Chapter 2
UK Responses to the EC Social Agenda

Introduction

The efforts of the EC bodies to give tangible form to a 'social dimension' for the Single Market, and in particular the detailed Action Programme being developed by the European Commission to implement the Community's Social Charter,[1] have provoked *strong reactions* in the United Kingdom. The UK has a long voluntary tradition of collective bargaining, and has also adopted a voluntary, unregulated approach to consultative and participative arrangements for employees in British industry. The thrust of recent Government policy has given further emphasis to this voluntarism by reducing the amount of legislative intervention in the employment field to a bare minimum. The EC's efforts to establish common basic social standards and a 'level playing field' for the emerging Single Market, if necessary backed by new EC-wide legislation, signal an opposite approach to the deregulatory policies of the UK.

The Government

This difference of approach is at the root of the UK Government's *strong and continued opposition* to the EC's social initiatives. In May 1990, the then Minister of State at the UK Department of Employment, Mr Tim Eggar, explained the Government's position in a Parliamentary debate on the European Commission's planned Action Programme to implement the Community's Social Charter.[2] The UK Government accepted that there was a 'social dimension' to the Single European Market for 1992. But, Mr Eggar noted, the Government did not share the view of some of its Community partners that increased competition in the future might put pressure on businesses to reduce employment standards and that the Community therefore needed a wide-ranging programme of regulation on employment and social issues.

The real social dimension, in the UK Government's view, was 'not about regulation, but about raising people's living standards and levels of prosperity throughout the Community'. By following a policy of deregulation, devolution and decentralisation, the UK Government believed it had achieved a good record on job creation. It therefore opposed EC measures 'that might increase costs, create barriers to employment and prevent jobs from being created.' The Government believed the EC Social Charter was unnecessary, and the Action Programme to implement it 'could imperil the success of the Single Market – the engine of job creation – with restrictive and unnecessary regulations... in nobody's interests, least of all the 14 million unemployed people in the Community'.

The UK Government was thus anxious to maintain the *flexibilities* of its deregulatory approach in the labour field. It had striven in recent years to remove 'unnecessary' regulations and 'red tape', and to give industry (on whom Conservative Administrations in the UK rely for much of their financial support) more room for manoeuvre. If new social legislation had to be introduced to meet EC requirements under the Social Charter Programme, this deregulatory process would clearly have to be reversed.

The present (Conservative) Government in the UK has therefore resisted proposed social measures from the EC which would require a change of policy direction and the introduction of measures it deems unnecessary and burdensome for employers. In a Consultative Document on new EC plans for legislation on part-time and temporary workers' rights, for example, sent out in late summer 1990 to some 200 representative bodies for comments, the UK Government drew particular attention to the potential *'burdens'* associated with the proposals in terms of extra costs, administration, etc.[3]

A further concern, underlying the Government's attitude to EC social proposals, is that new social rights for workers might prompt greater *trade union activity* and influence, and turn the clock back to a decade ago when trade unions were more powerful players on the UK industrial relations stage. This concern is especially relevant with regard to any proposals for EC-wide provisions on employee involvement and *worker participation*. The UK Government argues strongly for the maintenance of the present voluntary approach in the UK, which leaves issues of trade union recognition, worker participation mechanisms, etc., to be freely decided by the parties themselves. It opposes any attempt to 'standardise' participation arrangements across the Community, which could be 'deeply damaging' to the interests of particular companies and workers. The approach to employee involvement issues is, in the Government's view, best left to individual EC countries to decide for themselves, taking account of their differing traditions and experiences.

In general, the UK Government sets much store by the principle of *'subsidiarity'* – namely that action, particularly legislative action, should be taken at EC level only for matters which cannot be adequately dealt with at national level. As already noted, employee involvement and worker participation issues do not, in the Government's view, require EC-level action or intervention. However, it is accepted that there is a role for Community decision-making and co-operation in some areas of social policy. The Government cites freedom of movement within the Community, equal treatment for men and women in employment, and minimum standards for health and safety at work, as areas where Community-level intervention may be appropriate. (It may not be coincidental that the latter two areas are among those where employment legislation is still to be found in the UK despite the recent deregulatory emphasis.)

