Chapter IX

Trade union approaches to international production

Introduction

The rapidly changing landscape of employment and workplace relations in the context of the growing importance of transnational corporations (TNCs) and deep integration has been a central theme of this volume. An important feature of this more integrated world economy is the divergence in the mobility and organizational scope of some productive assets relative to others. A fundamental challenge facing decision makers is the need to address problems with an international dimension through structures and strategies that are still largely national in orientation and scope. Meeting this challenge applies as much to trade unions as it does to governments. But trade unions face an additional challenge. The liberalization of domestic and international economic policies has meant that trade unions have to rely more than ever on their own initiatives and resources to meet the traditional goals of their membership.

Chapter VI addressed industrial relations practices in a world economy in which production is increasingly organized internationally. Not only must trade unions deal more and more with TNCs, but the changes in the organization and management of these companies are beginning to alter established industrial relations practices in quite novel ways. In this context, trade unions have become increasingly concerned that corporate strategies leading to deeper economic

integration — and particularly the investment and disinvestment decisions of TNCs — should also bring their full benefits for labour. The basis for this concern is that the transnational organization of production has not been accompanied by a matching transnational organization of labour: although the organization of *production* by firms has become dependent upon cross-border linkages of greater complexity, the conditions and organization of *work* by firms and trade unions — and, broader, the patterns of industrial relations — have remained largely rooted in the national context, thereby affecting the ability of unions to pursue their traditional interests. Furthermore, because TNCs internalize different national labour market conditions within complex transnational structures, issues such as the availability of information and access to decision makers become important in the context of bargaining relations.

The purpose of this chapter is to review trade union strategies developed to meet these challenges. An analogy to the expansion of business may provide a helpful guide. The evolution of union organization from the local to the national level in response to the growth and widening scope of domestic firms considerably enhanced their bargaining power, reduced the gaps in organizational capacities between management and workers and reduced competition between labour in many countries. The spread of cross-border production activities reopens some of the gaps between management and workers and increases the potential competition among workers on geographically distinct labour markets. The next step, the transnationalization of labour organizations, may, therefore, appear as a logical step, matching the growth of business.

However, a consideration of trade union strategies needs to take into account the distinct objectives of organized labour, the social as opposed to simply economic orientation of unions, the resource constraints they face, as well as the considerable obstacles to internationalization that stem from diverging ideological and organizational approaches among trade unions, political barriers, legal and language differences, as well as disparate economic interests. In addition, cooperation among national unions must overcome management opposition to transnational bargaining prompted by fear of a collective power if unions are able to organize such bargaining successfully. Added to these divergent and conflicting interests, the difficulties confronting effective international trade union strategies reflect certain "organisational imperatives" facing all trade union activity (Olson, 1971, p. 77): trade unions must, to be successful, establish and defend the collective interest of a large group of employees. In this, trade unions face a simple dilemma: whilst the benefits of collective bargaining go to all employees regardless of whether they contribute to the solidarity of the group, achieving those benefits itself depends upon the widespread solidarity of the group. Consequently, trade-union solidarity exhibits the characteristics of a traditional public good exposed to the opportunities of free-riding behaviour. An effective response to this problem is likely to be all the more difficult at the international level.

In the light of these various difficulties, trade unions have evolved two broad approaches to the challenge of transnationalization. In the first place, they have sought to strengthen cross-border links and cooperation between national unions. The earliest accounts of this type of approach date back to the last century and have evolved into the present day international trade union structures (Windmuller and Pursey, 1993). On the other hand, and often acting through these international structures, trade unions have sought to influence the behaviour of TNCs through the creation and strengthening of international normative frameworks. This response also has a long history, but was pursued with particular vigour during the 1960s and 1970s (Windmuller and Pursey, 1993). The two approaches are by no means exclusive. In many respects, indeed, strong international trade union action has involved the simultaneous pursuit of both approaches — as witnessed, in particular, in Western Europe. More so than in chapter VI, therefore, the discussion here draws on the experience in the European Union, for the reasons given in the introduction to chapter VI.

Table IX.1. International trade secretariats, 1994

Name	Members (Millions)	Affiliated unions	Countries with affiliates	Headquarters	Regional offices			
					Africa	Asia, Australia, Pacific Islands	Europe	North America, Latin America, Caribbean
Education International (EI)	18	250	136	Brussels (Belgium)	Accra (Ghana)	Bangkok (Thailand) Kuala Lumpur (Malaysia)	-	Montevideo (Uruguay) San Jose (Costa Rica) Castries (Saint Lucia) Tegucigalpa (Honduras)
International Federation of Building and Woodworkers (IFBWW)	11	199	85	Geneva (Switzerland)	Lomé (Togo)	Kuala Lumpur (Malaysia)	-	Panama City (Panama)
International Federation of Chemical, Energy and General Workers' Unions (ICEF)	15	320	100	Brussels	-	-	-	-
International Federation of Commercial, Clerical, Professional and Technical Employees (FIET)	11	400	115	Geneva	-	Singapore (Singapore)	Brussels (Belgium)	San José (Costa Rica)
International Federation of Journalists (IFJ)	0.3	105	84	Brussels	-	Kuala Lumpur (Malaysia)	-	Caracas (Venezuela)
International Graphical Federation (IGF)	2.0	96	66	Brussels	-	-	Brussels (Belgium)	-
International Metal Workers Federation (IMF)	18	170	70	Geneva (Switzerland)	Johannesburg (South Africa)	New Delhi (India) Tokyo (Japan)	-	Caracas (Venezuela)
International Secretariat of Entertainment Trade Unions (ISETU)	0.3	68	26	Brussels (Belgium)	-	-	-	-
International Textile, Garment and Leather Workers' Federation (ITGLWF)	7.5	189	87	Brussels (Belgium)	-	Tokyo (Japan)	Brussels (Belgium)	Maracay (Venezuela)
International Transport Workers' Federation (ITF)	4.3	398	105	London (United Kingdom)	Nairobi (Kenya)	Tokyo (Japan)	London (United Kingdom)	Buenos Aires (Argentina)
International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)	2.5	247	94	Geneva (Switzerland)	Nairobi (Kenya)	Sydney (Australia) Tokyo (Japan)	Brussels (Belgium)	Montevideo (Uruguay) Washington, D.C. (United States)
Miners' International Federation (MIF)	4	75	68	Brussels (Belgium)	-	-	-	-
Postal, Telegraph and Telephone International (PTTI)	4.5	250	113	Geneva (Switzerland)	Accra (Ghana) Abidjan (Côte d'Ivoire) Lagos (Nigeria) Ndola (Zambia)	Singapore (Singapore) Tokyo (Japan)	Geneva (Switzerland)	Buenos Aires (Argentina) Panama City (Panama) Santiago (Chile) Washington, D.C. (United States)
Public Services International (PSI)	16	399	116	Ferney Voltaire (France)	Nairobi (Kenya) Johannesburg (South Africa)	Brisbane (Australia) New Delhi (India) Tokyo (Japan)	Brussels (Belgium) Prague (Czech Republic) Bucarest (Romania) Riga (Estonia)	Miami (United States) San Juan (Puerto Rico) Santa Fe Kingston (Jamaica)
Universal Alliance of Diamond Workers (UADW)	..	10	8	Antwerpen (Belgium)	-	-	-	-

Source: information provided by the ITSs.

particular, paragraph 6 of the Guidelines goes some way towards recognizing the need for prior notification in the case of changes likely to have a significant impact on employees; the requirement is for "reasonable notice", but this is not defined.

- *Union recognition.* Both instruments recognize unequivocally the right of employees to be represented by trade unions.
- *Effectiveness of union action.* The Declaration defines threats of production switching or relocation as unfair bargaining tactics; the same applies to the possibility of cross-border transfers of strike-breaking labour. The Guidelines contain similar provisions.
- *Access to decision makers.* Both instruments assert the right of authorized representatives of workers to have access to representatives of management who are authorized to take decisions on matters under negotiation.
- *Information disclosure and consultations.* The Declaration urges the provision of information to employee representatives for bargaining purposes. The value of information on

- One of the strongest apprehensions is that TNCs could shape the course and outcome of collective bargaining and also restrict the exercise of workers' rights by transferring all or part of their operations to other locations. Paragraph 52 of the Declaration calls on them not to threaten to take such action and not to transfer workers from affiliates in foreign countries "... with a view to undermining bona fide negotiations with the workers' representatives or the workers' exercise of their right to organise".
- Another sensitive issue relates to the information disclosure practices of these establishments and the dependence of workers' representatives on management for information that may be considered vital for undertaking "meaningful negotiations with the entity involved". A paragraph (54), directed to TNCs, asks that they make such information available to the workers' representatives. Where national law and practice so provide, they should also supply information that would enable labour to "obtain a true and fair view of the performance of the entity or, where appropriate, of the enterprise as a whole".
- The other thorny question, which is again inseparable from the organizational and decision-making structures of TNCs, concerns access to company representatives who have the power to take decisions on matters under negotiation. In response, a paragraph (51) calls on TNCs to "... enable duly authorised representatives of the workers in their employment in each of the countries in which they operate to conduct negotiations with representatives of management who are authorised to take decisions on the matters under negotiation".

In order to get a picture of the extent to which the Declaration has made a difference in the policies and conduct of governments, labour and management, five triennial surveys have been carried out since the adoption of this instrument.

Finally, there is a procedure that enables aggrieved parties to submit requests for interpretation of the provisions of the Declaration on the application of which there may be disagreement. To date, 21 requests have been received, but only half sought specific action under the Declaration. Of these, only two have gone beyond the initial screening, then the procedural "scrutiny" and reached the interpretation stage. Neither of the two cases, however, dealt with the industrial relations provisions of the Declaration.

The procedure for the examination of disputes, coupled with the industrial relations provisions of the Declaration, particularly those relating to consultations (para. 56) and the examination and settlement of grievances (paras. 56-58), does, in fact, encourage the peaceful settlement of labour problems before they turn into open and damaging conflicts.

Source: information provided by the ILO.

Another main strand of the activities of international union structures is the provision of education and training to affiliated unions and their members, particularly to emerging unions in developing countries and the countries of Central and Eastern Europe. While important in strengthening the base and extending the scope of the international labour movement, these activities have an indirect and medium-term impact on industrial relations within TNCs. However, in particular areas, these activities do touch directly on TNC issues, e.g., training courses on bargaining with TNCs, or seminars bringing together workers from the various affiliates of a TNC.

