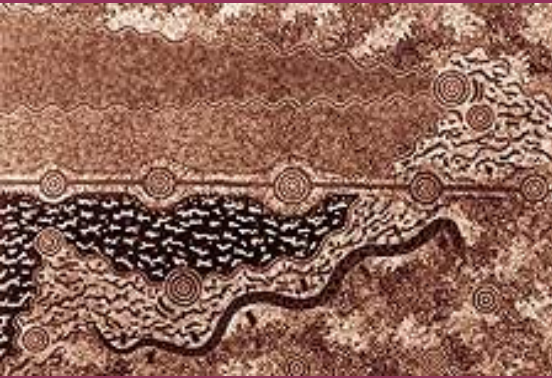


Transnational Associations

The review of the Union of International Associations



4/2005

Interests groups in the
European Union

Les groupe de
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Associations transnationales

La revue de l'Union des associations internationales

Transnational Associations

Associations transnationales

Transnational Associations is a unique bilingual journal (articles in English or French) whose aim is to deal with major current problems within the perspective of international civil society. It is intended to provide a forum for authoritative information and independent reflection on the increasing role played by non-state actors in the international system, and on its philosophical, political, economic or cultural implications.

The approach is intrinsically interdisciplinary, and calls for both specialist expertise and practical experience in transnational association matters. *Transnational Associations* provides background information about the actions and achievements of civil society organizations, and insights into their relations with intergovernmental organizations. In this connection it covers a wide range of topics, among which social organization, humanitarian law, scientific cooperation, language and culture, economic development, to cite just a few. The views expressed in this journal are the responsibility of the authors.

The programme of the review, in accordance with the principles of the UIA, clarifies general awareness concerning the association phenomenon within the framework of international relations and, in particular, informs associations about aspects of the problems which they tend to share or which are of common interest to them. Contributors to the journal review include association officers, research workers and specialists of association questions.

Founded in Brussels in 1907 as the Central Office of International Associations, the UIA became a federation under the present name in 1910 at the 1st World Congress of International Associations. Activities were closely associated with the Institut international de bibliographie, which later became the International Federation for Documentation. Its work contributed to the creation of the League of Nations and the International Institute of Intellectual Cooperation (the predecessor of UNESCO). During the 1920s the UIA created an International University, the first of its kind.

The UIA has consultative relations with UNESCO, UN/ECOSOC, and ILO. It collaborates with FAO, the Council of Europe, UNITAR, and the Commonwealth Science Council.

Associations Transnationales est la seule revue bilingue (articles en anglais ou en français) traitant des grands problèmes contemporains dans la perspective de la société civile internationale et notamment des organisations internationales non gouvernementales décrites dans le Yearbook of International Organizations. Elle se propose d'apporter des éléments d'information provenant des sources les plus autorisées, propres à susciter une réflexion indépendante sur l'affirmation du rôle joué par ces acteurs dans le système international et sur les aspects philosophiques, politiques, sociaux et culturels de cette évolution.

La visée adoptée est essentiellement interdisciplinaire et fait appel au savoir comme à la pratique des spécialistes du champ d'action des associations transnationales. Les documents, articles et études publiés par Associations Transnationales traitent également des liens établis entre les acteurs non étatiques et les organisations intergouvernementales. Les domaines couverts s'étendent aux problèmes de société, au droit humanitaire, à la coopération scientifique, aux questions linguistiques et culturelles, au développement économique ou à tout phénomène affectant la vie de ces acteurs.

Le programme de la revue, conformément aux buts de l'UAI, vise à éclairer l'opinion sur la signification de la dimension associative des relations internationales, notamment en informant les associations au sujet des questions qui relèvent de leurs domaines ou affectent leurs intérêts communs. Les textes des auteurs publiés par la revue (dirigeants d'associations, chercheurs et spécialistes des questions associatives) n'engagent que leur opinion.

L'UAI a été créée officiellement en 1910 à Bruxelles au cours du premier congrès mondial des associations internationales. Ses fondateurs, le Sénateur Henri La Fontaine, prix Nobel de la Paix 1913 et Paul Otlet, Secrétaire général de l'Institut international de bibliographie, avaient mis sur pied en 1907 l'«Office central des institutions internationales» auquel l'UAI succéda sous la forme de fédération. En 1914, elle regroupait 230 organisations, soit un peu plus de la moitié de celles qui existaient à l'époque. L'UAI devait incarner, dans l'esprit de ses fondateurs, les aspirations internationalistes et les idéaux de paix qui animaient les associations et qui allaient aboutir en 1920 à la création de la Société des Nations (plus d'information).

L'UAI a obtenu le statut consultatif auprès de l'ECOSOC, de l'UNESCO et de l'OIT. Elle collabore avec l'UNITAR, la FAO et le Conseil de l'Europe. Elle entretient des relations générales et ponctuelles avec les organisations régionales.

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Editor's Note

Articles on pages 219-282 originate from presentations made at a conference on “The New European Agenda for EU Business Associations” held in Brussels on 28 April 2005 (http://kelleneurope.com/euroconference/2005_presentations.html, co-organised by Ernst and Young Association Management and Justin Greenwood, Aberdeen Business School and Visiting Professor at the College of Europe.

Other articles in this edition are free standing.

The Future of consultation with, and participation by, interest groups in the European Union

by Justin Greenwood*

The impact of interest groups upon the output and input legitimacy of political systems is much debated. In the efficiency oriented focus of output legitimacy, positive assessments stress the resources groups bring to assist policy making and implementation, while critics see the possibility for sub-optimal rent-seeking and cartel activities which interfere with market efficiency. For input legitimacy, familiar debates cast interest groups in respective roles of friend, and foe, of democracy. In 'friend mode', interest groups are seen as agents of pluralist checks and balances upon each other, as agents of accountability to political institutions, as a link between mass civil society and political institutions, and as contributors to deliberation. The 'foe' interpretation complains of elites privatising public policy making and skewing the distribution of benefits. Groups are also often cast in the role as agents of political demand, irrespective of the normative effect. These debates are evident in analysis of the role of groups in the EU political system, where EU specific factors originating from the distribution of power and functions in its multi-level governance structure manifest themselves in particular ways.

EU political institutions have a particularly intense relationship with interest groups because of systemic weaknesses in output and input legitimacy (Greenwood, 2003; Smismans, 2005). In the case of outputs this arises from a lack of resources among EU political institutions. The role of groups in input legitimacy arises from their potential to act as agents of political demand, and because of their ability to fill gaps originating from weaknesses of representative democracy borne of an absence of 'demos'. Articles 46-47 of the 2004 Constitutional Treaty codify and order these principles of democratic input, establishing that, while the EU shall be founded on the principle of representative democracy (Article 46), additionally, 'the institutions shall maintain an open, transparent and regular dialogue with *representative* associations and civil society' (Article 47, clause 2¹). The place of organised civil society actors is thus constitutionally enshrined, but

of particular interest here is also the embodiment of the principle of *representativity* for groups in their interaction with EU political institutions. This word arose within the Treaty drafting process in the Convention on the Future of Europe established for this purpose. Whilst the choice of wording seems to have a clumsy legacy, it does reflect a tension about engagement by EU political institutions with groups whose legitimacy derives from their basis as either 'representative' of a particular constituency, or those which simply seek to articulate a 'cause' in EU political debate.

The European Commission, as the Brussels based actor responsible for initiating EU policy but subject to the constraints placed upon it by other EU political actors (and particularly member-states), has intense needs in both input and output respects. These factors have in turn deeply influenced its relations with interest groups and its position as lead actor. Early initiatives geared towards structuring relationships in the interests of probity, transparency, broadening participation, and equity² have now given way to agendas of greater maturity which are more focused on the ability of groups to act as agents of input legitimacy. These latter agendas are captured in the European Commission's 2001 White Paper on Governance (WPG)³, which heralded a renewed⁴ agenda of initiatives towards EU interest groups:⁵

'With better involvement comes greater responsibility. Civil society must itself follow the principles of good governance, which include accountability and openness. The Commission intends to establish a comprehensive on-line database with details of civil society organisations active at European level, which should act as a catalyst to improve their internal organisation.' (European Commission, 2001, p.15)

'Creating a culture of consultation ...should be underpinned by a code of conduct that sets minimum standards...These standards should improve the representativity of civil society organisations and structure their debate with the Institutions.' (op. cit.,p.17)

'In some policy sectors, where consultative practices are already well established, the

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1. Article 47 Clause 1 also refers to 'representative associations'

2. Commission of the European Communities (1992) 'An Open and Structured Dialogue Between the Commission and Special Interest Groups', Brussels, 2 December 1992, SEC (92) 2272 final, available at http://www.europa.eu.int/comm/secretariat_general/sgc/lobbies/communication/communication-intro_en.htm. For a commentary on these early initiatives see McLaughlin and Greenwood (1995)

3. European Commission (2001) European Governance: A White Paper, COM(2001) 428 final, 25.7.2001, http://www.europa.eu.int/comm/governance/white_paper/index_en.htm

4. For the wider precedents to the White Paper on Governance see Wincott (2002).

5. A minimum criteria used by the Commission for the designation of an interest group as 'EU level' includes the involvement of members from three or more EU or candidate countries.

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6. European Commission (2002) Communication from the Commission:

Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission COM(2002) 704 final, 11.12.2002, http://www.europa.eu.int/comm/secretariat_general/sgc/consultation/index_en.htm

7. http://www.europa.eu.int/comm/civil_society/coneccs/index_en.htm

8. 'Institutions' is a term reserved by the EU only for the European Parliament, Council of the European Union, European Commission, Court of Justice, European Court of Auditors, the European Ombudsman, and the European Data Protection Supervisor. The correct use of this term does not therefore include the European Economic and Social Committee, which is deemed as an 'Advisory Body'. See http://www.europa.eu.int/index_en.htm

9. The most explicit statement of this kind can be found in the EP's response to the White Paper on Governance, at <http://www2.euoparl.eu.int/omk/sipade2?PUB-REF=-//EP//NONSGML+REPORT+A5-2001-0399+0+DOC+PDF+V0//EN&L=EN&LEVEL=2&NAV=S&LSTDOC=Y>

10. A report of the speech is available at <http://www.euobserver.com/?sid=9&aid=18597>

11. Such statements begin with the Commission's Communication of 1992 (see footnote 2), while the most up to date statement to this effect can be found at http://www.europa.eu.int/comm/civil_society/coneccs/question.cfm?CL=en. A similar statement can also be found in the

Commission could develop more extensive partnership arrangements. On the Commission's part, this will entail a commitment for additional consultations compared to the minimum standards. In return, the arrangements will prompt civil society organisations to tighten up their internal structures, furnish guarantees of openness and representativity, and prove their capacity to relay information or lead debates in the Member States' (ibid.p.17)

The White Paper on Governance (WPG) came downstream in specific policy initiatives with a formal Commission Communication laying down standards for consultation⁶, and in the CONECCS (Consultation, the European Commission, and Civil Society) initiatives central to which is a public database of interest groups on the *Europa* server⁷, described below. Whilst some of the WPG agendas on groups outlined in the above extracts became moderated in the processes of transposition to policy initiatives following due consultation, particularly with the European Parliament, some key aspects remain. Later, examination is undertaken to the extent to which they are likely to strengthen or weaken input legitimacy.

The focus here on the Commission, rather than from EU political Institutions⁸ as a whole, arises from the Commission's distinctive relationship upon groups borne of its role as policy initiator, drafter, and *agent provocateur* of European integration broadly defined, and thus its need for systematic interaction with formally established collective outlets of civil society for the purposes of input and output legitimacy. The agendas of other EU political institutions are likewise driven by their distinctive orientations, to which interest groups are not so central. Thus, the European Parliament (EP) has been more driven by populist concerns with a wider agenda concerned with the regulation of lobbying, and in protecting its role as the principal democratic outlet of the EU via the principle of representative democracy against encroachment by practices of participatory democracy centred on organised civil society⁹. In the Council of Ministers, detailed intergovernmental concerns have long delayed a statute enabling the establishment of a European Association, described later. For these latter two

institutions, agendas towards groups thus remain either incomplete, tangential to other agendas, or at an early stage of development. The development of institutional agendas aimed at the regulation of lobbying do and will impact upon groups, but as they are not central to the issues of constituency accountability or group representativeness, they are not examined in detail here. Indeed, the latest of these agendas to manifest itself, arising from a (surprise) March 2005 speech by a new Commissioner (Kallas)¹⁰ with responsibilities tangential to engagement with civil society, is packaged as a 'European Transparency Initiative' towards civil society actors of all kinds, collective and otherwise, and does not appear to be directed at the issues of constituency accountability or group representativeness under focus here.

Is there a system of interest group accreditation by EU political institutions?

The European Commission has consistently stated that its CONECCS database is explicitly not an accreditation scheme of any kind, and nor is it intended to confer special privileges. These statements, made by the host Secretariat-General service, have been made publicly and very consistently over a long period of time.¹¹ Certainly, the information entered on the database is provided by civil society organisations and is not subject to institutional checks. Rather, the database is viewed by its creators as an incentivised scheme following aspects of the sentiments outlined in the White Paper on Governance as expressed in the extracts above. Commission web pages outline these incentives in its description of the purpose of the database: 'The database enables both the general public and civil society organisations themselves to see what voices might be heard in the Commission's consultation processes, both within structured consultation forums and on a more informal basis.

It provides a means for European civil society organisations to make themselves known to the Commission, thus increasing the list of potential consultation partners.

It is a tool that can be used by the Commission

itself to identify the appropriate mix of consultation partners who can offer the necessary geographical/sectoral/target group coverage'

http://www.europa.eu.int/comm/civil_society/coneccc/question.cfm?CL=en

It is not difficult to see in these statements overtones of incentives which suggest, or could lead to, a *de facto* accreditation scheme in return for minimum interest group standards which include accountability and representativeness. Thus, a keynote 2002 Commission Communication on consultation standards (as a follow up to the White Paper on Governance) records that:

'openness and accountability are important principles for the conduct of organisations when they are seeking to contribute to EU policy development. *It must be apparent:*

- which interests they represent
- *how inclusive that representation is.*

Interested parties that wish to submit comments on a policy proposal by the Commission must therefore be ready to provide the Commission and the public at large with the information described above. *This information should be made available either through the CONECCS database or through other measures, e.g. special information sheets. If this information is not provided, submissions will be considered as individual contributions'* (European Commission, 2002, p.17; *my emphasis*).

The database, which started life as a print directory from 1997 and progressed to a web version in 1999, contains details of around 700 groups. Since 2001, groups have been able to register and update their data online.¹² In order to gain access to the database, interest groups have to confirm a number of statements about themselves. The Commission justifies a recent incremental upgrade in the information required of applicants from January 2005 by reflecting that 'the minimum standards for consultation currently applied by the Commission also suggest strengthening the transparency and accountability of those involved in dialogue and consultation' (http://www.europa.eu.int/comm/civil_society/coneccc/question.cfm?CL=en

A 'pop up' box on the CONECCS group database site headed 'Inclusion of a new organisation: The criteria to be fulfilled' records that

'Inclusion on the database is open to non-profit making representative civil society organisations which (*inter alia*)

- have authority to speak for their members
- operate in an open and accountable manner

The Commission reserves the right not to include an organisation in the database if it does not satisfy the stated requirements, or to remove subsequently any organisation which it discovers does not, or has ceased to, satisfy those requirements.' (*my emphasis*) (ibid.)

The debate as to whether such elements represent some kind of *de facto* accreditation is of some significance following a recent (September 2005) decision of the Commission to withdraw its proposal for a European Association Statute, in which some (see, for instance, Obradovic, this volume) had seen a *de jure* accreditation scheme. The scheme was initially proposed in 1993¹³, but has been stalled for the past six years in a 'Council Working Party on Company Law (European Association)' through lack of enthusiasm from a large number of national delegations¹⁴. Its withdrawal, ostensibly part of a wider cull of proposals under the 'Better Regulation' initiative to cut red tape, was an easy sacrifice for the Commission to make, and an easy contribution in support of its wider 'better regulation' agenda, because of the lack of progress in the Council or any supporters willing to take it forward. The explanatory words from the Commission accompanying its withdrawal refers to the measure becoming obsolete. This may refer either to the length of time it has been stalled in the Council, or/and to its history as a measure arising from the relationship between a now defunct part of the European Commission, and a particular European association which had pursued it, CEDAG (European Council for Voluntary Organisations). Kendall and Fraisse describe how the measure arose from the Social Economy Unit of DG XXIII, whose responsibilities became lost within a reorganisation of functional responsibilities within the Commission which resulted in their reallocation to the business friendly DG Enterprise (Kendall and Fraisse, 2005). The original Commission proposal sought a structure for groups to become founded in law as a European Association, creating an easier legal format for

Commission's
Communication on
Consultation cited in foot-
note 6.

12.
http://www.europa.eu.int/comm/secretariat_general/sgc/lobbies/repertoire/indexrep_en.htm

13. Commission of the
European Communities
(1993) Amended proposal
for a Council Regulation
on the Statute for a
European Association,
COM (93) 252, Brussels,
6 July 1993

14. Enquiries with the
Council revealed the fol-
lowing response:

"Following your request
for information, I have
consulted the relevant ser-
vices within the DG C 1
of the General Secretariat
of the Council and the
DG Enterprise of the
European Commission.
DG C 1 has confirmed
that the negotiations on
the Commission proposal
for a Council Regulation
on the Statute for a
European Association
(COM (93) 252 final
SYN 386) have been
stalled in the Council
since 2003... since the
second half of 2003, none
of the presidencies of the
Council seem to have
given priority to this
issue."

groups than the instruments of registration currently in popular use by EU interest groups¹⁵. Elements linked by some authors to an accreditation scheme (see Obradovic, this volume) included requirements for transparency and financial accountability, conferment upon the members of various rights to participate in group governance, and various provisions so as to prevent 'groups' being established as 'front' organisations for a single or tiny number of operatives. Thus, in the cobwebbed draft¹⁶, Article 30 of the draft statute provided for a threshold of members calling for a General Meeting to require the organisation to do so; Article 33 specified that no one member shall hold a majority of the votes, and Article 35 required the organisation to have an Executive Committee with at least three members. Whilst EU politics is unlikely to ever create an extensive legal framework to enforce vigorous democratic accountability, these measures would have had the effect of empowering members with minimum participative rights, and would have been likely to marginalise 'groups' which are little more than a one-man-band with a web site.

There is a debate within political institutions as to the democratic impact of accreditation schemes. One view sees them as a barrier to the participation of groups and interests which are not accredited, while a countervailing view sees such schemes as a way to help address asymmetries of access to political systems by empowering less powerful groups. The United Nations (UN) system treads the latter path while facilitating accreditation through the provision of minimal entry thresholds, largely based around the supply of documentation from the organisation to prove its legal and active credentials. The danger of not having a *de jure* accreditation system is that political institutions exercise *de facto* access criteria which exceeds that of formal schemes in their strictness of application. Following the withdrawal of the statute, the only formal traces left of the implementation of an accreditation scheme is the CONECCS system with its *de facto* attributes, and its focus upon a minimum spread of members. One of the key EU citizen groups, the European Social Platform, accepted from the outset of the Commission's deliberations the principle of geo-

graphic representativeness for EU groups to observe (European Social Platform, 2000). The key factor is now whether the CONECCS system provides for some kind of scheme which has the effect of privileging groups which deliver positions which are founded upon representative internal processes. Although the accompanying blurb to the database stress that it is not an accreditation system, the database was created and continues to be inspired by the need to ensure that Commission departments locate the corresponding groups with which it needs to consult on policy initiatives. Any failure to register therefore carries with it the possibility of being overlooked. Precisely these types of intentions appear to have been signalled by the third extract from the White Paper on Governance above, where groups are offered the prospect of 'more extensive partnership arrangements' with the Commission in return for 'guarantees of representativity' and proving their capacity to act as information relays in the member states. These arrangements were never detailed because of objections to the concept raised by the European Parliament, but 'extended partnership arrangements' seem to characterise the relationship between the European Commission and its relationship with groups such as the European Trade Union Confederation (ETUC), the European Women's Lobby (EWL), and with some of the 'family' structures of NGOs, such as the European Social Platform. 'Representative' organisations such as these would stand to benefit from any system exchanging preferential engagement in policy for representativity.

The response of leading EU citizen interest groups towards a *de facto* accreditation system varies, with a greater degree of consensus as to the undesirability of a system based around criteria of representativeness, other than geographical. On this latter point, a joint statement from three leading 'families of NGOs'¹⁷ in 2000 in response to a Commission discussion document which preceded the White Paper on Governance recorded as its first point that

'The concept of democracy is broader than that of political representativeness. One of the key roles of NGOs is to speak of the unheard voices within European society, and thus to contribute to the creation of an equitable and

15. The most popular legal personality among EU interest groups currently in use is a registration instrument founded under Belgian legislation (see Lontings, 2003). The European Economic Interest Grouping (EEIG) structure has never become popular among interest groups. Based upon a Commission list of EEIGs dating from October 2002 the EEIG personality accounts for just 4% of the total constituency of around 1500 EU level interest groups.

16. Council of the European Union (2003) Outcome of Proceedings on Working Party on Company Law (European Associations) of 6 and 16 June 2003, 10892/03 ADD1, Brussels, 25 June 2003

17. The statement of 9 May 2000 was signed by organisations then describing themselves as: Platform of European Social NGOs; Liaison Committee of European Development NGOs (CLONG); Environmental NGOs – the Green G8. Some of the names of these organisations have since changed slightly – see footnotes 44-47.

balanced civil society. We thus propose that the Communication should emphasise the need for transparency in NGO structures rather than representativeness, a term which is open to misinterpretation.¹⁸

Of these signatory organisations, the European Social Platform has most qualified its opposition to the principle of representativeness, both through explicit acceptance of the geographic criteria, and by articulating concerns about the way in which internet based consultations could obscure the extent to which a responding organisation is representative (Social Platform, 2002). As a 'family' of EU citizen interest organisations in the social domain (currently with 38 members) it would itself have little difficulty with demonstrating its own representativeness. As an organisation created by a sponsor department (Employment and Social Affairs) of the European Commission (with assistance from the European Parliament) with the remit of creating a European 'civil dialogue,' it has for some time enjoyed privileged access to policy makers, and enjoys a specially protected grant award status in the funds it receives from the Commission relative to other EU NGOs (Cullen, 2005). There is little doubt that the organisation would be included within any system of EU interest group accreditation, and as such would benefit from the exclusive nature of such a system. For this reason, the Social Platform 'has asked the Commission for a consultative status on grounds similar to the Council of Europe system' (European Commission, 2005, p.5), attached to funding guarantees (Cullen, 2005). Arguing for the highest level of financial support to be reserved for it, the Platform has very recently stated in its response to a Consultation document on Active European Citizenship "we believe...that the future programme should also provide lower levels of support to other NGO networks which can prove that they can bring a useful contribution to the EU debate and can help involve citizens in the process" (Cullen, 2005, p.17).

This latter part of the sentence clearly echoes the sentiments of the White Paper on Governance whereby groups are asked to 'prove their capacity to relay information or lead debates in the Member States.' The Platform has

explicitly recorded its agreement to the sentiment expressed in the Commission's consultation document on Consultation standards¹⁹ that 'track record and ability to contribute substantial policy inputs to the discussion are similarly important' (European Social Platform, 2002, p.5).

Similarly, the Platform has joined with three other²⁰ 'family' organisations of EU citizen interest groups in arguing that 'Participation needs to be transparent with participants chosen who have relevant expertise and an "issue track record.'" (Cullen, 2005, p.21)

Reflecting the opportunities arising from a system of representativity based accreditation, the Secretary General of the 'family of families' of these citizen interest group, the Civil Society Contact Group, has argued for a system of accreditation based on criteria for transparency for membership and accountability developed by such NGOs (Alhadeff, 2003). Thus, such an organisation would place itself in a powerful institutionalised governance position for the wider world of EU NGOs and their access to political institutions in any such scenario.

There is a somewhat predictable cleavage between these types of citizen groups, 'representative' in the sense of their 'family' status, and that of 'cause' groups, towards accreditation. Thus, the European Citizen Action Service (ECAS) strongly rejects any system going by that name (ECAS, 2004). In its October 2004 document 'The European Commission and Consultation of NGOs', ECAS looked back to its preceding document in summarising that

'Listening to Civil Society argued strongly that it would be wrong to introduce any system of accreditation of the kind introduced by international organisations – that the Commission should keep an open door to any NGO that wished to put forward its views – and that consultation should go wider than the Brussels 'inner circle'.' (ECAS, 2005, p.5).