During 1989 and 1990, the UK Government had made its general opposition to the EC's Social Charter and the proposed Action Programme to implement it well-known. However, the Charter had been adopted, and the proposals for individual measures under the Action Programme began to be drafted and actively debated and discussed. In mid-1990, the Government therefore drew up its own *criteria* against which it would 'test' the appropriateness of any new EC proposals in the social field: namely, will the proposal encourage the creation of jobs in Europe; if it will, is action at EC-level

necessary; and if it is, does the proposal respect different national traditions and practices?

The answers to these questions are likely to take full account of the policies and practices in the UK which the Government is anxious to preserve and continue. Since many of the proposed areas for legislation under the Social Charter's Action Programme would mean re-regulation in the UK, it is likely that the UK Government will continue to respond negatively to the EC's proposals.[4] Although other Governments from EC countries appear to take a different, more positive approach, it should be remembered that they too may be defending their own provisions against EC-enforced change, but from a more regulated base. While the issue may be re-regulation in the UK, it may be a question of avoiding dilution of existing regulatory provisions in a country such as Germany.

Employers and Trade Unions

The response of UK employers and trade unions to the EC's social agenda for the 1990s, like that of the UK Government, reflected the concerns of the different interest groups to secure a continuation of those traditions and practices which had served their interests best in a purely UK context. However, while employers had welcomed the deregulatory climate of the 1980s and the shift away from collective rights and trade union influence, the trade unions were looking for a restoration of previous rights and influence and an agenda which could restore protections for their members which had been lost during the 1980s.

The EC's social agenda, as outlined in the Social Charter, offered *UK unions* a ready-made new agenda which appeared to have the potential to achieve goals which the unions could not hope for in the existing UK political climate. The fact that action programmes and Community measures to give effect to the Social Charter principles were likely to involve new legislation, and that the thrust of these new initiatives was coming from the EC and not from within the UK, did not deter UK trade unions from whole-heartedly taking up the EC's new social agenda – though both legislative intervention and the European Community itself had been unwelcome to many UK trade unions in the recent past. Their conversion was, however, borne of pragmatism in an unfavourable home environment.

UK employers, by contrast, regarded the home environment more favourably and were not looking to disturb the *status quo* unnecessarily. The EC's new social agenda risked bringing in new regulations and bureaucratic systems and procedures, and was therefore regarded by many employers with caution and some concern, if not outright hostility. Employers recognised, however, that there would be a 'social dimension' to the new, barrier-free Single Market in the European Community, and were generally prepared to judge each new set of proposals on its merits.

These general responses to the EC's planned social agenda for the 1990s were echoed in the *illustrative fieldwork* among UK employers and trade unions for this research project, based on visits and direct discussions with managers, personnel specialists and

trade union officials in a number of major UK companies and employers' and trade union organisations. The 26 trade union and employers' organisations and companies visited for the fieldwork during the latter months of 1989 and early 1990 were selected to include: those prominent in industrial relations in the UK, companies with European interests, and organisations from major sectors such as engineering, chemicals and finance which were also being covered by parallel research in West Germany. (A full list of the organisations visited is given in an accompanying Appendix.)

At the time of the fieldwork visits, the contents of the EC's new Social Charter were known as was the outline of the planned follow-up Action Programme, but none of the detailed proposals had been fully formulated or disseminated. The fieldwork therefore focused on the main issues and action areas in the EC's new social agenda for the 1990s, and sought to explore, on a subject by subject basis, UK employer and trade union reactions to the issues raised and the rationale for such responses.

The fieldwork responses give a clear *snapshot* of the views and aspirations of UK unions and employers to EC social policy issues just three years before the scheduled completion of the EC's Single Market. Though widely differing responses to most issues were given by the UK unions from those of the employers, the fieldwork does reveal that both unions and employers had only just begun to take note of the Single Market's approach and make preparations for it (in contrast to the readier state of those, for example, in West Germany). The detailed findings of this illustrative fieldwork appear in the following sections.