Industrial relations practices are, however, addressed directly in a number of international trade union actions, each requiring ever higher degrees of international solidarity. Most notably, these involve the collection and exchange of information as well as the building up of networks; demonstrations of international solidarity; and, to a much lesser extent and limited to a few specific instances, the coordination of demands between foreign affiliates or transnational collective bargaining based on a common strategy and the coordinated termination of agreements. The subsequent discussion in this section elaborates on each of these activities.

1. Collection and exchange of information

The simplest and most common form of international union action is the collection and exchange of information among unions.[2] As suggested already in chapter VI, access to various types of information can be of considerable importance for a local union in a foreign affiliate, e.g., the international connections of the affiliate, the role and performance of the affiliate in the broader strategy of the group, future development plans and the industrial relations practices of the parent firm. Such information is often not immediately available to local unions, and international union structures can be important in providing it.

Given the often specific needs of local unions — such as an evaluation of the experience of a TNC in introducing new working arrangements, health standards and shifts in production schedules — information that is most useful to them is frequently most likely to be sourced from unions that have already had some experience in dealing with such an issue in a similar or related context. Advances in information and communication technology — the same that allow for the closer coordination of a TNC's geographically dispersed affiliates — are making it easier for unions to communicate directly with each other across national borders. Still, there are advantages from sourcing and collecting such information centrally, and the ITSs have become the centres of union information networks that can be immediately accessed even by a remote and small union. This means, of course, that an important everyday activity of ITSs is to maintain in-house information systems and to know where required information can be obtained.

Apart from being able to respond to ad hoc requests, the ITSs can also provide a forum for international consultations among national unions. These often extend beyond a simple exchange of information to a comparison of experiences within the same enterprise or with union representatives from other enterprises, to the coordination of solidarity actions and, occasionally, to consultations and exchange of information with central management. For this purpose, since the late 1970s, unions have organized world company councils in several large TNCs (table IX.2) in the automotive, chemical, food and drink, electrical and electronic, and mechanical engineering industries as well as in such services industries as finance, insurance and distributive trades. (For a brief description of the Volkswagen Group Works Council, see box VI.4.) Some ITSs, especially the International Metalworkers Federation and the International Federation of Commercial, Clerical, Professional and Technical Employees, have given priority to bringing together workers from the same TNC but employed in different countries. It appears that the councils have been important in creating a network of relationships among unions.

Table IX.2. World company councils, 1994

Company	*Home country*
Alfa Laval [a]	Sweden
Allianz [b]	Germany
Asea Brown Boveri [a]	Sweden/Switzerland
Caterpillar [a]	United States
Chrysler [a]	United States
Daimler Benz [a]	Germany
Electrolux [a]	Sweden
Fiat [a]	Italy
Ford [a]	United States
General Electric [a]	United States
General Motors/Saab [a]	United States
Honda [a]	Japan
IBM [a]	United States
Ikea [b]	Sweden
ISS [b]	Denmark
Matsushita [a]	Japan
Mazda [a]	Japan
METRO [b]	Germany
Mitsubishi [a]	Japan
Nestlé [d]	Switzerland
Nissan [a]	Japan
Northern Telecom [a]	Canada
Rank Xerox [b]	United States
Renault/Volvo [a]	France/Sweden
Siemens [a]	Germany
SKF [a]	Sweden
Spie Batignolles [c]	France
Tengelmann [b]	Germany
Toyota [a]	Japan
Unilever [d]	United Kingdom/Netherlands
Volkswagen [a]	Germany
Xerox [a]	United States

Source: information provided by the ITSs.

a Organized by the International Metal Workers Federation (IMF).

b Organized by the International Federation of Commercial, Clerical, Professional and Technical Employees (FIET).

c Organized by the International Federation of Building and Woodworkers (IFBWW).

d Organized by the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Federation (IUF).

However, world councils have been difficult to organize, among other reasons because the organization of meetings of the councils is very costly; the advent of information technology may, however, open new ways of coordination. Although informal talks between management and labour at the central level have taken place in a number of cases, particularly in Europe (Carley, 1993, p. 14), TNCs in general have resisted the recognition of the councils as negotiating partners, partly for fear that this may compromise managerial prerogatives, and partly on the ground that responsibility for social, personnel and industrial relations matters are typically decentralized to the level of affiliates or plants. It may, therefore, not be appropriate for top management to meet with union representatives at the world level to discuss concrete industrial relations matters in the absence of those (managers of the affiliates or representatives of local unions) directly involved. Overall, therefore, the experience with world company councils has been mixed and it has remained largely confined to a number of large TNCs in a few highly transnationalized industries.

In some cases, however, they have paved the way for more institutionalized voluntary agreements on exchange of information in some TNCs in Europe (section C below).

3. Demonstrating international solidarity

In disputes with TNCs — especially those involving collective bargaining and trade-union recognition rights — international union action extends to direct support for national unions. Here, international solidarity can take a variety of forms, staged according to the level of involvement of the international structures and the issue at stake: solidarity messages; provision of ad hoc assistance; pressures on headquarters; and corporate campaigning.

Solidarity messages. The most common and spontaneous form of international union solidarity involves the simple voicing of support for actions elsewhere in the corporate system — what can be termed "telex solidarity". The purpose is principally to make headquarters management aware of a dispute in a given affiliate and to alert it that unions throughout the corporation know about it too. Accordingly, the competent ITS informs unions from affiliates throughout the world who, in turn, send telexes or facsimiles to headquarters (and to the management of the affiliate involved in the dispute) to express their solidarity with the union involved in the particular dispute. Typically, this kind of activity remains entirely within the corporation, although it may happen that communications are also sent to the government in the host country of the affiliate. This activity — which accounts for a significant volume of the work of an ITS — can be quite effective in facilitating resolution of simple industrial relations disputes either because headquarters intervenes (e.g., where there is an impasse) or the local management does not find it worthwhile under these circumstances to pursue the matter.

Provision of ad hoc assistance. A complementary form of solidarity is the provision of ad hoc assistance, for instance, legal advice on specific matters (e.g., how to handle a dispute), small-scale financial support to a union, aid to the families of workers on strike and the like.

Pressures on headquarters. Where solidarity messages do not lead to the desired result, ITSs may try to put pressure on headquarters' management to intervene directly with the local management involved in a dispute. This is done mostly in the form of a "sunlighting strategy" that aims at warning the company that, if a dispute is not resolved, it is likely to receive widespread public attention, with consequences, among other things, for the corporate image. Such pressure, however, apparently is not applied too often, and typically only in the case of disputes involving fundamental issues such as union recognition, violence against strikers and interventions by police or armed forces in a labour dispute. It can take various forms. For instance, if a strong trade-union affiliate exists in the home country, its president may call on the president of the parent company to discuss the matter. Or the matter can be brought to the attention of the authorities, embassies, members of parliament and consumers' groups in both the host and home countries. In case of a strong union presence in other host countries of the company, local unions may raise the issue with their managerial counterparts or with the central management. For instance, the local management in a developing country affiliate of a TNC in the paper and printing industry was imposing more stringent controls and security checks than was agreed upon in other affiliates of the same TNC. Pressure on headquarters by unions in the various affiliates worldwide appears to have contributed to reaching agreement and ending the dispute.[3] Overall, while some of these forms of pressure may reach into the public realm, they are mostly confined to the company network.

Corporate campaigning. Full-scale campaigns are the most intensive form of international trade union action. They occur, however, quite seldom. Typically they are only undertaken when a fundamental issue is at stake and the chances for success are high (which,

among other things, requires a strong union in the country in which the dispute is being carried out). The organization of such campaigns requires careful preparatory research to identify points of leverage, the identification of clear objectives, the creation of strong solidarity, cooperation among various ITSs, a considerable organizational effort, and substantial financial resources. The decision to undertake a full-scale corporate campaign is therefore taken only after a careful evaluation of the situation; and, once taken, it requires very careful preparation. The international union structures may organize strong international pressure on the central management through campaigns in the media to raise public awareness of a dispute and embarrass a company, and calls for a consumer boycott of the company's products. In exceptional cases, sympathy strikes may take place, although legal and practical obstacles to them are high.[4] Given these difficulties, less costly avenues are pursued sometimes, such as restrictions on overtime in other plants to avoid that production is made up in this way (Rose, 1984). Such actions, when they take place, can be quite disruptive to the cross-border organization of production and distribution.

A widely-publicized example of a corporate campaign was the struggle between a franchise holder of a large TNC in Guatemala and the local enterprise union, which lasted for several years and concerned recognition of the union, reinstatement of dismissed workers and renewal of a collective agreement (ILO, 1991d, p. 32). The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) organized worldwide solidarity actions by means of short-term production stoppages and consumption boycotts at the company's plants. The ITS also held talks with the central management and lodged a complaint against the Government of Guatemala with the International Labour Organisation. In 1980, the dispute was settled by an agreement that marked the beginning of more positive relations between the TNC and the unions (Neuhaus, 1982, p. 62). Another example of a worldwide union campaign involved South Africa. After the 1972-1973 Durban strikes, ICFTU, its affiliates and ITSs, established a coordinating committee whose main purpose was to convince companies to recognize black trade unions in South Africa. The coordinating committee targeted TNCs investing in South Africa, documented cases where TNCs were paying wages falling well below poverty lines and, through their affiliates in other countries, put pressure on individual parent companies of foreign affiliates in South Africa to recognize black trade unions and, when appropriate, intervene in a dispute. Going beyond the individual company approach, unions worldwide pressured for the development of codes of conduct for companies operating in South Africa (which bore fruit in the Sullivan principles etc.) and engaged in "disinvestment" campaigns through demonstrations, threats of a product boycott and protests at shareholder meetings. As the latter example illustrates, international action may move beyond traditional forms of union action, such as stoppages of production, in accordance with the specific objectives of a given campaign. This was also exemplified in the recent case of a coal company, where the union exerted indirect pressure by contacting its counterparts in a country in which principal purchasers were located. These alerted their management that possible interruptions in supply could occur which, in turn, jeopardized the supplier contracts.

Demonstrating international solidarity among unions in bargaining situations is an important tool of international union action. However, the extent to which international union structures participate in a dispute, and escalate it, needs to be carefully evaluated on a case-by-case basis.

3. Transnational bargaining

Transnational collective bargaining attracted considerable attention in the literature on industrial relations in the 1970s (Northrup and Rowan, 1979), but has faded considerably in recent

years. Actual attempts by unions to coordinate demands internationally have only been made under particularly favourable conditions. An example is the 1967 Chrysler wage parity agreement for Canada and the United States (Blake, 1972). This case was characterized by a high degree of unionization, the integrated nature of the North American automobile industry, the fact that a single union had organized workers in the two countries, negligible productivity differences and a free trade agreement for the product concerned. Similarly, in the well publicized St. Gobain case, union solidarity was never actually tested (Northrup, et al., 1977).

