

GLOBALISATION, DEREGULATION AND EMPLOYMENT

A contribution to the debate

**by Antonia Ramos Yuste, David Foden, and Laurent
Vogel***

DWP 96.08.2 (E)

* This paper was prepared by Antonia Ramos Yuste and David Foden, of the ETUI, and Laurent Vogel of the TUTB, who contributed Annex 1 on health and safety at work.

Draft contributions were discussed at an ETUI workshop on 11 March 1996. The participants are listed in Annex 2.

Contents

1. Introduction.....	5
2. Some considerations on methodology.....	6
3. On the concept of competitiveness.....	7
4. Social and labour market issues.....	11
5. Conclusion.....	15
Literature	17
Annex 1: Health and safety at work	18
Annex 2: Participants in the ETUI workshop on 11 March 1996.....	22

1. Introduction

Although this discussion paper is not a reply to the 1995 Regulatory Report published by UNICE (1995), the decision to produce it was prompted by their contribution to the current debate on deregulation. The UNICE report seems to us to represent in large part the received wisdom in the inter-linked debates on competitiveness and deregulation, and we therefore make no apology for the frequent references to both the findings and the methods of UNICE.

One of the central issues we have tried to address is that of competitiveness. Trade unions have never been more open to the needs of efficiency and (for those in the market sector) commercial success. But this does not mean that they accept uncritically either the definitions of competitiveness or the suggested means to achieve it put forward by employers or free-market theorists. There is deep confusion about the notion of competitiveness, and this confusion leads in the extreme case to the presumption that all political choice has been rendered null by the forces of global capitalism. This has been expressed much more succinctly and vividly by Bundesbank governor Mr Tietmeyer, who said, at the World Economic Forum held in Davos at the beginning of 1996, that "markets are going to become the policemen of politics".

This is the context in which it is argued that there is a need to reform the content and the mode of elaboration and adoption of certain legislative provisions which regulate economic and social rights, or others which simply regulate administrative procedures, at the requisite level, be this Community, national or local. The purpose of the proposed operation is to preserve the competitiveness of European firms, a cause which has been elevated by UNICE into the category of *préalable absolue*¹ for economic prosperity.

Though it would no doubt be most interesting to embark upon a genuine theoretical debate concerning the possibilities of transposing the old liberal dogma inherited from Say and Walras, according to which the efficient market is the axis for the regulation of the economy, the primary question arising from this idea is that of sovereignty. It is a question of whether democracy and its institutions regulate markets or whether it is the markets (and the economic powers) which subject the institutions to their interests. In other words, is it civil society which endows the legislative and executive powers with their legitimacy, or is it the corporate balance sheets?

This innovation in the political order is, at the same time, an involution of economic theory which is miserably reduced, albeit in the guise of an exact science, to the use - and in many cases the abuse - of mathematical models from which the techniques of economic analysis derive their subsistence. It may, nonetheless, be worth recalling in this connection the opinion of figures such as Alfred Eichner (1983) who, in a book entitled precisely *Why Economics is not yet a Science*, considered that "mathematics provides a facade for a theoretical system which conforms to none of the empirical tests

¹ See French version of the UNICE Report.

that permit us to distinguish between science and superstition or crass ideology".²

Thus the sum of information supplied by the UNICE document, even on the admission that it reflects a portion of the reality (such as, for example, dysfunctional bureaucracies, or the democratic deficit of the European Community, or the cryptic nature of legislative texts) is unable to furnish conclusive elements of analysis concerning the nucleus upon which it focuses all its demands, i.e. the negative effects of regulation of employment, the environment, etc. on the competitiveness of firms. For any analysis of this relationship could hardly dispense with reference to the system of social relations in which it takes place.

2. Some considerations on methodology

The three sections of the UNICE report suffer from the same blatant flaw: nowhere is the attempt made to clarify whether what is inhibiting the competitiveness of European firms is the existence of the regulations, the content of the regulations or the form taken by the regulations.

In the definition of the framework of the report, under the headings "Regulations" and "Typology of Regulations" (p.5), the aspects referred to include a significant section of the whole set of social and economic rights which typically make up a system of social relations characteristic of the welfare state and which are defined and enshrined in the majority of the Member States' constitutions. As such, any reform of these aspects would need to be conducted in conformity with the requirements of the collective public interest and under no circumstances the private interests of a social category as limited as "entrepreneurs".

The generalised deregulation advocated by the document does not represent a solution to the struggle among firms to maintain their market shares and win new ones. It would simply make the competition more cut-throat. Changing the rules of the game does not do away with the play of competition.