A further hope of ECAS, that the principle of equality of citizens before the EU institutions enshrined in Article 44 of the 2004 Constitutional Treaty would 'bury the idea of accreditation once and for all', appears from the above analysis to be wishful thinking. Nonetheless, even this outright opposition is

18. http://www.europa.eu.int/comm/secretariat_general/sgc/ong/comments/statement.pdf

19. Communication from the Commission:

Consultation Document: Towards a reinforced culture of consultation and dialogue – Proposals for general principles and minimum standards for consultation of interested parties by the Commission, COM(2002) 277 final, 05.06.2002

http://europa.eu.int/eur-lex/en/com/cnc/2002/com2002_0277en01.pdf

20. The fourth 'family' member is the Human Rights and Democracy Network – see footnote 29

contextual, in the sense that ECAS proposes the establishment of a 'compact' between NGOs and EU political institutions based on a public declaration imposing mutual obligations and standards, including that of the accountability of both sets of actors, administered by a Foundation comprised of players from each set of stakeholders, whose duties would include the disbursement of grants to civil society organisations. It is difficult so see how such an organisation invested with such roles could avoid becoming a *de facto* accreditation system. A wider conclusion to be drawn at this point is that the approach of EU citizen interest groups to the principles of both accreditation and representativeness seems beset by contradictions, mirroring that to be found in the European Commission.

Producer groups well able to demonstrate that they are 'representative of' a particular constituency have proposed such criteria as one of the key elements for groups to meet in order to be eligible for institutional dialogue under the terms of a scheme put forward by the European Economic and Social Committee (EESC), reviewed below. While the position on accreditation remains as described above, group representativity remains in the policy agenda pursued by the Secretariat General of the European Commission and described by one leading EU citizen interest group as 'haunting' the NGO community (Cullen, 2005: p.15).

Virtually any bureaucracy in a democratic setting likes representative organisations to engage with as a means to simplify consultative life, avoid input overload, and enhance two-way communication with civil society. The European Commission is no exception, and needs these properties more than most given the territorial scale of its remit and the particular problems of democratic legitimacy it faces. These needs even lead the Commission towards an official preference for particular types of groups. A statement of 'guiding principles' to govern its relations with interest groups current on the web pages of the Secretariat General records that the Commission tends to favour European federations (i.e. associations of national associations) over representatives of individual or national organizations.²¹ Although

practice tends to differ somewhat across the organisation, the continued official preference for federations is borne of its wish for 'one stop' EU associations which are broadly representative.²² These desires for representativeness were clearly expressed in statements contained in the White Paper on Governance and its predecessor discussion paper on NGOs. Whilst these drew responses of concern from leading EU civil society organisations²³, and were duly moderated in the following December 2002 Communication on Consultation²⁴ (and welcomed as such by CEDAG ((CEDAG, 2002))), some emphasis on representativeness remained in the Communication.

The Commission's 2002 Communication on Consultation the European seems to recognise the drawbacks of basing a system around representative EU level groups, although seems to take an 'each way' bet on the concept:

'The Commission would like to underline the importance it attaches to input from representative European organisations. In this context, it should be noted that the Economic and Social Committee has produced a set of 'eligibility criteria' for the so-called 'civil dialogue.' However, the issue of representativeness at European level should not be used as the only criterion when assessing the relevance or quality of comments. The Commission will avoid consultation processes which could give the impression that 'Brussels is only talking to Brussels' as one person put it. In many cases, national and regional viewpoints can be equally important in taking into account the diversity of situations in the member states. Moreover, minority views can also form an essential dimension of open discourse on policies. On the other hand, it is important for the Commission to consider how representative views are when taking a political decision following a consultation process' (European Commission, 2002, pp. 11-12).

Whilst representativeness clearly remains a significant factor for the Commission, the carefully crafted tone of the second sentence, in 'noting' the EESC criteria (and listing it as no more than a footnote) together with its use of inversion devices and 'so-called' labels, appears to signal the Commission's continued dismissal of a *de jure* system of accreditation. Nonetheless,

21. http://www.europa.eu.int/comm/secretariat_general/sgc/lobbies/communication/groupint_en.htm.

The statement goes on to state that the Commission 'is nevertheless committed to the equal treatment of all special interest groups.'

22. In the very early days of building European integration, the Commission sought to adopt a policy of dialogue *only* with EU level associations in order to encourage the formation of interest associations at EU level.

23. CEDAG, the European Council of Voluntary Organisations, had joined the three 'families of NGOs' cited in voicing its concerns as to representativeness during the WPG process (CEDAG, 2002).

24. http://www.europa.eu.int/comm/secretariat_general/sgc/consultation/histo_en.htm

the contradictions between this and de facto practice remain in the Communication on Consultation. Whilst recording on page 11 that 'the Commission wishes to stress that it will maintain an inclusive approach in line with the principle of open governance', the next paragraph records that 'best practice requires that the target group should be clearly defined prior to the launch of a consultation process' (European Commission, 2002, p.11; see also Amiya-Nakada, 2004). As Amiya-Nakada discovered, this latter statement drew pluralist inspired concerns from no less than the US Government

'We note that references in the document to "relevant parties" or "target groups" also appear to suggest that the Commission's consultation process may not always be open to all interested parties...we suggest that the Commission simply let interested parties identify themselves instead of the Commission pre-selecting the "relevant parties" or "target groups" to consult' (cited in²⁵ Amiya-Nakada, 2004, pp10-11).

In similar vein, the UK government responded that it 'would welcome greater clarity on the selection of participants' (UK Government, 2002, pp. 3-4).

Of interest is that such players spotted contradictions which seem to have been designed to paper over a previous one evident from the consultation paper which preceded the Communication.²⁶ This had proposed the establishment of a dual system of consultations, one 'open' and another 'focused.' The Commission appeared to abandon this nomenclature and stressed the above point about maintaining an inclusive approach, and shortly thereafter established a single access point on *Europa* for consultations. This appeared to signal a departure from a history driven by bi-lateral consultation with interest groups, and provided a mechanism of enforcement in that the Commission bound itself to place its response on the portal to the submissions it received during the consultation process, with justifications for adopting or rejecting the particular approaches recommended. Yet the continuation of text in the Communication on Consultation Standards to 'target groups,' highlighted above, appears to denote the establishment of just such a dual

consultation system apparently jettisoned by nomenclature. In evaluating the record thus far, ECAS has identified the presence of a de facto dual system by locating policy initiatives which were not subject to open consultations on the single portal access point established on *Europa* for this purpose.²⁷

These contradictions in the position of the Commission towards groups appear to stem from reaction to the statements from the White Paper on Governance extracted earlier and the Commission's subsequent attempts to subsequently modify these for application to practice. They include the somewhat ambiguous nature of the responses from civil society, reviewed above, and outright rejection by the European Parliament. In its response to the White Paper on Governance, the EP stated that 'however indispensable it may be to consult relevant groups and experts when drafting legislative proposals in particular, it should not be allowed to add a further level of bureaucracy, for instance in the form of "accredited organisations" or "organisations with partnership agreements".' (European Parliament, 2001; para 11e) 'the creation of consultation standards must not be tied to any quid pro quo on the part of organisations of civil society because independent and critical public opinion is essential for a vibrant democracy' (ibid., para. 12).

These statements led to the Commission ruling out any formal type of special partnership scheme first raised in the White Paper on Governance, and by the EESC. Nonetheless, the Commission's continued desire for the application of some kind of principle of representativeness is clear. David O'Sullivan, Secretary General of the European Commission, told a conference on 'NGOs', Democratisation and the Regulatory State' in September 2003

'Openness and accountability are thus important principles for the conduct of organisations when they are seeking to contribute to EU policy development. It must then be apparent which interests they represent, and how inclusive that representation is.' (European Policy Forum, 2003, p.73).

By 'openness', the Secretary General was referring once more to not having a formal scheme of accreditation.²⁸ On 'accountability,' the

25. for the original see http://www.europa.eu.int/comm/secretariat_general/sgc/consultation/docs/cont_us.pdf, p.4

26. see footnote 17

27. http://www.europa.eu.int/comm/secretariat_general/consultations/index_en.htm

28. 'The Commission, therefore, does not wish to reduce its consultations to a certain number of pre-screened or 'accredited organisations' nor will it make access to consultations subject to a prior legitimacy check' (European Policy Forum, 1973, pp.72)

Secretary General explained that he was referring both to the Commission's own accountability 'and on the organisations participating in consultation processes,' (op.cit., p. 72), though offered no further clarification as to the latter. Indeed, the sense in which the concept has been used by the Commission in its application towards interest groups has always had a ring of ambiguity about it, in that the uses covered in this article appear to range from those of general public transparency, financial accountability, member accountability, constituency accountability and even public accountability. This makes it difficult to draw definitive conclusions, but does add to the picture of contradictions painted here. One of the few certainties to have emerged is that the Commission does not want to see an overtly formal scheme comprising all the elements of openness, accountability and representativity as proposed by the Economic and Social Committee.

In its *Opinion*²⁹ on the White Paper on Governance, the EESC had recommended that a European organisation must, in order to be eligible for institutional dialogue,

- exist permanently at Community level;
- provide direct access to its members' expertise, and hence to rapid and constructive consultation;
- represent general concerns that tally with the interest of European society;
- comprise bodies that are recognized at member state level as representatives of particular interests;
- have member organisations in most of the EU member states;
- provide for accountability for its members;
- have authority to represent and act at European level;
- be independent and mandatory, not bound by instructions from outside bodies;
- be transparent, especially financially, and in its decision making structures.

Whilst these are not applied as access criteria for civil society interests by any of the EU institutions, the European Commission does appear to make more than a passing nod to the components of these statements concerned with transparency, accountability and representativeness in connection with appointments to its 'formal

or structured consultative bodies'³⁰. If entrants to the CONECCS database hold a place on one of the Commission's Advisory Committees, so they are required to detail the spread of member state and candidate countries represented by their membership, a list of their members, and the proportion of their income derived from different sources. Beyond the CONECCS database, the application of the principle of representativeness by the Commission as a criterion for appointment to advisory committees is clear:

"When the Commission opts for dialogue by putting in place a committee, it lays down the rules of this formal consultation (mission, composition, appointment and terms of reference) in the decision creating the advisory committee. The selection criteria focus in particular on the degree of representativeness of the group to be consulted"³¹

Further examples of schemes founded on criteria of representativeness can be found throughout Commission practice. Since 1998, DG Trade has organised and funded a bi-monthly dialogue with a 'contact group' of civil society, providing expenses for groups to discuss with it at Commissioner level strategic priorities. Contact group members are selected by their sectoral 'constituencies' spanning 13 segments of organised civil society ranging from producer to citizen cause groups, with a Commission requirement that 'the composition of the contact group should reasonably reflect the major interests of civil society stakeholders.'³² Similarly, the European Community Humanitarian Office (ECHO) has a highly structured relationship with (around 200) NGOs, starting with eligibility criteria for inclusion borne of three specific regulations (Obradovic, 2005).

These examples of policy practice reflect further contradictions with formal institutional positions which eschew accreditation borne of representativeness. These are apparent in other linkages. Issues of transparency and financial accountability are wider public interest principles applied to grant awards from public sources, from which almost all EU citizen interest organisations benefit, and upon which a good many depend.³³ Agendas of transparency towards interactions between civil society and

29. Opinion of the Economic and Social Committee on Organised civil society and European governance: the Committee's contribution to the drafting of the White Paper, Brussels, 25 April 2001, CES 535-2001. See in particular para 3.4.1

30. Terminology used by the Commission on its CONECCS database 31.

http://www.europa.eu.int/comm/secretariat_general/sgc/lobbies/approche/apercu_en.htm

32. http://www.europa.eu.int/comm/trade/issues/global/csd/dcs_proc.htm.

33. See Council Regulations 1605/2002, 2342/2002, 2343/2002, 2344/2002

34. http://europa.eu.int/comm/employment_social/social_dialogue/represent_en.htm

35. Commission of the European Communities (1993) Communication on the application of the Agreement on social policy, COM(93) 600 of 14.12.1993; Commission of the European Communities (1998) Commission communication 'Adapting and promoting the social dialogue at Community level', COM(98) 322, Brussels, 20.5.1998, pp. 4 and 5. The 1993 study was supplemented by one conducted in 1996, 1996 (COM (96) 448 final)

36. http://europa.eu.int/comm/employment_social/social_dialogue/represent_en.htm

37. The Union of Industrial and Employers' Confederations of Europe (UNICE), and through them the small business representative organisations UEAPME; the Centre for Enterprises with Public Participation (CEEP); and the European Trade Union Confederation (ETUC). See Compston and Greenwood (2001)

38. This remark was made at a European Policy Forum conference on 'NGOs, Democratisation and the Regulatory State' held at the European Economic and Social Committee' on 16 September 2003. The written output (listed in the bibliography) does not include it.

39. As footnote 38.

40. European Commission (2000) Commission Discussion Paper: The Commission and Non-Governmental Organisations – Building a Stronger Partnership”, http://www.europa.eu.int/comm/secretariat_general/sgc/ong/docs/communication_en.pdf

EU political institutions have followed a relatively easy path into practice from both sets of players. Nonetheless, the relatively uncontroversial nature of both transparency and public accountability appear to have been convenient levers to help develop agendas which lead to representativity. Thus, the membership declaration sections for groups entering the CONECCS database, ostensibly linked to public financial accountability, has a spillover effect in that transparency of membership is likely to lead to demands for representativeness. For its part, the European Parliament position on the White Paper on Governance also conjured linkages in stressing that 'the democratic requirements placed on the Community regulatory process as regards accountability and transparency must also apply to these (civil society) organisations' (my emphasis) (European Parliament, 2001, para 12).

In this conception, the boundary between 'public accountability' and 'member accountability' seems wafer thin.

By far the most developed deployment of criteria of representatives comes with the selection of organisations eligible to participate in EU social partnership, because it embraces mechanisms of policy making with legally binding outcomes. The Commission requires of the participating producer organisations that they should: (1) be cross-industry and shall be organised at European level; (2) consist of organisations which are themselves an integral and recognised part of member states social partners structures and with the capacity to negotiate agreements, and which are representative of all member states as far as possible; (3) have the appropriate structures to ensure their effective participation in the consultation process³⁴. The Commission undertakes periodic studies of the representativeness of such organisations³⁵. At present, 50 organisations fulfil criteria for consultation,³⁶ although at the cross-sectoral level only a very limited number of organisations³⁷ are empowered to participate in mechanisms which lead to legally binding outcomes (Obradovic, 2005). Because of the very specific policy making arrangements centred on social partnership, governed by powers conferred by the Treaty, and the requirements for legitimacy borne of policy-

making with distributional impacts, these are a special case which are slightly apart from our main focus of analysis, but require recording here. As for broadening the experience more generally, the Secretary General of the Commission has reflected that he wouldn't rush to repeat the representativeness idea incorporated in Social Partnership.³⁸ Some insights into the Commission's positions do however arise from his remark that 'some NGOs are run along the lines of regimes we wouldn't approve of.'³⁹ This may suggest that what the Commission really has in mind are a set of very basic standards designed to screen out to the margins organisations which are little more than a 'one man band with a web site.' Nonetheless, such organisations may be part of the general plurality of civil society, and seeking to screen out cause groups on criteria of formal representativeness may end up screening out contributions to democratic deliberation.

Instruments of process democracy for interest groups as agents of EU input legitimacy

Despite the contradictions of its positions, the European Commission's rejection of the scheme outlined by the Economic and Social Committee (other than in the case of structured consultative bodies) originates in its desire for an interest group system built upon pluralistic foundations of a largely unregulated, though supported, system of checks and balances. It spends around 1% of the EU budget *through* (i.e. not necessarily on) interest groups⁴⁰, with significant degrees of expenditure incurred in building up the landscape of EU level citizen interest groups, both as political supporters of integration but also in the wider interests of democratic legitimacy. One key aspiration is that organised citizen groups will act as a counterweight voice to business, another is that they will act as a bridge to the European citizen, and another is that they will act as accountability agents for the wider EU political system. In pursuit of this latter goal is a relatively mature architecture of 'process democracy', whereby interest groups are empowered to keep the system accountable through an impressive instrument

on access to documents⁴¹, and a developing set of 'rules of engagement' aimed at ensuring a level playing field.

In the first of these, a 2001 Regulation on Access to Documents provides for an open access system of web based document registers on *Europa*, applicable to the Parliament, Council and Commission, typically providing documents to the e-mail accounts of requestors within 15 days. The overwhelming majority of documents are included, extending to internal deliberative documents, and to those originating with third parties. As a mark of the zeal with which the European Commission, in particular, has applied this, there is a Swedish style register of letters written to or by the European Commission President available to requestors on *Europa*, and a retroactive application of these procedures so as to make available third party documents which precede the Act (Naurin, 2005).

The rules of engagement which support organised citizen interests acting on behalf of the citizenry also include open those of access to public consultation together with and impact assessments. The first of these is based around a web portal⁴² which provides for open access comments to policy proposals, and, once these are closed, to open access view for the responses received, and an explanation by the Commission as to how it weighted the responses in deciding to pursue or reject a particular course of action. The second of these provides for assessments of the likely impact of regulation before embarking upon the course of action, and in its most extended version, to considering the impact upon a wide range of stakeholders irrespective of whether or not they are lobbying on them.

These somewhat impressive procedures do nonetheless carry with them all the problems incumbent upon a pluralist system in which the solution to faction is seen as more faction. These include groups with narrowly focused demands, citizen groups over patronised by the bureaucracy for start-up and development, and the overload of a relatively small bureaucracy by a myriad of interest groups. The European Commission's solution to this latter problem has been to encourage the formation of 'families' of citizen groups, with

established structures present in fields of social⁴³, environmental⁴⁴, human rights⁴⁵, development and humanitarian issues⁴⁶, and even a 'family of families' of these groups⁴⁷. Yet this 'output' oriented solution aimed at simplifying consultative life may restrict the contribution which groups can make to democratic legitimacy.

For its part, the European Parliament (EP) currently appears to be using procedures which have the effect of restricting access to passes, ostensibly on the grounds of 'buildings security'⁴⁸, but do reflect a wider set of concerns with system overload by civil society interests. These passes are part of a scheme aimed at the regulation of lobbying – whether by groups or otherwise – which involves the issue of an annual pass to EP buildings which facilitates access, in exchange for signing a code of good conduct. This code was originally developed by public affairs practitioners themselves for use as a self-regulatory device, and which is geared around basic standards of conduct such as the avoidance of deception or theft and selling of documents. It is similar to a Commission code produced around the time of its 1992 Communication, and parallels the rather primitive issues occupying the Commission in its relations with groups at that time. The role of the European Parliament in representative democracy means that it remains focused upon wider issues concerned with the regulation of lobbying rather than specific issues of interaction with interest groups, whereas the European Commission's agenda towards groups has matured beyond basic issues of behavioural standards to a second phase concerning the role of groups in input legitimacy, and particularly upon group representativeness and accountability. Its line of thinking appear to reflect a view recently outlined by Raymond Plant

'Once groups seek to have a direct influence upon the political process and once they are drawn into the circle of consultation over policy they are no longer seen as just civil society organisations, and it is appropriate and important for the health of democratic policy making that searching questions are asked about representativeness and accountability' (Plant, 2003, p.106).

This view is particularly important in the

41. Regulation (EC) No. 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission Documents 42.

http://europa.eu.int/your-voice/consultations/index_en.htm

43. European Platform of Social NGOs. See www.socialplatform.org

44. The 'G9' network of European environmental organisations. See <http://eu.greenpeace.org/downloads/geneu/10PointsPR.pdf>

45. The Human Rights and Democracy Network. See <http://www.act4europe.org/code/en/sect.asp?Page=41&menuPage=41>

46. CONCORD. See <http://www.bond.org.uk/eu/concord.htm>

47. The act4europe group, linking the groups from footnotes 17-20 plus the European Trade Union Confederation. See <http://www.act4europe.org/code/en/civi.asp?Page=2&menuPage=2><http://www.act4europe.org/code/en/sect.asp?Page=41&menuPage=41>

48. In early 1995 a new EP official responsible for security caused a storm by arbitrarily setting rules which restricted passes available to each applicant organisation to four (from six) and to organisations supplying addresses in Brussels, Luxembourg and Strasbourg. See http://www.euobserver.com/index.phtml?search_string_top=EP+lobby+passes

debate on groups in the EU context given the very high degree of incorporation of groups in EU political systems.

Costs of the pursuit of interest group accountability

There are two main costs of the pursuit of interest group accountability by political institutions. The first cost involves restrictions on the autonomy of groups arising from the close involvement of their members in the formulation of policy positions. The second cost involves restricting the range of input from civil society to the political system for deliberation.

The secretariat of an interest group can bring value to its members by having the autonomy to represent their interests rather than the points of view its members may articulate. It can do this by using expert knowledge of the domains in which they are embedded to help their members establish a notion of what their interests are; as one commentator put it, 'I should prefer my interests to be safeguarded rather than have my more or less shaky opinions prevail' (Bernstein, in Philips, 1995, p.160). In this vein, an interest group needs the autonomy to define what an issue is about, and to do this it needs to be relatively free from the shackles of its members. This property is typical of groups which are not, and can not, be closely controlled by a specific membership constituency. In this respect, groups with a diffuse membership hold a key advantage over groups with a narrowly defined

membership domain in that the exercise of strict controls over what groups do by members is impossible.

The second cost is the potential of excluding groups whose legitimacy is founded not on their ability to represent a given constituency, but to inject viewpoint in the political system. Interest groups form part of a recognised architecture of pluralist democratic systems through checks and balances, both between different types of interests, and upon political institutions by keeping them accountable and placing information in the wider public domain. Excluding 'cause' groups, or relegating them to a secondary status, would seem to cut off a substantial segment capable of making a contribution to all of these endeavours, and risk stunting the democratic development of a political system which has come to rely upon participatory democracy channels, such as organised civil society interests, because of 'fault-lines' in the normal mechanisms of representative democracy. The EU, in particular, because of its intense needs for democratic legitimacy, needs a wide variety of groups accessing the political system on equal terms so as to act as checks and balances upon political institutions and countervailing interests, and to inject viewpoint for deliberation. Whilst the rejection of a de jure formal accreditation scheme follows the logic of this, a system which contains de facto elements of practice which amount to informal accreditation may create higher access barriers for the role of groups in democratic participation than the minimal ones erected under formal de jure schemes such as those exercised by the UN.

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Good governance conditions for the participation of business associations in EU consultations: the statute for a European association and beyond

by Daniela Obradovic*

Eligibility requirements for the participation of business associations in EU consultations

European business organizations have been for decades closely involved in European Union (EU) governance through the processes of the civil and social dialogue.¹

While the social dialogue has been structured by virtue of European Community Treaty provisions² and related communications issued by the Commission,³ the civil dialogue which refers to the range of consultations such as Dialogue with Business⁴ conducted between the Commission and interest groups in the pre-drafting phase of the European legislation preparation process⁵ was, until recently, not formalized. The Commission endorsed the policy of unrestricted access of interest groups to its officials and declined to introduce any system of licensing for groups that it consulted.⁶ It did not impose any particular requirement upon interest groups that it engaged in dialogue with, nor did it request them to fulfil some formal conditions in order to be consulted.

However, this open access policy deployed by the Commission in its relations with interest group is about to change. The further involvement of all interest groups, including business associations, in EU governance is going most definitely to be subject to their compliance with principles of good governance: representativeness, accountability and transparency. Those principles are stipulated by the Commission as the criteria on basis of which the Commission shall evaluate the contributions of interest groups to its consultations. They are elaborated in the Commission communication on general principles and minimum standards for consulting interested parties (hereafter the minimum standards)⁷ which have been applicable since January 2003. The minimum standards serves as a framework for structured consultation procedures conveyed with civic interest groups.

The principle of representativeness

The Commission introduces the criterion of the representativeness for organisations intend-

ed to participate in the civil dialogue, similarly as in the case of the social dialogue consultations.⁸ However, it does not elaborate what representativeness actually means for the purpose of the application thereof as a criterion for assessing the eligibility of groups taking part in the civil dialogue. How this concept relates to the representativeness requirement developed within the social dialogue consultation process is unclear. The Commission claims that the requirements in respect of representativeness vary in accordance with the nature of the responsibilities conferred on the players. They are limited in the event of simple consultation, but more binding where the social partners can lay down rules that become law.⁹ Consequently, the criteria of representativeness as applied in context of the social dialogue may be inappropriate in the area of the civil dialogue.

The difficulties in the application of the criterion of representativeness to the civil dialogue organisations have been recognised by the Commission. It draws attention to the point that the issue of representativeness at European level should not be used as the only criterion when assessing the relevance or quality of comments. Other factors, such as their track record and ability to contribute substantial policy input to the discussion are equally important. It pledges that not only opinions of European level organisations are going to be taken into consideration, but also of those operating at national, regional and local level. In its view, minority views can also form as essential dimension of open discourse on policies. On the other hand, emphasises the Commission, it is important for it to consider how representative views are when taking a political decision following a consultation process.¹⁰ Until now the Commission did not clarify what constitute evidence of representativeness and whether only opinion of representative organisations should be taken into consultations.