Transnational collective bargaining based on common demands and a simultaneous termination of agreements has also been exceptional. The impediments to such action are considerable. To name a few, differences in labour legislation and practice obviously create problems. So does the growing diversity of international business forms: as TNCs increasingly opt for joint ventures, strategic alliances of finite duration, and the outsourcing of goods and services, the boundaries of a firm blur, and organizational difficulties become forbidding. To that, one has to add the problem of identifying mutual interests when diverse labour markets are involved (e.g., the United States and Japan) or where subcontracting is firmly entrenched (e.g., Republic of Korea) (Sengenberger, 1992).

Where transnational collective bargaining has taken place, unions have targeted the most promising candidates. Within the United States, they were among the largest TNCs, and those with the most centralized labour relations (Hershfield, 1975). The most successful cases have occurred within the services sector (especially in shipping and entertainment) and appear to share a number of characteristics: high sensitivity to disruptions, the international demand for the industry's output, high unionization (e.g., among dockers or film crews), the mobility of labour and the low probability of factor and location substitutability (Miscimara, 1981; Northrup, et al., 1977). All in all, however, transnational collective bargaining plays only a marginal role in trade union approaches to international production.

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Industrial relations at the national level are not only a bilateral issue between employers and employees; rather, they take place within an established regulatory framework. Trade unions seek to replicate, to a certain extent, this approach at the international level. The strategies described so far involve bilateral relations between unions and TNCs at the international level. The normative side of this approach is discussed next.

B. International normative frameworks

The most common form of international norms are labour standards set by the ILO to create a floor for the promulgation of national labour laws. Although not designed to tackle specific issues raised by TNCs, such standards apply to both indigenous firms and foreign affiliates; this topic will be further pursued in subsection 2 below. A more focused type of international instrument dealing with industrial relations, and prompted by the ascendancy of TNCs, consists of international guidelines for TNC behaviour. The next subsection discusses two of these instruments, namely, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and the chapter on employment and industrial relations of the OECD Guidelines on Multinational Enterprises. In both cases, the focus is on the industrial relations aspect of the two instruments and, particularly, those issues discussed in chapter VI as representing central issues in the relations between TNCs and trade unions.

1. International guidelines for transnational corporations in the area of industrial relations

Beginning in the 1960s, the perception that the transnationalization of capital could adversely affect the position of organized labour generated pressures to regulate the activities of TNCs through stronger national legislation. Eventually, however, these pressures were superseded by a broad-based trend of international economic integration (chapter III). In fact, as discussed in chapter VII, recent years have seen a significant liberalization of restrictions on inward investment in most countries and regions, and there is little evidence to suggest that trade unions see restricting capital mobility as an appropriate or particularly viable strategy in today's open world economy. From a longer-term perspective, the emergence of deeper integration of the world economy and the adoption of complex integration strategies by TNCs have added to the uncertain effects of proscriptive strategies and increased the desirability of more creative responses.

Recognizing the limitations of national approaches, trade unions became the driving force behind various regional and international efforts to establish normative frameworks that would affect the conduct of TNCs, particularly in the area of industrial relations and conditions of work. As early as 1969, the ICFTU adopted a resolution on "Multinational corporations and conglomerates" (ICFTU, 1971),[5] and, in 1975, "The Charter of Trade Unions Demands for the Legislative Control of Multinational Enterprises" (ICFTU, 1976), taking the position that the interests of trade unions would be best served by the adoption of a legally-binding international framework negotiated in a global setting. Various initiatives were pursued, including at the United Nations, to negotiate such a framework. But it soon became clear that a legally binding instrument would not be feasible at that level. While negotiations on a comprehensive voluntary code proceeded at the United Nations, two other simultaneous efforts to elaborate voluntary guidelines were successfully concluded, one at the ILO and the other at the OECD. These remain the main international instruments of importance to organized labour.

The ILO Declaration, adopted by the Governing Body of the International Labour Office in 1977, is a non-binding, universally applicable code. The aim of the Declaration is to "encourage the positive contribution which multinational enterprises can make to economic and social progress and to minimise and resolve the difficulties to which their various operations may give rise..." (paragraph 2). The principles and recommendations are intended to promote good social practice on the part of Governments as well as employers' and workers' organizations in both home and host countries, and *all* enterprises, irrespective of their ownership, size, sector of activity or location. In recognition of the decision-making power, financial resources and technological capabilities of TNCs, there are certain provisions of the Declaration that urge TNCs in particular either to assume a leading role in certain spheres or to cooperate in special ways with Governments and labour. The provisions of the Declaration cover key areas in which the policies and practices of TNCs have either had or are likely to have repercussion on labour and society, focusing in particular on employment, training, conditions of work and life and industrial relations (box IX.1).

The OECD Guidelines, adopted in 1976, while narrower in geographical scope than the ILO Declaration — they apply only to TNCs from the OECD countries (and Hungary),[6] but their impact extends to other countries as well — are broader in coverage. The Guidelines are part of a declaration that also includes recommendations addressed to Governments on national treatment, conflicting requirements and incentives and disincentives; binding decisions provide mechanisms for follow-up (OECD, 1992b). This instrument is intended to guide the process of cooperation in the area of FDI and, therefore, deals with a whole range of issues — such as disclosure of information, competition, taxation and science and technology — arising from TNC operations. Many of these subjects bear only indirectly on industrial relations. However, the

Guidelines also contain a chapter referring directly to employment and industrial relations (box IX.2).

As regards the principal issues that arise in the relations between TNCs and trade union as discussed in chapter VI, the ILO Declaration and the OECD Guidelines, and their follow-up, provide guidance and clarification on the following:

Locational flexibility. On the consequences of increased capital mobility, the Declaration urges TNCs, through active human resources planning, to endeavour to ensure stable employment opportunities. This expectation is particularly important when the discontinuation of operations would accentuate structural unemployment. In cooperation with TNCs, there is an expectation that Governments will provide some forms of support as well as appropriate information and retraining to those displaced. In the event of changes in operations, perhaps resulting from acquisition or a transfer of production, TNCs are expected to give both Government and employee representatives reasonable notice to facilitate orderly adjustment. Similar provisions are contained in the Guidelines. In

Box IX.1. The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy: issues in industrial relations

Labour-management relations in TNCs have long been a major concern for the ILO. In the years preceding the adoption of the Declaration, they received special mention at regional conferences, were the subject of a resolution at the 1968 International Labour Conference and the focus of a symposium organized by the International Institute for Labour Studies in 1969.

The 19 paragraphs (40-58) of the Declaration that provide guidelines in the field of industrial relations reflect the broad range of concerns that were articulated by Governments and representatives of the social partners over the years. They are designed to promote the observance of international standards, by both national and transnational enterprises, in the following areas: freedom of association and the right to organize; collective bargaining; and labour-management consultations and the settlement of labour disputes through, *inter alia*, the use of voluntary arbitration and conciliation machinery. As it is in the case of other paragraphs of the Declaration, those relating to industrial relations are reinforced by references to relevant ILO Conventions and Recommendations.

According to the provisions of the instrument, TNCs "should observe standards of industrial relations not less favourable than those observed by comparable employers..." in the host country. The shared responsibility and roles expected of all the parties are explicitly identified in some paragraphs. While most of the provisions are directed at Governments and employers, it is, of course, implicit that the cooperation of workers and their representatives is indispensable for realizing the aims of those provisions.

There is a clear recognition of the importance of national legislation and practice. For example, Governments and employers are often recommended to act in particular ways, and workers are expected to enjoy certain rights "in keeping with national law and practice". Here, the standard-setting responsibility and role of Governments are critical. Those that have not ratified the relevant ILO Conventions are urged to do so and, in the absence of ratification, they, together with employers in national enterprises and TNCs, are none the less advised to use those instruments and the corresponding recommendations as guidelines. This is particularly emphasized with respect to the Convention (No. 87) concerning the Freedom of Association and Protection of the Right to Organise and the Convention (No. 98) concerning the Application of the Principles of the Right to Organise and Bargain Collectively — both of which are basic human rights Conventions.

Even though management in local, mixed and wholly foreign-owned enterprises are expected to have the same standards of conduct in all aspects of labour-management relations, there are three paragraphs that are addressed to TNCs only. They reflect certain concerns that have prevailed over the years and cannot be divorced from the organizational structures of TNCs as well as the international scope of their operations:

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particular, paragraph 6 of the Guidelines goes some way towards recognizing the need for prior notification in the case of changes likely to have a significant impact on employees; the requirement is for "reasonable notice", but this is not defined.

- *Union recognition.* Both instruments recognize unequivocally the right of employees to be represented by trade unions.
- *Effectiveness of union action.* The Declaration defines threats of production switching or relocation as unfair bargaining tactics; the same applies to the possibility of cross-border transfers of strike-breaking labour. The Guidelines contain similar provisions.
- *Access to decision makers.* Both instruments assert the right of authorized representatives of workers to have access to representatives of management who are authorized to take decisions on matters under negotiation.
- *Information disclosure and consultations.* The Declaration urges the provision of information to employee representatives for bargaining purposes. The value of information on

- One of the strongest apprehensions is that TNCs could shape the course and outcome of collective bargaining and also restrict the exercise of workers' rights by transferring all or part of their operations to other locations. Paragraph 52 of the Declaration calls on them not to threaten to take such action and not to transfer workers from affiliates in foreign countries "... with a view to undermining bona fide negotiations with the workers' representatives or the workers' exercise of their right to organise".
- Another sensitive issue relates to the information disclosure practices of these establishments and the dependence of workers' representatives on management for information that may be considered vital for undertaking "meaningful negotiations with the entity involved". A paragraph (54), directed to TNCs, asks that they make such information available to the workers' representatives. Where national law and practice so provide, they should also supply information that would enable labour to "obtain a true and fair view of the performance of the entity or, where appropriate, of the enterprise as a whole".
- The other thorny question, which is again inseparable from the organizational and decision-making structures of TNCs, concerns access to company representatives who have the power to take decisions on matters under negotiation. In response, a paragraph (51) calls on TNCs to "... enable duly authorised representatives of the workers in their employment in each of the countries in which they operate to conduct negotiations with representatives of management who are authorised to take decisions on the matters under negotiation".

In order to get a picture of the extent to which the Declaration has made a difference in the policies and conduct of governments, labour and management, five triennial surveys have been carried out since the adoption of this instrument.