What the second section of the report presents as evidence, accompanied by pseudo-scientific techniques for demonstrating the damage incurred by competition as a result of regulations, is in fact no more than the opinions of groups of employers, experts or of UNICE itself. As such, these contributions to the debate are eminently deserving of respect, and utterly controversial.

To base assessments on opinion polls is a non-scientific procedure, the more so if the samples are as limited as those used for the report and culled exclusively from the ranks of employers. It would be a complete and utter aberration to claim that such opinion

² Quoted by Ibrahim Warde in "Des commissaires à l'idéologie", published in *Manière de voir* n° 28, November 1995 (quote in text retranslated from French).

polls could serve as indicators of the need for reforms of the scope of those advocated in the document.

The extensive bibliographical support referred to by the document amounts in fact to a tiny number of OECD studies and to the work of one, and only one, of the high priests of neo-liberalism, namely Michael Porter, whose model for analysing competition among industries, subsequently extended to the analysis of national competitiveness is, it goes without saying, infinitely more sophisticated and complex than the glib reductionism to which it is subjected by the document (Porter 1990).

It is surprising that the document contains no reference to organisations and institutions (such as the World Health Organisation, the ILO, the UN, etc.) of proven repute in areas such as health, environment, or the labour market. Even more surprising is the absence of analysis of concrete situations encountered by the employers in the European Social Dialogue in the context of a partnership which should represent a regular forum for becoming acquainted with the difficulties of regulation, especially in the areas of employment and working conditions.

The comparisons of the terms of competition between the USA and Europe distinguish themselves by their poverty of analysis. Most remarkable of all in this respect is the use of the comparison of the relative energy costs of the chemicals industry in the USA and Europe as an indicator of the restrictions placed on competition by the excessive presence of the State in the economy.

3. On the concept of competitiveness

Among the concepts underpinning the discourse of UNICE, or its experts, and the prevailing discourse of economics, competitiveness occupies a predominant position; and yet, the meaning and contents of this concept are swathed in confusion while, overall, it appears more like a pretext to justify a preference for social regression than a "condition" of economic rationality.

One source of this confusion is a failure to distinguish between two meanings of the term competitiveness:

- 1) Competitiveness as the "capacity to compete", i.e. the aptitude possessed by certain companies or individual units of capital *vis-à-vis* their competitors. This aptitude invariably amounts to the ability to win successes on the battlefield of competition.
- 2) Competitiveness understood as "a state" is the objective relationship existing between subjects in competition with one another, or the battle of competition waged by these subjects.

In this second meaning, competitiveness is in fact synonymous with **competition**; and it is

the market economies (countries, or integrated supra-national economies such as, potentially, the European Union) which are objectively in a state of competition with one another, though their companies may be extremely competitive or rather uncompetitive in the first meaning of the term.

Of course the two meanings are inseparable from one another. Thus, when referring to the international competitiveness of an economy, or of its manufacturing industry, although the first meaning is, generally speaking, in the forefront, it must not be forgotten that it is the second which compels companies to be not just economically and technically efficient, but also competitive.

Though it is not the immediate subject of our analysis, it may be worth raising the following question: to what extent is it the very existence of this competitive environment³ which, by creating in firms the inevitable compulsion to push competition to pathological limits,⁴ generates within the system of market economies tendencies which jeopardise the efficiency of the system or indeed its very survival. This is a point being made on both sides of the Atlantic, by the Marxists, for obvious reasons, but also by economists of the calibre of Jean-Paul Fitoussi, Robert Boyer, Anthony B. Atkinson, Wolfgang Streeck, Colin Crouch, Michel Albert, Heilbroner, Anwar Shaikh, Paul Krugman, David Anisi, Luís de Velasco, Richard Farnetti and many others.

Another cause of the misunderstandings surrounding competitiveness relates to the confused state of the conventional economic wisdom, particularly as regards questions of corporate enterprise, competition and international trade. Over and above their analytical sophistication, the neo-liberal currents which have been successively in vogue (monetarist, supply-side or neoclassical theories) insist on preserving the pre-Keynesian postulates which are completely useless in any attempt to shed relevant light on contemporary reality.

To regard - as does the general equilibrium model, which claims validity for any moment in history and for any country, regardless of its specific characteristics - the capitalist economies as a set of markets functioning in an orderly manner in accordance with the principle of pure and perfect competition, disregarding the economic and social institutions which characterise the operation of contemporary economies, gives rise to all kinds of fictions and flights of fancy.

