setting, while the development of border-crossing, "transnational" relations with these enterprises is a much weaker trend. Most of the activities of international union organizations vis-a-vis MNEs are geared toward the integration of these enterprises into the environment of the nation-state and the strengthening of local union counterparts (a second best solution to the more difficult transnational union strategies).

The national orientation of the trade unions facing the MNE is not surprising. In the Western European countries the trade unions historically developed together with the nation-state. The main base, power position, and effective field of union action coincide with the territory of the state which sets the essential economic and political conditions for trade union activities. Through growing involvement in national level decision-making and the administration of the welfare-state (social security, incomes policy, social contract, concerted action, economic and social planning), the unions are becoming even more integrated in their respective national

* International Institute for Labor Studies (IILS), Geneva. Responsibility for the opinions expressed remains with the author. They are in no way attributable to the IILS.

1. The term "multinational enterprise" is used in this article, rather than the more frequently found terms "corporation" or "firms", to stress the importance of border-crossing economic—not legal—links for the phenomenon.

frameworks.² Regional integration, in particular the EEC, has not significantly modified this situation thus far.³

The coordination of international trade unions against MNEs is certainly hampered greatly in the countries under consideration by differences in national labor laws,⁴ organization principles, collective agreement practices, political affiliations, and ideologies within the labor movement.⁵ The slow growth of such international union cooperation, however, is undoubtedly influenced also by the conviction that MNEs can be effectively dealt with, at least in part, within the national context by organized labor, especially if it allies with government.

B. *Identifying Relevant Factors of Concern*

In the structural-functional view, the specific problems for the nationally organized unions stem primarily from the MNEs transnational activities and centrally coordinated decision-making power. This incongruence in levels of decision-making and territorial competence is typically accompanied by the giant dimension of the MNEs, and their modern technology and management methods, which are often superior to those of exclusively nationally operating firms. There is little doubt, therefore, that the power balance tends to shift in favor of business, even more so where MNEs hold the key positions in growth sectors of the economy thereby making them indispensable partners of governments. However, these problems for the unions are attenuated, modified, counteracted, or at least hidden, by a number of environmental and behavioral factors in each country. The relevant factors include socio-cultural, economic, and political conditions as well as behavioral patterns of MNEs and unions within the particular country. They might be chosen for the construction of a typology of situations and relations regarding the interaction of MNEs and labor in the various countries and economic sectors.⁶ Even without this systematic analysis it is very obvious that there exists a

2. E. PIEHL, *MULTINATIONALE KONZERNE UND INTERNATIONALE GEWERKSCHAFTSBEWEGUNG* 212 (1974).

3. Gunter, *International Collective Bargaining and Regional Economic Integration: Some Reflections on Experience in the EEC*, in *TRANSNATIONAL INDUSTRIAL RELATIONS* 321 (H. Gunter ed. 1972).

4. K.W. Wedderburn, *Multinational Enterprises and National Labor Law*, 1 *INDUS. L.J.*, 12-19 (1972).

5. PIEHL, *supra* note 2, at 229-48.

6. A typology of this kind is missing so far.

world-wide variation in the analytical framework for labor dealing with MNEs, depending on the various constellations of the factors referred to. In many industrialized countries of Western Europe and North America the problems of a national labor force dealing with MNEs are counter-acted by a substantial degree of voluntary (learning processes of management) or forced (labor law and practices, union power) integration of the enterprises into the national system of industrial relations. The common objectives of management and labor within the productivity-wage-employment complex, prevailing partnership ideologies, and typically high levels of economic activity and employment all serve to mollify the differences between international labor and MNEs.

Changes in environmental factors, in particular the economic recession and the partly related change in trade union attitudes, have brought the areas of division between labor and MNEs into sharper focus. For example, unions have displayed greater militancy on issues of interest representation and world-wide resource allocation. Several recent developments will be reviewed in the following pages in an attempt to clarify if, and how, the union position within the Western countries is affected by the MNEs. The various areas for review include: (1) industrial relations; (2) investment and employment problems; (3) wider social policy goals of unions; (4) codes of conduct for MNEs; and (5) international union cooperation.

II. INDUSTRIAL RELATIONS

Under this heading two main areas of concern are to be distinguished: (1) the direct initiatives of management introduced in the plants of the MNEs; and (2) the induced effects of MNEs on the industrial relations systems because of their size and particular organizational structures.

A. *Management Initiatives*

Several of the direct initiatives of management may cause irritations for the unions; others may have a more far-reaching influence on the balance of power in labor relations. The transfer of certain MNE personnel practices from the country of origin to a foreign subsidiary, undertaken mostly because of productivity considerations or the desire to duplicate a familiar home environment, often fall in the former category (*e.g.*, differences in management style, carrier regulations, fringe benefits). In the long run, the learning processes which international management undergoes while oper-

ating in an alien culture tend to reduce possible conflicts with the unions. Central problems for the interest representation function of unions arise, however, where the policies of MNEs touch the area of trade union recognition,⁷ or where foreign subsidiaries opt to stay outside employer organizations and the established practice of industry-wide collective bargaining.⁸ Taking the countries under review as a whole, these appear to be rather rare events.