The principles of openness and accountability

The Commission supplements the representativeness requirement with the two additional ones: accountability and transparency. This is under-

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1. For a comprehensive study of the involvement of business associations in the civil and social dialogue in the European Union see Obradovic, Daniela (2006) 'Civil and the social dialogue in European governance', Yearbook of European Law 2005, forthcoming
2. Articles 138 and 139
3. The Commission of the European Communities (2004) 'Communication from the Commission: Partnership for change in an enlarged Europe – Enhancing the contribution of European social dialogue', COM(2004) 557, 12.8.2004.

4. <http://europa.eu.int/business/en/index.html>

5. Consultations of interested parties by the Commission take place on an ad hoc base through different instruments, such as Green and White papers, communications, advisory committees, informal working groups, business test panels, ad hoc and on-line consultations, etc.

6. Commission of the European Communities (1992) 'Communication from the Commission "An open and structured dialogue between the Commission and special interest groups"', SEC(92) 2272, Brussels, 2. 12. 1992.

7. Commission of the European Communities (2002) 'Communication from the Commission "Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission"', COM(2002) 704,

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4/2005, 231-235

11.12.2002. Those standards have been confirmed in the Commission recommendations to member states regarding a code of conduct for non-profit organisations (European Commission (2005) 'Draft recommendations to member states regarding a code of conduct for non-profit organisations to promote transparency and accountability best practices, Brussels, 22 July 2005, JLS/DB/NSK D(2005)8208).

8. Commission of the European Communities (2002) 'Communication from the Commission "Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission"', COM(2002) 704, Brussels, 11.12.2002, p. 11.

9. *Ibid.*, p. 9.

10. Commission of the European Communities (2002) 'Communication from the Commission "Towards a reinforced culture of consultation and dialogue – General principles and minimum standards for consultation of interested parties by the Commission"', COM(2002) 704, Brussels, 11.12.2002, p. 11-12

11. Commission of European Communities (2001) 'European governance: white paper', COM(2001) 428, Brussels, 25.7.2002, p. 15 and 17.

12. See on this Follesdal, Andreas (2003) 'The political theory of the white paper on governance: hidden and fascinating', *European Public Law*, 9(1): 73-86, p. 78.

13. Sudbery, Imogen (2003) 'Bringing the legitimacy gap in the EU: can civil society help to bring

stood as meaning that association are able to participate effectively and constructively in the opinion forming and decision making process through the provision of appropriate organisational structures and expertise. The introduction of two of those criteria reflects the Commission position that with the better involvement comes greater responsibility. Consequently, civil society must itself follow the principle of good governance, including accountability and openness, that governs the conduct of the Union institutions,¹¹ though, it is not at all obvious why all organisations in civil society need to abide by the same accountability standards as political organisations, when they, as we showed above, do not perform any policy forming task within the EU.¹²

The application of those criteria are intended to address the credibility concern related to internal governance procedures of interest groups which are commonly regarded to be insufficiently democratic. The main problem seems to be that decision making in interest organisations is left in the hands of key officers, with very little – if any – supporters' input.¹³ None of those associations functions as a supporter-run organisation. Decision-making about lobbying or campaigning is heavily centralised, and shaped entirely by the relevant officers and not by supporters. Their internal governance is too elitist to allow supporters a role in shaping policies, campaign and strategies.

The internal governance of European level interest organisations is even more detached from their supporters. Almost all European associations are organised as confederations, i.e. associations of national associations that do not admit individuals as members.¹⁴ These factors mean that EU interest organisations have a structural remoteness from the grass roots interests they represent.

Irrespective of the fact that the Commission intention to assess the quality of interest groups consultation contributions in terms of the compliance of their internal structure with the principle of good governance can be regarded to be appropriate in the situation when great number of interest organisations operates in an undemocratic manner, many scholars consider that this Commission action encroaches upon associations' autonomy.¹⁵ Namely, the danger is that civil society becomes subject to the colonising forces of the EU political and economic systems both in

terms of their organisational forms and their rationalities, which undermine the structures and values associated with civil society. European civil society becomes governmentalised, in the sense of altering its organisational forms and its rationalities in order to facilitate its attempts to influence EU governance.¹⁶ This issue is most acute if we bear in mind that all participants in the social dialogue have undergone internal organisation reforms (ETUC 1991, UNICE, 1992; CEEP, 1994)¹⁷ in order to adjust their structures to the social dialogue requirements and improve their abilities to conclude Europe wide agreements introduction on the mandate for negotiation¹⁸, removing requirements for unanimity).

The Commission could try to interfere in the internal structure of interest organisations. It emphasises that it fully respects the independence of outside organisations. On the other hand, for the consultation process to be meaningful and credible it is essential to be spell out who participate in it. The Commission by frequently emphasising accountability but also the need to respect diversity and heterogeneity of the interest organisations and the need to take account of their autonomy and independence' assumes that the two concepts can be combined.¹⁹ But in many ways the two categories are different and not easily reconcilable. This prompts some scholars to conclude that this approach entails not only the risk that the Commissions 'selects' according to certain criteria a limited number of Brussels-based associations with sufficient capacity etc., but it means that a golden opportunity is lost to harness the energy of wide range of interest organisations which are not necessarily looking for strict participation rights as such but rather to engage in a vigorous and dynamic fashion in public debate, where different points of view can be heard.²⁰

Problems relating to the application of the eligibility criteria for the participation of interest associations in EU consultations and the draft Statute for a European Association (the EA Statute)

The main problem concerning the application of those criteria lays in the fact that the

the Union closer to its citizens' *Collegium*, 26: 75-95, p. 94; Warleigh, Alex (2001) 'Europeanizing' civil society: NGOs as agents of political socialisation', *Journal of Common Market Studies*, 39(4): 619-639, p. 623.

14. Greenwood, Justine (2003) *Interest Representation in the European Union*, Basingstoke, p.77.

15. Warleigh, A. (2001) 'Europeanizing Civil Society: NGOs as agents of political socialization', *Journal of Common Market Studies*, 39(4): 619-39; Schutter, Olivier de (2002) 'Europe in search of its civil society', *European Law Journal*, 8(2) 198-217, p. 216; Geyer, Robert (2001) 'Can European Union (EU) social NGOs co-operate to promote EU social policy?', *Journal of Social Policy*, 30(3): 477-493, p. 479.

16. Armstrong, Kenneth A. (2002) 'Rediscovering civil society: the European Union and the White Paper on Governance', *European Law Journal*, 8(1): 102-132, p. 109.

17. Obradovic, Daniela (1995) 'Prospects for corporatist decision-making in the European Union; the social policy agreement' *Journal of European Public Policy*, 2(2): 159-183, p. 269.

18. Nevertheless, none of those organisations enjoys a general bargaining mandate, but rather must seek the agreement of their members afresh each time in order to enter negotiations, i.e. on an issue by issue basis. In addition, any agreement concluded through the social dialogue procedure is to be rubber stamped by all national affiliates.

19. Communication of the European Commission (2000) Commission dis-

Commission did not produce any instruction how those standards should be operationalised. They remain very abstractly defined, vague and unintelligibility. This is the reason why it cannot be determined with certainty which organisations actually fulfill those requirements.

Until now the Commission did not produced any instructions as to how those criteria should be operationalized for the purpose of their application. However, some indications can be found in its proposal for the Statute for European Association. Although this statute is still under consideration by the EU institutions and has not yet been adopted, it provides inspiration for the interpretation of the EU consultation standards developed by the Commission.

The statute for a European association represents the part of the general initiative to regulate the establishment rules at European level. The initiative was launched in 1993 together with the proposals for the establishment of a European company statute and the statute for a European cooperative society.²¹ While both other statutes have already been enacted by the EU,²² the future of the EA statute remains uncertain, though the Commission foresees the adoption thereof in its 2003 Action plan for company law and corporate governance.²³

The concept of representativeness in the EA statute

The concept of representativeness in the EA statute²⁴ related to the requirement that an EA can be formed by natural an legal persons operating in two or more member states (Article 3) for a non-profit-making purposes that pursuit activities either in general interest or in order to promote the trade or professional or other interests of its members in the most diverse areas provided that they are compatible with the EU objectives and the public interest (Article 1). The non profit principle means that surplus and assets must be devoted exclusively to the pursuit of its objectives and may not be divided amongst the members. The almost identical interpretation of this criterion is reproduced in the proposal for the Statute for a European Foundation produced by the European Foundation Center on the recommendation of

the High Level Group of Company Law Experts set up by the Commission in 2003.²⁵ The condition concerning their compatibility with the EU/public interest objectives can be found also in other EU documents prescribing the standards to be met by other social groups taking part in European governance such as transnational parties²⁶ or national non profit organisations.²⁷

Accountability and transparency in the EA statute

Good governance standards concerning the internal organisation and the capacity to enter into commitments with third parties emanated in the principles of accountability and transparency occupy prominent roles in the EA statute. It prescribes in details the rules internal organization principles (internal accountability) such as the statute format (Article 4), structure of organs, rules guiding conveying and conducting the meetings, voting procedures, etc (Articles 28-38). Those rules are tailored in accordance with the principles of democratic structure and control, and the allocation of any surplus and assets to the objectives of the associations, though no specific legal form of an association is requested. The internal organisational standards include the principle of the primacy of the individual which is reflected in the specific rules on membership, resignation and expulsion, where the 'one man, one vote' rule is laid down and the right to vote is vested in the individual (legal or natural), with the implication that members cannot exercise any rights over the assets of the association. In addition, the involvement of employees in the work of the EA bodies and organs.²⁸ Similar very strict rules in respect to internal organisations are deployed for the selection of NGOs intended to enter into Frameworks Partnership Agreements with the Commission's Humanitarian Aid Office (ECHO) that are applicable to the humanitarian operations sponsored by the EU.²⁹

The external accountability principles concerning the relations with the third parties are also envisaged in the Articles 9-12 and Chapter IV. Those rules regulate the financial rules of conduct, auditing of accounts,³⁰ the production

cussion paper 'The Commission and non-governmental organisations: building a stronger partnership', COM(2000) 11, Brussels, 18.1.2000, p.5.

20. Curtin, Deirdre and Dekker, Ige (2005) 'Good governance: the concept and its application by the European Union' in Deirdre M. Curtin and Ramses A. Wessel, eds, Good Governance and European Union: Reflections on Concepts, Institutions and Substance, Antwerp: Intersentia, pp. 3-21, p. 17.

21. Commission (1993) 'Amended proposal for a Council Regulation (EEC) on the statute for a European Association' OJ C 236/01, 31.8.93.

22. The Council Regulation (EC) 2157/2001 establishing the legal form of the European Company (SE) according to the legal principles of the public limited liability company, OJ L 294/1, 10.11. 2001 and The Council Regulation (EC) 14357/2003 establishing the legal form of the European Cooperative, OJ L 207/1, 18.8.2003.

23. European Commission (2003) 'Communication to the Council and the European Parliament "Modernising company law and enforcing corporate governance in the European Union – A plan to move forward"', COM(2003) 284, Brussels, 21 May 2003, p. 22.

24. Council of the European Union (2003) 'Amended proposal for a Council Regulation (EEC) on the statute for a European Association', 6873/03, 17 March 2003.

25. European Foundation Center (2005) 'Proposal for a Regulation on a European statute for foun-

of annual financial statements and reports, and disclosure of information and documents. They partially resembles the financial requirements for obtaining EU funding,³¹ as well as accountability and transparency provisions in the Statute for a European Foundation³² and the Commission recommendations to member states regarding a code of conduct for non-profit organisations.³³

The relevance of the EA statute for the interpretation of the EU consultation eligibility criteria

The relevance of the elaboration of the principles of representativeness, accountability and transparency of European associations presented in the Commission proposal for the EA statute for the interpretation and clarification of the criteria for the participation of interest groups in EU consultations which revolve around those principles might be considered of limited significance due to the following reasons:

- the EA statute is yet to be adopted;
- even if adopted it would be only an optional and additional legal form that interest groups active in more than one EU member state may want to use instead of incorporating under national law of particular member state; and
- the EA statute revelations on those principles remains insufficiently clear and precise.

Although those arguments do carry particular weight, they cannot be unreservedly accepted.

Even if the EU institutions fail to pass a law on the EA statute, principles stipulated by it concerning the good governance will not lose its importance for regulating interest representation in Europe because they are, in the large extend, reproduced in the Commissions recommendations to member states regarding a code of conduct for non-profit organisations. Since all European or national level interest associations eligible to participate in EU consultation and susceptible to the application of the criteria for evaluating their contributions to that process, are established in accordance to the national rules of incorporations for non-profit associations³⁴ they will be bound by the code of conduct recommended by the Commission to be deployed by the member states. Taking into consideration the fact that the Commission, by producing the afore-

mentioned code of conduct, actually responded to the request from the EU member state governments and international bodies,³⁵ we can safely assume its imminent application in all member states. In it recommendations, the Commission expressly calls upon the member states to encourage and even ensure the compliance of non profit organisations with this code. Moreover, it also envisaged the possibility of introducing 'European guidelines' or a 'European label' for associations operating in more than one member state and adopting the enhanced transparency and accountability measures as set out in this code of conduct. The principles for such guidelines or label could be worked out at the European level. The EU institutions, continues Commission, should encourage the compliance of European level association with the code.³⁶ On its part, the Commission will consider to ink the compliance with enhanced transparency and accountability measures to Community funding of non-profit organisations. This 'European label' for associations operating in more than one member state and embracing the enhanced transparency and accountability standards whose adoption the Commission advocates finds its emanation the EA statute which we could expect to be adopted in the relatively near future. European level interest association choosing to be incorporated under the EA statute would have to fulfill the representativeness, accountability and transparency requirements prescribed by this statute and consequently can be regarded as organisations meeting by the definition EU consultations standards. Their contributions to the EU consultations probably will be considered by the Commission to bear more significance than of those associations incorporated under some other legal form whose compliance with the EU consultation criteria has yet to be assessed and established. Particularly, if we take into the consideration the impracticality and infeasibility of carrying out the EU consultations eligibility test for each and every association contributing to each and every consultation launched by the Commission.

Conclusions

The era of the open access policy for interest associations intended to take part in the EU

dations', Brussels, January 2005, Version 16, http://www.efc.be/ftp/public/EU/LegalITF/european_statute.pdf. This proposal is prepared because it has been recognised by the Commission that the EA statute cannot be applied to foundations which are moonlit organisations without members since it has clearly been designed for associations as membership associations.

26. Regulation 2004/2003 of the European Parliament and the Council on the regulations governing political parties at European level and the rules regarding their funding, OJ L 297/1, 15.11.2003, Article 3(c).

27. European Commission (2005) 'Draft recommendations to member states regarding a code of conduct for non-profit organisations to promote transparency and accountability best practices, Brussels, 22 July 2005, JLS/DB/NSK D(2005)8208, p.4.

28. Commission (1993) 'Amended proposal for a Council Directive supplementing the statute for a European association with regard to the involvement of employees', OJ C 236/2, 31.8.93.

29. The selection criteria which ECHO applies in order to determine eligibility of organisations intended to enter into this partnership are guided by three EC regulations on humanitarian aid (http://europa.eu.int/com/m/echo/partners/selection_en.htm)

30. This is to be done conform Directive 2003/51/EC of the European Parliament and of the Council of 18 June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annu-

consultations launched by the Commission seems to come to the end. In recent year the Commission had adopted the various standards and requirements which should be met by organisations wishing to participate EU consultations. Those are principles of good governance: representativeness, accountability and transparency. However, in its documents on EU consultation standards the Commission does not provide sufficiently operational instruction for the application of those principles. The proposed, but not yet adopted Statute for a European Association, prescribes the rules for the establishment of European level associations which more or less replicates the good governance standards for the participation in the EU consultations. It is expected for this statute to be adopted as EU legislation in the near future since the Commission in its recommendations to member states regarding the introduction of code of conduct for non profit associations to promote transparency and accountability

al and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings, OJ L 178/16, 17.7.2003., where appropriate.

31. Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of the Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (Part 1, Title V), OJ L 357/1, 31.12.2002.

32. European Foundation Center (2005) 'Proposal for a Regulation on a European statute for foundations', Brussels, January 2005, Version 16, http://www.efc.be/ftp/public/EU/LegalITF/european_statute.pdf, Articles 13 and 14.

33. European Commission (2005) 'Draft recommendations to member states regarding a code of conduct for non-profit organisations to promote transparency and accountability best practices, Brussels, 22 July 2005,

announced its intention to strongly encourage and facilitate the compliance of European level associations with those principles by, for example, granting a European label to those associations meeting those good governance requirements. The most practical procedure for the awards of such a label should be their registration in accordance to the EA statute principles.

The consequences of the adoption of such a corporatist approach for the further development of the consultations process between the EU institutions and interest association are yet to be examined. At present we can conclude that while the subjection of organisations intended to participate in EU consultations to the good governance principles can undoubtedly contribute to the credibility of their contributions to those consultations, it can simultaneously create additional burdens for associations, and sometimes discourage them, to engage with the EU institutions in public debate on European legislation.

JLS/DB/NSK D(2005)8208, pp.4-5.

34. Currently, European business associations are established under national law of member states for incorporation of non-profit associations, most commonly under Belgium law of 2 May 2002 (see Lonting, Dirk (2003) 'Establishing an EU Business Association under Belgian Law' in Justin Greenwood, ed., *The Challenge of Change in EU Business Associations*, Basingstoke: Palgrave, pp. 171-191.

35. The EU Financial Action Task Force in its Special Recommendation VIII; G8 Finance Ministers, Finance Ministers' Statement of Deauville, 17 May 2003; G8 Justice and Home Affairs Ministers, 'Recommendations for enhancing the legal framework to prevent terrorist attacks, Washington, 11 May 2004.

36. European Commission (2005) 'Draft recommendations to member states regarding a code of conduct for non-profit organisations to promote transparency and accountability best practices, Brussels, 22 July 2005, JLS/DB/NSK D(2005)8208, p . 12.

The Lisbon strategy and partnership for change

by Bernhard Jansen*

The European Council and the Commission intend to revive the Lisbon strategy through a “European Partnership for growth and employment” - with full participation by the social partners. Indeed, we call upon the social partners to draw up a joint multi-annual action programme on the Lisbon strategy, highlighting the importance of their contribution to achieving the Lisbon objectives.

This partnership for growth and employment is perfectly consistent with the ambitions of the Partnership for change adopted by the social partners at the Tripartite Social Summit of March 2004. Progress achieved in this partnership can then be evaluated at future Tripartite Summits. In Member States, the social partners have to play an important role in the development of the National Action Programmes for growth and jobs.

Role of social partners in the Lisbon strategy

Social partners with their capacity to mobilise companies and workers and to enter into agreements with each other and, in some countries, with national governments, have to be aware of their potential to bring about the reforms in Member States which are necessary to create growth and jobs. Some countries have had positive experience with innovative instruments of work organisation, giving companies the flexibility they need to be competitive while at the same time granting workers the security they need.

Also, models have to be found together with the social partners, to enable older workers to remain employable and attractive for companies, while creating opportunities for young people to enter into the world of work. These kind of partnerships is what we need if we want to make Europe a more attractive place to invest and work.

Contribution of the social partners to the Tripartite Social Summit

In this context, I welcome the contributions of the European social partners to the last Tripartite Social Summit, in particular joint declaration to the mid-term review of the Lisbon

strategy, their joint contribution to the EU Youth Initiative, the new Framework of actions on gender equality and the follow-up reports on social partners actions in the Member States on employment and lifelong learning.

As the objective of these actions is to improve access of a larger number of people to the labour market, all these initiatives fall within the context that I have just described, just as the activities that the social partners have still planned for this year in their work programme for 2003-2005, namely on the ageing workforce, on undeclared work, on the interest of youth in science and technology and on violence at work.

The new social agenda

The Commission Communication on the review of the Lisbon strategy has been accompanied by the Social Agenda, which outlines our vision of EU social policy for the years 2005 to 2010. It clearly demonstrates our willingness to maintain and reform the European social model.

This strategy paper underlines the key role of social dialogue in modernising industrial relations in Europe. In order to create a truly European labour market, the Commission proposes to provide an optional framework for transnational collective bargaining at either enterprise level or sectoral level. This could support companies and workers to handle challenges dealing with issues such as work organisation, employment, working conditions and training.

Areas for social partners to work on

In concrete terms, we would welcome joint contributions by the social partners in two particularly important areas pointed out by the Social Agenda:

First of all, *economic change* is accelerating. Workers and companies are preoccupied with increased competition in the world markets and the phenomena of restructuring, off-shoring, outsourcing and even deindustrialisation. We have to develop a greater interplay between European policies, Member States' actions and involvement of social partners on instruments to

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tackle economic change. This implies taking a closer look at the functioning of European Works Councils. The Commission has recently issued a communication on corporate restructuring to relaunch the debate.

Secondly, the changes brought about by the *demographic development* of European popula-

tions require adapting our systems of social protection and pensions and adjusting our labour markets. The commitment of the social partners, in the form of an intergenerational partnership, will be crucial for coping with an ageing workforce and a welcome contribution to the European Initiative for Youth.

European associations: measured impact of enlargement? Change strategy in European associations

by Philip A. Springuel* and Stéphanie Heng**

Business costs saved for members of a European association are increasingly important to weigh up against the costs of representation..

An independent survey of European associations conducted by EurActiv.com and Kellen Europe shows that, while enlargement of the EU expands the opportunities of EU-associations, they must improve the measurement of “value for money” offered to members - both old and new, whether they are companies or national associations.

Increasingly, EU associations must consider the importance of frequent strategic planning, governance reviews or membership surveys and other tools to be aware of the value being offered to their members.

Measuring “value for money”

It is comforting to note that at least 90% of the associations surveyed do have ways of measuring the impact of their work. However, while most look simply at the growth in membership, only 24% looked at measuring costs saved for the industry they represent, and only one third used benchmarking to measure their effectiveness.

More research is needed to determine where benchmarking is most appropriate.

In response to a question concerning the governance of associations, only 30% said that they had bothered to review the financial structure of the association in annual meetings with their members. An explanation could be that a ‘pure costs’ discussion is not always a comfortable topic for associations, and often, the treasury is seen as a technical function and not as an opportunity to analyze needs for (additional) funding for strategic issues the association has to face.

Many associations are aware of the importance of the Internet. A majority of them report having standard budget lines for communication, and we now even see targeted expenses for Internet/intranet infrastructure (often overlooked in the past).

The Internet increases the range of services an association can offer its members. This is

because all information that the association has at its disposal can be easily and instantly shared with staff and association members. Many associations are aware of this and have started to use intranets (sometimes called “extranet” or “members only pages”) to get closer to their members.

Appropriately, when association staff was asked if they think their members see the benefits of the association, 90% confidently responded “yes”. But, improved electronic communication with members should not lead to associations becoming complacent. Future investigations should be conducted to determine if members perceive the “value for money” of their membership.

A top quality website is also an essential tool in attracting new members, in particular when the association is the portal for new business opportunities.

Associations have also increased their communication with third parties (e.g. EU institutions, media) thanks to websites and the use of emails. Email communication between EU officials and business associations has already proved to be beneficial for both political institutions and civil society organizations to exchange key documents and positions in a timely fashion.

Impact of enlargement

When asked if New Member States (NMS)-based organizations pay the same fees as EU-15 based organizations, 44% say all their members pay the same, but 26% say NMS organizations pay less (see nearby chart). Respondents gave a variety of reasons for the differences among members: Fees are not always related to the geographic location but rather calculated with regard to other factors such as: national weight of industry, population, GDP or company turnover.

Overwhelmingly, European associations expect greater opportunities (94%) than they do threats (67%) from the enlargement of the European Union. But Alfons Westgeest, Managing Partner at Kellen Europe cautions: “Associations nowadays are faced with growing pressure and restrained budgets. While member-

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**Kellen Europe. Founded in 1964, the Kellen Company provides association management, government affairs, public relations, meetings management, creative communications, Web site development and other professional services to associations, as well as individual companies.



ship growth may improve resources available, an association must remain focused in order to serve its core constituency. European associations should continue to integrate national associations and give a more prominent role to companies at EU level. Association audits, impact assessments or strategic planning sessions can help design or shape the EU business association successfully. “

Going deeper into the topic of enlargement, the survey tried to make clear whether enlargement of the membership of associations towards Eastern European countries caused a change in lobbying priorities.

45% of the responding associations said nothing had changed, and only 31% said that their priorities had changed. 24% of the associations asserted that they did not yet enlarge their membership.