One of these imaginative scenarios, as obsolete as it is of special relevance to our arguments, entails a reference to the need to balance the labour market while disregarding an elementary point magisterially summed up by Jean-Paul Fitoussi (1996): "C'est que le marché du travail est beaucoup moins "un marché" que le lieu privilégié du contrat social. Les marchandises n'ont pas besoin de penser leur avenir. Ce sont, à l'inverse, des décennies de luttes sociales qui ont produit les institutions qui régissent aujourd'hui le marché du travail".⁵

Similarly, as long as one is dependent on concepts as artificial as perfect competition, or which concentrate on supposedly decreasing returns, rather than analysing the effects on companies of increasing returns, or which persist in composing variations on the

³ An environment characterised nowadays not only by the internationalisation of markets for goods and, above all, capital, and the dominance of the multinationals, but also by the process of economic and monetary integration, a process in which no more serious attempt to establish a relationship between competitiveness and social cohesion has been made than the White Paper on Growth, Competitiveness and Employment (European Commission 1993).

⁴ See articles by Ricardo Petrella, "L'Evangile de la Compétitivité", *Le Monde Diplomatique*, September 1991, and "Litanies de Sainte Compétitivité", *Le Monde Diplomatique*, February 1994.

⁵ "The labour market is much less "a market" and much more the central stage for the evolution of the social contract. Merchandise has no need to plan for its future. But the institutions which today regulate the labour market are the outcome of many decades of struggle." from Colin Crouch and Wolfgang Streeck (1996). The quote (page 212) is taken from Fitoussi's article "Après l'écroulement du communisme, existe-t-il une troisième voie?".

theory of comparative advantage instead of dealing with the absolute intra-sectoral advantages of international trade, it will be impossible to emerge from the dark shadow projected over the real world by analytical instruments of this type and which, in large measure, nourish the substance of the UNICE report.

The Regulatory report, adhering to the principle of methodological individualism and regarding micro and macro economies as equivalent to one another in accordance with the epistemology of the general equilibrium, takes the view that what happens in one individual unit of capital can be transferred and applied in identical fashion to a complete sector, to each of the national economies and to the European Union as a whole. This is equally true of competitiveness. However, competitiveness is a relative aptitude of one economic subject always defined in opposition to another. It is thus impossible that all the competitors within a sector (whether the boundaries are taken to be those of the national market or the European single market or the international market) should simultaneously improve their shares of the market, which means that it is impossible, at this point in history, for all the Member States simultaneously to improve their share of overall employment or their relative positions in terms of prosperity.

Consequently the text offers no explanation whatsoever of why some companies win market shares at the expense of their rivals: it is implicitly supposed that all companies have the same technology and the same cost structures and that they share out the market in equal and/or stable parts. This artifice virtually disregards the search for channels of negotiation because it fails to perceive that the economic integration of the European Union is taking place by means of a more or less constant process of industrial adjustment that is attributable, precisely, to the fact that the single market requires convergence in the ratio of pay to productivity. This process would not be necessary if, as assumed by the report, all European companies were endowed with an identical production function.⁶

However, the reality of the corporate sector is very different. Some firms are better equipped than others to win the competitive battle for markets, which means that the competitive production unit is that which enjoys lower **unit costs** in comparison with other units of production.

The most salient feature (constituting, in our opinion, a major error) of the analysis of production costs in this and other reports by UNICE (e.g. the 1994 report on competitiveness) is the mechanical way in which these costs are identified with the unit price levels of the different factors of production. Since the technological environment is, in the short term, a given, it is assumed that the only way of lowering unit production costs is to achieve reductions in unit factor prices. For this reason, the stress is on low wages, low health and safety protection costs or low tax levels.

It appears that the authors of these reports systematically neglect to realise that the decisive factor, from the competitive standpoint, is low costs per production unit and not low costs (prices) per factor unit. The former are achieved thanks to the technology endowment and the technical and organisational development required for its operation

⁶ And anyway, if reality did coincide with this theoretical artifice, how would one explain the process of the concentration of production and, particularly, industrial concentration by whatever means, which has taken place in the framework of the completion of the single market and economic and monetary integration?

and not by a deterioration of living and working conditions. This serves to explain what is a real possibility, and has indeed become generally speaking the case, that firms which pay higher wages are those which achieve, thanks to their higher productivity levels, lower unit wage costs.