Recognition problems with MNEs may have different effects on the interest representation functions of trade unions than those encountered with local firms. Thus, a policy of non-recognition of a subsidiary may be the outcome of a global company strategy which hits unions in several countries and which would need to be taken up with central headquarters which are outside the reach of the unions in the host countries of MNEs. It has been reported that recognition problems in the United Kingdom with foreign-owned companies are much more widespread with regard to staff unionism than manual labor, thus affecting one category of employees which is traditionally difficult to unionize.⁹ Although the frequency of recognition problems in the United Kingdom was about the same in local firms as in MNEs, the local firms were normally small family enterprises, whereas the MNEs were large enterprises with substantially higher employment figures.¹⁰ However, in the very sensitive field of union recognition the issue might frequently be a "polemical one."¹¹ The finding that the degree of unionization is lower in many MNEs than the national average¹² generally

7. Examples of trade union recognition problems in the United Kingdom (usually with enterprises of American origin) are, for instance, given in the TUC publication, *REPORT OF A CONFERENCE ON INTERNATIONAL COMPANIES, INTERNATIONAL COMPANIES 9-10* (1970). Regarding examples for several other European countries such as Belgium, Germany and France, see, for instance, *INTERNATIONAL LABOUR OFFICE, MULTINATIONALS IN WESTERN EUROPE: THE INDUSTRIAL RELATIONS EXPERIENCE 4-9* (1976).

8. *REPORT OF A CONFERENCE ON INTERNATIONAL COMPANIES, INTERNATIONAL COMPANIES 10-14* (1970).

9. *Id.* at 9.

10. Steuer & Gennard, *The Industrial Relations of Foreign-Owned Subsidiaries in the United Kingdom*, 9 *BRIT. J. INDUS. REL.* 155 (1971).

11. N. McCrea, *Report on Research Findings Relating to Great Britain*, prepared for a Research Meeting on Multinational Corporations and Labor, ILS-IEME Doc. No. 4131, at 17 (*Int'l Inst. Labour Studies* 1973).

12. T. Etty & K. Tudyka, *Konflikte in der Arbeitswelt 29* (an unpublished paper for a scientific symposium on Multinational Enterprises and Interest Representation of Wage Labour, Hannover, October 1-3, 1975).

should be a more serious concern to the unions although the explanation could be found in such factors as the labor force mix, or the MNE operation in new areas with little union tradition, rather than in any particular union hostility towards multinational management.

Certain industrial relations initiatives by multinational management may have improved the position of the unions. The introduction of "productivity bargaining" in the United Kingdom (mainly through foreign firms) since the early 1960s may be taken as an example. The unions gave up certain control rights of shop stewards and gained higher wages in the process. Since the improved wages were attractive for the great masses of the workers, the management initiative should actually have increased, rather than decreased, the legitimation of unions in the eyes of their members. This interpretation seems justified because "productivity bargaining" was subsequently emulated by an important number of local enterprises with union acceptance, or at least, tolerance.

Recent management initiatives to modify the organization of work in which MNEs have taken a leading role (such as job enlargement, enrichment as well as autonomy of work groups) are ambiguous with regard to the complex of union power, influence, and legitimation. In many trade union circles they are considered a potential menace because they tend to increase the identification of workers with their enterprises to the possible detriment of labor solidarity.¹³ On the other hand, the Scandinavian and, more importantly, the Italian experiences¹⁴ demonstrate that these management initiatives can be used by the unions to improve their position in the enterprise by obtaining participation rights or by imposing corollary conditions regarding work organization, workload, employment guarantees, and new wage standards, mainly through the instrument of collective bargaining. In this way unions or other representatives of workers obtain competence in areas that were the exclusive prerogative of management or they achieve longstanding workers' goals—*e.g.*, the reduction of wage differentials and the abolition of "scientific" job classification systems.

Special initiatives of multinational management aimed at modifying present industrial relations policies are nevertheless more the exception than the rule in the Western industrialized countries.

13. See Delamotte, *The Attitudes of French and Italian Trade Unions to the "Humanisation" of Work*, 1 *LABOUR AND SOCIETY* 49 (1976).

14. Rollier, *The Organization of Work and Industrial Relations in the Italian Engineering Industry*, 1 *LABOUR AND SOCIETY* 81 (1976).

The available studies point out that despite culturally-determined variations in management styles and labor practices, MNEs generally integrate highly in the national industrial relations systems, particularly in the areas of collective bargaining and wage policies.¹⁵ Voluntary adjustments to local conditions by multinational management, the effects of statutory labor norms, labor practices, and the presence of strong unions contribute to this state of affairs. The MNEs integration into national industrial relations systems is also promoted because labor relations (often a secondary management function) are, under normal conditions, within the competence of subsidiary management in the various host countries. For all these reasons, the interest representation role of trade unions remains intact in many essential aspects with respect to the MNE. The substantial integration into the local industrial relations setting also explains why actual wages and labor conditions in MNEs greatly resemble those in comparable local enterprises.¹⁶ Such an adjustment is clearly in the cost-interest of North American enterprises implanted in Europe. Trade unions' success in exploiting a higher pay potential partially explains why wages and labor conditions are better in foreign enterprises than in local enterprises.