Finally, there is a procedure that enables aggrieved parties to submit requests for interpretation of the provisions of the Declaration on the application of which there may be disagreement. To date, 21 requests have been received, but only half sought specific action under the Declaration. Of these, only two have gone beyond the initial screening, then the procedural "scrutiny" and reached the interpretation stage. Neither of the two cases, however, dealt with the industrial relations provisions of the Declaration.

The procedure for the examination of disputes, coupled with the industrial relations provisions of the Declaration, particularly those relating to consultations (para. 56) and the examination and settlement of grievances (paras. 56-58), does, in fact, encourage the peaceful settlement of labour problems before they turn into open and damaging conflicts.

Source: information provided by the ILO.

Box IX.2. The OECD Guidelines' chapter on employment and industrial relations

"Enterprises should, within the framework of law, regulations and prevailing labour relations and employment practices, in each of the countries in which they operate:

1. Respect the right of their employees to be represented by trade unions and other bona fide organizations of employees, and engage in constructive negotiations, either individually or through employers' associations, with such employee organizations with a view to reaching agreements on employment conditions, which should include provisions for dealing with disputes arising over the interpretation of such agreements, and for ensuring mutually-respected rights and responsibilities;
2. (a) Provide such facilities to representatives of the employees as may be necessary to assist in the development of effective collective agreements;
   (b) Provide to representatives of employees information which is needed for meaningful negotiations on conditions of employment;
3. Provide to representatives of employees where this accords with local law and practice, information which enables them to obtain a true and fair view of the performance of the entity or, where appropriate, the enterprise as a whole;
4. Observe standards of employment and industrial relations not less favourable than those observed by comparable employers in the host country;
5. In their operations, to the greatest extent practicable, utilize, train and prepare for upgrading members of the local labour force in co-operation with representatives of their employees and, where appropriate, the relevant governmental authorities;
6. In considering changes in their operations which would have major effects upon the livelihood of their employees, in particular in the case of the closure of an entity involving collective lay-offs or dismissals, provide reasonable notice of such changes to representatives of their employees, and where appropriate to the relevant governmental authorities and co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects;
7. Implement their employment policies including hiring, discharge, pay, promotion and training without discrimination unless selectivity in respect of employee characteristics is in furtherance of established governmental policies which specifically promote greater equality of employment opportunity;
8. In the context of bona fide negotiations[6] with representatives of employees on conditions of employment, or while employees are exercising a right to organize, not threaten to utilize a capacity to transfer the whole or part of an operating unit from the country concerned nc transfer employees from the enterprises' component entities in other countries in order to influence unfairly those negotiations or to hinder the exercise of a right to organize;[7]
9. Enable authorized representatives of their employees to conduct negotiations on collective bargaining or labour management relations issues with representatives of management who are authorized to take decisions on the matters under negotiations.

[6] Bona fide negotiations may include labour disputes as part of the process of negotiation. Whether or not labour disputes are so included will be determined by the law and prevailing employment practices of particular countries. *

[7] This paragraph includes the additional provision, concerning transfer of employees, adopted by OECD Governments at the meeting of the OECD Council at Ministerial level on 13 and 14 June 1979.*

* These texts are integral parts of the negotiated instruments."

Source: excerpt from OECD, 1992b, pp. 13-14, 18.

TNC activities beyond the affiliate level is also recognized, and the articles encourage the provision of information on the performance of the enterprise as a whole when this is relevant. This principle has important implications for the disclosure of economic information on cross-border TNC operations and the timing of the disclosure of information. Similar provisions are contained in the Guidelines. The Declaration also provides that TNCs and employees should devise, by mutual agreement, systems for regular consultations on matters of mutual concern.

- *Innovatory practices.* The Declaration stresses the need to consider local practices and to take into account established policy objectives of the countries in which TNCs operate. Furthermore, TNCs are expected to observe industrial relations standards no less favourable than those of national employers. Within the framework of law and practice, the Guidelines do not prevent TNCs from seeking to introduce innovatory practices.

In sum, the two instruments, between themselves, go a long way in covering the principal issues arising in the relations between TNCs and labour.

While the Declaration and the Guidelines do not carry direct legislative force in the countries that have adopted them, they do reflect a political and moral commitment from governments, employers and labour organizations to observe the standards and principles embodied therein. At a minimum, the existence of such commitments raises the expectation that legislation or practices inconsistent with the tenets of these instruments will not be pursued.[7] Although the Declaration and the Guidelines lack statutory bite, they have been furnished with a mechanism for follow-up by way of periodic reviews on the extent to which the instruments have been given effect. In the case of the Declaration, governments, labour and business are requested to report periodically on how the Declaration has been observed. In addition, the Declaration and the Guidelines provide for the possibility that governments, employers or labour organizations can request a clarification of the instruments on issues arising from their application. These procedures have, however, proven to be complicated and time consuming.[8] Overall, therefore, the main contribution of these two instruments is to define agreed-upon international standards concerning industrial relations in TNCs, covering a wide range of issues.

2. International labour standards

Trade-union efforts to establish international agreements on TNC activities had culminated in the late 1970s in the adoption of a number of voluntary instruments. Experience with working with these instruments has lessened their interest in this approach. Many of the perceived difficulties were seen to stem from their non-mandatory nature (although this very status may have assured their durability) and the weakness of their implementation and follow-up mechanisms. More recently, however, pressures for policy convergence under conditions of deeper integration — because it is increasingly giving rise to "system frictions" (Ostry, 1992) in areas previously sheltered from international pressures — have renewed interest in an international normative approach, albeit with stronger enforcement mechanisms. This is particularly true for frictions emerging in labour markets. The reasons are not difficult to find. The expected benefits from international integration derive from the freeing up and relocation of resources — including across borders — for more productive uses. But an additional condition for these benefits to be realized is that any resources so released should not remain unemployed. Consequently, welfare improvements resulting from international integration will depend, in considerable part, on decisions taken in the labour markets of developed and developing countries (Lawrence, 1994). These labour markets are not directly integrated, but rather are indirectly linked through trade flows and FDI. In recent years, the growing concern over high unemployment in high wage developed countries has been further increased by the decline of manufacturing jobs through the migration of some labour-intensive production to developing countries and the corresponding

rise in the export share of some of these countries (Wood, 1994). Because these jobs have traditionally been associated with high rates of unionization, trade unions have responded to the problem of job displacement through FDI and trade by renewing international efforts, focusing on the broader (i.e., not TNC-specific) approach to seek better enforcement of global labour standards, such as those developed by ILO.

The issue, however, is not to establish a global minimum wage nor — broader — to reduce the competitive advantages of developing countries based on lower wages *per se*. Rather, the proponents of this approach focus on the acceptance of certain standards relating to, in particular, freedom of association (including especially the right to organize and the right to bargain collectively), forced labour, discrimination and child labour (box IX.3). The underlying rationale behind common labour standards is to remove any international competitive advantage arising from the violation of basic workers' rights, an action which could be considered an extreme form of "social dumping".[9] In particular, labour should be in a position to organize itself and bargain freely within its national environment and to raise standards over time. The proper enforcement of these labour standards is being sought through the inclusion of a "social clause" in international trade and investment agreements (ICFTU, 1978, 1993; International Metal Workers Federation, 1988; TUAC, 1994). For many trade unions in both developed and developing countries — and some governments — the acceptance of "social clauses" has become the main normative effort regarding industrial relations in a globalizing economy.

The revival of the labour-standards debate is set in a context of increasing trade linkages and, hence, shallow integration. Deeper integration of the world economy, through TNCs and FDI, adds significantly to the complexity of this debate. Transnational corporations have not only become significant agents of trade expansion, but through intra-firm trade have altered the nature of those trade relations; perhaps as much as one-third of world trade takes place within TNCs (chapter III). But more central to the recent discussion is the belief that the mobility of TNCs enables them to escape the burden of labour standards by locating in countries with lower standards, a fear exacerbated by the worldwide competition for FDI. But the links between deep integration and labour-market conditions do not stop there. Unlike trade, the connections established through FDI do not end with the initial contact, but involve a continuous flow of resources across borders. Moreover, the nature of FDI is such that these resource flows include not only capital and technology, but also managerial practices and other intangible elements relating to workplace relations (see Part Two). Consequently, TNC networks can become important channels through which, at least potentially, better labour standards can be disseminated in a number of ways:

As a result of requirements imposed by home countries on the affiliates abroad of the TNCs headquartered in their territories. This would represent an extraterritorial application of laws.[10]

As a consequence of the adoption of global standards in such areas as safety and technology transfer. This reflects pressures resulting from the need to organize the entire coporate network as one integrated value chain.

In the exercise of corporate social responsibility. This would involve voluntary actions by TNCs, precedents for which were mentioned in chapter VIII.

As a consequence of the influence of trade unions. An example is the agreement between BSN and the International Union of Food and Allied Workers' Association (IUF) to "monitor proper compliance throughout all BSN subsidiaries" (box IX.4) of certain ILO Conventions. Other examples are Reebok (box VIII.12) and Levi Strauss; the latter's "Terms of engagement", while not referring directly to ILO Conventions, cover explicitly a number of the issues addressed by them (box VIII.6).

Box IX.3. The social clause

At the ministerial meeting in Uruguay in 1986, which launched the Uruguay Round of Multilateral Trade Negotiations, the United States representative proposed that workers' rights be included as a subject of negotiation. Although no consensus was reached, the Chairperson of the Ministerial Meeting named workers' rights as a subject to be taken up at a later stage in the negotiations. In 1987 and again in 1990, the United States proposed in the GATT Council that GATT should establish a working group to consider "the relationship between international trade and respect for internationally-recognized workers' rights." In April 1994, the Uruguay Round meeting in Marrakesh agreed to refer the issue of workers' rights and trade to the preparatory committee of the agreed new World Trade Organization (WTO).

The primary mechanism to link workers' rights and trade has been the idea to include a "social clause" in trade agreements. Not surprisingly, this idea — which has been very controversial — has had its strongest advocates among trade unions who made specific proposals in this respect. Trade unions are not calling for a social clause which would reduce the competitive advantages that developing countries have based on lower wages; nor are they calling for an international minimum wage; nor for an artificial equalization of labour standards between developed and developing countries. Rather, the International Confederation of Free Trade Unions (ICFTU) believes that a social clause is necessary in order to achieve the objectives set forth in the preamble to GATT — which states that members recognize "that their relations in the field of trade and economic endeavor should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, developing the full use of the resources of the world and expanding the production and exchange of goods".

The ICFTU believes that a social clause should contain two key elements. First, it should be based on already agreed and widely ratified international standards contained in ILO Conventions (see accompanying table). Second, the social clause should establish an implementation procedure involving the ILO as the competent world organization to examine the implementation of labour standards with established procedures for reporting and investigation.