One respondent to the survey commented that, with EU enlargement, associations work with more allies and have to function in a much more focused and timely manner: “the inclusion of new members has increased the workload. New countries also need more support for their national lobbying activities.”



A good understanding of the new European Commission and the 2004-2009 European Parliament which includes Members from the

10 new Member States, is critical to the implementation of efficient lobbying activities. While they bring fresh and dynamic ideas, the new Central and Eastern European Members of the Parliament still need to adapt to the way European institutions work. Associations have to take this into consideration when preparing their lobbying strategies and documentation that is easy to understand.

Main challenges in a changing environment

The impact of enlargement is not the only challenge that associations face today. Associations need to adapt to a changing environment with more complex EU legislation; the need for more and better communication, making use of information technology; and globalization. Therefore, associations need to carefully watch and understand these changes and act accordingly:

- The Board needs to adapt to new realities in order to steer members and staff;
- Governance has to be reviewed: it is often stressed that more work should be delegated to staff and that the Chairperson’s role should primarily be managing the Board and carrying out representation of the association at key decision-making events and with the media;
- Also, a clear division of roles and responsibilities between Board and staff should be in place;
- Some associations must implement a better response to corporate restructuring, reflecting the changing nature of the industries they represent ;
- Associations should be scanning the horizon in order to identify new opportunities arising such as the Technology Platforms initiated by the European Commission; e.g. how can the Hydrogen and Fuel Cells Technology Platform and the European Hydrogen Association best coordinate their activities to promote and develop research and deployment of a hydrogen energy infrastructure?
- Associations can put monitoring in place to better understand the impact of key regulatory changes (ex. analyse how new rules in the US will play out in the EU - and vice-versa)

- and anticipate or coordinate activities accordingly;
- Lobbying activities need to be more efficient, attuned to an ever-expanding European policy agenda and limited financial means;
 - Communication strategy needs to adapt to new information technology developments and the Internet must play a key role in the association's communication system;
 - Association staff need to be highly qualified and specialized (e.g. an EU affairs manager must increasingly be a communications expert).

Concrete options to assist business associations

Companies and associations alike are looking at how to professionalize their organization and if new models or outside support can make a difference. Created in the 1940s on a national level, but since 20 years also on a Europe level, Association Management Companies (AMCs) manage associations, and provide advisory services that can guide associations successfully through the changing environment by addressing strategic issues and reaching greater organizational performance.

Some associations already have regular planning cycles but many do not. Key factors to implement successful strategic change are the following:

- Involvement of high-level company representatives, who communicate needs and consequences of change;
- Building of consensus on the change program;
- Preparation of an efficient action plan in line with what was agreed;
- Implementation of the action plan with step-by-step goal setting and deadlines;
- Integration of the communications programme

Conclusion

Associations having to adapt to a changing environment should focus on defining "value for money" for members much more than they have done so far. To be aware of the value of being a member of an EU association, companies and associations need to consider the importance of frequent strategic planning, governance reviews or membership surveys and other tools.

Furthermore, the survey revealed that, despite the opportunities expressed, the impact of enlargement has yet to be fully understood by associations. Many associations face economic issues in the markets that they represent and have to work with new EU institutional challenges that require more innovative approaches.

Effectiveness of the association greatly depends on the capacity to understand, analyze environmental factors and react accordingly by implementing appropriate structure and management tools.

Implementing the change process in associations

by Daniela Israelachwili*

How can association executives guide or lead the process of change?

Change does not come easily or rapidly to associations that are traditionally broadly-based, representative and multinational like so many trade associations in Brussels.

Indeed, evidence of this can be observed in the relative lack of consolidation of such structures over the past ten to fifteen years, despite the establishment of the European internal market and consequent changes in many companies' strategies and organisations to adapt to the new business environment. In this context change on the basis of consensus and to the satisfaction of each and every member is undoubtedly a challenge. Yet, provided some basic conditions are met, association executives can facilitate and support the process successfully.

Among these basic conditions two or three are key: firstly there needs to be a strongly shared vision by a reasonably large proportion of the membership concerning the final objectives of the change process, be they in terms of policy objectives, structural or organisational objectives. Clarity of vision and of the end-game remains essential.

Secondly, realism is required about the resources, financial and human, needed to achieve and implement significant change. Many European-level trade associations are typically under resourced and with dedicated but overworked staff compared to, for example, similar bodies at national level.

Thirdly, once critical mass has been put together within the membership to support a decision and to commit the resources, it is important to persuade those who may be less prone to advance not only to stay on board, but eventually to support the final goals. It is often in this downstream activity that association executives play a critical role of mediators, persuaders and possibly guarantors of any "minorities" within the organisation. Such processes tend to be led top-down, but it is important at the end of what may sometimes be bruising internal battles, to expand beyond the critical mass into a new basis of support for the agreed new objectives.

It is true that members often wish to achieve many different and, not infrequently, incompat-

ible objectives. Staying focused is therefore critical. There are two structural factors against which to benchmark the degree of success of change in trade associations: on the one hand, the offer of higher value lobbying services recognised by all the membership needs to be clearly communicated and, on the other hand, bringing in a results-oriented culture with measurable outputs recognised by all in such a way that the benefits of change can become demonstrable to a wider membership.

Finally but not unimportantly much depends on the personal qualities of association executives involved in guiding through the process of change. Lots of energy, stamina, a bit of luck and above all acting and being seen to act on the basis of integrity and trust and in the interests of the association as a whole.

Which type of leadership is needed from corporate members and national associations?

The internal challenges of multi-constituency trade associations typically concern the conflicts of interest that may arise within the corporate membership and the national trade association membership, be it in terms of short-term objectives versus more general policy considerations, sectoral, regional and sometimes even local interests.

Corporate members have very little time for the antics of consensus politics which is often the method of operation of trade associations and association members do not always share the sense of urgency and relevance which companies bring to bear on specific issues with a direct impact on their operations.

This balancing act is absolutely common in broadly-based trade associations. Communication and constant internal negotiation are important tools, not just to smooth edges, but substantially to work on compromise solutions to offer to the European legislators who very often are faced with the same dilemmas and conflicts of interest. Streamlining internal governance procedures, such as for example the introduction of clear voting options to determine an association's position, can help too though recourse to these must be exercised in a responsible manner. In practice the

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possibility to vote on an issue is often sufficient to concentrate deliberations on essentials and pave the way for acceptable compromises.

Corporate members particularly from larger companies with operations in several European Union countries can help the process of change by acting also at national level. They are often members of national trade associations which in turn are members of the European sister organisation and trying to foster greater alignment from the start of positions to be developed in Brussels remains an important objective.

In turn, national trade associations should at times do more to convey to the local membership European policy issues, accepting more readily the “sharing of power” at European level with their sister organisations.

Which new models, and uses of resources are emerging?

Traditionally, industry representation through universal bodies has been the most common form of organisation also in Brussels. In more recent developments we have seen in Europe the emergence of what has existed for a long time, for example in Washington, that is the increase of targeted and very focused alliances with narrow membership, concentrating on single-purpose lobbying objectives. This is easier to achieve for highly concentrated industrial sectors or service sectors than for broader and more fragmented activities.

Such alliances have the advantage of being able to act more rapidly and often more effectively than traditional forms of reactive representation, having also the ability to exploit the public image of leading business people who are more willing to lend their faces and time for such highly targeted activities. Broader based and larger organisations can learn from successful case studies of such alliances, their professionalism in communications strategies, their sense of purpose and drive.

One is not an alternative to the other, but rather executives from traditional trade associations should be inspired to learn from the positive experience of such groupings which have existed and have been used to great effect by consumer activists, environmental and other kinds of “civil society” NGOs.

Pooling of resources, both financial and human, and greater synergies in the use of such resources within the European, national and the corporate levels are still insufficient. There remains duplication and some waste throughout the network, a fact which companies understandably are frustrated about. After all they are the source of financing for all these associations in one way or another. Curiously though, the relative lack of consolidation mentioned above, which can only come about if corporate members take the lead in such a process, has not so far been sufficiently acknowledged. Achieving such an objective remains difficult because resistance to change in this field is strong. Yet for the future this will undoubtedly be an efficiency challenge which many European trade associations will need to take up.

How are new EU agendas, such as the Lisbon process, driving associational change?

It is arguable whether the European agenda drives change within associations or the contrary.

Indeed, one of the most relevant benchmarks against which to assess performance of any trade association ought to be the simple question: “At the end of the day, have we made a difference, have we influenced the European agenda?” By turning this question around it is important to look back at the period where the European integration process, particularly its economic building blocks such as the internal market and the single currency, was characterised by strong European leadership, Brussels was seen to be making the difference and in my experience that was a period where we saw the influence of the European agenda on associations which were being built up, reinforced and strengthened in many ways in Brussels.

It is not long ago that this was happening and yet, the contrast with the current situation just a few years later, could not be more stark.

Examining for a moment the so-called Lisbon agenda and its programme of structural reforms, an idea that European business supported fully from the start: four or five years later very little has been achieved and the prospects do not look

encouraging. The Lisbon objectives which remain essential for improving European growth and competitiveness are clearly not being delivered. But it is questionable whether the “blame” should be placed with the EU authorities or with politicians in member states, and therefore in terms of effectiveness of the lobbying and influence work of EU-level trade associations a parallel question should be asked: are we in a phase of European integration where the greatest effectiveness must be sought in reverting lobbying efforts to the level of member states? Has the political delivery target shifted back to the level of member states? What is the role of a European trade association in this substantially different political context?

A word of caution and a measure of self-criticism are probably appropriate against this background. In recent years we have perhaps failed to see that the political ground was shifting below our feet and have not sufficiently recog-

nised the need to open up again channels of coordination with national members and those of the European institutions that are emanations of this balance of power, particularly the Council of Ministers and to some extent members of the European Parliament.

It is not just with the Lisbon agenda that this question should be asked but by way of example the campaign for better regulation that has recently and encouragingly been restarted by the European Commission. We have been here before with very little to show for it. And so my point is really that if European agenda is to rely on national delivery for success and implementation European trade associations need to take a first critical look at their strategies and devise new ways of working with those who can perhaps more effectively influence that national delivery mechanism at the level of member states, be they companies or national trade association members.

Associations in the context of enlargement: the Croatian case

by Dragica Martinovic*

Recognising the importance of Brussels for Croatian companies and its economy as a whole Croatian Chamber of Economy has officially opened a *Representative office* in Brussels already in 2000.

At that time relationship between Croatia and the EU has been far from desirable. We only benefited the autonomous trade regime with the EU, and the 1st bilateral Agreement on Association and Stabilisation was signed between the EU and Croatia in October 2001.

Even though, due to different reasons, political and institutional relationship with Croatia started relatively late, EU has been historically and traditionally Croatia's main trading partner, as more than 50% of our foreign trade has been done with the countries of the EU, where Germany, Italy and Austria are among the most important countries in our imports and exports. Today with the new countries from the Central and Eastern Europe joining the EU our trade with the EU 25 is 66%. This fact has meant that rules, regulations and standards of the EU single market had to be known for our members, and the Croatian Chamber of Economy has always played an important role in providing information and service to its members on the trade regime with the EU.

Croatian Chamber of Economy has a history of more than 150 years and is a public law institution with obligatory membership. We have 20 county Chambers and 36 professional sector associations affiliated to us. Having such a large network (one Chamber in each County) is of great advantage, as we are in close proximity to all business enterprises and thus in a position to listen to their needs and provide them with the necessary service.

The *difficulties* of setting up and running an office in Brussels for a candidate country like Croatia are numerous, not just to mention financial and human resources constraints. Compared to the member states we are newcomers to the Brussels scene, and thus need to build on existing information sources and contacts and networks. Our task is all the more complex as our economy is undergoing two parallel processes at the same time: transition and integration into the EU. Our enterprises are at the same time undergoing the process of restruc-

turing and privatisation and taking up the responsibilities of the liberalised market economy and increased competition and they have to cope with the competition and market forces inside the EU.

Parallel to that, now we tell them to make additional effort and invest more financial and human resources into harmonisation with the EU *acquis* requirements. Thus, if a company is trying to survive and to thrive in such environment, how much of its human and capital resources it can dedicate to Brussels, which seems so far away. This does not apply to companies that are already well integrated into the EU market and have already taken aboard all the necessary requirements of the single market. But there are many small and medium companies that need the help of the Chamber to overcome these problems. Therefore, in our experience of having an office in Brussels it is our task first to raise awareness and generate interest of our enterprises of what is happening here, and how it will influence their business now and in the future.

One of the indications that more has to be done back home is the results of the *survey* carried out among the companies where a significant number replied that they have no information on EU legislation and have no interest in it since they operate on domestic market. What they need to learn is how very wrong they are: the moment Croatia joins the Union all the rules, standards and regulations of the Single market will come to them, thus they as well, have only little time to prepare.

- Principal *functions* of the Brussels Office are:
- Providing information on EU policy issues, regulations, Community programmes and EU funding;
- Supporting members in their preparati- o n for EU integration;
- Networking with relevant institutions and other interest representations;
- Representing our members in respective European Associations;
- Providing other services to members on individual request;
- At the beginning the office in Brussels has started with the *Newsletter*, gathering and compiling all the relevant information on EU affairs. At

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that time this was almost the only source of information on EU in Croatian language.

We have also through the office in Brussels managed to establish the first *Euro Info* Correspondence Centre inside our Chamber in Zagreb. Euro Info Centres make up a network of 300 offices in Europe established by the European Commission and they act as an interface between European institutions and small and medium enterprises.

We all know that networking and building coalitions is one of the main preconditions to succeed in Brussels. Finding common interest with those that have same interest and speaking with one voice with the European institutions is much more effective than being alone.

One of the first umbrella organizations that we became members of is Eurochambres. Eurochambres represents 43 national associations of Chambers of Commerce and Industry, a European network of 2000 regional and local Chambers with over 18 million member enterprises in Europe. Within Eurochambres we are taking part in different activities and EU programmes. At the moment Eurochambres is coordinating a project financed by the European Commission that is helping Chambers from the western Balkan countries to reinforce their capacity to enable them to promote intra-regional trade and to help their members for the integration into the EU single market.

Also through Eurochambres we have a possibility to participate in a *consultative and lobbying process* on different legislative proposals of the European commission that have relevance to the business community e.g. proposals for Reach, services directive, 7th framework programme, innovation etc). This activity will become more important once we become EU members and can thus have a direct influence on the legislative procedure. At this stage we participate where we have an opinion on a certain issue and use this tool to inform our members of the new legislation proposals, thus telling them what to expect in the near future when we become members and we will have to implement the EU acquis automatically.

Another important activity of the Office in Brussels is facilitation of contacts and membership of our sector associations in the relevant

European associations. Membership in these is extremely important, as our companies can have their interest represented on EU level and have direct and sector specific information on EU legislation and the possibilities of cooperating with like organisations in Europe. But here again our Chamber and members have financial constraints as to joining these organisations and of course to dedicate time to be active in their work. The Office in Brussels takes part of this commitment and covers important meetings when there is no time or money to send representatives from our country.

With the numerous presences of interest representations in Brussels it has also become a place to build coalitions of support among like minded organisations in specific fields of cooperation.

A good example of this is *NIROC*. This is the Network of Interest Representation Offices from Candidate Countries. It was established in 2000 when today's new member states were candidates. The Network has continued to be active and today has 37 member organisations from new MS and candidates. These offices represent different interests in Brussels ranging from regions, federations, chambers, research offices and other. Main activities of NIROC are monthly luncheons with invited speakers, exchange of information, mutual support and cooperation on issues of common interest and communication with similar networks in Brussels.

Another initiative which we have developed here in Brussels is *Eurochambres Women Network*. Women representatives of the Chambers of commerce in Brussels have gathered and formed a Network with a purpose of gathering and exchanging the information and good practice on different activities that Chambers throughout Europe are undertaking with a view of giving support to women entrepreneurs. The Network is working under the umbrella of Eurochambres and has very rapidly after its establishment realised that it could play a much bigger role and actively contribute to the long term economic goals that have been set at European level increasing the number of women involved in the economic process.

Integration process with the EU poses great challenges for Croatia and its economy. We have in the recent years made significant political and

economic progress in the rapprochement with the EU, and as a result Croatia has received in 2004 a candidate status. We hope to start accession negotiations this year and to become members of the Union latest in 2009.

Our Chamber is trying to take an active role in the forthcoming negotiating process, and thus involve the business sector as early as possible. Even though the negotiations themselves are the responsibility of the Government, it is of primary importance what effect they will have

on our economic sector, as they have to adjust and implement the EU acquis.

The office in Brussels will thus in the forthcoming period of accession negotiations have even more challenges. We plan to intensify our efforts in educating first our own staff on EU affairs, and this through training schemes in our Brussels office and in Croatia. At the same time it is of utmost importance to reach out to our members and to organise seminars, workshops and information meetings with our companies.

Turkey and the EU

A common future: associational experiences

by *Bahadır Kalegasi**

TUSIAD is the non-governmental representative organisation of the Turkish private sector (industries and services) at the national level. As member of UNICE (Voice of Business in Europe), BIAC (Business and Industry Advisory Council of the OECD) and UMCE (Union of Mediterranean Confederations of Enterprises) and through its representations in Brussels, Berlin, Paris and Washington DC TUSIAD serves as a window of business for its members. It is composed of direct members representing companies and leads a platform founded by sectoral and regional business federations (TURKONFED: Turkish Confederation of Enterprise and Business).

TUSIAD is committed to monitor and to promote Turkey's political, economic and institutional reform process within the framework of the membership process to the EU. Since 1997 TUSIAD has rallied support for the cause of EU integration by using its extensive network of relations with provincial Industrialists' and Businessmen's Associations. TUSIAD has published several reports on the economic and political effects of the EU integration. Internally TUSIAD is organised with several working groups, each in charge of different chapters of the EU acquis. TUSIAD also monitors all governmental and parliamentary activities in relation with the EU. In addition, TUSIAD's UNICE membership provides the opportunity to work closely with the European business community and open bridges of understanding between our European counterparts.

Business outlook to Turkey's EU membership

The business community in Europe has underlined the need for change in several occasions. The politicians are invited to take the responsibility for change for a better Union. As the driving force of this change politicians need to focus on four dimensions: globalisation, demography, the economy and enlargement.

Globalisation developed a new momentum. Countries once getting by on low-cost industry can now manage R&D and high technology. Besides, the opportunities brought by information and communication technologies help

advanced-level services to be produced everywhere in the world. For example, eight out of every 10 DVD players in the market are made in China. Nokia plans to relocate 40 % of its mobile phone design and development business to this country. As a result, Europe's share in world trade is shrivelled. Europe is still in the lead in world trade but loses markets compared to Asia and North America.

Europe is aging. The global economic power is dwarfing demographically. A big population means superiority by a wide and deep domestic market. Yet, it is obviously not a factor of prosperity. The real problems for Europe are the aging population and the reversal of the age pyramid. There is a deficiency of young population to cover the costs of pensioners and inject dynamism to the economy. The rate of EU citizens above 60 years old will be 25 % in 2020. The same rate is projected to be 10 % in India. Thus, the social security system in European countries faces the threat of bankruptcy. The ratio 'three working persons per pensioner' is about to be overturned. Europe has to import a qualified labor force in the near future. Simultaneously, it has to create employment and expand new fields of business.

The **European economy** does not grow enough. Therefore, it is hard pushed to trigger the change compelled by globalization and demographic balances. In the past 15 years, the US economy grew by 3 % on average, whereas the EU economy stayed below 2 %. The contracting economy precipitates deep social and political problems. Holders of political power are squashed between the need of reform and the pressure of the electorate. Even if they raise taxes and re-arrange social policies by world realities and resources, they lose votes. Many European countries suffer due to losing time in revitalizing the economy by structural reforms. A regulatory environment supporting entrepreneurship and flexing job markets is needed.

Enlargement is an important opportunity for the competitive power of the EU. In this way, the market depth of the EU economy is strengthened. The growth rates of the last 10 members are very high. But, in the middle term, these countries will be subjected to the same problems, primarily the problem of an aging

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Turkey's Quest for Stable Growth, Mc Kinsey Quarterly, 2003 Number 4 Global Directions

population. For this reason, the enlargement of the EU is a very important opportunity both in ensuring coherence of regulations for the single market and it is also a process that should be continued with other countries.

What will Turkey bring to the EU?

The European Council, on 17th December 2004, decided to open the accession negotiations with Turkey. On October 3, 2005, the Intergovernmental Conference (IGC) will convene to launch the accession negotiations with Turkey. The challenge for both the EU and Turkey is now to transform Turkey's political, economic, social and cultural potential into assets for Europe's future.

On the economic front, Turkey's full integration will bring *fresh momentum to the internal market* through its dynamism, large market demand, entrepreneurial culture and trade creation potential. Benefits offered through this full integration to the European businesses will spill over to the EU citizens through more and better job opportunities, more competitive prices and better investment opportunities.

Turkish economy is the 18th largest one in the world. It exports mainly industrial goods (%90). The service sector accounts for 65 percent of its gross domestic product, and the public procurement market amounts to more than 30 billion euros. With a population of 70 million, a steadily increasing GNP level (580 billion euros -PPP), a young, dynamic and entrepreneurial population, an export oriented economy and rapidly developing information society, Turkey will contribute to the EU's economic power on the global scene. Turkey's accession will increase the size and competitiveness of the European internal market.

Turkey's accession to the EU, meaning further enlargement of the European internal market will be favourable for European citizens. It will invigorate the benefits and opportunities for business and consumers. The business sector will reap the dynamic benefits of this enlargement through economies of scale, enhanced competition and expanded market access, and a rising information society. Turkey's accession will contribute to Europe's global competitiveness.

It is estimated that if Turkey takes measures to realize its full productivity potential, it could create 6 million additional jobs by 2015 and achieve annual GDP growth as high as 8.5 percent. This would bring the GDP per capita in Turkey to around 55% of the EU average per capita income¹. Successful institutional reforms in Turkey, together with positive international business reaction to the opening of negotiations, will enable a rapid convergence path toward the EU average values for main economic indicators such as GDP per capita and labour productivity.

Political and economic infrastructure of Turkey has been renewed. Currently *political stability* in the country provides a secure and competitive environment for the functioning of market economy. Independent Turkish Central Bank managed to maintain price stability. In addition, the government achieved the budgetary discipline. All these improvements which will continue exponentially during the membership process and after accession will provide the European companies with higher rates of return on their investment in Turkey. Given the country's qualified labour force, high absorption capacity, tourism potentials and location at the crossroads of Eurasian markets and energy networks, the EU membership will boost its economy by attracting even more investments.

Regarding the *global politics*, Turkey's membership will be of great value for the EU in its global aspirations. Turkey's geographical position, relations with the neighbouring countries and connection to the Islamic world, Russia and the Central Asia will endow the EU with greater saying in the international arena. As a reliable NATO ally, Turkey's membership will consolidate both the military and the civilian aspects of the Common Foreign and Security Policy. A European Union including Turkey will be more efficient in tackling political problems and crises among which threats from undemocratic regimes, terrorism, illegal immigration and trafficking in drugs, arms, human beings.

The problem of the EU's aging population translates into shrinking markets, less taxable income and lower revenues from social contributions. This means, for example, more working years, higher taxes, fewer pensions for a shorter period of time. According to a recent UN study, "the EU would need an average of 6.1 million immigrants a year from 2015 to 2040 to maintain a ratio of three

1. www.un.org

working-age adults for each retiree".² To maintain the European social model, the EU needs to increase its labour productivity and its employment rate quickly and substantially.

Demographically, Turkey is a window of opportunity for Europe. With a population of 70 million people, Turkey has more than 30 percent of its population below 15 years old (with a decreasing trend) and its demographic growth is expected to be stabilised by 2030 at about 85 million people.

Turkey's young, dynamic and qualified human resource is the social insurance of Europe. A Turkey engaged in the EU accession process will benefit from higher economic development as well as better and more European education. Consequently, Turkey's human capital will be upgraded to meet Europe's standards and needs.

Turkey will strengthen the EU

The only scenario for the future of Europe that categorically keeps Turkey from becoming a

member of the EU is the possibility of chaos. Under the other scenarios, whether the EU evolves towards more federalism, remains well integrated confederation or is organised in a variable geometry around a federal core, a democratic and dynamic Turkey fulfilling the EU's membership conditions will be a significant asset for Europe's global political and economic power.

The worst mistake Turkey could make as Europe shapes its future is not paying sufficient attention to the process. It is important to establish a process of negotiations that can adequately assess the spirit of the European integration process, along with its legal dimensions, economic and social dynamics, and global conditions affecting it, as well as its problems and weaknesses.

The famous words of Jean Monnet, the father of the idea of the EU, are particularly important: "Nothing can be achieved without people, nothing endures without institutions".