B. *Induced Effects of MNEs*

MNEs exert significant influence on industrial relations not so much through specific initiatives of management and the emulation of innovations by local firms, as through their organizational and structural properties and their size. This induced change is naturally more difficult to evaluate than the direct initiatives of management. Many of these induced effects can be classified as a reinforcement, retardment, or reversal of trends already existing in the industrial relations systems. By their size and their role in the concentration of capital, multinational enterprises reinforce the existing trend in Western Europe towards more (formal or informal) plant level bargaining. While this trend may increase the role

15. Some more recent information confirming this view can be found, in INTERNATIONAL LABOUR OFFICE, MULTINATIONALS IN WESTERN EUROPE, *supra* note 7; M. Jedel & D. Kujawa, U.S. DEPT. COMMERCE, OFFICE INT'L FINANCE AND INVESTMENT, MANAGEMENT AND EMPLOYMENT PRACTICES OF FOREIGN DIRECT INVESTORS IN THE UNITED STATES (1976).

16. ORGANISATION INTERNATIONALE DES EMPLOYEURS, LES ENTREPRISES MULTINATIONALES: LEUR POLITIQUE ET LEURS PRATIQUES RÉELES DANS LE DOMAINE SOCIAL 16 (1974).

of plant level unions and general worker representation (such as the works councils), it also fosters greater "enterprise corporatism." In several countries, these tendencies toward enterprise corporatism are disliked by both national unions and employer organizations because a reduction in their control and coordination power results, particularly with respect to wages and income policies.

Thus far, fears that workers' solidarity in the Western industrialized countries would be negatively affected by the emergence of such enterprise-oriented (and possibly transnational) labor relations in MNEs have not found much confirmation. Similarly, the possibility that MNEs reinforce a trend towards "dual labor markets" aligning "established labor" in well remunerated and relatively secure employment against a segment of "social marginals" in substandard, precarious employment, who have to pay the higher social costs of growth or recession, seems to be much greater in the developing than in the industrialized countries.¹⁷

An example of a trend retardment and even reversal through MNEs can be found in the area of worker boardroom participation. In Holland, enterprises with a substantial foreign business component are, for instance, exempted from certain participation provisions which tend to retard the trend towards participation. Rights of workers to participate in economic decision-making at the enterprise level, instituted by the German co-determination legislation, are being crippled by the final decision-making power of the foreign multinational headquarters (a trend reversal). The same observation applies to other social innovations in Europe, such as collective agreements on the protection of workers against rationalization measures. Thus, the paradoxical situation arises that, with the spread of the participation idea, ever larger proportions of workers obtain new rights of decision-sharing while, as a consequence of international capital concentration, the effective use of these rights becomes doubtful for a likewise increasing percentage of the workforce. Moreover, in crisis situations the normally decentralized, industrial relations management of MNEs tends to lose its autonomy. For instance, in the event of a strike of long duration in a subsidiary, which may endanger productivity and profitability of the MNE as a whole, headquarters management usually intervenes in a consulting or decision shaping capacity.¹⁸ Hence, in-

17. For the development and fuller application of these concepts, see Cox, *Labour and the Multinationals*, FOREIGN AFFAIRS, Jan. 1975, at 351-52.

18. For a description of some typical intervention procedures of headquarters management see K. KUJAWA, INTERNATIONAL LABOR RELATIONS MANAGEMENT IN THE

dustrial relations in MNEs are "latently transnational."¹⁹

It is mainly in such crisis situations, characterized by the involvement of headquarters management in industrial relations and more so in major employment/investment²⁰ decision-making, that the local worker representatives realize that the MNEs are of different character than the purely nationally operating firms. Threats by management to shift production to other countries or to withhold investments have the same effect and are denounced by the unions as a specific tactic of MNEs to discipline labor in conflict situations,²¹ although cases in which they have been actually carried out appear to be very rare. Central decision-making by MNEs contributes to the frequent union feeling that shutdowns are made "arbitrarily" by multinational management.²²

The special nature of multinational enterprises is also reflected in the area of provision of information to labor. A major, although often not specified, union complaint about MNEs is "inadequate information."²³ Certainly in countries where information policies of enterprises versus labor representatives are determined in detail by legislation, such as in the Federal Republic of Germany or in France, these complaints may have less justification. However, with few exceptions,²⁴ information provided concerning enterprise policies, financial position, and future plans is limited to the unit implanted in the country concerned, while worker representatives

AUTOMOTIVE INDUSTRY, A COMPARATIVE STUDY OF CHRYSLER, FORD AND GENERAL MOTORS, 67-71, 116-118 & 171-174 (1971).

19. H. Gunter, *An Overview of Some Research on Multinational Corporations and Labour*, ILS BULL. No. 12, at 42.

20. Everett Kassalow concludes after a review of the pertinent literature, "It is widely agreed that the general investment parameters, the major decisions to expand or contract are determined by the home office of multinational companies." E. Kassalow, *Multinational Corporations and Their Impact on Industrial Relations* 10 (an unpublished paper prepared for an International Conference on Trends in Industrial and Labour Relations, Montreal, May 1976).