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Fieldwork Responses

Pay and Remuneration

Pay and remuneration have generally been regarded by the EC bodies as areas of national concern and responsibility. Initiatives in these areas are thought to come most appropriately from Governments and the two sides of industry rather than EC-level bodies, and hence the principle of '*subsidiarity*' (where the European Community acts only where set objectives can be achieved more effectively at its level than at that of the Member States) has applied. Thus, the Community has elaborated basic EEC Treaty principles on equal pay for men and women, but has not sought to intervene in the general wage-setting arena with measures concerning actual levels of pay, as this is regarded as the domain of employers, unions and Governments. The EC's *Social Charter* maintains this approach, by merely setting out general *principles of fairness and equity* to be applied in the pay field; while the Charter's implementing Action Programme does not envisage any quantification of these principles (eg by fixing precise criteria for or actual fair wage levels, or setting Community-wide minima), or any EC legislation in this area. The only 'action' to be taken by the EC bodies will be an Opinion to be formulated by the European Commission on the introduction of an 'equitable wage' by the EC Member States, which will contribute to the general debate on the issue.

At the time of the *fieldwork* for this project, this Commission Opinion had not begun to be drafted, and only the Social Charter's general principles on pay were known about and discussed. In particular, these Charter principles affirmed that: 'All employment shall be fairly remunerated...', and that: 'in accordance with arrangements applying in each country, workers shall be assured of an equitable wage, ie, a wage sufficient to enable them to have a decent standard of living' (Title I, para. 5 – see Appendix for full text). There was a *general awareness* of these Charter principles among both the company personnel and the trade union representatives visited during the fieldwork. In addition, there were wider *fears* (among employers) and wider *expectations* (among the unions) expressed about how these general EC principles might be built upon and developed by the EC bodies in the future. These fears/expectations tended to reflect the particular concerns of the parties themselves, rather than any specific plans from the EC bodies (who, as yet, had given no indication of plans for further specific EC measures in the pay field).

Employers' reactions and concerns about possible EC intervention in the pay field centred on two basic aspects. First, employers were concerned that the setting of any Community-wide 'decency' threshold for pay or of a specific fair/equitable wage standard might have significant direct or indirect cost effects for companies. Secondly, the employers visited expressed an overriding concern that the UK's voluntary traditions in the pay field should be maintained. In general, they did not want any 'unnecessary' interference with practices traditionally unregulated in the UK and left to determination by individual employer/employee agreement or by collective negotiations where employers voluntarily recognise trade unions for bargaining purposes.

Most of the companies visited already apply competitive, above average pay rates for their particular area or sector, and hence reported no major concerns about the *direct cost effects* of any EC fair wage standard and their own ability to meet such a standard. However, the direct effect of any EC pay threshold was of concern to one large service sector employer, which applied low basic pay rates but competitive earnings levels (when overtime and other possible premia were added in). This organisation was working towards achieving a reasonable minimum 'earnings' level for all its workers, but would need to rethink its pay policies if basic pay rates became the measure for any EC-wide standard.

The possible 'knock-on', *indirect cost effects* of any EC-wide pay standard were of concern to most of the employers visited. The general view was that any EC pay standard would be likely to force up basic pay levels and costs for many smaller UK employers, and this in turn would push up levels and costs for larger companies which would need to compete to attract workers (particularly where necessary skills were in short supply). Many employers also argued that their much-valued flexibility to determine appropriate pay arrangements for their own organisations and the various groups of workers in them might be threatened by specific EC pay standards – again with likely knock-on cost effects. For example, if specific EC standards required employers to pay the same minimum basic rates to both core and peripheral workers (part-timers, temporary workers, etc), this might undermine established pay differentials between the two groups in an organisation and make it costly for the employer to restore such differentials from the higher base level set by the EC.