Acceptance of seven main ILO Conventions, 1994

	Freedom of association		*Forced labour*		*Discrimination*		
Item	*Right to organize (No. 87)*	*Collective bargaining (No. 98)*	*Forced labour (No. 29)*	*Abolition (No. 105)*	*Equal remuneration (No. 100)*	*Employment and occupation (No. 111)*	*Child labour - minimum age (No. 138)*
Countries that ratified the Convention	110	124	135	113	120	118	46
Per cent of ILO membership	64	73	79	66	70	69	27

Source: information provided by the ILO.

The ICFTU does not believe that implementation of a social clause would pose great problems or that it would lead to an uncontrollable wave of unjustified import controls. Under the proposal, if a country was found to be falling short of its obligations, a joint Advisory Body, consisting of representatives of both the new WTO and of the ILO, would recommend measures to be undertaken by the government within a specified time to improve performance. Such measures could include better enforcement of laws and regulations through a strengthened labour inspectorate. At the end of the period, a further report would be prepared on the effect given to the earlier recommendations. The second report would state that the country was now fulfilling its obligations, or that progress was being made and further time was needed, or that the government had failed to make adequate efforts to implement the recommendations. In the latter case, the government concerned would be warned that, if no progress was made within one year, the matter would be referred to the WTO Council for consideration of appropriate trade sanctions.

Naturally, various combinations of these approaches are also conceivable, as can be seen from some aspects of the anti-apartheid movement preceding the elections in the Republic of South Africa in April 1994. There, a number of governments (at the regional, national and subnational levels) established and requested the observance of codes that required TNCs under their jurisdiction to take actions that contradicted certain aspects of the apartheid regime in their foreign affiliates in the Republic of South Africa (UNCTC, 1986, pp. 89-98). In fact, a number of TNCs did so out of their own volition. And the trade-union movement (as well as other groups) pursued the same objective vigorously through its own means (including through monitoring and ratings of corporate implementations), also using TNC affiliate networks as conduits to obtain the desired outcome.

Recent regional integration agreements — including the North American Free Trade Agreement (NAFTA) and European integration efforts — have indeed included provisions concerning labour standards or resulted in their inclusion in other related agreements. They differ from the labour standards of the ILO in a number of ways. For example, although the North American Agreement on Labor Cooperation (NAALC) does not attempt to establish common standards, it does require monitoring of existing legislation and applies fully to FDI; in fact, the (few) cases that have been brought up under it all deal with FDI matters (box IX.5). In Europe, the concern over "social dumping" contributed — in the framework of efforts to strengthen the social dimension of the integrating Europe — to the initiative to establish European Works Councils in TNCs for the purposes of informing and consulting employees. Although a regional focus may provide greater potential for enforcement, its obvious limitation is that it does not provide coverage to non-members. For this reason, the proposal to incorporate "social clauses" within international trade agreements — a long-standing demand of many national trade unions — is once again returning to the international agenda.[11] In this form, labour standards can be seen as providing stronger support for an open trading and FDI system by ensuring that the gains from greater openness are more evenly distributed. But, tying labour standards to trade and investment agreements would involve an international mandatory mechanism of adjudication and enforcement. Already, the debate over the formation of the World Trade Organization (box IX.3) suggests that this issue will receive considerable attention from trade unions and others, both as far as trade and FDI are concerned (Goodhart, 1994, p. 14). A particular important challenge in this respect is to ensure that the objective of better labour standards is not being misused for protectionist purposes (Steil, 1994).

C. Industrial relations in Western Europe

The period leading up to the creation of the Single European Market has been accompanied by the expansion of many TNCs, both from the European Union and abroad, seeking economic advantages from participation in the more unified market. The increase in competition among all firms has led to corporate consolidation through European-wide structures. This process has involved the rationalization of production and distribution activities, organizational restructuring (including new inter-firm arrangements) and the introduction of new management practices. All these changes have, inevitably, affected traditional collective bargaining relations and given rise to new challenges for industrial relations frameworks.

The industrial relations landscape associated with a more integrated European Union exhibits a number of innovatory practices. On the one hand, management and trade unions in a number of TNCs have established voluntary works councils in response to these changes. In some respects, these resemble the world councils mentioned above. But, most crucially, they are joint undertakings between management and trade unions and they appear to hold out the possibility of a more structured exchange of information and views; this is discussed in subsection 1. Efforts to enhance employee participation have also been pursued at the legislative level within the

framework of the European Union. They have led to a draft Directive dealing with the creation of European Works Councils; this is discussed in subsection 2. If this Directive is, indeed, finalized, it would merge the practical and legislative strands of industrial relations in Western Europe and create a new form of international industrial relations mechanisms with, perhaps, implications beyond the European Union.

1. Voluntary information and consultation arrangements in transnational corporations in Europe

The benefits to employees of mechanisms for exchanging information at the international level with the management of a TNC were discussed earlier, highlighted further by the experience

Box IX.4. Labour-management cooperation: the experience of BSN

BSN is France's leading packaged food and beverage group and the world's largest producer of fresh dairy products. It has a long history of company-level dialogue with trade unions. The company's positive experience of working with unions during the 1970s was instrumental in the decision to establish a "group committee" comprised of national members. This decision was taken prior to the 1982 French legislation (the "Auroux laws") which obliged companies with their headquarters in France to establish joint committees of management-employee representatives.

Paralleling this development, BSN's senior management was invited in 1985 to a meeting with representatives of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF) from a number of European countries. This meeting provided the basis for annual informal meetings designed to encourage a sharing of views. These meetings involved three categories of union participants: officials of the IUF secretariat; representatives of the national trade unions affiliated to IUF of the European countries in which BSN has affiliates (Austria, Belgium, the Czech Republic, France, Germany, Ireland, Italy, Netherlands, Spain and the United Kingdom); and trade-union representatives working in BSN affiliates. Following new acquisitions by BSN in Europe, representatives from further countries may join the meetings. In recent years, participants from a number of non-European countries, including Japan and the United States, have attended as observers. Typically, the meetings are attended by four or five representatives of central management and 25-30 labour representatives. Discussions are not confined to past experience; workers may also be informed of the company's broad strategic plans.

These meetings are of an informative nature. Communication is two ways: from senior management to union representatives and from union representatives to senior management. Negotiations and collective bargaining processes are grounded at the national and local levels. In France, for example, BSN businesses are covered by 22 different collective agreements. National industrial relations systems are not always compatible with enterprise-level consultation processes. In Germany, for instance, legislation provides for information to be given at the local level, through works councils and not through trade unions.

In 1988, BSN and the IUF signed a "common viewpoint" in which they agreed to work together in preparing framework agreements on four specific problem areas: a policy of skills training to facilitate the introduction of new technology and adjustment to industrial restructuring; a policy to achieve equality of information provision within all BSN affiliates; equality of the sexes at the workplace; and the implementation of trade union rights as defined in ILO Conventions Nos. 87, 98 and 135. Agreements have been reached in these three areas, and, on 26 May 1994, a "déclaration commune" on trade union rights was signed between BSN and the IUF. The English translation of the text is reproduced below.

"IUF/BSN Joint Declaration on Trade Union Rights

BSN and the IUF:

- recalling the fundamental right of each employee to be represented and defended by the trade union organization of her/his choice;

/...

of world company councils. However, it was also suggested in the discussion of these mechanisms that their effectiveness has been compromised by a number of obstacles. One response from the trade union movement has been to refocus efforts at the regional level. This has developed in a quite distinctive way in Europe.

The focal point for this effort was the European Trade Union Confederation which, since its formation in 1973, has pursued a strategy of European-level employee-management relations calling for greater regional coordination among trade unions. In part in response to such calls, and in parallel with legislative initiatives, a number of TNCs have established arrangements for the regular exchange of information between managers and employee representatives at the European level. At the beginning of the 1990s, some 30 to 40 such arrangements existed (table IX.3), with

Box IX.4. (cont'd)

- affirming that the counterweight represented by the trade union organizations contributes to the respect of the needs and aspirations of the workforce by company executives;
- mutually recognizing the legitimacy of each party and their right to participate in the social as well as economic spheres, each mindful of their respective responsibilities as far as these conform with laws, collective agreements or other contractual agreement in effect;
- are convinced that reinforcing democratic forms of cooperation in the enterprise is the responsibility of both parties, and that this implies the recognition of divergent approaches and differences in judgment on means and methods in the search for negotiated solutions;
- note that achieving this objective requires efforts to provide economic and social education and information to the entire workforce as well as their representatives to better understand the problems, the limitations faced by the company, and what it has at stake.

In this spirit, BSN and the IUF undertake to:

1. Monitor proper compliance throughout all BSN subsidiaries with ILO Conventions 87, 98 and 135, which concern respectively:
   - the right of all employees to join the trade union organization of their choice;
   - the right of all workers to be free from any act of discrimination leading to the restriction of trade union rights;
   - the protection of all workers' representatives from all prejudicial measures, including firing, resulting from their status or activity as representatives of the workforce in accordance with the law, collective agreements, or other forms of contractual agreement in effect.
2. Encourage management and trade unions to negotiate agreements [concerning trade union rights], where possible for fixed durations, and to seek to publicize these agreements among the workforce to the widest possible extent;
3. Encourage management and employee representatives to negotiate and conclude agreements seeking to ensure that trade union and employee representatives benefit, with comparable ability, from the same opportunities of access to training, salary progression and promotion as other employees, and that the remainder of their professional development is taken care of when they decide to stand down from office.

Within the continuity of the BSN/IUF framework agreements (equality of men and women, economic and social information, vocational training), BSN and the IUF confirm that the process of informing and educating trade union and worker representatives should develop within each BSN subsidiary with the goal of ensuring effective implementation.

A first review of the implementation of this declaration will be undertaken in a concerted way during the plenary meeting in 1995."

Sources: ILO, 1991d; IUF, 1994.

Box IX.5. The North American Agreement on Labor Cooperation

The two main components of the North American Agreement on Labor Cooperation (NAALC) consist of (1) the labour standards that the signatories have agreed to adhere to; and (2) the dispute-settlement procedures established to resolve labour related disputes between the parties to the agreement.

With respect to labour standards, the NAALC stipulates that the signatories will be judged in terms of whether or not they adhere to their own domestic labour laws and regulations. Furthermore, the NAALC does not explicitly prohibit the signatories from adopting new legislation that would constitute a regression in terms of the rights of workers. The NAALC is much weaker than the NAFTA in this regard since the latter prohibits the signatories from adopting legislation that would erode previous commitments under the agreement (for a detailed analysis of the NAFTA's treatment of discriminatory measures, see Gestrin and Rugman, 1993). Enforcement of the laws, not the content of the laws, is the primary standard against which compliance or non-compliance with the NAALC is to be judged.