21. A reproach found in one or the other form in all major union statements on MNEs. A widely publicized example is the menace of Henry Ford to transfer planned investments from the United Kingdom to the European continent and to Asia. See PIEHL, *supra* note 2, at 155; J. MATHEWS, *FORD STRIKE, THE WORKERS STORY* 137 (1972).

22. INTERNATIONAL LABOUR OFFICE, *MULTINATIONALS IN WESTERN EUROPE*, *supra* note 7, at 17.

23. *Id.* at 66.

24. Belgian legislation requires, for instance, the provision of information for the MNE as a whole. A French law entitles works committees to be informed about investments in other countries.

may wish information for the enterprise as a whole.²⁵ It can be argued that information restricted to the operations in the country of implantation is sufficient for collective bargaining purposes. This reasoning does not hold good, on the other hand, for information needed to appreciate employment and job security problems which are made or influenced by the headquarters of MNEs in line with overall company strategies and performance. Information (and consultation) requirements, their substance, and timing therefore take a prominent place in the various discussions of standards of conduct for MNEs.

III. INVESTMENT AND EMPLOYMENT PROBLEMS

During the post-World War II period of unprecedented economic growth in the Western industrialized countries, two major convictions developed in influential trade union circles: (1) that the ultimate economic decision-making prerogatives of management needed to be preserved in market economies in the interest of efficiency; and (2) that the main responsibility for economic growth and employment had to be vested in the national governments. It followed from these convictions that the workforce had to see itself much as the dependent variable with respect to the management of the economies by employers and governments. Adjustments through changes in jobs, skills, location of workers, and correlated retraining had thus to be accepted as the orientation norm for labor. Greater mobility of labor became a shared goal of the industrial relations partners.

The greater masses of the workers benefited visibly from this orientation norm during recent decades, as continuing high employment levels and real wage increases in most countries demonstrate. Rapid economic and technological change was accepted in the interest of both goals by virtually all major union groupings in the Western industrialized countries, with the possible exception of the more hesitant British unions. The unions' main concern for their members was compensation for workers affected by such change. Even in declining sectors, such as coal and textiles, these approaches were followed despite substantial legitimation problems for the unions. At the same time, under union pressure, the concept of active labor market policies was developed in several

25. In this context see R. Blanpain, *Provision of Information, WORKERS' PARTICIPATION 90-92* (Documents prepared for an International Management Seminar convened by the OECD, March 5-8, 1975).

countries in Western Europe, the foremost among them being Sweden.²⁶

This general background explains to a large extent why the investment and employment behavior of MNEs has not been, at least until recently, a central problem for the Western European unions. Unions have questioned whether the widely made, but controversial, assumption (based more on deductive reasoning than on detailed studies) that MNEs have benefited employment in industrialized countries²⁷ is justified or not. Structural labor force change induced by MNEs, especially because of their policies of mergers and takeovers, was recognized as a somewhat disquieting labor market factor by the unions since accompanying rationalization measures are frequently connected with job reductions. Similarly, the transfer of production lines from Europe to low wage countries (for instance in textiles and electronics), although relatively small so far, received unions' attention. However, as long as the economies produced sufficient alternative employment possibilities, structural change originating from multinational, as well as local, enterprises did not erode the basis of the "progressive" adjustment ideology espoused by the trade unions.

These conditions are about to change profoundly under the influence of the present recession. Lack of employment alternatives depreciate the goal of greater labor mobility and make job security a sensitive issue. Already in earlier years, examples of sporadic resistance of workers against plant closures had sent signals of this attitudinal change. In respect to multinational enterprises, the *Akzo* case (1972) (an example of the successful resistance of Dutch and German workers to plans of labor force cuts in several European units of the firm) has such a signal value.²⁸ Furthermore, it demonstrated that border-crossing solidarity action by labor can, under certain circumstances, counteract employment decisions of multinational management.

26. For a more detailed analysis of union attitudes towards economic decision-making, see H. Gunter, *Trade Unions and Industrial Policies in Western Europe*, in WEST EUROPEAN INDUSTRIAL POLICIES 93 (S.J. Warnecke & E. Juleiman eds. 1975).

27. INTERNATIONAL LABOUR OFFICE, *THE IMPACT OF MULTINATIONAL ENTERPRISES ON EMPLOYMENT AND TRAINING* 31 (1976).

28. For more detailed accounts of the *Akzo* case according to a union perspective, see Hoffman & Langwieler, *Noch sind wir da! Arbeiter im multinationalen Konzern*, RORORO AKTUELL, Oct. 1974; PIEHL, *supra* note 2, at 180-99. A very critical analysis is found in Northrup & Ronan, *Multinational Collective Bargaining Activity: The Factual Record in Chemicals, Glass and Rubber Tires*, (pts. 1-2), 9(1), 9(2) COLUM. J. WORLD BUS. 112, 63 (1974).

For some years, real or alleged job exports of MNEs have become a critical area in the United States much beyond the sole concern of unions, although its nature and magnitude are highly controversial matters.²⁹ The existing management-initiated studies are based on small unrepresentative samples and conclude that the major employment implications of MNEs are structural changes rather than effects on the general level of employment.³⁰ Thus, special occupational groups and unskilled workers in general seem to have lost the most jobs. On the other hand, the employment of clerical and technical staff appears to have increased in headquarters of the United States firms.