The employers visited also argued strongly for the *maintenance of the UK's voluntary traditions* in the pay field. The general view was that, irrespective of the content of any EC pay measures, such intervention at EC level would be both unnecessary and potentially unhelpful because of the likely cost effects and the pressure it would be likely to induce from the trade unions for more cross-border comparisons. Overall, the employers visited were concerned to preserve a voluntary, flexible approach to pay issues, to retain the ability to determine pay arrangements according to individual company needs and criteria, and to avoid additional external cost pressures.

A *hands-off approach* to pay issues by the EC legislators was also supported by a *minority* of the UK *trade unions* visited (three of the ten). These unions' objections to the possible setting of EC-wide wage standards or minima were essentially based on the view that such EC measures could undermine free collective bargaining and the unions' own role of seeking to achieve the best possible pay and conditions for their members. These unions argued that it was their job to secure good working conditions for their members and to tackle low pay via the bargaining route. If EC standards were introduced and, for example, set wage minima at a relatively high level (in UK pay terms), this would leave the unions with little room for achieving further improvements. Moreover, if EC standards enabled UK workers to secure 'decent' wage levels without the help of the unions, there would be little incentive for workers to become or remain union members.

Arguments in favour of EC intervention in the pay field and in favour of some form of *EC fair wage standard* were, however, voiced by a *majority* of the UK *trade unions* visited (seven out of ten). According to these unions, some underpinning of pay, in the form of a binding, enforceable EC 'decency' standard, could provide an important safety-net for low-paid workers – particularly in the competitive environment of the EC's barrier-free, Single Market, to which companies were now gearing their European operations.

These unions envisaged that such an EC 'decency' standard might be expressed in terms of a percentage of the national average wage in each EC country – a formula already recommended by Council of Europe experts. (A 'decency threshold' for pay could, according to these experts, be calculated on the basis of 68% of the national average wage[5].) Such an EC fair wage standard could offer unions a useful *minimum 'to negotiate up from'*. Some union officials argued, for example, that such a jumping-off point would be especially useful in respect of workers whose take-home pay currently comprised relatively low basic pay topped up by overtime and productivity premia. If 'decent' pay levels could be achieved for such workers without these extra premia and via new basic rates which would be required if a binding EC 'decency' standard were introduced, the unions would be able to focus on securing other improved conditions for the workers as well as further improvements in pay.

The unions favouring the establishment of an EC fair wage principle also argued that it could provide them with useful *moral arguments* to raise with employers, irrespective of when or if the principle was given binding legal force. Following publication of the EC's Social Charter, with its references to employment being 'fairly remunerated' and workers being assured of 'an equitable wage' (paragraph 5), the use of such moral

arguments was actively promoted by some UK unions. For example, one of the large general unions (GMB), in an Action Guide on the EC Social Charter specifically prepared for use by local union representatives, advised them to use the Social Charter to challenge low pay. Representatives were advised to 'ask what managers think is an "equitable wage"', and then to press for it in negotiations, using the morality of the fair wage principle as an extra bargaining weapon. Equity arguments were also regarded as of potential use in relation to the pay of young workers and part-time and temporary workers, whose pay was believed by most of the unions visited to be relatively low in most areas. The unions acknowledged that they had so far failed to help many of these workers in any significant way.

Overall, those unions favouring some form of EC fair wage standard took the view that EC action in this area would *underpin* rather than undermine free collective *bargaining*. If EC action could help to tackle the problem of low pay, it should be welcomed. As the General Secretary of the main retail sector union (USDAW) commented: 'collective bargaining is a means to an end, but not an end in itself'.

Working Conditions

The improvement of living and working conditions has long been a prime objective of European Community social policies, and was explicitly referred to in the basic EEC Treaty (Article 117). The EC's *Social Charter* reiterates this objective, by stressing that: 'the completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community' (Title I, para. 7). The Charter refers, in particular, to the length and organisation of *working time* and to information about working conditions and *employment contract terms*, as areas for improvement and co-ordinated action at EC level in the run-up to the new Single Market. The Social Charter states that: 'every worker of the European Community shall have a right to a weekly rest period and to annual paid leave...'; and that: 'the conditions of employment of every worker of the European Community shall be stipulated in laws, in a collective agreement or in a contract of employment...' (Title I, paras 8 & 9 - see Appendix for full text).