With respect to the NAALC's dispute-settlement process, the Agreement establishes strict conditions under which the process can be used and penalties for non-compliance imposed. Two criteria must be met for a labour issue to qualify for consideration by an Evaluation Committee of Experts, the first stage of the dispute-settlement process; the issue must be related, and it must be covered by "mutually recognized labor laws". Furthermore, only labour issues related to occupational safety and health, child labour, or minimum wage standards can lead to the formation of Arbitral Panels after the work of the Evaluation Committee of Experts is complete and the parties have had a chance to discuss the Committee's findings. As well as being limited in its mandate, the dispute-settlement process is also unwieldy. More than three years can elapse from the time an issue has been identified as objectionable to the time the complaining parties can take retaliatory trade action if all of the committees and groups involved in the process take the maximum time allotted to fulfil their responsibilities.

NAALC also reflects the growing concern of policy makers with issues related to FDI. The focus of much of the debate over the NAALC and the NAFTA itself has been the significance of Mexico's low wages and less stringent labour standards for FDI patterns (for an analysis of the response of TNCs to NAFTA, see Gestrin and Rugman, 1994a). Indeed, six months after NAALC had come into effect, the two complaints that had been brought to the United States National Administrative Office (no complaints had been brought to either the Canadian or Mexican National Administrative Offices) both involved activities of TNCs in Mexico. Therefore, one of the primary objectives of the NAALC was to limit the scope for the signatory governments to attempt to attract FDI by means of regressive labour policies.

Unlike the NAFTA investment provisions, however, which establish common standards in areas such as intellectual property rights, use of performance requirements, dispute settlement etc., the NAALC standards are much more loosely defined (for detailed discussions of the NAFTA investment provisions, see Gestrin and Rugman, 1994b). The underlying reason for this weakness relates to the problems inherent in trying to establish a workable distinction between differences in labour standards that reflect the "natural" economic gaps between economies at different levels of development and differences in labour standards that have been policy induced by governments seeking to attract FDI.

varying degrees of formalized structure (table IX.4). A number of TNCs (including Bull, Elf Aquitaine, St. Gobain, Thomson Consumer Electronics and Volkswagen) have formal written agreements with trade union representatives; others (including BSN, Nestlé and Péchiney) have made such arrangements "agreed practice" in their relations with the workforce. Other arrangements are based on more informal contacts, initiated by either management or employee representatives, with the cooperation of the other party. Meetings between management representatives (numbering from 2 to 20) and worker representatives (averaging 30 people, sometimes also including representatives from affiliates located outside Europe) are held at regular intervals, typically on an annual basis. In some agreements, ad hoc meetings are envisaged to address specific issues. In other cases, the arrangement simply provides for joint exchange visits between European plants, as in the case of Ford and IBC (a joint venture between General Motors and Isuzu, see Gold and Hall, 1992, p. 14). In a number of TNCs (including Allianz,

Table IX.3. Firms with information and consultation arrangements in Europe, 1993

Company	Name of body	Management representation: Number	Management representation: Comment	Employee representation
Airbus Industries	Staff Council	..	..	..
Allianz	Allianz Company Councils	..	Senior management, such as the Personnel Director, attends at its own discretion	20-25
Asea Brown Boveri	Asea Brown Boveri Company Council	..	Senior management, such as the Chief Executive Officer, attendsat its own discretion	..
Bayer	Europa Forum	..	Management participation	..
BSN	European Consultation	5-10	General Manager, divisional managers & assistants	30
BSN	European Information Committee (Glass Division)	..	Chairperson/Managing Director of the division and Human Resources Directors from each country	12
Bull Group	Bull European Information Committee	5-6	Chairperson, Managing Director, senior executives	9
Continental	European Information Exchange	..	..	..
Elf Aquitaine	European Information and Concertation Body	8	Chairperson and Chief Executive Officer, 3 Senior Vice Presidents and Chief Operating Officer from each of the three group divisions	75
Eurocopter	European Information and Consultation Committee	..	Chairperson, general managers and Human Resources Manager	..
Hoechst	European Information Meeting	..	..	..
Nestlé	IUF/Nestlé Meeting	about 20	President of Nestlé Europe, heads of European operations, Director of Human Resources and Personnel Directors from each country	50
Péchiney	European Information Committee	5	Chairperson and Managing Director Péchiney, General Manager and Assistant General Manager, Social Affairs Manager	28
Rhône-Poulenc	Joint meeting	9	Chairperson, Managing Director and Director of Social Affairs for the Group, 3 Personnel Directors, 3 General Managers	35
Schmalbach-Lubeca (Continental Can)	European Information Meeting	..	Group management	14
St. Gobain	Joint meeting	4-5	Chairperson, General Manager, Assistant Directors of Social Affairs and of Human Resources	70
Thomson Consumer Electronics	European Branch Committee	..	Senior management	20
Volkswagen	European Volkswagen Group Works Council	..	Management attends at its own discretion	17

Sources: Gold and Hall, 1992; and Carley, 1993.

Note: According to the European Trade Union Institute, information and consultation bodies also exist in the following companies: Assurance Générales de France (AGF), Borealis, Europipe, Groupe Générale des Eaux, Grundig, Merloni Elettrodomestici, Nokia, Renault, Schneider, Usinor Sacilor and Volvo, but no further information is available. Discussions are also under way in a number of other firms to establish such bodies. Arrangements to inform and consult employee representatives on a cross-border basis within the Nordic area have been developed in a number of TNCs in these countries, including Fundia, ELKEM, ISS, Nivis Tyre AB, Norsk Hydro, Outokumpo, PLM, Protan and SAS (Ågotnes, 1993).

Asea Brown Boveri and GEC-Alsthom), trade union organizations are seeking to turn more informal contacts into regular arrangements (Carley, 1993, p. 16).

These arrangements are generally concerned with an exchange of information and views (see also box VI.4) and complement, rather than substitute for, national industrial relations practices which include a number of voluntary initiatives for information and consultation (Multinational Business Forum, 1993). There are no formal consultation rights allowing for labour's concerns to be reflected to any significant extent in final decisions. Topics on the agenda of the meetings tend to include the company's general economic situation, rationalization plans and changes in organization, investment and production strategies, training and retraining policies. More narrow industrial relations issues, such as wages and working time, are unlikely to be discussed (Streeck and Vitols, 1993, p. 26).[12]

A number of agreements (including those by BSN, Thomson and Volkswagen) make explicit reference to the provision of information on planned structural or industrial change, including job displacement, transfers of production, new investment, acquisitions and investment in new technology where such decisions have a group-level basis. Even where the scope of the arrangement is limited simply to information provision, this has been of some value to labour. One useful effect of these agreements has been to increase international union contacts. In many cases, the unions involved hold preliminary discussions in order to develop a common strategy for the meeting. In some companies, employee representatives felt that, through such committees, they had been able to influence management plans.

In some cases (e.g., those within Bull, Elf Aquitaine, Péchiney and Thomson), the company councils are designed to encourage consultation and a social dialogue between labour and management and, in at least two cases, the scope of the arrangement goes beyond the establishment of committees for the exchange of information. According to the procedures for consultation contained in the Volkswagen agreement, employee representatives have formal consultation rights, albeit limited to planned cross-border transfers of production (Streeck and Vitols, 1993, p. 25). A more ambitious agreement is the case of BSN (box IX.4), where the parties have agreed to

Table IX.4. Degrees of formality in European-level information and consultation arrangements

Formal written agreement	*Agreed practice*	*Informal arrangement*	
		Initiated by management	*Initiated by employee representatives*
Bull	BSN (food and drink)	Rhône-Poulenc	Allianz
Elf Aquitaine	BSN (Glass)	St. Gobain (until May 1992)	Mercedes Benz
Thomson Consumer Electronics	Nestlé		Volkswagen (until February 1992)
Volkswagen (from February 1992)	Péchiney		
St. Gobain (from May 1992)			

Source: Gold and Hall, 1993.

work jointly on a defined group of industrial relations issues: skills training, promoting gender equality and trade union rights. The agreement, signed in May 1994, represents an interesting development in labour-TNCs relations since, as mentioned earlier, it commits both parties to monitor the observance of basic trade union rights as defined in certain ILO Conventions (box IX.3). It further urges management and trade union organizations to negotiate and publicize collective bargaining agreements that do not discriminate against trade-union members.

A number of factors explain the emergence of these voluntary agreements in Europe. Union pressure has been only one of the factors underlying their establishment. In the absence of management acceptance (e.g., Gillette and Unilever) (Gold and Hall, 1992, p. 38), unions have not been successful. Such initiatives have thus depended upon finding convergent interests. Corporate interest stems, very much, from easing the implementation of European-wide restructuring plans.[13] But there is also a feeling that these structures can help establish a company-wide workforce identity. In this context, an examination of the TNCs that are already operating councils at the European level reveals a number of shared characteristics (Gold and Hall, 1993; Marginson and Sisson, 1993).[14] In particular, they seem to follow European production strategies, supported by unified management structures at that level, and a number of them are firms that have responded positively to the completion of the European Single Market and have experienced rapid rates of industrial restructuring. Familiarity with an industrial relations framework that attaches some importance to the need to inform and consult with employees is another factor underlying the establishments of voluntary arrangements. To date, these characteristics appear to be most pronounced in TNCs based in France, Germany and Sweden. Overall, it is noteworthy that in almost all of the cases where such voluntary arrangements were created, the experience of both management and trade unions appears to have been positive, as witnessed, for example, by the fact that the life of such agreements has, typically, been extended (Gold and Hall, 1992).

Political factors have also accounted for the spread of these initiatives. A number of the TNCs are (or were) State-owned enterprises, include senior management sympathetic to the objectives of these arrangements and originate in countries that have legislation on group or work-level committees. For example, legislation introduced in France in 1982 on group-enterprise committees may have been instrumental in developing a positive attitude towards employee involvement within French companies; so far they account for many of the voluntary work councils that have been established. Similarly, actions of Volkswagen reflect the experience of operating under the German codetermination system. Finally, legislative developments in the European Union, including the expectation that a mandatory Directive could be enacted, also encouraged the social partners to experiment with information and consultation mechanisms on a voluntary basis. It is to these developments — which have to be seen in the broader context of Western European integration, including the desire to balance economic and social integration — that the discussion now turns.