Trade union power and legitimation are more affected in the United States by structural changes in employment than in most of the Western European countries. Because the American unions are usually organized on an enterprise and occupational basis, unemployment in certain occupations, and more especially plant closures, directly call into question the relevance of union organization.³¹ These problems are accentuated by the comparatively less developed retraining methods and adjustment assistance for displaced workers in North America than in Western Europe. It is therefore plausible that the MNEs may act as a catalyst in transforming the largely bipartite (labor/employer) industrial relations in North America toward more state intervention in line with a European industrial relations model.³² This trend appears likely since other options for the American unions, such as the worldwide harmonization of labor standards or claims for protectionist commercial policies, like the Burke-Hartke Bill, have not been very successful thus far.

This short review of labor developments in response to the MNEs suggests that the employment incidence of these enterprises emerges as a central theme of MNE/union confrontation, possibly pushing aside the usual industrial relations concerns. In

29. R. G. HAWKINS, CENTER FOR MULTINATIONAL STUDIES REPORT, *JOB DISPLACEMENT AND THE MULTINATIONAL FIRM: A METHODOLOGICAL REVIEW* (1972).

30. See, e.g., R.B. STOBOUGH, P. TELESION & J. DE LA TORRE, CENTER FOR MULTINATIONAL STUDIES REPORT, *THE EFFECTS OF U.S. FOREIGN DIRECT INVESTMENT IN MANUFACTURING ON THE U.S. BALANCE OF PAYMENTS, U.S. EMPLOYMENT AND CHANGES IN SKILL COMPOSITION OF EMPLOYMENT* (1973).

31. Cox, *Labor and Transnational Relations*, 25 INT. ORG. 567 (1971).

32. Heise, *The Multinational Corporation and Industrial Relations: The American Approach Compared with the European*, 28 INDUS. REL. (CANADA), 54 (1973).

the industrialized countries under consideration, achievement and maintenance of high employment levels coupled with job and income security are now established priority goals in which governments ally with the trade unions. Wage employment not only provides livelihood and status for an ever growing segment of the population, but also provides social representation and access to extended social security as a result of labor legislation and union pressure. In these circumstances, the future legitimation of MNEs may increasingly depend upon their contribution to employment, job security, training, and the social upgrading of workers,³³ while in the past their GNP, balance of payments, and modernization effects were in the forefront for national policy makers.

Furthermore, many earlier writings stressed the world-wide welfare effects³⁴ of the MNEs, occasionally incorporating the expectation that these enterprises would prepare the coming global society,³⁵ thereby outflanking the "old institutions," in particular the nation-state.³⁶ However, nation-states and other institutions within their confines, such as unions, show an astonishing vitality that will make them the bodies primarily responsible for the welfare of people for a long time to come. The world-wide effects of MNEs, which are difficult to evaluate in the first place, are not immediately relevant to the national institutions. Despite a commitment to international solidarity, these institutions remain primarily interested in the welfare and employment effects that MNEs exert within their areas of competence (nation, industry, plant). The recognition that these interests depend on the global strategies of MNEs is, especially in the present recessionary climate, undoubtedly a prime motivation for states and unions to seek more national or international controls and guidelines for multinational business.

IV. WIDE SOCIAL POLICY GOALS OF THE UNIONS

Traditionally, most of the Western European unions are committed to various ideas of societal change while the North Ameri-

33. H. GUNTER, *MULTINATIONAL CORPORATIONS AND LABOUR: A PROSPECTIVE VIEW*, ILS-IEME Doc. No. 1057, at 4 (Int'l Inst. Labour Studies 1973).

34. *AMERICAN BUSINESS ABROAD: SIX LECTURES ON DIRECT INVESTMENTS* (C. Kindleberger ed. 1969).

35. Worton, *The Multinational Corporation: Administering Development in A Global Political System*, 11 *MGT. INT'L REV.* (1971).

36. Tanenbaum, *The Survival of the Fittest*, 3 *COLUM. J. WORLD BUS.* 13-20 (1968).

can unions consider themselves more as bodies of interest representation within the existing liberal capitalist setting, with a pragmatic rather than dogmatic reaction to social problems.³⁷ These ideas of societal change are usually pursued in alliance with political parties and range from reformist goals within the market economic capitalistic order (e.g., in Scandinavia and West Germany) to that of overcoming this system, most often in a Marxist sense. For example, this is the long-term objective for parts of the French and Italian union movements.³⁸ For a number of analysts, the growth of multinationals makes this social change more difficult because it is supposed to entail the consolidation of the capitalist system while the possibilities of union action are being reduced.³⁹ Among the specific factors referred to in such assumptions are the following: The increase in the imbalance of power between capital and labor through the growth of MNEs; the erosion of reformist social change because of the structural properties of MNEs (for instance their effects on workers participation in management, mentioned above); the conjunction of state and MNEs goals of economic growth and modernization; and the danger of increasing transnational capital concentration which counteract the functioning of democratic pluralism.⁴⁰ Some of the critical views are variations of classic Marxist analysis, describing the MNEs as an expression of economic dominance in the phase of late capitalism, which necessarily runs into conflict with major labor interests.⁴¹

A number of developments seem to give support to a more dialectical view in which the growth of the MNE acts as an incentive for the development of countervailing power and social reforms within the confines of the nation-states. The spread of the idea of worker participation in management in the Federal Republic of Germany and several other Western European countries has cer-

37. W. Galenson & R.S. Smith, *Labor in the Twentieth Century: The United States* 39 (an unpublished paper prepared for the 4th World Congress of the International Industrial Relations Association, Geneva, September 6-10, 1976).