Similarly, the technological endowment per worker is the most important "internal factor" explaining the overall behaviour of firms in a country, but it is also the furthest from control by any type of short-term competition policy which an attempt might be made to conduct, since this internal factor is a historical accumulation of the development of the productive forces (and, in general, of the development of societies). This relationship between the development of the productive forces within a society and the competitive performance of its companies brings to light the difficulties entailed, in economic policy terms, by the objective of raising overnight the overall level of development of a society. Unless the aim is that referred to by Colin Crouch and Wolfgang Streeck (1996:25): "la compétitivité risque de se résumer à la possibilité d'échapper plus rapidement que les autres aux contraintes de l'égalitarisme et de la protection sociale".⁷

What might perhaps be more useful would be to embark upon a debate/negotiation more closely linked to the empirical evidence and socio-economic reality encountered in the European Union. To this end, the following ideas might be of relevance:

1. Competitiveness is far too complex a notion - a fact repeatedly emphasised by the Commission in its annual economic reports - to attempt to express it in such simplistic terms as labour cost or occupational safety cost ratios.⁸
2. In order to gain an accurate picture of the corporate sector in Europe it might be a good idea to focus the analysis on increasing returns, associated with a constantly evolving economy and the acceleration of technological innovation resulting from the development of productive forces, both material and human.
3. To acknowledge the dynamic impetus of competition, conceived as a global battle beginning in the field of investment and capital accumulation regarded from the production technology and organisation standpoint and spreading ultimately into the commercial sphere where the strategies for winning market shares at the expense of rivals are devised. In the sphere of international trade this requires an end to simplistic analyses which disregard the asymmetry of the national economies. As recognised by the United Nations: "The diverse nature of international production suggests that international policy discussions about market access have to deal not only - as they currently do - with trade in goods and services but also with FDI as a modality to access markets. Beyond that, FDI is also a modality to access factors of

⁷ "Competitiveness risks becoming no more than the opportunity to escape more quickly than others from the constraints of egalitarianism and social protection."

⁸ Concerning the actual proposal contained in the report to amend certain directives regulating occupational safety, the most direct and immediate effect will probably be to increase uncertainty about the social security budgets intended to cover occupational accident and disease costs which currently account for 10% of the total social security budgets in the EU, according to Marcos Peña, general secretary for employment in the Spanish government.

production." (United Nations 1996:3).

4. International trade is dominated by the multinationals (United Nations, op-cit:23). which means that it is they which define competition on the international markets.
5. The debate on competitiveness should always be conducted in relation to the objective of social cohesion. This basically means postulating that the formation of production prices is influenced both by labour costs and by the profits applied to them.

4. Social and labour market issues

4.1 Why deregulation of the labour market?

The reasoning which leads to the policy of labour market deregulation runs along the following lines:

- the unemployment crisis in Europe is not cyclical, deeper forces are at work (see OECD 1994(a); European Commission 1993), much of the problem is structural;
- structural unemployment is the result of excessive regulation which renders the labour market rigid or "sclerotic";
- the answer to sclerosis is deregulation which will free markets to allocate resources, including labour, efficiently.

In essence the argument is that labour markets must be able to adapt flexibly to the changing demands imposed by the global environment. Autonomous national economic and social policies, including labour market practices, are possible only to a much diminished degree. To restore and maintain high levels of employment labour markets themselves must be adaptable, permitting the "invisible hand" to allocate labour to work, rather than relying on a framework of demand management to make work available to labour. Yet currently, and especially in Europe, the "visible hand" of the state - regulation - is impeding the invisible hand of the market.

The first issue here is whether the diagnosis of the causes of unemployment is correct. And it would seem to be at least incomplete. Among the explanations which should be considered are demand deficiency, "classical unemployment" (shortage of the capital needed to create workplaces, representing in turn the legacy of inadequate investment) and structural unemployment, which includes particularly those unemployed people with inadequate education and training or whose skills are obsolete. For this group to find work it is necessary not only for demand conditions to be right and for adequate investment in capacity to have taken place; active labour market policies are also needed.

To these may be added the more fashionable explanations, that labour markets suffer from *sclerosis* (are insufficiently flexible) and *skedasticity* (variations in wages, especially downwards, are less than variations in earning power - thus pricing those with low earning power out of the market).

To the extent that unemployment is due to demand deficiency, capital shortage and inadequate skills we would suggest that the deregulation agenda is either completely irrelevant or positively dangerous to employment creation. To the extent that unemployment is caused by labour market sclerosis and/or skedasticity, however, it must be admitted that deregulation might be expected to play a part. But as we see below, empirical support for the positive effects of labour market flexibility is hard to find.

For example, the 1996 Employment Outlook published by the OECD (1996) produced some startling findings:

- there is nothing to indicate that reduced wages would create increased employment for weak groups in the labour market;
- nothing indicates that increased wage inequality is compensated for by wage variations between years. Rather in countries with large earnings inequalities low-income earners seem to find it more difficult to increase their wages;
- paying lower wages to young people does not lead to more jobs;
- increased turnover in the labour market achieved through such things as weakening employment protection legislation does not lead to more jobs or lower unemployment.

This brings us to the second issue - the argument that even if it is accepted that global pressures have reduced national autonomy in economic and social policy, and that labour markets must accommodate these changes, there may be sustainable alternative approaches to achieving this: in short a “high road” to full employment rather than deregulation. In this context we should recall the functions of regulation.