Many a slip between cup and lip: national implementation of EU regulations

by *Alastair Tempest**

Cooperation between European trade associations and national trade associations

In many discussions, especially during conferences in the EU member states, delegates approach the European trade association speaker a bit in the same way as they might approach an alien, or a foreigner from some exotic, far away country. Their attitude says “you are from somewhere I don’t (possibly never will) understand, and your only platform is the Brussels/Strasbourg gravy train”, or ‘I can’t understand how you can find the patience to talk to those faceless bureaucrats in Brussels’.

Often, in their eyes you also see a flicker of jealousy – ‘how can he have such a cushy job wining and dining politicians and bureaucrats?’. It is not one of the most useful PR facts of life that both Brussels and Strasbourg are renowned gourmet centres in Europe! With the exception of the most famous “frites” (French fries) stall in Brussels’ Place Jourdan (which has a Michelin star), very few trade association lobbyists that I know spend any time in top class restaurants.

But I do know that my job in Brussels is to be continually in touch with, cognisant of, and sensitive to national markets. If that part of the job is left aside and ignored, the representation of the business (or NGO) sector of the European Trade Association (ETA) will not be focused, and will result ultimately in the failure of projects.

My modest contribution to this collection is to add a few words on the role for ETAs to work with the National Trade Associations (NTAs) and how this leads to vast mutual benefits and synergisms.

There are 3 self-evident truisms for ETAs: first, all European associations must be supported by active and efficient national associations. This has all to do with resources – annual fees, human resources, research, and information flows.

Second, national associations should be very closely involved throughout any specific EU exercise (e.g. lobbying on a directive, etc.). The NTAs provide the national links, helping by lobbying national governments and politicians during the European Parliament and Council stages.

Finally, once a directive or EU regulation is adopted there is a very important role for the ETA as a centre for information for the national implementation, and as a knowledge base for argumentation, etc., to help ensure proper/good national implementation.

Information flows

A fundamental element of the relationship between the ETA and its NTA members is the flow of information. (I presume that in any business sector or NGO, the national level contributes with annual fees to the European Federation). NTAs expect their ETA to provide them with a level of information; usually weekly reports on what’s going on in Brussels and Strasbourg; sometimes a daily report, or a monthly bulletin is required.

This information is often produced in-house by the ETA; sometimes it is produced by consultancies or (occasionally) sent ‘raw’ in European reports by the specialised Euro-info agencies such as *Europolitique*, *EuroAnalytical*, *EIS*,etc. But, however it arrives at the NTAs, it is considered to be one of the greatest added-values which the ETA provides to the NTAs (their members).

This information is usually also used in some way or another by the NTAs to inform their members. Very few businesses or interest groups can operate profitably in the long run if they ignore EU initiatives of relevance to their sector/interests. Information on what happens in Brussels and Strasbourg of relevance to the sector is therefore a major currency for the ETA.

However is it sufficient that this flow of information goes only one way? The answer is a definite ‘NO!’.

At the least the information flow needs to be 2-way. Ideally, it should be 3-way with the ETA being the central point to collect and send out information both on what’s going on at the EU level and also on important national news.

This is not to say that ETAs should compete with sectoral trade newspapers/periodicals, but in sectors the trade press does not cover in all countries, or in a brief form to summarise news which is usually only available in the language of the relevant country.

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At the request of our national association members, FEDMA introduced a "Membership News" monthly e-newsletter a couple of years ago, which is in addition to our Weekly report on what's going on in Brussels/Strasbourg, and another monthly which summarises the main EU news stories of the month. We include stories in all these newsletters on major national regulations, and we also regularly cover relevant legislative news from the major non-European markets (US, Canada, and Japan) as well. In our research on members' satisfaction of the services we provide, the Membership News consistently gets very high marks from respondents.

Membership News is not only about national regulation, we report on new developments, conferences, industry statistics, education initiatives, etc. And we try to act as editor for contributions rather than writing the articles ourselves (while we write the articles which appear in our other regular newsletters).

I should explain at this point the structure of the Federation of European Direct and Interactive Marketing (FEDMA), which differs in some respects from other associations.

FEDMA was created in 1997 following the merger of an association (EDMA) which had been set up in the 1960s to run the first European direct marketing fair and to provide networking opportunities and market information, and a federation (FEDIM) whose aim was entirely lobbying. The combination of both associations was a new body with about 300 paid up members grouped into 12 membership categories. Over the last 8 years the number of members has gradually reduced (mainly due to economic recessions and mergers) to about 250, and the number of membership categories has been halved.

We now have 3 main types of members: - the national associations; a group of 'corporate' members, and a large number of "company members". Membership by individuals is not encouraged but is allowed for specific experts (e.g. educators, lawyers, consultants).

We provide full services to the NTAs and Corporate members, with the Weekly monitoring e-newsletter, access to strategic committees, etc.

Company members, however, get a lower level of services (as their fees are far smaller than

either the NTAs or the Corporate members). But they do receive, among other benefits, the two monthly e-newsletters I mentioned earlier.

The NTA fees are fixed on their relative size, although this is always a challenge: some only or mainly have companies for members, some are themselves federations or a group of related national associations, some have fixed low fees and others charge fees depending on the size of their company members. There is no easy solution therefore, and a combination of annual income (itself not clear as many of our NTAs rely heavily on conferences, sales of publications or educational courses) and the size of the national market. We also have new national associations – particularly from the Central and Eastern European countries – for whom we feel it important for the present to provide services at "cost" or less. In brief, while the status of companies in direct membership of the Federation is clear and depends on the annual fee, the NTAs pay a fee which differs very considerably depending on the market, and their own national resources.

One of the most tricky and delicate balances is setting the level and type of information provided. This federation deals with a sector (if it can be called that because it is so diverse) which is horizontal. The members' interests can be widely different, and occasionally one member's interest can be another's total switch off. Vertical associations which deal with one issue (e.g. a manufacturing sector, or an NGO) are far easier to cater for in terms of both the information they expect and the lobby actions they want to see pursued.

A European trade association case history

FEDMA represents all forms of marketing at a distance, which includes e-commerce/internet to postal marketing (direct mail), including telephone, direct response on television ("tele-shopping"), etc. Many members also look for information on advertising issues (e.g. advertising to children, alcohol or food advertising), but in all cases, the great central points are very legal issues such as contractual law, and data protection. The only way to achieve the flow of information to

everyone's satisfaction and to lobby relevant issues is to be very open to cooperation with other European associations. This also sometimes creates its own issues, when national arguments can impinge on friendly relations at the European level. Normally, however, the European level seems to be rather easier than some of the Byzantine wars which one hears of, which occasionally wage at national level in some countries. This is always a minefield into which the ETA inevitably steps with trepidation when addressing national meetings or conventions!

At the European level horizontal sectors, such as marketing, have to be as open as possible to work with a variety of friendly colleagues in related sectors. Having companies as direct members is, we have found, an invaluable part of this process because, usually, they are members of a wide variety of other associations at national (occasionally even European) level. There is, therefore, a way to encourage friendly relations because everyone knows that the main stakeholders expect to see results. In our sector we share members with a number of our closest ETA colleagues – with the association of Periodical and Newspaper Publishers; the European Publishers Council; the European Association of Communications Agencies; the World Federation of Advertisers; PostEurop (the grouping of the postal operators) and the European Express Association, to name but a few. These alliances are, mainly, also found at national level.

It is inevitable, as implied above, that some countries have smaller NTAs, and that there are some differences on main targets.

A question of priorities: national differences matter

The question of priorities is always a challenge for ETAs except if the association/NGO is very focussed. National laws can, for example, mean that an issue comes up at European level which could have extremely detrimental effects in some markets and, because of existing national regulations, little or no effect in other countries. It doesn't matter whether the issue is a liberalising policy proposed by the EU or a new restriction. Somewhere, you can be sure, there are at least a

few countries which already enjoy that liberalisation, or who have got used to that restriction. This can lead to some heavy debates in the policy-making bodies of the ETA. Usually the assistance of companies as members helps to break any potential deadlocks. The players or stakeholders (i.e. the companies) who are active across a number of states usually are keen to find one solution rather than have to deal with a mosaic of different national laws and regulations (the great success of the Single European Market concept was exactly that promise – sadly still far from fulfilled – that Europe would be one, single market and not continue with its hotch-potch of national, regional and even local laws and regulations).

Some of the ETAs who find it difficult to come to common positions on policy issues certainly suffer because only NTAs and not companies can be active members of that ETA at the European level.

Another potential issue for debate is the balance between large and small countries. The old saying “he who pays the piper calls the tune”, can become a serious problem for some ETAs, when any of the largest NTAs become discontented about policy issues and threaten to leave or reduce their contributions. This becomes not just a question of policy but also one of funding. I would suggest that few ETAs are cash-rich! This usually leads to one of 3 scenarios – either a majority paper is produced (often with the minority appended). The ETA has not abdicated its role to others, it has found common interests and has highlighted differences. I would argue that this is exactly the role the European Commission looks for from an ETA. Second, there is grid-lock: no decision can be taken and the ETA has to admit that no common position is possible. In these cases the European Commission and Parliamentarians often turn their attention to company or NGO representation to help them decide on which policies, amendments, etc., to support. Thirdly, the ETA tries to postpone the decision as long as possible in the hopes that a political solution arrives which will outdate the problem issue. This is simply a variation of the grid-lock, and is the reaction often adopted by some of the major ETAs to the frustration of other, more flexible, ETAs.

Another aspect of the large versus the small NTA is their relevant interest in things European. Like most ETAs, we can broadly categorise our national members as very active and engaged; engaged but do not often attend (usually due to distance); interested only on specific issues, and disengaged. The size of the country is not necessarily important, but the individual interest of the NTA's director and his staff is of great importance. In cases, for example, where the NTA is in problems, rather obviously, interest tends to tail off or be left to active national members (e.g. Board members) to follow. In some countries there is no well-established national lobby spirit, and therefore, even when the work at the EU is finally comprehended and supported, it is unlikely that the NTA will actively send staff to meetings in Brussels. Below we will look at this situation when national implementation of a directive starts.

FEDMA, for example, can usually count on two of its smallest members (Ireland and Portugal) being actively engaged on most issues, even though in the former the NTA have no staff and the work is shared by volunteers, and in the latter the secretariat is run by a businessman who also runs his own company, a letter-shop.

This engagement by some of the smaller less well-resourced NTAs is of great importance because it shows that the issues are not so complex and time-consuming that they cannot be adequately followed; and that the association has the support of small as well as large NTAs. Fortified by that, some years ago the Board of FEDMA agreed that we did not need a positive 'yes, we agree' to all papers, etc., issued to the authorities. It sufficed that the drafts were circulated for comments with a time scale for reply. No reply signified an opt-in to the paper. A potential block was removed, which allows us to react fast to initiatives or proposals from the EU (or elsewhere – we also work on proposals from the OECD, Council of Europe, and from other international institutions).

The central theme which therefore could be said to run through FEDMA's policy making is 'collaboration'. Each NTA member accepts to the extent it can concentration on issues it is not interested in, and pledges support for its colleagues in exchange for their support on issues of importance to it which some of its colleagues do not hold of importance. Where matters seri-

ously clash, minority reports are accepted again in a proactive spirit.

An example of this was in 1996-7 when the EC proposed its first directive on postal services. A number of FEDMA's national colleagues (the direct marketing associations, DMAs) supported liberalisation which their public postal operators were already committed to (in one way or another). The national public postal operator has always been a key player in the national DMAs, even though most also negotiated postal rates and services with their postal operator (a strange partnership which is relatively rare, particularly when found throughout many countries).

There were the majority of countries where the postal sector felt that liberalisation was a good factor to encourage greater quality of services plus affordable postal rates, but where the public postal operator was still very much a state monopoly.

Finally, there were a very few DMAs who did not support the general consensus for gradual liberalisation of postal services. They signed a minority statement at the end of the FEDMA submission to the Commission (and the briefings to the European Parliament) stating their opposition to liberalisation (but supporting other parts of the FEDMA paper on the need for better quality of service and clear demonstration between the postal services which were needed ("the universal service") and those which had to be reserved for the postal monopoly (the "reserved area"))).

Thus even in this minority report there was a very clear indication of the general direction in which the Federation's members wanted to see postal services going. In fact the Council, in one of its frequent horse-trading moods, pulled back from the level of liberalisation proposed by the Commission. This led to a Second Directive in 2004 during which all FEDMA members agreed on the position papers, and the probability of a third Directive in 2006. As the EC postal strategy offers a number of good case studies we will come back to this subject again.

Applying EU directives – and exporting nasty habits

This spirit of collaboration at FEDMA among the NTAs (the DMAs) also comes from the

common concern that national regulators usually try to export their restrictions in order to be sure that they can keep their national laws intact under EU policy.

An example, so far failed, of this are the efforts of the Swedish government to get the other Member States to adopt bans on TV advertising to children. Consistently, at each opportunity available, through the Council and the Parliament there have been attempts to introduce this ban in the revisions of the Television Without Frontiers Directive, the Unfair Commercial Practices Directive, etc.

This raises a particularly important issue which is still debated in some forms by the European Institutions and “opinion formers” (including ETAs) in Brussels, Luxembourg and Strasbourg. Is there a will by the Commission and its services to reduce national barriers and ensure consistent interpretation of EU directives (or even, sometimes, regulations)?

In some sectors this debate is unthinkable. The Commission has tirelessly pursued deviationists among the Member States with cases at the European Court of Justice (ECJ), and has overseen with great diligence the national implementation of directives and regulations. Those sent to instruct the new EU Member States in the *acquis communautaire* for those sectors have done so firmly, leaving no chance that the *acquis* is misunderstood.

In other areas of EU policy, unfortunately, this zeal is absent. Member states have been allowed to get away with all sorts of deviations; advisers to the new Member States in some cases seem to have deliberately misled legislation to produce incorrect interpretation of the *acquis communautaire* they were responsible for.

To take an example, one of the issues FEDMA sees as its core responsibility is data protection. The origins of FEDMA can be found in the 1990 – 94 debate on the general Data Protection Directive (95/46/EC). This is not one of the most explicit or clear directives to follow, and there are many opportunities for Member States to interpret it in their own fashion. However, two articles are of particular interest to FEDMA. Article 7 states “*Member States shall provide that personal data may be processed only if:(f) processing is necessary for the purposes of the legitimate interests*

pursued by the controller or by the third party or parties to whom the data are disclosed, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject which require protection under Article 1 (1)”. Article 14.2 adds “*The data subject’s right to object: Member States shall grant the data subject the right:(b) to object, on request and free of charge, to the processing of personal data relating to him which the controller anticipates being processed for the purposes of direct marketing, or to be informed before personal data are disclosed for the first time to third parties or used on their behalf for the purposes of direct marketing, and to be expressly offered the right to object free of charge to such disclosures or uses.*” Before the ink was dry on the directive the Italian Parliament adopted a data protection law which totally ignored these articles of the directive. This misinterpretation has not yet been challenged by the Commission (which has been far more pre-occupied that some Member States had failed to implement the directive at all – France finally adopted a law in 2004). However, a number of new EU Member States have now also decided to ignore these Articles of the 1995 Directive – these include Slovenia, Malta and Cyprus.

Lobby where others do not, and dealing with countries without associations

This produces two case studies – the problem of lobbying where trade associations normally do not lobby; and the challenge of countries which are too small to support active NTAs in all sectors.

In the case of Italy, the NTA (like most Italian associations) is situated in Milan, among the majority of its member companies. Its experience in lobbying in Rome was limited, and it had previously relied on some of its largest members (such as Poste Italiane) and/or on Confindustria, the Italian industry association to do the lobby. For reasons which are still unclear 10 years later, none of the usual organisations which lobbied in Rome did so in this case. In fact, I was one of the very few business representatives who visited the Ministry of Justice in Rome during the period 1994-96 while the law was under preparation. In the end

a lobby was organised when the law was before the Senate, but by then it was too late to affect many changes. Investment in direct marketing in Italy which had stood at over 2 billion Euro in 1996 dropped by a third to 1.4 billion Euro in 1997. While it is too simplistic to lay all the blame on the new Italian law (a number of other long-standing problems existed, specifically for the mail order business), there is no doubt that it was the 'last straw that broke the camel's back' as far as many companies were concerned. All the large mail order catalogue companies left Italy or sold out, and in real price parity terms the pre 1997 levels of investment in direct marketing were only regained in 2002, while the rest of Europe investments in direct marketing have doubled in that time.

To FEDMA the Italian experience is proof that the advent of restrictive laws has a very serious negative effect even on large markets. It is a salutary lesson, and one which also shows the particular danger of uncontrolled national implementation of EU directives.

The Italian NTA has now become much more active in Rome (although it still headquarters in Milan), however, it also provides a case study in itself of the vulnerability of trade associations. In the early 1990s the then President of the association moved it into conferences and training (quite a few national direct marketing associations run conferences, seminars and training or have partnership which provide sizeable revenues from events). Unfortunately the association was first hit by the economic recession in the early 1990s which meant that many companies cut back on training their staff or going to conferences or seminars.

The Italian Data Protection Law of 1996 provided the double whammy, driving the association to the verge of bankruptcy, and losing it many members. Thus weakened, its role in guiding the implementation of subsequent directives has been limited, although slowly it is gaining influence through the use of an academic as consultant on legislative issues.

The other challenge for an ETA is the absence of NTAs in a number of countries. In the EU of 15 very few ETAs were able to find a NTA in Luxembourg, but most could count on having national members in at least a dozen or more of the

other EU Member States. The accession of the 10 new Member States has posed most ETAs with a problem they admit (if at all) very quietly – of the 10 new countries 6 are small, and 8 are still building the institutions of business and democracy which it took other countries centuries to develop. Trade associations are therefore not a well developed concept and their role not well defined. In the smaller countries most business sectors have no association and rely instead on the Chambers of Commerce, industry bodies, professional societies or personal contacts between business and politics.

This poses us with a problem. How can we make representations to national governments when there is no NTA, and where it is very difficult to get the ear of those associations which do exist?

In FEDMA's case, the over-restrictive application of the *acquis communautaire* on data protection has led to a situation in some of these countries where the direct marketing sector cannot collect consumers' data without explicit consent by the individual which is difficult and very expensive to get – because you cannot approach the consumer directly: a classic Catch-22 situation. Since no direct marketing to speak of existed in the past in these countries the sector seems condemned never to develop – it has been strangled in the cradle!

Many years ago in one of my first jobs I came across a marvellous example of the saying that 'you don't miss what you don't know'. While working for British Independent Television (ITV) I was asked to help a researcher prepare a book for the 25th anniversary of the ITV system. He found in the archives a market research report from the early 1960s. A representational sample of TV owners in the UK were asked if they wanted colour TV – the vast majority replied that they would prefer continuing with Black and White! Only those who had seen colour TV were positive. This situation is often one an association person finds themselves in: trying to explain the benefits of the future, which, as no one has experienced it, few show any enthusiasm!

Thus today our sector is faced with a major uphill battle to encourage the use of a marketing system and also gain the support of governments in a number of countries which do not have any tradition or experience of direct marketing.

Ironically, our saviour is likely to be the politicians themselves, since direct marketing techniques harnessed to political campaigns have proved spectacularly successful, but they need the databases of personal data presently unavailable due to legislation.

While it is quite possible to leave a number of EU Member States aside when preparing a lobby strategy for a directive, regulation, etc.; and while we all know that the smaller the state the less votes and voice it has at the Council, it is naively dangerous to ignore any EU Member State completely. Member States take over the Presidency, they can find themselves pivotal in votes, they can express strongly negative views based on personal rather than political experiences, etc. A solution to the absence of NTAs in the smaller new EU Member States must be found somehow!

EU co-regulation, self-regulation and national questions

This situation is particularly acute when the sector is drawn into codes of practice, and particularly negotiated co-regulation.

Readers will be well aware of the European Commission's "better regulation" initiatives, which have included 'co-regulation', a term which appears infinitely variable in practice, although variously defined in EC pronouncements.

The European Advertising Standards Alliance (EASA) which represents the self-regulation of advertising has been, from time to time, challenged by the Commission to enter into co-regulation. The EASA has remained steadfast in its belief that self-regulation if applied effectively is the best and most efficient form of control for the advertising sector. It acts fast and stops misleading, etc., advertisements quickly. Much of its work relates to matters of taste and decency which are notoriously difficult to legislate against or for courts to pronounce judgement on. Society changes and so too do the treatments which the public accept for advertising (to take the classic example, nudity in advertising is widely accepted in some countries, but still very strictly controlled in others – there's no way a European rule could encompass existing national tastes).

Co-regulation therefore does not seem to be a solution at the European level. However, in

March 2005 the Director General of DG SANCO (European Commission Directorate General for Health and Consumer Protection) laid down a 3-year timetable for EASA to provide proof that self-regulation works throughout the EU, or to accept some forms of additional regulation. I strongly suspect that DG SANCO has co-regulation in mind, and I cannot help wondering exactly how the EASA can provide proof of national effectiveness in all countries when, at the time of writing it does not have an advertising self-regulatory organisation in Cyprus, the home of DG SANCO's Commissioner.

For those who look at the wider political policy issues of enlargement, this issue of national representation in the new EU Member States is simply a reflection of the major debate on how the EU should proceed as it grows ever larger. The regulations and directives designed for a group of countries which share many economic and social interests and experiences, are going to become more and more difficult to fit into a far more diverse Europe of 30 countries (or more).

Co-regulation, which was sometimes thought of as a viable alternative for formal EU regulation, will become ever more difficult to implement as the EU expands, except if national regulators exist who can apply the co-regulation together with (or in the absence of) an NTA. FEDMA in 2003 completed a co-regulatory code with the EU's so called Article 29 Working Group (the national Data Protection Authorities, with the Commission as secretariat). This code requires both FEDMA and its national members (NTAs) and also the national data protection authorities (DPAs) themselves to apply the code. In those countries where we have NTAs usually a good (or at least a civil) relationship exists between the NTA and the DPA, and the code can be applied, but what about the 5 new EU countries where we have no NTA? How are the DPAs in those countries applying our Code?

Co-regulation may be a rather separate issue for many readers: one which is not likely to be of interest (co-regulation, despite the hype about it in 2003-4, has been fiercely criticised by some of the main players, including the Consumers' Union, BEUC, which complains that its experience with the banking and insurance sectors has been less than positive). However, co-regulation

and particularly self-regulation have a place in the question of the relationships between the ETA and the NTA, and the synergies that the ETA can offer to the NTAs.

Another case study is the use of self-regulatory codes to help with the national implementation of EU directives. In May 2000 FEDMA, which had been extremely active throughout the preparation of the EU's E-Commerce Directive, issued a code on E-Commerce which closely followed in layman's speak, the emerging rules of that (then draft) directive. On 8 June of that year the Council adopted the Directive (2000/31/EC). It had been the most speedily debated and adopted laws our sector had experienced, driven forward by the e-commerce bubble of 1998-9, and the resulting fall-out of consumer confidence for on-line interactive marketing.

All our NTAs were therefore already prepared with the Code when the Directive was adopted. Most had implemented the Code directly, some had added necessary national variations. The NTAs were therefore able to approach their national governments with a workable, acceptable set of self-regulatory rules. This was of great help in the national lobbying process. [It is rumoured that some countries simply took the national variation of the European code as the basis for their laws].

This particular directive provides a splendid case study on my central thesis – that the ETA and the NTAs benefit most by working extremely closely together throughout the process of an EU initiative, from the start until the final implementation at national level.

As mentioned, the time scale of this Directive was fast. FEDMA had also been involved in the e-commerce “explosion” from the beginning, and together with many of the NTAs, had started to become greatly concerned by 1997-8 that the fast growth of the e-commerce business was based almost entirely on promises, not the delivery of the projects. In fact it was precisely the delivery issues that worried us the most. Selling products or services from a shop is relatively simple: the relationship between buyer and seller is eyeball-to-eyeball, and if the product is not in stock it becomes clear rather quickly. Selling at a distance is a wholly more complex issue, and one which depends much more on trust. The major problems are logistical (getting the product delivered),

and payment (or refunds if the produce is refused or not delivered). Many of the glittering stars of the e-commerce boom produced fantastic products and great websites, but were quite incapable of delivering. The E-Commerce Directive (which was closely modelled on the 1997 Distance Selling Directive – 97/7/EC) was therefore warmly welcomed by FEDMA from the start.

Close cooperation between the NTAs and ourselves as the ETA followed throughout the process of the Directive in the first and second readings at the European Parliament, the Council of Ministers' Common Position and final deliberations. The NTAs actively approached their national MEPs and national government experts using briefing materials prepared by the FEDMA Legal Affairs Committee (on which most NTAs sit), and translated into their national languages with national variations added where necessary. Since the Distance Selling Directive had either been, or was being, implemented at national level during this time, the lobby on the E-Commerce Directive and on national implementation often went very nicely hand in hand.