38. For a more detailed discussion of European unions' aims and strategies, see E. JACOBS, *EUROPEAN TRADE UNIONISM* (1973).

39. See, e.g., L. Bergmann, *Multinational Corporations and Labour in the EEC: A Survey of Research and Developments*, ILS-IEME Doc. No. 1062, at 16-17 (Int'l Inst. Labour Studies 1973).

40. Mielke, *Multinationale Konzerne, Internationale Kapitalstrategien ohne Grenzen?*, 11 *DAS PARLAMENT* 22 (1974).

41. See, e.g., Sweezy & Magdoff, *Anmerkungen zur multinationalen Korporation*, 2 *SOZIALISTISCHES JAHRBUCH* 18-41 (1970); reprinted in *English in MONTHLY REV.*, Oct.-Nov. 1969.

tainly been spurred on by the increase of national and international capital concentration. Boardroom participation of workers, its most far-reaching variation in Western countries, is a concept mainly applied to the big and giant enterprises.⁴² Likewise, the adoption of an EEC directive concerning the protection of workers in cases of mass dismissals was accelerated by the *Akzo* case which was debated in the European Parliament. Finally, German and Dutch union influence forced the inclusion of participation provisions for enterprises as a whole in the European company draft statute, which undoubtedly constitutes a social response to international capital concentration. Admittedly, it has also been the main reason for deferring adoption of this statute.

Despite these measures and certain restrictive practices regarding foreign capital in countries like Austria, France, Italy, and Sweden (as well as the greater controls being discussed or introduced in countries with liberal traditions such as Canada), clearly, the operations of MNEs are generally judged as being compatible with the economic and social developments supported by the influential political and social forces present in the Western industrialized countries, including the majority of the unions. Reformist change, aiming at more social constraints for the MNEs but not their elimination, remains the common denominator of all major parties involved in labor developments regarding these enterprises. Unlike the situation in the Third World, the question of nationalization of MNEs, for instance, is not on the agenda in any of the countries considered. Even in the United Kingdom, where nationalizations are a pragmatic goal of the party in power, MNEs escape such treatment. Thus, during the recent government rescue operations of the Chrysler subsidiary in the United Kingdom such a measure was never considered contrary to the practice applied in the rescue operations for many local firms. Nationalization is obviously not good policy in states that are both important host and home countries of MNEs. It is in the logic of the dialectic view that the growth of MNEs should, in the end, increase the legitimation (although not necessarily the power) of the national institutions dealing with them, in particular in the social field, that of the trade unions.

42. Contractual international guarantees for foreign (American) capital investments in Germany were unsuccessfully invoked by opponents of co-determination against legislation for its extension passed in March 1976.

V. CODES OF CONDUCT

In view of the world-wide operations of MNEs, various types of international regulations have been proposed for different reasons by governments, unions, and international businesses alike.⁴³ However, international legislation on this matter seems to be more of a long-term, if not an idealistic, notion because of differing interest positions and approaches. In the areas of particular interest to labor, the same should be true of international conventions requested by an important segment of the international labor movement.⁴⁴ In these circumstances, the idea has evolved to set up international codes of conduct for MNEs; and several intergovernmental organizations such as the United Nations, the International Labor Organization, and the OECD have in one or the other form become interested in these.

The OECD is the first organization to succeed in having such a code, which was adopted in June 1976. It will be briefly reviewed here, as far as its industrial relations and employment provisions are concerned, as an instrument particularly relevant for the countries under consideration.

The OECD guidelines consist of a set of recommendations addressed by the member governments to the MNEs for conducting business in the OECD area in harmony with the policy objectives of the countries in which they operate.⁴⁵ The guidelines are voluntary for the enterprises, not legally enforceable. Simultaneously, the OECD Council adopted decisions on national treatment of MNEs, on international investment incentives and disincentives, and on intergovernmental consultation procedures on the guidelines. Non-discriminatory (national) treatment and the reduction of barriers to the international flow of capital are longstanding requests of international business. The adoption of the respective declarations together with the guidelines stresses the continuing liberal economic orientation in the OECD countries towards MNEs and should facilitate the voluntary acceptance of the code of conduct by the enterprises. The same conclusion applies to the

43. See INTERNATIONAL CHAMBER OF COMMERCE, *GUIDELINES FOR INTERNATIONAL INVESTMENT* (1972).

44. ICFTU, *MULTINATIONAL CHARTER 25* (1975). The Charter of trade union demands for the legislative control of multinational companies was adopted by the XI ICFTU World Congress in Mexico, Oct. 17-25, 1971.