The logic of labour market deregulation is that the “social” or “societal” advantages of labour market rules are outweighed by the economic costs. But there may be both advantages and disadvantages in both the societal and economic domains. We should also recall that while specific regulations might harm some parts of the labour market e.g. the low productivity end, they could simultaneously improve prospects in those segments where “cooperative exchange” is important to foster productivity-enhancing relations between management and workers (Marsden 1994).

In some cases regulations will have the practical effect of producing outcomes nearer to the “ideal market” solution than will deregulation. One effect of minimum wages, for example, is to limit the exploitation of workers who are paid less than their “marginal revenue product” as a result of their weak labour market position. It must be remembered that deregulation will often not lead to an efficient text book market of perfect competition, but will reveal instead the institutional structures which distort and segment the labour market.

An example of this is the perception of women’s wages as secondary household income. By helping to drive down pay rates this contributes to the problem of employment so poorly remunerated that it can only be taken by those with other household income. Regulation, again in the form of minimum wages, would address this problem.

In other cases there will be clear social imperatives to alter the “ideal market” outcome. An example would be the prohibition of child labour. Yet a further important aspect of regulation of the labour market is the dynamic impact it may have on the process of economic and social development - something not captured by the standard description

of market structure. The defence of labour market regulations is thus that:

- they provide the framework within which competition takes place, and (for example by setting minimum wages, and limits to the flexibility with which employers may call on workers time, by establishing standards for health and safety, for training and for participation) cut off cheap labour options for achieving commercial success;
- they encourage the long-term commitment of the employer to the workforce without which it is not worthwhile to invest in workers;
- they therefore encourage pursuit of economic and social development based on skills, innovation and investment in technology, where labour is a resource to be husbanded rather than exploited; and
- taken together, they provide the security for workers which makes change and adaptation acceptable.

Regulation of the labour market and the pursuit of high social and labour standards through legal and negotiated means therefore provide a valid approach to securing change in the face of the pressures of global competition and technological advance. And while it may be true that some regulations bear particularly, and perhaps disproportionately, heavily on SMEs, this can be addressed by specific subsidies to help offset the costs, rather than excluding SMEs from the scope of regulation.

This, it will be argued by the deregulators is far too rosy a picture. This may be all very well in theory, but the reality is of resistance to change and workers being priced out of jobs. Or is it? The following sections draw heavily on the report "Adaptability versus flexibility" (TUAC 1995), and focus on three areas of labour market regulation which are alleged to destroy jobs.

4.2 Minimum wages

The empirical support for a policy of cutting minimum wages to boost employment is very weak (Card and Krueger 1995). Some economists like to view the labour market in the same way as commodity markets - if the price is held up "artificially" demand falls. They argue that poverty should be addressed through social security transfers, not minimum wages. However, far from providing a solution to the low pay conundrum, cutting minimum wage levels would exacerbate it. Reliance on social security transfers to low-paid workers would be a direct subsidy from taxpayers to bad employers who would be free-riding on the backs of good employers. This would be an incentive to drive down further already low wage levels and reduce investment in human and physical capital.

During the 1980s, as unemployment across the OECD rose from around 20 million to

the present level of 35 million, the trend has been for cuts in both the levels and coverage of minimum wages. In 1993 the OECD Employment Outlook noted a reduction in minimum wages relative to average earnings in Canada, France (after 1985), the Netherlands (after 1982), Portugal, Spain and the United States (until 1991). The 1994 OECD Employment Outlook further noted the weakening of indexation clauses and the creation or extension of sub-minimum wages for certain groups of workers, especially young workers, in many countries. In the UK, the Wages Councils which covered about 10 per cent of the labour force were considerably weakened during the 1980s and abolished in 1993. The background report prepared for the OECD Jobs Study charts the fall over time of minimum wages in the US, Canada, the Netherlands and Spain; in France the minimum wage has remained relatively stable but with an apparent fall towards the end of the 1980s.

4.3 Decentralisation of pay bargaining

Decentralisation of pay bargaining, it is argued, would allow management to regain control over wages and so employ more people for any given output. Performance-related pay schemes and the use of individualised remuneration packages would assist this. The essence of the argument is that wages must fall to stimulate employment creation, with bargaining decentralisation being the delivery vehicle. Trade unions do not dispute that forcing down wages to absurdly low levels could create employment. However, it would result in massive social instability. It would also produce a downward competitive spiral of wage undercutting, leading to a low-quality, low-skill, low-productivity work environment at a time when governments are being advised that the future lies in a technological and skills revolution.