When in May 2000, FEDMA adopted its code this helped to encourage the Member States to find a solution at Council (after the E-Commerce bubble broke some Member States started to lose interest in the subject). Thus, since the Directive was adopted later that year, the NTAs already had very good relations with their national government experts, and these were aware of the Code. The process worked very smoothly. However, in countries where implementation varied from the Directive the NTA worked with the ETA which had kept all the argumentation which had arisen during the 2 European Parliament debates, etc. The NTAs were saved the time of ‘re-inventing the wheel’.

Following national implementation – and learning by example

As referred to above, FEDMA, like most ETAs, has committees (in our case the Legal Affairs, Postal Affairs, Environment, and Ethics Committees) which are mandated by the Board to produce and oversee the lobby strategies and tactics (including papers, briefings, etc., which are written by the staff and circulated for comments).

In these committees most of the NTAs sit. There is, therefore, a regular flow of information.

Each meeting of the committees (except for the Ethics Committee which is responsible for drafting codes of conduct and reviewing existing codes) therefore starts with a review of national implementation of the relevant directives. Charts are researched a couple of weeks before the Committee meeting and circulated with the agendas. Any additional changes can be reported by the NTAs (or their representatives – some NTAs ask companies to represent them). In annex are 2 examples of a page each from an important chart for Legal Affairs (on the E-Commerce Directive) and for Postal Affairs (on the Second Postal Directive). Obviously these charts are brief summaries only. We note in the minutes more complex issues. We also produce annually reports on national laws and on postal services, which are designed to help marketers, but also provide an interesting overview of the variations in national laws and rules.¹

The ideal working of an ETA, therefore, does not simply concentrate on the European level. I have deliberately not looked at the process of the Commission, European Parliament and Council. The ideal means involvement of the NTAs throughout. The NTAs have their very important roles in lobbying their own MEPs at their national levels (after all it's the employees of national business sectors, or members of national NGOs, who vote!) and their national civil servants and Ministers during the process of a directive, etc.

But once that EU proposal is adopted and the NTA has to look at national implementation, it should be greatly helped by the ETA. The exchange of information, the database of argumentations used during the debates on the directive (or developed separately at the national level), the comparisons between national implementations: all these are invaluable to the national NTA. One point that always surprises me is that after sometimes years of meeting regularly to negotiate a directive, national civil servants often revert to being very insular when it comes to implementing the final text, and are often very pleased and interested to be told what their colleagues in the neighbouring countries are up to, and how the directive is being implemented there.

Even once all is implemented there are in many cases opportunities for fresh interpretations. In the case of the EU's Postal Directives, a requirement was the creation of national independent regulators, who often have different ideas on how the market needs to progress. The same is true for data protection, where, as I mentioned before, there are national DPAs (required by the 1995 Directive) who meet regularly under the auspices of the European Commission in the Article 29 Working Group. In both these cases, obviously, there is a constant change to the surrounding rules and regulations which may only relate tangentially to the basic directives, yet these two are important points to watch. Maybe in future they will result in new EU proposals.

Some of our NTAs are also very conscious of the usefulness of a European voice to add to a national debate. One of our national members, the French association, is particularly good at using FEDMA in its national debates on issues which are not subject to EU directives. For example, in a debate over the taxation of paper usage, where FEDMA was able to provide an overview of national practice throughout Europe and therefore conclude in a letter that the French proposal was "anti-communautaire". We are also very often used by our NTAs to enter into arguments over postal rates, when postal operators suddenly sharply increase their rates (this is related to EU directives – as the 2 postal directives require "affordable" postal rates based on costs, which must be transparent).

Conclusions

Therefore, to conclude, the ETA's role is not simply as an arm for lobbying at the European level. It has a consistent and vital role as the helper and partner of its members, the NTAs. It is both the memory of the sector, the best placed body to provide European codes of practice, and the "voice of Europe" to use to help pressurise national governments. It should not and cannot replace the NTAs, nor vice versa. It is certainly *not* 'primus intra pares' (the first among equals): the NTAs are the masters of the ETA. If both parties remember and use each other effectively they make the most efficient team to ensure that EU proposals are not restrictive, and that national laws do not create

1. The Legal Fact Pack and the Postal Fact Pack, produced respectively in the Spring and the Autumn.

additional trade barriers or additional restrictions in contradiction to the EU proposal.

There is often “many a slip between cup and lip” when national governments apply EU directives, regulations, etc. The good partnership of the NTAs and their ETA can prevent these (or even turn them to their advantage!). Of course, getting this partnership to work is hard work,

not always evident, and (particularly in times of recession when national business tries to protect itself with national laws) can be frustrating or even infuriating! The advent of more communications means often has led to less communication. However, striving for the best partnership in an active and developing market sector can be one of *the most enjoyable* jobs.

Status of implementation of the e-commerce directive (2000/31/EC) © FEDMA

June 2005

COUNTRY	STATUS AND WEB LINKS	MAIN PROVISIONS	SELF-REGULATION
NETHERLANDS	No notification to the Commission Has been sent to the Second Chamber of the House of Parliament and as such been published 23 January 2002 (Tweede Kamer der Staten-Generaal, vergaderjaar 2001-2002, 28 197, nrs. 1-2.) The Bill came into force on 30 June, 2004.	Opt-out system, obligation to check the opt-out registers, country of origin is not clear in respect of coordinated area, no clear answers concerning information obligations using SMS, WAP etc., except for the overlap the person on whose behalf a commercial message or service is being made, is obliged to reveal his (true) identity.	
PORTUGAL IMPLEMENTED	Implemented since Jan 2004 by decree. Dec.Lei 7/2004, 7 Jan 2004. Text available (in Portuguese) http://www.gplp.mj.pt/home/	Opt-in is imposed for all electronic marketing communications. There is a possibility that this decree will be requested by the Portuguese Parliament for discussion.	
ROMANIA IMPLEMENTED	Total implementation : Law no. 365/2002 www.cdep.ro	Freedom of movement for the services of informational society. Definition of commercial communication. Reaching of the agreements by electronic communication. Responsibility of service providers.	
SPAIN IMPLEMENTED	The Law Information Services Society and Electronic Commerce was approved in July 2002 and it entered in force on 12th October 2002.	It has been modified by the General Telecommunications Law of Ley 32/2003, de 3 de noviembre. This law changes in its Disposición final primera The Law Information Services Society and Electronic Commerce : arts: 21 y 22	

Status of implementation of the second postal directive (2002/39/EC) © FEDMA

June 2005

COUNTRIES	IMPLEMENTATION	RESERVED AREA	DIRECT MAIL	a) LICENSING SYSTEM b) COMPENSATION FUND	OUTBOUND MAIL	REGULATOR	SEPARATE ACCOUNTS
POLAND	Partially Implemented.	350g 3x standard rate From 01/01/06: 50g or 2.5x standard rate	Open market	a) Yes b) No	In the reserved area.	Office of Telecommunication & Post Regulation	No
PORTUGAL IMPLEMENTED	Implemented since end of 2002. Decreto-Lei No. 116/03. Law published on 12 June 2003	100g 3x standard rate	100g 3x standard rate		Still reserved for the USP	Autoridade Nacional de Comunicações de Portugal (ANACOM) ANRC: Autoritatea	
ROMANIA	None					Nationala de Reglementare in Comunicatii National Regulatory Agency for Communications (ANRC).	
SLOVAKIA	President signed the draft law on the transformation of state-run postal service company, Slovenska Posta (4 June 2004).					Regional Post Centres will be responsible for the direct management of Postal Services.	

The role of trust in EU business interest associations: preliminary research results

by *Elina Steinerte**

Introduction

The purpose of the present article is to provide an insight into an ongoing PhD research study on the role and nature of trust in the EU business interest associations. Based on a theoretical investigation of the relevance of trust for EU business associations and an examination of the notion of trust, the research commenced as a deductive process, exploring the different theories of trust. The aim was to determine what various factors different authors and studies suggest can influence trust and how trust is built. This part of study served as a basis for the qualitative component of the research. With regards to the deductive part of the research two interview guides were designed and employed during in-depth qualitative interviews with members and staff of four EU business interest associations. This process was accompanied by participant observations of the four associations whereby the researcher took part in various formal and informal meetings of the associations. The preliminary findings suggest that trust is an important factor in the ability of the association to unite its membership and to achieve the goals set. Nevertheless there is also strong evidence that trust is not the ultimate solution for all the challenges that EU business associations face.

Rationale of the present research

Studies on European integration have placed considerable emphasis on the EU level interest associations, a number of these have indicated their contribution to technical policy making, implementation and monitoring. There has been an extended debate on various theories of the European integration, and interest associations themselves as well as their wider contribution to the EU political system have been the subject of academic interest. However, a somewhat neglected aspect of interest group politics at the EU level to date with few exceptions (see: Greenwood, 2002), has been their governability. Indeed studies such as Greenwood's (2002) suggest a considerable variation prevails in the ability of associations to unite their membership and achieve their goals. Similarly Schmitter

argues that a difference exists in the aptitude of the associations to define and sustain a course of action over the long run which would not be affected by the immediate preferences of the membership or policies of political parties and agencies (1992: 438). These propositions lead to a question: what is the difference between those associations that manage to maintain a long term course of action and those who are less successful in doing so.

The wider literature on economic prosperity points towards social capital as the key artefact leading to the successful functioning of democracies and success of the specific groups within the society as well as to the well being of the society itself (Putnam, 1993: 167). The social capital on the other hand is said to rest on the presence of trust. Thus one of the key advocates of social capital, Robert Putnam, argues that trust constitutes the key essential element of social capital (Ibid: 170). Likewise Fukuyama concentrates on trust as a basis of social capital, and the social capital in his perception similarly constitutes a premise of a prosperous society (1995: 33).

Furthermore turning specifically to the studies on EU business interest associations, Greenwood argues that trust constitutes the 'key glue of the associations' (2002: 19; also Greenwood and Westgeest, 2002: 226). Thus he argues (2002: 28) that the rise of high trust conditions will lead to rise of shared understandings which in turn will lead to increased autonomy of the secretariat of the association. The emergence of shared understandings among the membership contributes towards the cohesiveness of the association while the autonomy of the secretariat enables the staff to be of higher value to members by representing their interests rather than just their opinions. These two factors, a coherent association and an ability to work towards long-term priorities, constitute the key factors strongly associated with the governability of the association. Thus trust appears to constitute an essential element for the smooth operation of any association.

Many practitioners in the field of EU business interest associations also share this academic perspective. Thus Barrie Gilliat, the Executive Director of the chlorine industry association,

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the EuroChlor, notes that trust served as one of the crucial tools in facilitating the cohesiveness of the association. This in turn has allowed for more rapid decision-making in issues of mutual concern for the membership (2003: 127).

Similarly Ian Locks, the Chief Executive of the Periodical Publishers Association, argues that there are only four things that matter for business associations: trust, trust, trust ... and trust (2003: 191). The four trusts that he deems necessary are trust between members, trust by members in the business association executive, trust between associations when they form alliances and trust between association or alliances and respective governments. According to Locks, if an association has the four trusts 'in good shape', the perception of the association among the members will be one of successful and valued intermediary (Ibid).

Therefore, whether looked at from the perspective of EU interest group studies or from the perspective of studies on social capital, trust appears to be key to the success of most groups of the society. Consequently the present study attempts to explore a much-neglected area of EU politics that being the importance of trust in the functioning of EU business associations. Thus the research aim is to investigate the nature and role of trust in the EU business interest associations and to provide an explanation of the process of trust in the context of EU business associations.

The notion of trust

There is an essential problem which arises when attempts to investigate such a phenomena as trust are undertaken and this difficulty arises from the complexity that the phenomenon of trust involves. This complexity first and foremost materializes in the difficulty of defining the concept. The voluminous body of literature on the subject offers a great variety of definitions but none of those can be said to have achieved a universal application.

In general terms trust is described as a two way process where people are both trusting and trustworthy (Pollitt, 2002) while Hardin (1993: 506) argues that trust is a three part relation whereby A trust B to do X. Consequently accounts like

these concentrate on the mechanics of trust pointing towards relationship as the essential pre-requisite for the development of trust.

However more detailed accounts of trust equate trust with a belief about the future behaviour of the other party (Tyler, 2001) and a subjective probability calculation of the potential costs and benefits of future interactions (Tyler and Degoey, 1996). These studies underline the calculus based interaction where trust arises on the basis of a calculation based rational: can I afford to trust the particular person. This type of calculation is normally based on past experiences which have provided the parties involved with a certain amount of information on the basis of which these calculations about the probable future behaviour of the parties are made.

From a sociological perspective as argued by Zucker (1986: 54), trust is a set of expectations shared by all those involved in an exchange, which include both broad social rules determining, for example, what a "fair" rate of interest would be, and legitimately activated process, such as who has the right to determine the rate of interest. Thus reports like that by Zucker concentrate more on the social process that surrounds the particular interaction and may have impact upon the decisions to trust of the parties involved.

Coleman (1986: 141) on the other hand conceives trust as unilateral transfer by the trustor to the trustee of control over some resources or actions or events with the expectation that this placement of trust will bring a gain in utility. This description fits well with a rather popular definition of trust as one's willingness to be vulnerable (Anderson and Jack, 2002; Heimer, 2001; Mishra, 1996). Here the proposition is made that trust involves risk and one's willingness to take the said risk constitutes trust. Certainly such willingness or unwillingness is based on the individual perceptions as to what constitutes a trustworthy person or behaviour. Thus the individual characteristics of the parties involved in a transaction become important determinants for the emergence of trust.

Another popular definition of trust is that provided by Gambetta (1988: 217), who argues that trust is a particular expectation that we have with regard to the likely behaviour of others. It

is a particular level of the subjective probability with which one party assesses that another party will perform a particular action, both before he can monitor such action and in a context in which it affects his own action (also Dasgupta, 1988; Luhmann 1988). These accounts point to the importance of such factors as mode of performance and context. This in turn again signifies the importance of individual characteristics and capacities since the quality of performance would be normally dependant upon these factors. Similarly factors outside of the particular relationship are noted as important determinants of the presence of trust as those can shape the decision to trust.

These definitions provide a plethora of views on the concept of trust and each of those can be said to represent some aspect of trust. After all trusting involves so many aspects and so many different factors can be of importance. Therefore attempts to find a common position among all these different definitions of trust lead to the conclusion that most scholars appear to distinguish between trust that is embedded in individual characteristics of parties, between relational aspects or processes that surround the particular relationship, between institutional or formalized aspects that influence relationships and also between different contexts and situations that influence the decision to trust.

The four aspects of trust

Institutional trust

Accounts of interpersonal trust emphasize the importance of emotional bonds between people (Kramer, 1999; Lewicki and Bunker, 1996). These studies signify the perceptions that parties to any given relationship or transaction hold regarding each other (Strickland, 1958), they concentrate on how much confidence parties have in each other and how similar they are. The determinant factors for trust in these accounts are the interpersonal bonds that tie the parties to a given relationship or transaction (Lewicki et al, 1998). Thus Volery and Mensik (1998), for example, argue that such factors as commitment, harmony, security and being similar are conducive towards trust. Mishra (1996) on the

other hand emphasizes the belief that the other party will be competent, open, concerned and reliable as representing the basis for trust.

Evidently the above accounts of interpersonal trust concentrate on individual perceptions that individuals have towards others and it is common sense that individuals are more disposed towards those who are similar either in terms of profession, nationality, religion or just share the same hobby. Consequently the main distinguishing factors in accounts of interpersonal trust are the individual traits of any given individual, which allow or preclude the said person to be 'branded' as trustworthy.

There are many different ways how academics have chosen to 'label' this aspect of trust. Zucker (1986), for example, distinguishes characteristic-based trust where trust is tied to person and individual characteristics of the individual concerned. Kramer (1999) on the other hand describes dispositional trust arguing that the predisposition to trust or distrust others tends to be correlated with other dispositional orientations, including people's beliefs about human nature. However what all these different 'names' of trust have in common is their central focus on the personal qualities of an individual and the way those shape ones' willingness to trust.

Besides the personal, individual characteristics, accounts of interpersonal trust have also concentrated on other aspects closely tied to individual traits. Thus Zucker (1986) argues that in development of trust among the group members, being homogenous can be a very helpful factor. There can be a variety of factors contributing towards this homogeneity, like common customs and 'unwritten rules', which therefore also can have a role to play in development of trust (Messick and Kramer, 2001). Accordingly social similarity between individuals can influence development of trust and hence individuals with similar fundamental characteristics like ethnic background may have advantage over diverse groups in their ability to create and maintain trusting work relationships (McAllister, 1995).

Moreover as far as group dynamics are concerned, identification with the 'we' of the formal or informal group and family, allows individuals to gain utility from successes of the group

(Kramer et al, 1996). This is something that Kramer et al (1996) call identity-based trust where trust, just like identity itself, is a socially constructed product. Sheppard and Tuchinsky (1996) call it identification-based trust which for them includes a sense of identity, having common goals and strategies, shared name and legal status, common values and history, which all in turn facilitate the development of trust among the group members.

However, when investigating a multinational environment, like that of the European Union, note must be taken of the coexistence of the various cultures and ethical habits. Thus homogeneity might be by far a more complicated aim to achieve since ethnic ties make the potential group more homogeneous (Doner and Schneider, 2000). This proposition was confirmed by a study by Arrighetti (1997) in Germany and Britain, where it was found that difference in culture matters and is not conducive towards trust. The question thus arises as to whether or not there is something that can be called European culture, a set of ethical habits common to people of all twenty-five member states that can serve as a basis for the development of trust. Likewise, since culture can also be embedded in a group smaller than a nation, the question can be asked if there is a culture of a certain industry, for example, of fisheries or agriculture, which serve as a basis for common linkage between the members of the interest association.

However the interpersonal characteristics, individual traits and habits need to be communicated to the parties of any given interaction, they do not exist in isolation and one of the most natural forums for their transmittal are relationships.

Relational trust

Naturally relationships whether those would be of a personal or business character are the prime forum for the development of trust. It is therefore not surprising that many authors investigating trust have placed a considerable emphasis on the relational aspect as the determinant of trust development (Tyler, 2001; Kramer, 1999; Lewicki and Bunker, 1996; Ring

and Van De Ven, 1992; Gambetta, 1988). Hence Lewis and Weigert (1985) argue that trust as a collective attribute, is applicable to the relations among people rather than to their psychological states taken individually.

The core of the relational trust studies centre on the issue of individual conduct as the defining element of trust and the essential determinant for the development of trust. In accounts of relational trust the behaviour that individuals employ acts as a catalyst for the decision to trust. Accordingly Cummings and Bromiley (1996) classify trust as a belief that another individual or group will behave pursuant to any explicit or implicit commitments and they name the intended behaviour of an individual as one of the components of trust. Equally so Gambetta (1988) argues that trust is a particular expectation we have with regard to the likely behaviour of others.

Similar to accounts of interpersonal trust, relational trust studies also provide a variety of 'names' attributed to this aspect of trust. Thus Zucker (1986) has given preference to the concept of process-based trust where trust is tied to a past or expected exchange such as reputation of the party concerned. However this account also centres on the relational or behavioural aspects that have an influence on trust since past experiences that one may hold are essentially tied to past encounters with the party concerned.

The relational aspect of trust first and foremost underlines the importance of personal contacts in the development of trust. Personal contacts provide the opportunity to get to know the partner to the transaction and thus may shape the willingness to deal with certain individuals in future (Bradach and Eccles, 1989; Lorenz, 1988). Thus Putnam (2000) argues that social distrust is not purely objective and it also to some extent reflects personal cynicism and paranoia which can be minimised or even avoided by personal contact. Consequently Lesser and Storck (2001) conclude that by developing connections among practitioners who may or may not be collocated, fostering relationships that build a sense of trust and mutual obligations and creating a common language and context that can be shared by community members

foster generation of social capital and trust by these communities. This in turn creates an environment in which business performance is positively impacted.

Moreover the developments of modern technologies nowadays offer a wide selection of various communication tools transcending the limitations of time and space, making the communication by far easier, faster and cheaper. Thus Lesser and Storck (2001) argue that there is nothing in the classical sociological definition of community of practice that rules out such communication medium as e-mail, discussion groups or chat rooms as support mechanisms for participating in distributed communities of practice. This could be especially important in the setting of EU business associations with geographically dispersed membership.

Nevertheless the ease of computer-mediated communication comes at a price. It transmits by far less nonverbal information than face-to-face interaction and humans are remarkably effective at sensing nonverbal messages from one another, particularly about emotions, cooperation and trustworthiness (Putnam, 2000). Thus since computer mediated communication ensure only poor social cues, it precludes the flow of certain information which can be of importance for the particular transaction. Strikingly investigations of trust in virtual networks which by definition exclude personal interactions between the members of the network clearly prove that lack of personal contacts in these settings lead to difficulties in respect of trust formation (Jarvenpaa and Leidner, 1999). Therefore Walther et al (2005) argue that while trust always is a fragile artefact, in virtual networks where visual cues are absent, it can be expected to be extremely vulnerable. Consequently it is not surprising that Jack Welch, boss of America's General Electric company, in insisting that nothing can replace "eyeball to eyeball" contact, undertakes travel rather than employs the practice of e-mailing in order to facilitate personal contacts (*The Economist*, 1995).

If all the arguments in favour of relational aspect of trust are taken together, it becomes evident that the main emphasis is on developing the sense of familiarity in any given transaction or relationship. After all familiarity is one of the

main benefits of personal communication and thus for Luhmann (1988), who deems trust to represent a solution for risk, familiarity becomes a precondition for development of trust.

However familiarity just like the building of personal contacts takes time. Indeed there are many scholars who emphasize the element of time as a crucial one for the development of trust in relationships (Lewicki et al, 1998; Tyler and Kramer, 1996; Bradach and Eccles, 1989). Lengthy encounters allow for establishing relationship through frequent interactions, which are recognised to constitute an important contributor towards trust: after all these contribute towards developing a sense of familiarity (Heimer, 2001; Ring and Van De Ven, 1992). This in turn allows for accumulating information about the past encounters, gathering information about a certain person thus allowing for reasoned predictions about the likely behaviour of a certain individual in some future situation which can be a helpful tool in fostering trust.

Further, turning to the business environment, a study conducted by Lorenz (1993) on trust in inter-firm relations revealed that most of the firms that took part in the study required a minimum time period of one year in order to establish effective cooperation and this time was used for thorough investigation of the possible partner. Thus the element of time in inter-firm relations is evidently a rather important factor for effective cooperation.

The frequency of interactions can also be facilitated which corresponds to the idea that in order to be productive, relationship needs to be dynamic. In essentially voluntary organisations like those of EU business interest associations, one of the essential obstacles can be the lack of involvement of membership in the work of the association. Thus if members of EU business association are not actively engaged in the life of the association, it is unlikely that they will build personal relations with other members or the staff of the association. In such a scenario the likelihood of a cohesive association becomes somewhat implausible.

Consequently the greater the communication, both direct and indirect, the more involvement in the relationship there is, the greater is the mutual trust among the participants and the

easier they find it to cooperate (Knoke, 1990). However any interactions and especially those in the organisational setting like associations, cannot be divorced from the impact that organisation has upon them. Thus another important aspect of trust must be considered, namely institutional trust.

Institutional trust

The different forms of cooperation that individuals develop and the systems of enforcement of rules organizing human activity are at the very heart of economic history since they not only spell out the system of incentives and disincentives guiding and shaping economic activity, but also determine the underlying distribution of wealth and income of a society (North, 1981: 17). This is a kind of institutionalization that is established by society everywhere and these institutions are not just administrative and political organizations but rather also sets of routines, norms and incentives that shape and constrain individuals' preferences and behaviour (Lowndes and Wilson, 2001). Bearing in mind the impact on the human behaviour that institutions may have it is not surprising that institutions can have and in many instances are recognised to have an impact on the development of trust (Tyler, 2001; Levi, 1996; Kramer, 1996; Tyler and Kramer, 1996). Thus Zucker (1986: 60) argues that institutional trust arises when trust is tied to formal societal rules, depending on individual or firm-specific attributes or on intermediary mechanisms. Therefore such factors as formal and informal rules of the associations along with their structural composition can have an impact on the development of institutional trust.

The internal structure of the organisation is important: as Kramer (1996: 217) argues the problems with trust arise at least partially due to reciprocal vulnerabilities and uncertainties that are inherent in hierarchical relationships. Thus he argues that hierarchical relationships are not conducive towards trust since they are characterized by profound and consequential differences in power, status, dependence and control which are enjoyed by those at both the top and bottom levels. Therefore it can be argued that

horizontal, democratic design of the association, allowing for effective participation of members in the decision-making process, can be an important contributor in the development of trust.