45. OECD COMMITTEE ON INTERNATIONAL INVESTMENT AND MULTINATIONAL ENTERPRISES, *GUIDELINES FOR MULTINATIONAL ENTERPRISES, NOTE BY THE SECRETARIAT 2* (June 24, 1975).

statement that the guidelines reflect good practice for all enterprises,⁴⁶ multinational or not.

The OECD guidelines recommend, among other things, at least annual publication of financial statements and other pertinent information (such as information relating to the structure of the enterprise, significant new capital investments, employment in each geographical area, research and development expenditure, intra-group transfer, pricing, etc.) for the enterprise as a whole, which is in line with labor requests. More specifically, the guidelines request multinational management: (1) to respect the right of their employees to be represented by trade unions; (2) to provide information to employee representatives for meaningful negotiations on conditions of employment and an appreciation of the performance of the enterprise as a whole; (3) to observe standards of employment and industrial relations as favorable as those observed by comparable employers in the host country; (4) to provide reasonable notice to employee representatives in cases of collective layoffs or dismissals and to cooperate with these representatives and governments to mitigate adverse effects; (5) to refrain from using the threat of production transfer in dealing with labor; and (6) to permit authorized employee representatives to conduct negotiations with management representatives authorized to take decisions on the matters under negotiation. According to the Council decision on consultation procedures for guidelines, the OECD Committee on International Investment and Multinational Enterprises will periodically, or at the request of a member country, hold meetings for the exchange of views to which the business and union advisory bodies of the organization will be invited. Individual enterprises will be given the opportunity to express their views if they wish. However, the Committee is not empowered to reach conclusions on the conduct of individual enterprises. Thus, the OECD has established very imperfect international-supervisory machinery concerning the application of its guidelines.

Regarding the labor problems reviewed in the present article, the guidelines seem to aim primarily at a better integration of MNEs into the national industrial relations system of the OECD member countries. They propose, essentially, behavioral standards and procedural rules for cooperation and conflict regulation with nationally organized labor and general workers' representatives in

46. Paragraph 9 of the Guidelines, OECD PRESS RELEASE A (76)20, Paris, June 21, 1976, at 7.

the MNE plants. These can certainly mitigate, but do not remove, the special labor *problematique* of multinational enterprises. The recommendation regarding collective layoffs or dismissals is a particularly significant case in point. It illustrates that no restrictions on the discretionary power of MNEs in the field of international investment/employment allocations (the major concern of labor) can be imposed by a voluntary code. Nevertheless, most trade unions in the OECD countries will certainly welcome the guidelines as a first step in the right direction, although they fall far short of the claims by organized labor for legislative control over multinational companies found in the "Multinational Charter" of trade unions.⁴⁷ The guidelines, backed by the authority of the OECD governments, will undoubtedly become a standard document in the discussion of labor problems connected with MNEs. At the same time they illustrate the weak points of possible nation-based approaches towards these enterprises. Although, under the present conditions, the policy of alliance with governments (and international organizations) is preferred by the unions, they maintain that the building up of a countervailing power to that of the MNEs by the international union movement (especially the trade secretariats) is also needed through "new forms of organization based on international workers' solidarity in order to meet the multinational challenge."⁴⁸

VI. INTERNATIONAL UNION COOPERATION

The rapid growth of MNEs has provided the international trade union movement with a new concrete purpose and legitimation. This attitude applies in particular to the free trade unions organized in the ICFTU and the associated international trade secretariats (ITSs), and, to a smaller extent, to the Christian international organization (WCL), which view the growth of MNEs as a new phenomenon for organized labor. The Communist-led international union (WFTU) is less involved in this orientation, in part, because in the Marxist analysis the MNE is not a new separate phenomenon but an integral aspect of the general *problematique* of late capitalism. Action versus MNEs is therefore conceived of as a part of the class struggle. For this reason alliances with Communist unions, both in matters of principle and in concrete cases of conflict with MNEs, have generally been refused by the other international (and national) union organizations. The labor prob-

47. MULTINATIONAL CHARTER, *supra* note 44.

48. *Id.* at 23.

lems of MNEs have, thus far, confirmed, rather than helped to overcome, the ideological splits in the trade union movement in Western industrialized countries, contrary to some speculations for the future.⁴⁹

Capitalizing on their different action possibilities, the ICFTU and its associated trade secretariats have developed a division of work. The ICFTU and its regional organizations, in Europe the ETUC, have engaged in publicity, development of action programs, and lobbying for world and regional intergovernmental organizations. The influence of the ICFTU was a major factor in putting the question of MNEs on the agenda of these organizations. The international trade secretariats, especially those for the chemical, metal, and food industries (and their European counterparts), see their main task in the coordination and initiation of concrete union action with respect to MNEs and in the creation of an organizational base for the development of countervailing power. The formation of world councils for several MNEs or conglomerations moves in this direction, although many of these are still rather weak.⁵⁰

Although the position of international union organizations dealing with MNEs has improved in the last years, more so than the relatively small number of successful international negotiations or coordinated union actions appears to suggest,⁵¹ one cannot overlook the considerable gap between the effective transnational power of MNEs and that of the unions.⁵² A particular set of circumstances appears to be required for successful international union strategies. Elements of the strategy are: (1) significant motivation and mobilization of the workers in the different MNE plants; (2) effective guiding action by an international trade secretariat⁵³ or another international union body; (3) attainment of public opinion for the union cause; and (4) parallel interest of governments.⁵⁴ In the *Akzo* case the parallel interest of the Dutch Government to

49. PIEHL, *supra* note 2, at 302, expects for instance, the future possibility of union cooperation versus MNEs across ideological divisions.