Moreover, OECD research suggests that centralised or sectoral pay bargaining systems generally result in a **better** trade-off between wage increases and employment. A background paper for the Jobs Study shows that Sweden and Finland have had an "outstanding strong real wage response" to unemployment; that Japan and Australia have had "comparatively strong responses"; that "lower albeit significant wage reactions" have occurred in the major continental European countries and Canada; but that "relatively low wage responses" have been registered in the US and the UK.

Other evidence casts doubt on the supposed gains from decentralisation per se. Researchers at the London School of Economics (Blanchflower et al. 1994), who looked at wage-fixing systems in 15 countries, found that European centralised and sectoral wage bargaining systems are just as flexible as the deregulated systems of the United States and Asia.

4.4 The reduction of employment protection

The UNICE report places great emphasis on the role of employment protection as a barrier to hiring by firms. Accordingly, firms are thought to be averse to hiring workers

if they feel employment protection provisions would bar them from freely laying them off. In similar vein, the OECD suggest that the rules should:

- sanction dismissals on economic grounds whilst retaining provisions against unfair or discriminatory dismissal;
- ensure that commitments to override "economic" dismissals are negotiable at firm level, rather than imposed on all firms by a sectoral agreement;
- loosen mandatory restrictions on dismissals where they seriously hinder economic restructuring; and
- allow (though not artificially encourage) fixed-term contracts.

The OECD's own work lends little support to the claim that deregulating employment protection leads to anything other than small employment gains. The July 1993 Employment Outlook analysed the extent to which countries have made greater use of fixed-term contracts and studied the relationship between employment protection and unemployment. Fixed-term contract work was found to be fairly widespread across member countries, with little scope for extending it. Further, the OECD could find "no discernible relationship between the share of workers under temporary contracts and the average incidence of long-term unemployment". France and Spain were exceptions, which may be explained by the fact that financial incentives have been offered to employers in these countries to take on fixed-term labour. The costs of such a system were, most notably, the emergence of dual labour markets in which workers could be faced with repeated spells of unemployment and rapid job turnover, with the added threat of being trapped in temporary dead-end jobs. This is likely to adversely affect job training and retraining since employers have no incentive to upgrade skills.

Turning to the effect of employment protection on unemployment it was found that proving unfair dismissal by workers was already practically impossible in many countries. The report also found that where changes had been made to employment protection during the 1980s the trend was to weaken it. Examples of such changes included reductions in the amount of severance pay/notice period, increases in the minimum service period required to qualify for severance pay or salary threshold above which notice of dismissals must be given, and making the grounds for "just cause" harder to prove for workers. France and Portugal, in addition, abolished the requirement for employers to seek prior approval from the labour authorities before dismissals could occur. In many countries provisions have also been introduced to allow short-time working in periods of economic slack.

On the basis of the evidence surveyed here it is difficult to believe that the principle cause of high unemployment is excessive labour market regulation or that deregulation will improve labour market performance. There is a very real risk, however, of damage to the economic and social fabric if the deregulation agenda is pursued.

5. Conclusion

Two themes emerge from the foregoing discussion. The first is the question of the role of business in democratic societies. To whom should companies be made accountable for the privileged legal status they enjoy? The impression given by UNICE's report is that this is not a valid question, yet UNICE itself in other settings, and thousands of companies in their daily, law-abiding activities accept the constraints involved in meeting regulatory standards of one or other sort, thus rendering themselves "accountable", in part at least, for the way they do business to a wider public than the shareholders' meeting. The real question, therefore seems not to be one of principle, but one of degree.

This discussion is central to the “stakeholder” debate currently in vogue in both Britain and the US, but it is also pertinent to the issue of workers’ information and consultation rights as raised by the European Commission, and to the whole debate about the future of the German social-market economy. We do not accept as valid the argument that “politics” is pre-determined by “economics” - indeed, to do so would be to invite cynicism about the political process. So far as the ETUI is concerned, we will wish to continue examining the role and impact of such experiments in new forms of accountability as European works councils.

We will also wish to pursue the second theme to emerge: the issue of globalisation. This is, of course, closely related in the sense that the “economics” alleged to preclude what might be termed progressive political choice is global in nature. But we think there remains an important task of clarification as to what is really meant by this term. A future area of work for the ETUI might be to examine how those aspects of the economy which truly are global, principally financial markets, impinge upon those which remain regional (e.g. European), national or local, including labour markets.

Literature

Blanchflower, D. and Oswald A. (1994): The wage curve, Research monograph, *Journal of Economic Perspectives*.

Card, D. and Krueger, A.B. (1995): *Myths and Measurement - The New Economics of Minimum Wages*, Princeton.

Crouch, C. and Streeck, W. (eds) (1996): *Les capitalismes en Europe*, Paris.