The European Union's approach to the industrial relations issues raised by the transnationalization of business has been to focus on specific issues, notably regarding information and consultation rights. The success in enacting such measures has been mixed. Most successful were measures extending information and consultation rights and allowing participation regarding specific issues (e.g., collective redundancies) in Union enterprises.[15] Employer opposition, however, has meant the failure of initiatives seeking to institutionalize employee participation in those areas seen to compromise managerial authority. Such was the case of the proposals for a European Company Statute, the Fifth Company Law Directive and the "Vredeling Proposal".[16] Efforts in this direction, however, received renewed impetus from the Protocol on Social Policy (the "Social Chapter") of the 1992 Maastricht Treaty. It provided authority for a proposal (in the

form of a draft Directive) on "The establishment of European Works Councils or procedures in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees".[17] After a number of attempts to reach consensus on the text of the draft Directive, the Commission decided, in April 1994, to set in motion the procedures provided by the European Social Protocol for its adoption by the Council of Ministers (CEC, 1994, p. 3), which it did in a first reading on 22 June 1994 (Council of the European Union, 1994).

Building, in part, upon the experience of existing voluntary work councils and, in part, on the European Union's own initiatives over the past twenty years to strengthen employee participation, the proposed Directive has the following principal features (see also box IX.6):

- It prescribes the establishment of European Works Councils or employee information and consultation procedures in "community-scale" undertakings. Central management is responsible for creating the Councils at its own initiative or at the request of at least 100 employees or their representatives in at least two undertakings in at least two Community member States. In contrast to the important coordinating role played by national or European trade unions in the establishment of voluntary councils, the proposed Directive does not explicitly prescribe a formal role for trade union organizations. Instead, employee representation is determined in accordance with national legislation and practice. This provision recognizes the considerable diversity of industrial relations structures and practices in the Union. While representatives may be drawn from individual works councils in France, Germany or the Netherlands, this would not be possible in countries where such councils do not exist. On the other hand, the proposed Directive does not rule out the possibility of including external trade union officials as members of the Council.
- A "community-scale" undertaking is one with at least 1,000 employees in the Community and at least 150 in each of at least two member countries. (The former number has been subject to continuous negotiations.) These would include "European-scale" undertakings that have their headquarters outside the territory of the European Union or in the United Kingdom (even though the United Kingdom has not signed the Social Protocol). In the latter cases, the responsibility for the implementation of the Directive lies with the company's representative agent or with the management of the establishment that employs the highest number of employees within the European Union.
- In principle, the nature, functions, powers and operating procedures of a European Works Council are left to be decided by agreement between the management of the group and a special negotiating body of employee representatives. If agreement is not reached within three years from the starting of negotiations between the employee's negotiating body and management (or if management refuses to initiate negotiations within six months of the request being made), a Council has to be established on the basis of the provisions set out in the annex of the proposed Directive. On the other hand, in order to respect the bargaining autonomy of the parties, the proposed Directive would accept an agreement by the two sides not to set up a Council at all. If the requirements set out in the annex of the draft Directive apply, the European Works Councils would meet at least annually with central management and obtain information, in particular as regards "to its structure, economic and financial situation, the probable development of the business and of production and sales, the employment situation and probable trend, investments, and substantial changes concerning the organization, the introduction of new working methods or production processes, transfers of production, mergers, cut-backs or closures of undertakings, establishments or important parts thereof, or collective redundancies" (Council of the European Union, 1994, p. 20). In addition, they would give employees the right to timely consultation over management proposals likely to have a considerable effect for employees (particularly relocations, the closure of establishments, collective redundancies). In this respect, the draft Directive goes beyond the voluntary councils which focus

Box IX.6. How to establish a European Works Council

Section II of the draft Directive on the "Establishment of a European Works Council or an employee information and consultation procedure" provides, among other things, for the following:

Article 4

Responsibility for the establishment of a European Works Council or an employee information and consultation procedure

1. The central management shall be responsible for creating the conditions and means necessary for the setting up of a European Works Council or an information and consultation procedure, as provided for in Article 1(2), in respect of a Community-scale undertaking or a Community-scale group of undertakings.
2. Where the central management is not situated in a Member State, the central management's representative agent in a Member State, to be designated if necessary, shall take on the responsibility referred to in paragraph 1.

   In the absence of such an agent, the management of the establishment or the central management of the group undertaking employing the greatest number of employees in any one Member State shall take on the responsibility referred to in paragraph 1.
3. For the purposes of this Directive, the representative agent or agents or, in the absence of any such agents, the management or the central management, shall be regarded as the central management.

Article 5

Special negotiating body

1. In order to achieve the objective in Article 1(1), the central management shall initiate negotiations for the establishment of a European Works Council or an information and consultation procedure on its own initiative or at the written request of at least 100 employees or their representatives in at least two undertakings or establishments in at least two different Member States.
2. For this purpose, a special negotiating body shall be established in accordance with the following guidelines:

   (a) The Member States shall determine the method to be used for the election or appointment of the members of the special negotiating body who are to be elected or appointed in their territories. Member States shall provide that employees in undertakings and/or establishments in which there are no employees' representatives through no fault of their own, have the right to elect or appoint members of the special negotiating body.

   (b) The second subparagraph shall be without prejudice to national legislation and/or practice laying down thresholds for the establishment of employee representation bodies. The special negotiating body shall have a minimum of three and a maximum of 17 members.

   (c) In these elections or appointments, it must be ensured:

   - firstly, that each Member State in which the Community-scale undertaking has one or more establishments or in which the Community-scale group of undertakings has the controlling undertaking or one or more controlled undertakings is represented by one member;
   - secondly, that there are supplementary members in proportion to the number of employees working in the establishments, the controlling undertaking or the controlled undertakings as laid down by the legislation of the Member State within the territory of which the central management is situated.

   (d) The central management shall be informed of the composition of the special negotiating body.
3. The special negotiating body shall have the task of determining, with the central management, by written agreement, the scope, composition, powers and term of office of the European Works

/...

Box IX.6. (cont'd)

Council(s) or the arrangements for implementing a procedure for the information and consultation of employees.

4. With a view to the conclusion of an agreement in accordance with Article 6, the central management shall convene a meeting with the special negotiating body. It shall inform the local managements accordingly.

   For the purpose of the negotiations, the special negotiating body may be assisted by experts of its choice.

5. The special negotiating body may decide, by at least two-thirds of the votes, not to open negotiations in accordance with paragraph 4, or to terminate the negotiations already opened.

   Such a decision shall stop the procedure to conclude the agreement referred to in Article 6. Where such a decision has been taken, the provisions in the Annex shall not apply.

   A new request to convene the special negotiating body may be made at the earliest two years after the abovementioned decision unless the parties concerned lay down shorter periods.

6. Any expenses relating to the negotiations referred to in paragraphs 3 and 4 shall be borne by the central management so as to enable the special negotiating body to carry out its task in an appropriate manner.

In compliance with this principle, Member States may lay down budgetary rules regarding the operation of the special negotiating body. They may in particular limit the funding to cover one expert only.

Article 6

Content of the agreement

1. The central management and the special negotiating body must negotiate in a spirit of cooperation with a view to reaching an agreement on the detailed arrangements for implementing the information and consultation of employees provided for in Article 1(1).
2. Without prejudice to the autonomy of the parties, the agreement referred to in paragraph 1 between the central management and the special negotiating body shall determine:
   (a) the member undertakings of the Community-scale group of undertakings or the establishments of the Communit-scale undertaking which are covered by the agreement;
   (b) the composition of the European Works Council(s), the number of members, the allocation of seats and the term of office;
   (c) the functions and powers and the procedure for information and consultation of the European Works Council;
   (d) the venue, frequency and duration of meetings of the European Works Council;
   (e) the financial and material resources to be allocated to the European Works Council;
   (f) the duration of the agreement and the procedure for its renegotiation.
3. The central management and the special negotiating body may decide, in writing, to establish one or more information and consultation procedures instead of a European Works Council. The agreement must stipulate by what method the employees' representatives shall have the right to meet to discuss the information conveyed to them.
4. This information shall relate in particular to transnational questions which significantly affect workers' interests. The agreements referred to in paragraphs 2 and 3 shall not, unless provision is made otherwise therein, be subject to the subsidiary requirements of the Annex.
5. For the purposes of concluding the agreements referred to in paragraphs 2 and 3, the special negotiating body shall act by a majority of its members."

Source: Council of the European Union, 1994, pp. 10-14.

on the provision of information. At the same time, managerial prerogatives prevail, with the final decision being exclusively the responsibility of central management. The draft Directive makes explicit provision for the diffusion of information: members of the Councils are obliged to inform employee representatives (or the body of employees) at the entity or group level, of the outcome of Council meetings.

The draft Directive also spells out detailed procedures for the appointment and operations of a special body to negotiate a European Works Council agreement; its terms of reference, negotiating procedures and the issues to be covered (box IX.6).

By preparing a Directive as opposed to a regulation, there is considerable scope to adapt European Works Councils to national systems and institutions. Moreover, these Councils would not usurp the functions of existing information and consultation bodies established nationally. The European Union has also avoided the tendency towards upward harmonization, forcing uniformity across member nations to the highest common denominator.

The elaboration of the proposed Directive has involved a long process of consultations with representatives of trade unions and employers at the European level. The ETUC was the main influence behind the basic tenets of the draft Directive (ETUC, 1991), and, while advocating a number of improvements in the present text, its principal objective was to obtain formal backing for the recognition of information and consultation rights. Employer groups (especially the Union of Industrial and Employers Confederation of Europe, UNICE), on the other hand, while accepting the right to information and consultation for labour, saw this Directive as potentially limiting managerial prerogatives, especially if the Councils should seek to assume bargaining powers as opposed to simply information and consultation rights. Furthermore, they considered a single legislative approach as insufficiently flexible. They were also concerned that this approach could compromise other voluntary initiatives that can be carefully tailored to meet precise needs and particular circumstances. In addition, UNICE held that consultation is more appropriately undertaken at the local level, with those directly affected by proposed actions. Thus, UNICE preferred a European Union document placing the responsibility on local management to provide information on the company as a whole (UNICE, 1991a, b, 1994).

After its adoption by the Council of Ministers in a first reading on 22 June 1994, the Directive went before the European Parliament for a second reading. Given the experience with the voluntary works councils, the sort of subsidiarity legislative approach of the Directive that seeks to accommodate national and individual company bargaining preferences, and the procedural avenue (Directive as opposed to regulation) taken by the Commission, there is reason to expect that the proposed Directive would be adopted in its final version in the near future. In that event, it is likely to be translated into law in most member countries in 1996 and 1997, thus affecting perhaps as many as 1,000 TNCs in Europe (box IX.7). Since the United Kingdom had opted out of the Social Chapter, it would not be bound by the Directive.