50. T. ETTY & K. TUDYKA, *supra* note 12, at 26, 31-35.

51. Prominent examples are given in PIEHL, *supra* note 2, at 148-207.

52. Blake, *Corporate Structure and International Unions*, 7 COLUM. J. WORLD BUS. 19 (1972).

53. This factor has been judged less important by H.R. Northrup and R.C. Ronan especially regarding the *Akzo* case, *see supra* note 28.

54. H. Gunter, *Multinational Corporations and Labour: A Worldwide Theme with Variations*, FOREIGN INVESTMENT AND LABOR IN ASIAN COUNTRIES 40 (1976) (proceedings of the 1975 Asian Regional Conference on Industrial Relations).

maintain employment in the company's plants at a period of economic difficulties in Holland was a very important factor in the final outcome.

Although a clear case can be established for the growth of international union action if one considers the incongruence in decision levels and territorial competence of national unions and MNEs, this growth should be more the exception than the rule, at least in the immediate future. A recent study suggests that the motivation of workers and unions for international action against MNEs even in the Western countries might be lower than usually assumed because of several new alternatives in the national industrial relations systems. One alternative may be seen in the spread of "job bargaining," *i.e.*, collectively negotiated guarantees from employers regarding employment security for workers, which may include the employers' commitment to job creating investment,⁵⁵ as is the case in Italy.

Whatever the basic underlying reason—national barriers to border-crossing union action, or problems of motivation and mobilization—the bulk of the interventions of international trade secretariats now consists in providing information, bargaining assistance, and expertise to local unions facing MNEs, and not in the coordination of border-crossing activities.⁵⁶ These have the effect of strengthening local unions in their regular relations with MNEs and ultimately contribute to the integration of these enterprises into the national industrial relations systems.

VII. CONCLUSION

The preceding review generally does not support views that see the growth of MNEs as a factor which erodes trade union power and legitimation in the countries of Western Europe and North America. Rather, it would appear that the interest representation role and the capacity of unions to press successfully for social change are not, on the whole, called into question by the MNEs, although the properties and strategies of these enterprises cause problems in a variety of fields (especially employment, job security, and participation). The full *problematique* of MNEs in respect to the societal change desired by the unions is a very complex

55. Ulman, *Multinational Unionism: Incentives, Barriers, and Alternatives*, 14 INDUS. REL. 27 (1975).

56. J. P. LAVIEC, SYNDICATS ET SOCIÉTÉS MULTINATIONALES: LA DOCUMENTATION FRANÇAISE 97-105 (1975).

affair entangled with questions of ideological options and controversy.

In the narrower area of industrial relations (determination of employment conditions and procedures applied in this connection), a rather confusing variety of smaller and larger power and legitimation problems for the unions arise. Many of these problems can be solved within the national industrial relations system without disadvantages to the unions, despite the transnational structure of the MNEs. The main approach followed for this purpose is integration of MNEs into the existing local systems and practices, a goal in which unions and governments join and one which generally meets with the inclination of multinational management. The industrial relations implications induced by the example, and more so by the structural properties of MNEs, are more important, however, than the behavior of management in the units of the MNEs. Because of their economic weight and structural properties, the MNEs act as catalysts for tendencies already existing in the industrial relations systems. Several of these tendencies, such as the trend towards plant level bargaining, can modify the nature of these systems and may cause considerable control and adjustment problems for the trade unions.

The cases of concrete conflict between individual MNEs (especially their subsidiaries in the Western European countries) and organized labor identify the investment/employment complex as a particularly critical area of MNE/union interaction. The transnational decision power of the enterprises, together with the lack of internationally coordinated union action, entail considerable problems for the position of the local trade unions. These problems of incongruence in decision-making structures and territorial competence are accentuated by an observed change in the attitudes of the labor unions. Connected with the general employment difficulties of the present recession, a revision of the adjustment ideology of the unions is in progress. Job security and the defense of employment play a much greater role for the pressured unions today than in past decades and result in a refusal of certain management mobility requests. It remains to be seen whether a general revival of economic activity can re-establish behavioral orientation of adjustment to all employer-demanded change. A second relevant trend is the spread of the participation idea (in whatever form), instituting workers' influence on economic decisions of management. Both trends are dysfunctional for the structural properties and the international strategies of the MNEs.

Despite certain successful moves to improve job and employ-

ment security in the different countries through collective negotiations and public labor market policies, national unions increasingly recognize that the employment *problematique* of MNEs cannot be solved satisfactorily within the framework of the nation-state (and even less through the available mild forms of international control), although labor occasionally succeeds in imposing constraints on the transnational mobility of MNEs, usually with the help of the national governments. Effective international coordination of action versus multinational enterprises remains, therefore, a long-term perspective for the trade unions in the absence of any other real alternative.