Eichner, A. (1983): *Why Economics is not yet a Science*, New York.

European Commission (1993): *Growth, Competitiveness and Employment - The challenges and ways forward into the 21st Century*, White Paper of the Commission of the European Communities, Luxembourg.

Fitoussi, J.-P. (1996): *Après l'écroulement du communisme, existe-t-il une troisième voie?*, in: Crouch and Streeck.

Marsden, D. (1994): *Regulation vs. Deregulation: Which way for Europe's Labour Market?*, background paper for TUC/EPI conference, "Looking forward to full employment", London.

OECD (1993): *Employment Outlook*, Paris.

OECD (1994(a)): *The OECD Jobs Study*, Paris.

OECD (1994(b)): *Employment Outlook*, Paris.

OECD (1996): *Employment Outlook*, Paris.

TUAC (1995): *Adaptability versus flexibility*, Paris.

Porter, M. (1990): *The Competitive Advantage of Nations*, New York.

UNICE (1995): The UNICE Regulatory Report 1995, *Releasing Europe's Potential Through Targeted Regulatory Reform*, Brussels.

United Nations (1996): World Investment Report, *Transnational Corporations and Competitiveness*, Geneva.

Annex 1

Health and safety at work

The need for regulation and the basis for EU action

In all countries of the European Union health studies have shown that work is one of the factors which determine a marked inequality as regards death, illness, disabilities and welfare. It is not the intention of this commentary to summarize these studies dealing with, among other things, differences in mortality rates, the significant number of illnesses linked to an occupational factor, etc., but instead to underline the need for a regulation in this field that is inspired by non-economic factors.

Article 118A vests the European Union with specific responsibility with regard to the working environment. This mission is to harmonize progress in working conditions and is to be accomplished by the work of the Member States and by the Council adopting binding legal instruments (Directives). A comparison of Article 118A with Article 117 immediately reveals that the European Union has opted for a normative, prescriptive approach in the field of working environments. Furthermore, this approach is in keeping with developments on a national scale which have now been apparent for over a century. In none of the Member States of the European Union have self-discipline on the part of industry nor the spontaneous workings of the market in themselves made it possible to promote health at work. Moreover, a normative approach of this kind has never been viewed as a major obstacle to the economic development of Europe. Nor do any serious studies exist which could establish a link between the level of unemployment and the obligations which national regulations impose in the field of health and safety.

Of course, UNICE could demand that Article 118A, which provides for a prescriptive policy on health at work, be repealed and advocate a policy based on self-regulation and codes of conduct. However, one only needs to take stock of the 1960s, during which Community policy on health at work was based on non-binding instruments (5 Recommendations), to refute this argument. Thirty years later these non-binding instruments have, to a wide extent, not been applied in the majority of Community States.

It would run contrary to the Treaty of Rome as amended by the Single Act to apply a test to the Directives adopted on the basis of Article 118A based chiefly on a cost-benefit analysis and conducted at company level. Protecting the life and health of workers is in the general public interest and is justified in its own right in relation to the economic concerns of setting up the single market. The wording of the Treaty is particularly clear: Article 100A concerns the creation of the single market and excludes any measures affecting the rights and interests of salaried workers. Article 118A is incorporated in the chapter devoted to social policy and pursues the general goal of harmonizing progress.

UNICE criticism of specific Directives

The UNICE line of argument is so tenuous, confused and occasionally contradictory that answering these arguments poses a problem in terms of method. Obviously UNICE is not that concerned with contributing anything to the debate on the Directives. It prefers to adopt an alarmist tone, which is indicative of the reluctance of a majority of employers to respect public regulations on health and safety.

The carelessness of the UNICE text is sometimes comical. For instance, Table 27 tells us that the companies have pinpointed three Directives which jeopardized their competitiveness whereas there are in fact four such Directives - like the three musketeers! It can only be hoped that the employers will at least learn the difficult art of counting with the fingers of one hand when it comes to assessing the costs.

Another example of this confusion is furnished by a comparison of the arguments in Table No. 25 with those in Table No. 27. In Table 25, UNICE gravely condemns the fact that the Directive on work equipment applies to all equipment regardless of the level of the risks and that it would have been preferable to ask the employers to undertake an assessment of the risks which "would have identified which types of equipment entail substantial risks". In Table 27, however, UNICE points out that one of the flaws common to all nine Directives (and, yes, first there were three, then there were four and now there are nine, and the other five mysterious Directives are not even named!) was the obligation to undertake far too complex a risk assessment! Moreover, if one refers to the texts of the Directives, risk assessment is generally defined in very simple terms. One has the impression that every time the Directives recommend a general measure, UNICE would reply that this was not justified because only an assessment of the risks would make it possible to adopt measures commensurate with the magnitude of the risk, and that every time the employer is asked to make a risk assessment, this would seem too complex and intolerably prescriptive a procedure.