However, it may well be that the Directive, if and when adopted, would have a number of important repercussions for TNCs based outside the 11 European Union members that signed the Social Chapter. Those with operations in the 11 member countries meeting the criteria would be required to establish European Works Councils in respect of these operations. This would immediately raise the question whether TNCs so affected — e.g., from the United Kingdom, the United States or Japan — would maintain two sets of industrial relations: one characterized by information and consultation procedures; the other possibly without such procedures. Management of these TNCs may well decide under those circumstances to extend the information and consultation rights enjoyed by most European Union employees to those in other parts of Europe and beyond. This applies also to TNCs headquartered in the 11 countries. For instance, these rights could be extended voluntarily to foreign affiliates in Central and Eastern Europe, be it in anticipation of European Union membership of some of these countries, be it to mitigate social

dumping charges or, more broadly, to facilitate the transition to a market economy. In any event, if TNCs do not extend these rights to those elsewhere, they are likely to face trade unions pressure to do so.[18] In short, the influence of the Directive may well extend beyond the ambit of formal

Box IX.7. One thousand European Works Councils?

The Directive, as adopted in the first reading by the Council of Ministers on 22 June 1994, applies to companies operating in the European Union that employ a minimum of 1,000 employees, with at least 150 employees in each of two member States of the Union. A 1992 survey (Sisson, et al., 1992), found that, in 1991, out of 13.5 million enterprises in Europe, the first criterion would have been met by 8,447 companies (with a total of 46 million employees worldwide). Out of these, some 880 European-based companies and an estimated 282 non-European-based companies would have satisfied the second criterion, namely employing more than 150 employees in each of two member States of the Union (in fact, the 1,160 companies employ more than 1,000 employees in at least two member States — the 1,000-threshold being set by the available data) (table 1). In total, then, at least 1,000 European Works Councils could be established if and when the Directive becomes law in the member States.

Table 1. Transnational corporations in the European Union with 1,000 or more employees and affiliates in at least two member States

(Number of companies and percentage)

Country	*Companies with 1,000+ employees*	*of which, European-based companies with affiliates in at least 2 member States of the European Union*	*of which, non-European-based companies with affiliates in at least 2 member States of the European Union*	*Total*	*Per cent*
Belgium	187	16	16	32	2.8
Denmark	100	15	2	17	1.5
France	873	117	26	143	12.3
Germany	2 449	257	50	307	26.4
Greece	46	2	-	2	0.2
Ireland	67	10	2	12	1.0
Italy	479	32	19	51	4.4
Luxembourg	9	2	-	2	0.2
Netherlands	700	83	21	104	9.0
Portugal	162	1	3	4	0.3
Spain	351	13	10	23	2.0
United Kingdom	3 024	332	133	465	40.0
Total	8 447	880	282	1 162	100.0

Source: based on Sisson, et al., 1992.

Of the non-European-Union-based companies, the following 43 had more than 1,000 employees in at least two European Union member States: Alcan, Asea Brown Boveri, Caterpillar, Citibank, Colgate Palmolive, Digital, Du Pont, Eaton, Ericksson, Electrolux, Esso, Exxon, Firestone, Ford, Fujitsu, General Motors, Goodyear, Hertz, Hewlett Packard, Honeywell, IBM, ITT, John Deere, Johnson & Johnson, Kodak, Levi Strauss, Mars, Massey Ferguson, McDonald's, Mobil, Monotype, Motorola, NCR, Nestlé, Nissan, Norsk Hydro, Otis, Philip Morris, Procter & Gamble, Rank Xerox, Sony, Unisys and Volvo.

application to other parts of the world. It may become a model for a broader conception of relationships between trade unions and TNC management.

Conclusions

The ability of trade unions to pursue the interests of their members is built largely on national foundations. However, historically, national trade unions have responded to the growing internationalization of the world economy by strengthening cross-border solidarity. The extent of such action has ebbed and flowed under shifting economic, political and ideological influences, but over the past two decades, the changing nature of the world economy and, particularly, the expanding role of TNCs, have added new urgency to international responses. In particular, deep integration at the level of production is making it more difficult to isolate nationally traditional industrial relations issues from the transnational organization of production.

The view that unions need to match the organizational scope of TNCs by transnationalizing their own *structures* is a simplistic one. Other alternatives exist, including the internationalization of union *action*. In this latter respect, international trade unions have followed two broad approaches: strengthening cross-border cooperation through international trade union bodies able to provide training, information and research capacities and to organize varying degrees of cross-border solidarity in support of particular demands; and campaigning for establishing or reinforcing international normative frameworks aimed at influencing TNC behaviour in areas of direct concern to them. The aim of both approaches is to improve trade union leverage in collective bargaining without compromising national trade union advantages. Still, cooperation among trade unions has had to overcome national barriers to cross-border solidarity, including financial and logistical obstacles and legislative, political and language differences.

Over the past decade, trade unions have begun to take a more realistic view of both these approaches. Greater realism has involved a more focused effort in terms of access to information and decision makers, lesser insistence on global instruments dealing specifically with TNCs and a more strategic approach to the pursuit of objectives, including a greater willingness to enter voluntary agreements with management. The benefits of this greater realism are, perhaps, most clearly apparent in regionally-based initiatives, particularly within the European Union.

But even as trade unions have adopted a more pragmatic position in their dealings with TNCs, new corporate strategies are beginning to influence industrial relations. Integrated international production not only reinforces the trend towards diminished autonomy of national industrial relations practices and the need to accommodate particular business requirements, but also complicates the options and potential outcomes of collective bargaining arrangements. The pressures of integrated international production also mean closer collaboration between employers and unions to enhance flexibility at the plant level and to ensure production quality across the entire value chain. Under these conditions, more decentralized decision-making and negotiating may be better suited to workplace flexibility, reinforcing a trend towards enterprise and plant negotiations for the setting of wages and working conditions. However, there is a tension within integrated international production between the benefits of decentralization and the need to coordinate activities across geographically and functionally dispersed affiliates.

Consequently, the impact of integrated international production on the relative strength of labour is likely to be complex. As TNCs rationalize and integrate regional and global production systems and adopt leaner production techniques, they also become more sensitive to disruptions and stoppages. It is for these reasons that TNCs have attempted to minimize the dangers from confrontational labour relations in the workplace by investing in the personnel function and implementing management approaches based on employee empowerment and participation.

Under these conditions, trade unions will need to continue their search for broadly encompassing but flexible structures that ensure the full participation of their members in a global environment marked by rapid technological, organizational and structural changes.

Notes

1. The WCL and the WFTU also have international trade secretariats of various industries.

2 One estimate for the 1970s (Blake, 1973) is that about 60 per cent of international union action took the form of information exchange and consultation. A similar percentage is likely to apply nowadays, although there are no precise estimates.

3 Information provided by the International Graphical Federation.

4 One practical obstacle could be that employees in foreign affiliates of a given TNC may not be supportive of such action; data for the late 1960s suggest that, when respondents in the Canadian subsidiary were canvassed on their willingness to undertake sympathy strikes in support of fellow Chrysler employees in the United States, the United Kingdom and Mexico, solidarity (in the form of undertaking such strikes) was 52, 13 and 12 per cent for the respective countries (Blake, 1972).

5 In 1972, calls for international regulation of TNCs prompted the International Chamber of Commerce to prepare its own guidelines which also covered labour practices (International Chamber of Commerce, 1972).

6 While not a member of the OECD, Hungary has adopted the Guidelines.

7 On the broader question of "soft law", see Baade, 1980.

8 The OECD has recently published an annotated text of the Guidelines which reflects the clarifications provided since 1976 and most of these clarifications deal with the employment and industrial relations chapter; see OECD, 1994d.

9 Enhancing competitiveness through lowering labour standards was challenged as early as 1906 when an international labour conference in Berne adopted a treaty, later ratified by 12 European countries, prohibiting the manufacture and export of matches containing hazardous materials. Concern over the proliferation of such practices was clearly reflected in the formation of the ILO after the First World War and by the United Nations Conference on Trade and Employment after the Second World War (Wilkinson and Sengenberger, 1994). The unratified Havana Charter of 1948 which was to underpin the International Trade Organisation stated:

> *"The Members recognise that...all countries have a common interest in the achievement and maintenance of fair labour standards related to productivity, and thus in the improvement of wages and working conditions as productivity may permit. The Members recognise that unfair labour conditions, particularly in production for export, create difficulties in international trade and, accordingly, each Member shall take whatever action may be appropriate and feasible to eliminate such conditions within its territory."* (Article 7.1; UN, 1948).

10 As was done, for example, by the United States in the context of trading-with-the-enemy provisions.

11 As early as 1953, the United States proposed adding a labour-standards article to GATT and made similar efforts in the Tokyo and Uruguay Rounds; furthermore, the United States (particularly during the 1980s) passed a series of laws linking preferential trade and investment benefits to worker rights (Lawrence, 1994, p. 16, and Collingsworth, et al., 1994).

12 Streeck and Vitols, 1993, undertook a survey on the experience with voluntary arrangements in eighteen large manufacturing TNCs in Europe.

13 A side effect is that, through these information mechanisms, local management becomes better informed as well as to the status of their own plants.

14 Gold and Hall, 1993, examined in detail arrangements in the following TNCs: Allianz, BSN, Bull, Elf Aquitaine, Mercedes Benz, Nestlé, Péchiney, Rhône-Poulenc, St. Gobain, Thomson Consumer Electronics and Volkswagen.

15 For example, Council Directive 75/129/EEC of 17 February 1975 on "The approximation of the laws of the Member States relating to collective redundancies", *Official Journal of the European Communities*, No. L48 (22 February 1975), pp. 29-30.

16 The 1989 proposal for a European Company Statute included measures to enable employees to participate in the supervision and strategy development of the "Societas Europea". The 1983 Fifth Directive provided for employee participation in undertakings employing at least 1,000 people (but not groups of undertakings) on a management board. The proposal for a Council Directive (known as the "Vredeling" proposal) relates to procedures for informing and consulting employees of undertakings with complex structures. For a summary, see the introduction to the proposed Council Directive, CEC, 1994.

17 The Protocol on Social Policy of the Maastricht Treaty contains a provision whereby the *twelve* Member States of the European Union allow *eleven* Member States to adopt themselves the measures provided for in the "Agreement on Social Policy" which is annexed to the Protocol. The latter provides the legal basis for the Directive.

18 It has been reported that British trade unions have already set up steering committees in preparation for the Committees with their colleagues in the 11 countries in 12 United Kingdom-owned enterprises (Taylor, 1994).