However the presence of hierarchy also presumes at least some form of leadership, which admittedly plays a very important role in the development of trust. It first and foremost may mean the involvement of the state as a provider of the rules of the game (Levi, 1996). In the setting of EU business associations those can be EU institutions that set the rules for the industries and associations representing these industries. But likewise the leadership provided by the Secretary General or President of the association may have similar effects on the development of trust. Interestingly Tyler and DeGoey (1996: 332) define trust in terms of feelings that an authority has made a good-faith effort and treated the parties involved in the conflict fairly. According to them, perception of authority's trustworthiness shape people's willingness to accept the decisions that authority has arrived at.

Further regulation whether in the form of law, voluntary self-regulation or individual choice to enter into contractual obligations, constitutes another aspect examined in the accounts of institutional trust. According to Luhmann (1988) law may create trust since effective law may generate confidence in the legal system and in positions of security, which in turn makes it easier to place trust in other relations. Therefore such factors as the presence of the internal regulation of the association or voluntary codes of conduct may become facilitators of trust within associations.

Certainly the efficacy of any regulation depends on its enforcement and to this extent many have argued in favour of monitoring and/or control of the actions of others as a means of reassurance that those being monitored are acting as the trustee had hoped they would act. Therefore monitoring is said to contribute towards the development of trust (Levi, 1996; Lewicki and Bunker, 1996; Sheppard and Tuchinsky, 1996; Tyler and Kramer, 1996). However there are also studies reporting just the opposite: the more a trustee attempts to control actions of those entrusted, the less he/she actu-

ally trusts them (Kramer, 1999). Thus excessive control may also communicate distrust to the other party leading to feelings of discomfort and negatively impact the transaction.

However a decision to trust is never taken in a vacuum, there are always some outside factors influencing the disposition towards trust. This has been acknowledged in the literature and thus another type of trust can be distinguished in addition to the three discussed above: situational or contextual trust.

Contextual trust

Undeniably the situation or context of any given act of trusting may have an impact upon the formation of that decision. Dasgupta (1988) argues that trust covers expectations about what others will do or have done in circumstances that are not explicitly covered in the agreement. Therefore ability to trust someone requires knowledge of not only something about the disposition of the other party, but also of something about the circumstances surrounding the occasion at hand. Thus Kramer (1996) reports Salanick and Pfeffer who argue that to understand many forms of organizational behaviour, it is essential to consider the social context within which the said behaviour is embedded. Therefore Lewicki et al (1998: 442) specify that relationships are multifaceted or multiplex, enabling parties to hold simultaneously different views of each other, for example, having trust only with a particular task or capacity of a person. It is thus not surprising that Lewis and Weigert (1985: 981) argue that trust always functions within limits posed by specific situational conditions.

The notion of crisis constitutes one very specific but powerful aspect of contextual trust and its impact on trust has been widely considered in literature. Putnam (2002), following the tragedy of 11 September 2001, changed the title of his famous 'Bowling Alone' to 'Bowling Together' thus by the very heading of his book manifesting the change in his opinion about the decline in civic engagement. The argument lies with the proposition that such a tragedy has united American society by exposing common values and perceptions. Similarly also Fukuyama (1995:

158) to a certain extent agrees with Putnam by stating that in the absence of shocks from outside wars, revolutions, or market-opening trade agreements- a society's organizational ability tends to go increasingly into the creation of new distributional cartels that inject stifling rigidities into economy. Thus in the setting of business interest associations it can be argued that crisis in an industry that any given association represents is likely to prove helpful for the development of trust within the association.

Moreover, the situation of crisis implies the presence of another sub-factor that can be important in trust building. Putnam reports (2002: 3) that after the 11 September 2001 Americans also confronted a clear foreign enemy, an experience that both drew them closer to one another and provided an obvious rationale for public action.

In the business world, individual companies of the same industry might find themselves fighting the same problem, a 'common enemy' and such a situation can have very positive effects in building trust. Interestingly this is exactly the scenario that is reported by Gilliat (2003) where widespread attacks from environmentalist groups reportedly helped to consolidate the membership of the association. In a situation like this the choice for a member can be to either trust others and work together or to stay alone and possibly suffer losses. In these circumstances members are likely to put aside their differences and work together and fight the 'outside enemy'.

Research methodology

The present research has adopted iterative research design, bearing in mind that when mixing qualitative and quantitative methods the main concern should be consistency in terms of the ontology, epistemology and methodology adopted (Read and Marsh, 2002: 247).

The research question of the present study, namely the nature and role of trust in the EU business interest associations, requires an in-depth understanding of phenomena, it demands detailed examples, subjectivity, lived experiences and processes. In this sense the research question will be best answered through qualitative meth-

ods since these allow for the accommodation of all of the above mentioned concerns. In particular two qualitative methods were been adopted: participant observations and in-depth interviews.

Turning to the sample of the present study, on the basis of studies on governability of EU business associations this research adopted six characteristics that are likely to produce high levels of trust as a basis for the sample. Those factors are:

- similar size of members which allow members to share similar issues thus providing common interest for collective action;
- a 'common enemy': providing a stimulus for members to work together;
- overcapacity: when members may turn to their association for solving this problem common to everyone in the sector;
- low product differentiation: another 'common problem' that might consolidate members to work together;
- high asset specificity (i.e. high cost fixed assets) which need collective action to protect, and high transaction costs demanding collective action;
- regulation, which distributes costs and benefits evenly across members: since all members are in the same position, it helps to consolidate them to work together.

Bearing in mind the choice made in favour of a qualitative research, the sample was small, consisting of four associations thus allowing for rich data to be gathered. The associations chosen differed in their conformity with the above mentioned criteria and were also representing different industries:

- Association of manufacturers of a commodity product;
- Association of manufacturers of a widely used leisure product;
- A key modern technology product group;
- A popular services group.

All of the interviews undertaken were forty minutes to two hours long, depending on the time constraints of those interviewed and all the interviews apart from one were tape-recorded. From each association members of staff as well as members were interviewed and overall there were 41 interviews conducted. The researcher

also participated in over 10 official meetings overall that these associations had as well as in a number of informal events thus providing possibility for participant observations.

Bearing in mind the concern of this research with the meanings and understandings of trust, the data gathered was analysed by framework analysis. This is a matrix-based method for ordering and synthesising data, which facilitates rigorous and transparent data management such that all stages involved in the analytical hierarchy can be systematically conducted (Ritchie et al, 2003: 219-20). In general terms this approach involves the coding of data, sorting the data into initial themes, bigger themes and also mega-themes and attempting to identify patterns with the main aim being to identify themes of what influences trust. This may allow for some explanations on the role and nature of trust in business associations.

Preliminary findings

Interpersonal trust

The interviewees perceived the attributes of interpersonal trust as very important. In terms of the staff of the association it was especially noted by the interviewees that professional abilities and experience in the field of industry that the association is representing are of paramount importance. This professional industry experience appears to allow the members to communicate with the staff of the association with greater ease since there is no need to explain the details of the business. This facilitates communication, makes cooperation much easier and allows for easier and quicker decision-making. These effects in turn allow the members to rely more easily on the judgements made by the professional staff, even if some propositions made appear not be of any apparent direct benefit for the individual company but rather are of importance for the industry.

Professionalism in terms of 'Brussels scene' was also noted as an important attribute in allowing the membership to rely upon the judgement of the staff. However the preliminary results suggest that the professional skills of a member of staff in terms of industry experience

were rated higher by the members since that allowed for the development of a sort of 'common language'.

Relational trust

While there was a strong perception that relationships in business association among the members or members and staff are business relationships and not some sort of personal friendships, the preliminary results indicate the great importance attached to personal contacts and personal knowledge of each other on some different level other than just work in the association. Knowing each other allows development of familiarity and this allows parties to make their own calculations about the probable future behavior of others which facilitate the development of trust.

However in order to get to know other parties and develop familiarity, it becomes evident that face-to-face contacts are essential. Indeed, all interviewees unanimously declared personal, face-to-face meetings to be an essential requisite for smooth operation of the association. Moreover the interviewees noted not only the significance of personal business meetings where the issues of the association are discussed. Similarly informal meetings like lunches and dinners were noted as important contributors, facilitating the understanding of common issues uniting the membership. After all these not only allow more pleasant interaction but also pose an opportunity to discuss issues in less formal environment and get to know other parties better.

Moreover, bearing in mind the multicultural environment, native English speakers were noted as having a certain advantage over non-native speakers and thus personal meetings were reported as excellent tool in minimizing or even eliminating these language barriers.

Finally, when elaborating upon the necessity and value of personal contacts and face-to-face interaction, the interviewees also noted the importance of the time element. This first and foremost surfaced in the elaborations on personal contacts. The more frequent these personal meetings are, the more opportunities there are for parties to ascertain more about the qualities of others and the more familiar the environment becomes.

Similarly a helpful factor noted by the interviewees, associated with the element of time, was the continuity of staff members. The longer one person stays employed with the association, the more that person knows the association and its issues and the more occasions there are to develop personal contacts with the membership. This in turn provides for easy communication, smooth decision-making and leads to the increased feeling of trust between the members and staff.

However relational trust does not exist in isolation, rather it somewhat reinforces the attributes of interpersonal trust since the essence of personal contacts and face-to-face communication lies in obtaining the necessary knowledge of the other party. The knowledge of these personal qualities in turn allow for making predictions about the likely behavior of the party in future, which in turn allows for the development of trust.

Institutional trust

This aspect of trust appears to set the agenda of business associations and all the interviewees noted that the working agenda of the association is more or less determined by the EU and/or national institutions and the regulations set on either of these levels. To this end the initiatives undertaken by the regulatory bodies at national or EU level can consolidate the membership of the association: if a regulation is proposed with serious impact upon the industry, the membership of the association becomes easier to unite around the 'common problem' posed by the potential regulation.

Contextual trust

The situation or context of the industry or sector that the association represents, according to preliminary findings of the research, appears to have a considerable impact of the development of trust. There is a seemingly strong correlation between a situation of crisis in an industry and the development of trust within the association representing the industry. Similar to the impact of regulation, the impact of crisis or the presence of a 'common enemy' can be

explained by the fact that serious problems within industry consolidate the membership. These outside factors focus the membership on the issues that are of real importance as opposed to minor differences or dislikes that certain individual companies may have against each other. These assist the association in maintaining a clear focus on the common interest of the membership thus smoothing the work.

The preliminary research results indicate that the distinction between the four aspects of trust is artificial and cannot be strictly applied. Trust is a multidimensional concept requiring a multidimensional approach. In other words, in order to create trust simply having exclusive focus on ensuring good personal relationships or just being very professional and knowledgeable but unable to communicate with people is not enough.

While it was not the aim of the research to engage in a systematic comparison of the four associations chosen or in the measurement of trust levels present in these associations, the variation between the four was inescapably evident. This variation between the four associations appears to be linked to two sets of factors, which can be broadly divided into internal or subjective and external or objective factors. The latter broadly correspond to the six governability criteria adopted as the basis for the sample. Thus, for example, associations with members of similar size enjoy better conditions for the development of trust since members share similar issues and concerns which in turn provide better conditions and stronger incentives for collective action. However there is a factor which was not singled out among the six governability criteria for the purposes of the sample, but appears to have considerable impact upon the development of trust: the degree of associations' specialization. To some extent this aspect was reflected with the criteria of 'overcapacity' and 'low product differentiation'. In essence the more specific and 'narrow' is the industry that the association is representing, the easier it is to consolidate the membership since membership by definition is very homogeneous, all coming from a very specialized industry. However to this end the presence of a 'common enemy' can prove extremely helpful, arguably even a substi-

tute for the specialization factor mentioned above. The presence of a 'common enemy' not only allows for, but rather *makes* the association to distil the common issues of the membership. For the membership the presence of such a 'common enemy' clearly highlights their common interest in the association and allows for uniting around those issues which in turn serves as a great impetus for collective action.

The basis of the sample for the present research did not and objectively could not take note of another set of factors which, as preliminary research results suggest, have considerable impact upon the variation of trust between the associations. Those are factors internal to every association, subjective factors like the professionalism of the staff members in terms of industry experience and interest representation, the level of membership engagement in the work of the association and the condition of the relationship between the members and between the members and staff. These provide the other component of the essential fabric of trust in EU business interest associations. As argued earlier, trust is closely tied to parties and their interactions and this is an aspect that appears to have considerable importance of the development of trust also in the setting of EU business interest associations.

Conclusions

The preliminary results of the present research indicate the presence of a strong majority view among the interviewees that trust is important for the effectiveness of EU business interest associations: for their ability to unify members and comply with the goals of the association. In fact, the majority of interviewees spoke of trust as a precondition for the ability of the association to achieve the goals set.

However most of the interviewees likewise noted that trust alone is not enough. Trust *per se* is not the panacea, it is not the ultimate solution for all problems and challenges that business interest associations face or could possibly face. It allows for smooth work and good information exchange and there is no need to constantly check what the staff of the association does and the decision-making also becomes by far easier,

quicker and smoother. Nevertheless the necessity for sound professionalism both in terms of the industry that an association is representing as well as understanding of the 'Brussels scene' and quality of performance remain highly important factors for the ability of the association to reach the goals set.

Moreover any association wishing to succeed with the aims established must be clear about its main goal and focus on that must be maintained at all times. To this end, presence of a 'common enemy' for the industry that the association is representing is very beneficial as that focuses members on issues that are common and important across the industry. Certainly the presence of such a 'common enemy' might be more obvious in one industry than another. However it is the task of the staff of the association to clearly show their members what constitutes their core common interest. There is always a clear uniting factor, a common interest to all members and it is the task and skill of the association staff to show it clearly to the membership.

As argued earlier, the importance of personal contacts and face-to-face communication for smooth operation of the association should not be underestimated. If an association allows time and space for members to get to know each other a bit more than just a name on the atten-

dance list, it will improve the work in the association to a great extent since that will diminish or even eliminate the uncertainty. This applies not only to the relationships between members but also between staff and members as good personal relationships between staff and members are important too. Knowing the secretariat allows members to ascertain about the quality of the work performed and this in turn makes it easier to rely on the judgements made by staff and leads to willingness to grant more autonomy to the staff in their daily work.

Furthermore the transparency of the association is important as members would be able to reassure themselves at any time they wish that association is running the way they want it to run. Moreover, this must not only be visible when members are looking for it. The ability of the association to tie every decision made and every action taken to the main goal and show it to its membership will lead to greater trust from the members in the ability of the association.

However trust is not static, it is developmental and must be maintained. The paradox with the development of trust as noted by many interviewees lies in trusting itself: the more you trust, the more trust you create, and the less you use it the more of it you lose. So trust must be employed in order to create trust.

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EU Social Partnership and competitiveness

by *Elsbeth Attwooll**

I start with some disclaimers. The Commission's Communication has not yet come before the Employment and Social Affairs Committee for discussion. Nor has it come to my own party's working group. So I can speak for neither and any comments I make must be taken as purely personal ones. Nor should they be construed as criticisms. They are simply an expression of some concerns I have and expressed in the hope of reassurance in later discussion.

Second, besides commenting on the Commission's initiative, I have been asked how it is possible to strike a balance between appropriate social policies and industrial competitiveness. I suspect that, had I anything approaching an effective and comprehensive answer to that question, I would be occupying a rather different role in life rather than that of a mere substitute member of the Parliament's Employment and Social Affairs Committee. All I can hope to do is to give you a few fragmentary thoughts in the hope of stimulating discussion

To start with the Commission's Communication. I take on board the points they make in section 4 about the need to encourage the development of bipartite social dialogue within the new Member States and the need for capacity building in this regard. But I am also concerned about issues to do with the utilisation of established capacities within the previous 15.

The first aspect of this concern is discrepancies in approaches to industrial relations in the latter. Let me take temporary agency workers as an example. From MEP colleagues, I certainly gained the impression that Danish opposition to a Directive concerning such workers stemmed largely from the fact that, in Denmark, matters of this kind are resolved through social dialogue, with little resort to legislation. The latter, at European level, therefore could prove disruptive and even counterproductive in the context of local arrangements arrived at by means of negotiation.

By contrast, in the UK, it is regulation that largely prevails. Concerns about intervention at EU level, both in relation to temporary workers and to working time, centre on fears about a reduction in flexibility in the labour market. What is noticeable, however, from the point of

view of a UK member of the European Parliament, is the extent to which EU measures allow a more relaxed application of the rules where there is a collective agreement to this effect. I have even heard one British MEP express the view that the hidden agenda in labour legislation at EU level is to impose collective bargaining solutions on the UK.

I comment on both these takes on EU legislation on temporary workers only to say that the fact that it can be seen both as an attempt to depose and to impose social dialogue suggests that there are considerable structural issues still to be addressed.

The second aspect of my concern about the utilisation of established capacities for social dialogue within the previous 15 relates to the evenness of its development. If you look at Annexes 4 and 5 and consider sectoral social dialogue, despite there being 30 such dialogue committees some of the sectors covered are relatively narrow and the range does not seem to be comprehensive. Also there are three times as many employers as employee organisations listed, with UNI-Europa thus representing the latter on almost one-third of the committees. This is not to say that this makes the dialogue any less effective. What I have found, though, as an MEP is that, where sectoral legislation is concerned, lobbying from both European and national organisations on it has come much more heavily from the employers than the employees side. This may just be because of certain assumptions made about the political group to which I belong. But it does make me ask to what extent capacity building is still needed within the previous 15. This is an immediate issue, since under the Commission proposals for the ESF, the use of this for capacity building is limited to the convergence regions (the old Objective 1). Should I vote for an amendment extending this to the competitiveness and employment ones (the old Objectives 2 & 3)?

This leads me in to two more points relating to the Commission communication. I can fully see the merit of moving from top down regulation and even from bottom up regulation under Article 139 of the Treaty to the new generation texts which, whether autonomous agreements or process oriented texts, are administered by the

* Member of the European Parliament

social partners themselves, which one could describe as “co-operative self regulation”. This is very much in line with the EU’s increasing emphasis on subsidiarity. When, though, it comes to delivering reform, I read that the Commission calls only on the European and national social partners to take action. Coming from a legislative region myself, I would like more account to be taken of the regional and local dimension.

The second point - and this brings me closer to the issue of the Lisbon Agenda - is also one of penetration. If one looks at the numbers, business activity in the EU takes place predominantly in micro, small and medium-sized enterprises. For example, in the EU, firms employing less than 50 people amount to 99% of the total number of businesses and account for 55% of total jobs in the private sector. In the UK they generate 52% of total turnover. I do not deny the importance of synergies between the social dialogue, European Works Councils and Corporate Social Responsibility but this is, for the most part, more relevant to larger enterprises. Yet it is on micro and small business that top down regulation tends to bear most heavily. In consequence, well-monitored self-regulation could be the answer. Yet existing social dialogue structures may be either inappropriate or insufficiently developed for this to be done on a co-operative basis. Again, I think we have to consider whether greater capacity building is needed in this regard. One consideration, here, is of course that small businesses tend to come together as trade rather than employers organisations, and so are not constituted as one of the partners between whom the dialogue takes place.

Then, there is the whole issue of the social economy, narrowly understood as co-operatives, mutual societies and associations of production and service delivery and more widely as including the third or voluntary sector. The latter alone in the UK contributes £7.2 billion to GDP. Currently our understanding of social dialogue concerns only those involved in mainstream business activities, whether from the side of the employer or the employee. I certainly do not want to undermine that in any way. But, given the importance of the social economy and

the role the voluntary sector has in maintaining social cohesion, I am not sure we can develop a holistic approach to the agenda for reform without at least a parallel approach in this context.

When it comes to that agenda for reform, however, are we seeking to achieve the achievable? The Lisbon Agenda challenges us to establish the most dynamic knowledge based economy in the world, with more and better jobs. Targets are set for participation in the labour market, with an emphasis on hitherto disadvantaged sectors and the retention of older workers.

We seek more and better jobs. But what do we mean by more and better jobs? Do more jobs mean simply more people in employment, irrespective of it being full time or part time, permanent, fixed term or temporary in nature? Do better jobs mean simply jobs that produce greater added value to the economy or jobs that involve better working conditions or both?

The Commission Communication identifies the main aspects of the agenda for reform as: improving adaptability, investing in human capital and job quality, and attracting more people to the labour market. On improving adaptability it states that it is necessary to achieve a balance between flexibility and security. But it is too simple a take on the issue to see flexibility as the requirement of employers and security as the requirement of employees. For an employer, flexibility could mean the capacity to maintain only that level of workforce required at a given (and possibly very short) period of time. For an employee, flexibility could mean the ability to work in a manner that variously (and not necessarily compatibly) maximises income or conduces to the reconciliation of work and family life. For an employee, security could mean certainty of continued employment, a good and safe working environment and so on, whereas for the employer the parallel could be certainty of access to a skilled and productive workforce.

Obviously there are tensions between an employer’s wish for a flexible workforce and an employee’s for certainty of employment. But there are, too, tensions within and between the aims on both sides. A flexible size of workforce may not necessarily be conducive to its being skilled or productive. So there are impetuses both for and against flexibility for the employer.

The kind of flexibility that is desirable for the employee may not match that which is desirable for the employer. The capacity to maximise income through longer working hours may not always be consonant with a safe working environment for employees or, indeed, as figures from the UK seem to suggest, to overall productivity.

One can find similar – although I think not such serious – tensions where investing in human capital and job quality or attracting more people to the labour market are concerned. But there are as many complexities. For example, increasing female participation is intended to produce benefits for the women concerned, their employers and for society as a whole. If caring responsibilities are an obstacle, where does responsibility for finding a solution lie? And, more radically, are we likely to be successful where the occupations in which women traditionally predominate continue to be less well rewarded financially? Similarly, what adjustments do we need to make to the way we currently do things to encourage people to work later into life?

What I am trying to say, in a rather convoluted way, is that I suspect that politicians, respec-

tively of the right and the left (myself “in the middle” included), and the two sides of industry still tend to operate as if there were two distinct and almost entirely conflicting sets of interests to be served, whereas, in fact, there are conflicts between interests within both sides and, equally, there are many respects in which certain interests on different sides can be seen to march together.

There is, of course, some recognition of this but it seems to be put to use by way of exploiting weaknesses. For example, with Temporary Work, what is genuinely a lifestyle choice for some becomes treated as if it were a lifestyle choice for all engaged in it. Similarly, with Working Time, the fact that some workers are willing to work really long hours becomes translated into an argument against imposing a limit at all.

I am sure the process works both ways. I do not think we are likely to succeed in balancing the demands of competitiveness and a good quality of working life until we accept that both are in the interests of both sides of the equation and treat the issues as involving needs to be accommodated, not demands to be denied. In this the social dialogue could play a central role.

The World Summit of September 2005 and the reform of the United Nations

by Yves Beigbeder

The world leaders, meeting at UN headquarters in New York from 14 to 16 September 2005, approved the text of a long resolution, the outcome of a difficult compromise between governments with different concerns and objectives.

Kofi Annan, the UN Secretary-General had high expectations for this meeting, held shortly before the 60th anniversary of the UN in October 2005. He was hoping to get firm commitments by Member States on development, security, human rights, internal reform and other subjects. The final outcome gave only mixed results.

Annan had first appointed a "High-level Panel on Threats, Challenges and Change" composed of personalities from 16 different countries, including Gro Harlem Brundtland, former Director-General of WHO and Sadako Ogata, former UN High Commissioner for Refugees. Its report, submitted in December 2004, was followed by another report by the Secretary-General entitled "In larger freedom : towards development, security and human rights for all" (Doc. A/59/2005, 21 March 2005).

On development, there was general agreement at the Summit to achieve the Millennium Development Goals by 2015. 100 per cent of the official multilateral and bilateral debt of heavily indebted poor countries will be cancelled. Trade liberalization will continue. \$50 billion a year should be added to the fight for development. However, there was no agreement by all governments to reach by 2015 the target of spending 0.7 per cent of their gross domestic product on official development assistance.

There was a clear condemnation by all governments of terrorism "in all its forms and manifestations, committed by whomever, wherever and for whatever purposes".

A Peacebuilding Commission to help countries' transition from war to peace will be created, as well as a new police capacity for UN peacekeeping operations.

There was no mention of reduction of nuclear arms by nuclear-weapons states in the final document. Kofi Annan called this "our distressing failures on nuclear non-proliferation and disarmament".

A considerable innovation was the acceptance by all governments of the collective responsibility to protect populations from genocide, war crimes,

ethnic cleansing and crimes against humanity. The hope is to prevent recurrences of such humanitarian disasters as the Cambodian and Rwandan genocides by taking collective action through the Security Council.

There was an agreement to replace the discredited Human Rights Commission by a Human Rights Council, but it was left to the General Assembly to decide on its mandate and composition.

Management reform focused mainly on strengthening the UN Office of Internal Oversight Services and creating a new ethics office.