In fact, this unjustified indictment does mask a real issue. There are two conflicting views of the status to be attributed to the assessment of risks in the field of health at work. According to the Directives, risk assessment is an integral part of an overall preventive programme whose top priority is to eliminate risks and reach a "zero risk" level. Risk assessment intervenes as an adjunct to analyse those risks which it has not been possible to eliminate and to determine a programme of action taking account of the priorities which are identified by the assessment. Seen from this angle, risk assessment does not replace public regulations of a general nature (for instance, if the noise limit is fixed at 85 dB(A), the risk assessment has a dual function: to back up the preventive programme wherever a reduction to 85dB(A) is technically impossible and to verify the level of the risk wherever the noise level is below 85dB(A)). Seen from a different angle, risk assessment ought to enable every employer to determine for himself what measures should be taken without reference to any specific mandatory measures beyond an obligation which is worded in extremely general terms. This sort of assessment

usually results in safety measures being subordinated to cost considerations and investment strategies. This view underlies the whole of Table 25, which is the only occasion when UNICE deigns to put forward concrete arguments against a Directive.

So the arguments used are so shallow that it is difficult to reply to the UNICE report. One could confine oneself to taking note of the grumbles of many employers regarding regulations on health at work and reply that these regulations, based on political will, define the framework of lawful economic activity all the more so because they are not subject to economic debate and that, in the long run, this framework will probably be relatively unaffected by the conditions for the accumulation of capital. At least, this is what history seems to show. The employers have always prophesied imminent economic disaster to oppose the ban on child labour, the reduction in working time or any specific measure concerning health at work. If, at any time during the last one and a half centuries, there had been any truth in this argument, we would surely have noticed.

What the four Directives attacked by the UNICE have in common is that they tackle risks affecting masses of workers and defend a concept of prevention which is not confined to serious accidents and fatal illnesses. This seems to be what the UNICE stand is really all about. The only Directive which finds any favour in their eyes concerns carcinogens. This seems a little inadequate. To believe that only real risks (the adjective used in Table 27) are deadly ones would end in minimal prevention.

Millions of workers in Europe work on VDUs (6.5 million in France, 7 million in the UK). The health problems related to the use of such equipment are manifold and complex. They demand that the interaction of material factors (equipment, work stations, lighting, chairs, worktop, etc.) and immaterial factors (task content, software, rhythm, breaks, etc.) be taken into account. The Community Directive formulates a few minimum requirements in this respect, which are very modest compared to the mountain of complaints relating to work at VDUs (musculoskeletal disorders, eye problems, mental health problems).

A large number of workers are also concerned with manual lifting work. An inadequate prevention policy leads both to significant health problems (cf. the statistics concerning lumbago and musculoskeletal disorders in general) and to the exclusion of women from jobs. Given the magnitude of these problems, the adoption of a Directive was fully justified here too.

The other two Directives have a horizontal impact which potentially affects all jobs, since they deal with upgrading workplaces and using work equipment under safe conditions. These Directives impose only a few new regulations compared to most existing national legislations. They harmonize much more than they create new rules.

As far as upgrading workplaces is concerned, UNICE does not deign to reveal to us which points its criticism is directed at. We should point out that this Directive is anchored in the existing regulations of the twelve Member States at the time and that its

adoption did not give rise to any particular controversy. The Directive in question deals with elementary health and safety standards regarding lighting, ventilation, fire prevention, temperatures, sanitary installations, etc. Most of the measures recommended were already contained in ILO conventions, some of which date back to the 1930s! Without knowing the specific criticisms levelled by UNICE it is difficult to argue about the minimum regulations which require, for instance, that temperatures be adjusted to the human body taking into account the characteristics of the work, that men and women have separate showers whenever the nature of the work or health require showers to be provided, or that, should there be any handicapped workers, the premises cater for them.

Where the use of work equipment is concerned, a brief comparison with the pre-existing national legislation does not show that higher costs can be imputed to the Directive. These only arise insofar as some companies had not previously applied the earlier legislation.

Annex 2

Participants in the ETUI workshop on 11 March 1996

ETUI

Reiner Hoffmann
Antonia Ramos Yuste
David Foden
Martin Hutsebaut
Alessandra Bosco

ETUC

Jean Lapeyre
Peter Coldrick

TUTB

Marc Sapir
Laurent Vogel

External experts

John Morley, DG V, European Commission
Riccardo Petrella, Lisbon Group
Jill Rubery, UMIST
Kurt Hübner, University of Berlin
Roy Jones, TUAC