Other decisions concerned the environment, international health, humanitarian assistance. The UN Charter will be updated by abolishing the Trusteeship Council, no longer needed, and deleting references to "enemy states".

No decision was taken on a long-awaited expansion of the Security Council, due to disagreements between Member States on the size of the Council and on possible new permanent members. The High-Level Panel had put forward two options, both involving an expansion of the Council from 15 to 24 members, but new permanent members would not have veto rights, as desired by the US.

The "G.4", Germany, Japan, India and Brazil, had agreed to delay having veto power for 15 years, but the Africans wanted two African permanent members with full rights.

Argentina and Mexico opposed Brazil. Japan's bid is opposed by China and the two Koreas. Italy opposed Germany, Pakistan is against India's bid.

Unlikely "progress" on this issue is to be reviewed by the General Assembly. Any possible agreement would have to be approved by the five permanent members of the Council, China, France, Russia, the UK, and the USA.

The outcome of the Summit received mixed response : disappointment in the Western media, and by human rights and development NGOs, praise and support by others who believe that there were a few positive and important developments which should now be followed up and expanded.

On 17 September, Kofi Annan called on all countries to implement the Summit's decisions and said that he would start work immediately on extensive management reforms of the Secretariat.

October 2005

La technologie, un jeu de société – Au-delà du déterminisme technologique et du constructivisme social, Gérard Valenduc, Louvain-la-Neuve: Bruylant-Academia, 2005

*Review by John Latsis**

Gerard Valenduc's recently published volume covers a large number of existing approaches to the study of technology and society. It is split into five dense chapters, employing the first three chapters for expository purposes before developing the author's own 'eclectic-pragmatic' perspective in the next two. The book is truly interdisciplinary, using insights from philosophy, sociology, anthropology, economics and organizational theory to advance a new synthetic approach to the study of technology and society. Valenduc shows in-depth knowledge of methodological, theoretical, empirical and policy issues and moves comfortably between the discourses of each, often relating them to each other in interesting ways. The book represents a comprehensive discussion of the current state of play in technology studies that would be very useful for anyone seeking an introduction to the subject.

The book's premise is familiar: technological determinism and social constructivism are inadequate polarising positions that demand the construction of a viable alternative. The author proposes that alternatives are to be found in the recent 'co-evolutionist' literature, which sees technology and society as co-evolving systems subject to complex interaction. According to Valenduc, the reconstruction of a coherent co-evolutionist perspective is dependent on a prior, in-depth understanding of the theories that have got us this far. This motivates the first two parts of the book: detailed discussions of the so-called determinist and constructivist camps in the philosophy and sociology of technology.

Valenduc's discussion of determinism¹ is one of the strongest parts of the book, providing a panoramic account of the history of philosophy without lapsing into the prejudices afforded by hindsight. Valenduc is to be commended for taking technological determinism seriously and resisting the temptation to construct and then dismantle a straw man. His analysis is subtle, reflecting the concerns of the authors he cites without trivialising their positions. It is also refreshing because, coming from a francophone

perspective, it gives much greater importance to the work of French speaking writers². The central figure of the first chapter is Jacques Ellul (1954; 1977), the protestant theologian whose work comes closest to a truly deterministic picture of how technology influences society³. Ellul is both heavily influenced by the philosophical forefathers of technological determinism, Marx and Heidegger, and also a major influence on subsequent discussions of technology⁴. His contribution is built around a holistic concept: *le système technicien*. According to Ellul this system formed during the early nineteenth century when the industrial revolution permitted the extension of technology to the management of all social, economic and political issues. During this period disparate technological tools were transformed into an internally related system of interacting elements⁵. This technological system exercises a unidirectional causal influence on the rest of society, creating a *société technicienne* in its own image.

The central theses of Ellul's account represent one of the few clear examples of technological determinism. Within his framework the technical system is subject to endogenous change and growth. It changes according to its own logic and is never controlled by humans. It also organises itself in order to evade and supersede moral judgment, placing technology outside the realm of political decision-making and ethical assessment. Ellul even refers to technology as a secularised religion. The state eventually becomes the tool of technological imperatives as decision-making and financial management are increasingly rationalised. In this manner the technological system is also responsible for alienating a large proportion of the working population who lack the ability to keep up with the pace of technical change. Finally, the *système technicien* engulfs traditional culture and civilization. Accelerated rhythms of life and work as well as the increasing complexity of the tools required for everyday existence are on a collision course with traditional cultural activities. So, technology reconfigures human culture

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1. This term is problematic, but Valenduc and many others use it to describe a range of positions within technology studies, so I will replicate their usage in what follows.

2. Excluding Michel Callon and Bruno Latour, who are both very important figures in the anglo-saxon debate on technology.

3. Ellul's engagement with the subject lasted from the mid-fifties until his death in 1994 and his work has been influential in France and Belgium (Hottois, 1990; Latouche, 1995) as well as the United States (Winner, 1977).

4. In an interesting aside, Ellul's influence over the young Jose Bove whilst teaching at Bordeaux university is mentioned. Bove is now best known for his high-profile participation in the anti-globalisation movement and as the leader of the French 'Confederation Paysanne'.

5. A system of linked elements in which change in one inevitably results in change in all the others.

to fit the new environment, building a mass techno-culture that is promoted and distributed through audiovisual and communications technology. Ellul's contribution is related to the more recent literature on technological choice and assessment which, according to Valenduc, is an offshoot of the determinist approach.

In his second chapter Valenduc turns his attention to modern trends in the sociology of scientific knowledge (SSK hereafter). This order is an accurate reflection of both chronology and the way social scientific and philosophical thought has moved on the subject of technology. A radical shift away from positions deemed to be 'determinist' has been underway for more than twenty years. Now that move is largely complete and very few technologists would espouse explicitly deterministic positions.

According to Valenduc, the essence of all constructivist positions and the source of their impact and originality lies in two master concepts: Thomas Kuhn's *paradigms* and David Bloor's *symmetry principle*. On the one hand, the emphasis on paradigms is a philosophical move: constructivists recognise the social origins of scientific practice and analyse science and technology as 'going concerns' subject to the interests, motivations and ambitions of their respective communities. On the other hand, the use of the symmetry principle is a methodological move. It prescribes that all sociological explanations of technological or scientific practice must cite the same causes irrespective of their subsequently acknowledged truth or falsity⁶. Thus, sociologists should not take into account the supposed success / failure or truth / falsity of the projects they study⁶.

This understanding of constructivism is relevant to the three principal schools of constructivist thought: the strong programme in SSK, actor-network theory (ANT), and the social construction of technology (SCOT) approach. Valenduc's discussion of these approaches is sufficiently detailed to provide a thorough introduction to each whilst doing justice to their (sometimes significant) disagreements. His exegesis is supplemented by a critical section focussing on the main sociological and philosophical objections to constructivism. As with other elements of the opening three chapters, this section reads more like a survey than a con-

certed argument against constructivism. The author clearly has some reservations about constructivist positions, particularly the flat ontology associated with the notion of a seamless web comprising all the objects of social analysis, but he does not go on to argue in favour of the differentiated social ontology that he would prefer to employ.

Once the opposing extremes of determinism and constructivism have been addressed, Valenduc moves to the middle ground. The gamut of approaches to the study of technology is, as he points out, a spectrum ranging from determinism to constructivism with much in between. It is in this in-between section that Valenduc locates the recent co-evolutionist positions of social informatics, the social shaping of technology, technology assessment and structuration theory. As he demonstrates, all of the above approaches have been heavily influenced by the traditions of sociology of work and SSK, and their origins lie in a dissatisfaction with the polarising positions that have dominated the literature since the 1950s.

It becomes apparent however, that the best argument for moving to a co-evolutionist perspective, is not simply dissatisfaction, but rather the inability to demarcate the distinction and then establish secure empirical connections of cause and effect between technology and society. In the opening paragraphs of the chapter, Valenduc explicitly makes a point that has been lurking in the background of much of the previous discussion,

Au-delà de toute querelle sur la question de la causalité dans le socio-historique, un pré-requisite essentiel de toute idée de détermination n'est pas ici rempli: la séparation des termes déterminants et déterminés. Il faudrait d'abord pouvoir isoler le fait technique, d'une part, tel autre fait de la vie sociale, d'autre part, et les définir de manière univoque ; il faudrait ensuite pouvoir établir des relations biunivoques entre les éléments de la première classe et ceux de la seconde. Ni l'une ni l'autre de ces possibilités ne sont données. (Valenduc, 2005 : 86)

On this reading, the lack of a method for separating technology and society (cause and effect?) and assessing their influence upon each other requires the modelling of an alternative

6. This constitutes a powerful break from traditional Mertonian sociology of science in the sense that it abandons the uncritical acceptance of scientific expertise and removes long-standing assumptions about the rationality of scientific progress.

that can map the distinction whilst remaining faithful to its empirical fluidity. Valenduc goes on to reconstruct a number of co-evolutionist models of which Giddens' structuration model, provides perhaps the best known example. All of these co-evolutionist positions claim to transcend the dichotomy between determinism and SSK by allowing for interactive processes of mutual influence between technology and more 'non-technological' social elements. Thus they attempt to preserve some distinction between technology and society and some hope that adequate explanations of the interaction between the two can be found.

But Valenduc is well aware that these approaches do not constitute a holy grail for the student of technological development. The very idea of co-evolution is fraught with problems. These are manifested most clearly at two levels: ontological and methodological. The ontological problem relates to two inter-related issues: causation and scale. Co-evolutionists share with determinists a desire to explain 'theoretically' technological phenomena and their trajectories of change. For this they need to posit causal links between some conception of technology and other social or institutional units of analysis. Whilst they abandon the notion of strict determination seen in Ellul's model, they do not abandon the possibility of causal explanation altogether. This is further complicated by the influence of SSK-style case studies. Awareness of the micro-dynamics of technological change and the influence of contingent factors means that the co-evolutionists are rarely comfortable with macro-generalisations. This emphasis on the small-scale is in obvious tension with the more macroscopic explanatory modelling they would like to do.

The methodological problem is that co-evolution does not constitute a cohesive position or even a cohesive group of positions. Co-evolutionists range from theorists to empirical investigators doing case studies, to policy analysts⁷. They employ the methods and languages of radically different disciplines and rarely refer to each other or discuss each other's work. Valenduc, who considers himself to be a co-evolutionist, has taken the unusual step of trying to read some order into these diverse approaches, but even he is at pains to explain what the vari-

ous positions grouped under the heading of co-evolution share⁸.

In this respect, co-evolutionist models of technological change (if we are to accept the category at all) are at a serious disadvantage. Determinists such as Ellul are quite clear in identifying a unidirectional causal relationship between technology (as they conceive it) and society. This is founded upon an *fundamental* distinction between the two. Subsequent generations of social scientists and philosophers have dismantled the credibility of this causal claim by showing the arbitrariness of the ontological distinction between society and technology. The subject matter of technology studies is now seen by constructivists as a 'seamless web'. A flat social ontology is advocated in which Ellulian distinctions are undermined by detailed empirical case studies and then rejected.

What then can co-evolutionist models offer? Valenduc's book shows that they proliferate conflicting technical jargons and methodological advice, but there is little discussion of what is really at stake: the mapping out of an adequate social ontology which would allow the story of causal interaction between technology and society to be told. It might reasonably be argued that this story has yet to be told adequately and that one cannot reproach Valenduc for his accurate reporting of the situation. But whilst a solution may be too much to ask for, an explicit recognition of these two questions would greatly advance the expository project that takes up the first three chapters of the book.

Perhaps one should conclude that at least the determinists and constructivists offer clear, if caricatured, accounts of technological development. In the case of the former technology is external to society, inhuman and threatening. In the latter case technology is nothing but the activities of technologists, open to infinite negotiation, interpretation and use. This is not Valenduc's view. Drawing on his knowledge of developments in the study of Information Technology and Communication (ITC) in the fourth chapter, he remains bullish about the possibility of a successful co-evolutionary theory. In the remainder of the book, he attempts to draw together the various strands of the existing literature and fashion an approach to technology studies from them. He modestly, recognises that the various

7. This is of course reflected in the ontological issues presented above. Which government department or funding agency would fund a co-evolutionist model that was so fine grained as to preclude applications to any other times or places?

8. In addition, given that he recognises the difficulties in demarcation that dog the discipline and in spite of his criticisms of constructivism, Valenduc does not supply a knock-down argument in favour of a strict distinction between co-evolution and popular alternatives such as ANT.

9. If technology is not endowed with powers of its own, the issue of technological choice and the implications of technological goes out the window. Open to multiple interpretations and infinitely manipulable, the impact of technology on human lives becomes impossible to describe and assess. This conflicts with our everyday experiences of technological change and removes the very *raison d'être* of numerous bureaucracies, pressure groups and regulators, who try and assess and control the impact of technology on human life. According to Valenduc, it is particularly due to the ideas of technological determinists that this notion of technological choice and accompanying notions of technology assessment can be sustained. Therein lies the importance of determinist arguments to the modern subject of technology studies.

10. Incompatibilities between determinists, constructivists and co-evolutionists, but also between different schools of thought within these broad categories.

positions discussed are different and perhaps incompatible with each other. He also suggests that he has little to add *theoretically* to the existing literature: it is beyond the scope of his book to proliferate new theoretical categories and models. Instead of sweeping away existing theories, Valenduc suggests that they should be drawn together in a new 'broad church'.

How is this to be done? Here there is a simultaneous appeal to the pragmatism of the practitioner and the ideals of the philosopher. As we saw before, the recent co-evolutionist literature is heterogeneous for two principle reasons: it emanates from different disciplines, and it is motivated by different goals. Discussions of technology are carried out within the academe by sociologists, anthropologists, philosophers and economists; in the public sector by policy-makers and think tanks; and in the private sector by commissioned researchers funded by firms. Though there are signs of some convergence, these diverse groups have very different agendas and vocabularies: they often talk at cross purposes. Yet Valenduc argues that their efforts can be combined within an *eclectic-pragmatist* framework. Eclecticism is defined as,

... une méthode philosophique qui recommande d'emprunter a différents systèmes de pensée les meilleures de leurs thèses, a condition qu'elles soient conciliables, plutôt que d'édifier un système nouveau. (Valenduc, 2005: 202)

The suggestion is that technologists might borrow from the determinists the notion of technological choice⁹; from the constructivists the ethnographic method as well as the study of controversies and the concepts of the SCOT approach; from other co-evolutionists the ideas of structuration theory and social shaping of technology, the notion of implicit organisational design and the ideas of the sociology of usage. But this eclecticism is given direction and purpose by a *pragmatic* imperative. Valenduc and his collaborators at the Centre de recherche Travail & Technologies specialise in ITC, and trying to understand its transformative and interactive role in modern society. This throws up specific issues and demands solutions to pragmatic, policy-orientated solutions. This pragmatic framework acts as a constraint on the range of concepts, theories and models imported from the lit-

erature: if they are not useful for the researchers' purposes, then they will not be used.

Valenduc's brief final chapter is a potential mine of ideas on how to dissect and recombine the technology literature. He is undoubtedly right to recognise the inherent variety of the subject material as a resource and to embrace genuine pluralism in a way that is too often discussed and rarely put into practice. Central to these positive aspects of his proposal is that his work is motivated by the desire to solve practical problems that do not respect traditional academic, disciplinary and linguistic boundaries. Valenduc can be seen as abandoning the project of a 'grand theory' of technological development in favour of a piecemeal approach to dealing with technological problems, using specific tools to deal with relevant problems.

However, in his philosophical eclecticism lies the principal weakness of Valenduc's book. Existing approaches to the study of technology have much grander ambitions perhaps, but they all seek to explain technological phenomena; to account for the effects of whatever is deemed to fit under the rubric of 'technology'. As such, all the theories discussed paint pictures of the world in which technological artefacts, people, and institutions play varying roles. In this sense they represent different social ontologies that are (in some cases radically) inconsistent with each other. Though this is implicit in much of what Valenduc says, he does not organise his narrative around it. As a result, the book too often reads like a literature review. The difficult job of drawing out the deeper incompatibilities and conflicts between rival approaches is not always done¹⁰. This might have allowed Valenduc to broach some of the important underlying issues that permeate his book. Three examples that are mentioned but not developed come immediately to mind:

1. The meaning of 'determinism' in the technological context. It would be difficult to argue that any of the authors surveyed subscribe to a strict determinist picture. Even in the case of Ellul this term is at best confusing and at worst a misnomer. A better understanding of the philosophical underpinnings of 'determinism' might have led to the abandonment of this term altogether (Valenduc, 2005: 43-44). It

might also be argued that some of the constructivist positions incorporate deterministic elements, and that the introduction of choice and decision-making into the co-evolutionist models represents the true break with determinism

2. The issue of causal relations between and within 'technology' and 'society' (Ibid.86).

3. The emphasis on microscopic or macroscopic studies and what this tells us about the ontological presuppositions of the relevant theories (Ibid.: 211-212).

These unresolved issues have direct implications for the way in which proponents of the various approaches might react to Valenduc's proposals. To give an example, the determinists, advocating concepts such as 'technological system' and 'technological society' are explicitly adopting a macroscopic perspective. The identification of structures at a supra-individual level coupled with the belief that these structures possess causal powers is central to the coherence of (for example) Ellul's perspective. To take Valenduc's own example, technological choice becomes important because, by making a choice, decision makers are accepting causal consequences that are irreversible and (at least partly) out of their control. Built into the perspective of Ellulian determinism, is a holistic social ontology which sees individuals and their behaviour as, to all intents and purposes, causally inert. In contrast, the constructivist position relies on an obsessively microscopic perspective, as Valenduc himself points out (Valenduc, 2005: 70-71). This perspective is inherently sceptical about holistic concepts such as society

and technology, preferring to substitute them for the ongoing activities of individuals¹¹. To the extent that causal questions are admitted, constructivists would presumably want to restrict them to the motivational, intentional and neurophysiological causes that drive the relevant scientists or technologists. Once again, however, all the causal work is done exclusively at the level of intentional human practices, structure is not present in this account¹².

These brief reflections imply that there is more at stake than a simple difference of emphasis in the writings of constructivists, determinists and co-evolutionists: there is a completely different world view. Whether consistency can be achieved remains to some extent an open question. Valenduc's project, however, would benefit from a re-reading of the literature with the aforementioned ontological and causal questions in mind. Though staying faithful to the theories he describes and refusing to construct his own grand theory to replace them, Valenduc fails to do this in his book. As mentioned above, I would guess that the principal areas of conflict will emerge in questions of what constitutes a legitimate explanation of a specific technological episode or development¹³. In order to convincingly defend the idea of a truly eclectic-pragmatic approach to technology Valenduc has to lay bare these meta-theoretical and philosophical disputes that divide existing theories. In so doing he might create the conditions under which his eclectic-pragmatic approach would become viable.

26 September 2005

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11. Or in the case of actor-network theory, 'actants'.

12. This raises another interesting interpretive issue that arises from Valenduc's analysis of constructivism as motivated by Kuhn's work on paradigms. The latter are often assumed to be good examples of a holistic concept used for explanatory purposes.

13. The determinists provide one type of answer that is deemed unacceptable by the constructivists, the co-evolutionists want to incorporate both types of explanation at the expense of being susceptible to the counterexamples that dog both of extremes.

Construire une société civile européenne

Le Parlement européen appelle à des mobilisations nationales, démocratiques et européennes fortes, rassemblant tous ceux qui souhaitent sincèrement sauver l'Europe, ceux qui étaient partisans du traité, comme ceux qui en étaient adversaires, et prennent acte aujourd'hui des effets négatifs du refus français. Il appelle les parlements, européens et nationaux, les diverses forces politiques

et les principales forces de la société civile, en premier lieu les partenaires sociaux, à proposer des formes d'intégration politique, bien sûr, économique et sociale, et des orientations politiques structurelles communes (aménagement du territoire, solidarité, recherche) qui devraient être ensuite validées aux deux échelles, européenne et nationale. Le Parlement européen a appelé à la

tenue de « forums citoyens ». Pour qu'ils réussissent, le collectif français "Sauvons l'Europe" appelle à constituer, pour la première fois, à l'échelle de la France d'abord, et bien sûr de l'Europe, des comités "Sauvons l'Europe". D'ores et déjà, le premier a réuni fin septembre une université d'été ouverte à toutes celles et ceux qui partagent cette perspective.

Fondation Robert Schuman

Venezuela to Expel U.S. Evangelical Group

Caracas - Venezuela will expel the U.S. evangelical group New Tribes Mission, which has been active in indigenous communities along the southern border with Colombia and Brazil since 1946, President Hugo Chávez announced Wednesday.

"They will leave Venezuela," said the president. "They are agents of imperialist penetration. They gather sensitive and strategic information and are exploiting the Indians. So they will leave, and I don't care two hoots about the international consequences that this decision could bring."

New Tribes, an evangelical organisation that has long had close ties with the U.S.-based Summer Institute of Linguistics, is active in a number of countries in Asia and Latin America, and in Venezuela has focused its efforts on the Yanomami, Ye'kuana and Panare indigenous groups and other ethnic communities in the southern part of the country.

The Summer Institute of Linguistics was founded in 1934

with the declared purpose of translating the Bible into indigenous languages.

Chávez was delivering collective land titles, boat motors, vehicles and credits to indigenous communities in the plains region in southern Venezuela on Wednesday, the date he had declared "day of indigenous resistance," when he made the surprising announcement on the New Tribes Mission in a nationally broadcast speech.

"I have seen reports and videos on the activity of these New Tribes. We don't want them here; we all form part of an old tribe," Chávez quipped.

Since the 1970s, New Tribes has drawn heavy criticism from many quarters, including leftist political groups, environmentalists, indigenous organisations, academics, Catholic Church leaders and even members of the military. The controversial group has been accused of prospecting for strategic minerals on behalf of transnational corporations and of the

forced acculturation and conversion of indigenous people.

Sociologist and environmentalist Alexander Luzardo, who 20 years ago published a report on the New Tribes Mission's operations in the Amazon jungle, welcomed Chávez's decision.

He told IPS that the decision "complies with what is stipulated in the constitution of 1999, which establishes indigenous peoples' right to self-determination and to respect for their beliefs, values and customs.

He also said the expulsion of the group would be in line with the recommendations of numerous government and parliamentary reports that had warned about the group's activities in Venezuela.

"New Tribes has westernized indigenous people by force, while spreading a sense of shame and guilt, disguised as teaching the gospel: they taught the Panares that Satan had turned into a Panare Indian and that they were guilty of the crucifixion of Jesus Christ," said Luzardo.

However, New Tribe missionary Richard Bruce said in an interview with the local press four years ago that “we want to respect the way of life and customs of indigenous peoples, not change them overnight. This is not a corner of the United States.”

During the group’s most active period, roughly 20 years ago, New Tribes missionaries from the United States numbered close to 200, said Luzardo. They were mainly concentrated in Tama-Tama, a spot where several rivers meet in the heart of the southernmost Venezuelan state of Amazonas.

This area is believed to be rich in minerals like uranium. For many years, New Tribes built airstrips and modern installations that contrasted sharply with the rustic constructions in the indigenous communities they ministered to.

The now defunct National Identity Movement, which grouped together cultural, environmental and indigenous organizations in the 1980s, maintained that New Tribes acted as a cover for the prospecting of geological and mineral wealth coveted by corporations that provided fund-

ing for the Summer Institute of Linguistics. These included General Dynamics, a defence industry contractor, and Ford.

Nevertheless, the demands made at the time for the expulsion of the New Tribes Mission from Venezuela eventually faded into oblivion, as did public concern over the activity of the group, which has also experienced divisions in recent years, Luzardo commented.

But that changed with the announcement made by Chávez, who noted that “while indigenous people live in extremely difficult conditions, New Tribes have power plants, radio systems and airstrips well maintained with tractors and mowers, where planes fly in from abroad without going through any kind of customs check.”

His reference to the potential consequences of the measure is likely due to the fact that New Tribes belongs to the Evangelical Council of Venezuela and could accuse the government of religious persecution.

But it is also an organisation based in the United States, and the Venezuelan and U.S. governments have been caught up in an

escalating political and diplomatic confrontation for the last two years.

What’s more, in August, U.S. televangelist Pat Robertson publicly called for the Venezuelan leader’s assassination, and last Sunday accused Chávez of providing funding to Osama bin Laden, leader of the Al Qaida terrorist network.

Chávez stressed that “we are not going to run roughshod over anyone, we will give New Tribes time to pack up their things and go.”

Although Luzardo believes the measure is a positive one, he added that “just today there were new indigenous protests, because Chávez is opening up indigenous lands to coal mining (in north-western Venezuela) by other ‘new tribes’, this time from Brazil,” an allusion to joint ventures formed for this purpose by Venezuelan and Brazilian companies, whose activities are scheduled to begin next year.

Humberto Márquez

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