The Charter's implementing *Action Programme* follows up these statements of principle with commitments to introduce new *Community legislation* in these areas. Legislation relating to employment contract terms will aim at ensuring that all workers are informed of the working conditions which apply to them, and that there is thus 'greater transparency' in employee/employer relations. Legislation relating to working time will, in particular, aim at avoiding 'excessive differences in approach from one sector or country to another' and practices which can have 'an adverse effect on the well-being and health of workers'. Minimum EC-level requirements concerning the maximum length of work, rest periods, holidays, nightwork, weekend work and systematic overtime are envisaged to meet these objectives (Action Programme, Chapter 3).

At the time of the *fieldwork* for this project, no details of the planned legislation to give effect to these Social Charter and Action Programme objectives had yet emerged. There was a *general awareness* of the broad EC objectives in the working conditions field,

however, among the company personnel and the trade union representatives visited during the fieldwork. In addition, there was much discussion and speculation about the likely content of the planned EC legislation on working time - reflecting the importance attached to this issue by both sides of industry.

Contract Particulars

There was general agreement among the *employers* visited that it was desirable for new employees to be given *written particulars* of their terms and conditions of employment and 'to know where they stand' from the outset of their employment. Most of the employers interviewed already gave such written particulars to their workers, though often not from the outset of employment but from the thirteenth week of employment (in line with basic UK law requirements). If EC legislation were introduced requiring written particulars to be given to all workers at an early stage of their employment – eg within the first or second month – this would mean extending existing practices in some companies to meet these earlier information requirements. *No objections* were raised by the employers interviewed to the prospect of making such changes.

However, several employers expressed fears that any further EC-level intervention in the employment contract sphere might be less welcome. They were concerned, in particular, that future EC legislators might attempt to stipulate specific items which must be included in all contracts (eg holidays, training leave, sick pay, etc) and the detail of these items. Employers expressing concern in this connection valued the *freedom to contract* on terms of their own choosing, and with the inclusion of items of their choosing, in agreement with individual employees.

From the point of view of the UK *trade unions* visited, any EC legislation entitling all employees to be given written particulars of their terms and conditions of employment at an early stage of employment was to be welcomed. Officials at several of the unions visited attached particular importance to the introduction of a '*general' EC provision* requiring written particulars to be given to all workers, irrespective of their employment status or type of employment. This would mean that all part-time workers would benefit from this entitlement, whereas under current UK law those working less than 16 hours per week were entitled to written particulars only after a five-year service period. Generally-enforceable EC legislation would also mean that written particulars would be required for employees even in the smallest firms where, these unions believed, current written particular requirements were often not observed in practice.

Working Time

The generally positive responses from both employers and trade unions regarding possible EC legislation on employment contract particulars contrasted with the responses concerning possible EC working time measures, which provoked widely *differing reactions* from the unions and employers visited, and especially strong criticisms from the latter.

As far as *employers* were concerned, a majority of those interviewed raised *general objections* to any EC intervention in relation to working time arrangements. Such

intervention, it was argued, would be likely to inhibit companies' 'flexibility' and 'necessary room for manoeuvre'. If EC regulations were introduced into this area, which was currently unregulated in the UK, they would 'inevitably' bring rigidities into working arrangements which would be likely to hamper efficient business operations.

These same employers raised a number of *specific objections* to possible EC legislation on maximum working hours and *limits to overtime working*. There were objections to any hours limits which might hinder companies' ability to use overtime to tackle bottle-necks and meet changes in demand. There were also objections to any limits which might reduce the 'necessary flexibility' of companies operating in a global world market with different time frames. Other objections to possible EC overtime limits centred on the negative reactions which, according to these employers, might be expected from many UK workers. Currently, many UK workers were prepared to volunteer for overtime work, and welcomed the extra earning potential which such work offered. Any reduction in such earning opportunities because of EC limits to overtime working would, it was argued, be resented by these workers, who would be likely to press their employers to compensate for this loss of earnings.

The employers interviewed who objected for these reasons to EC intervention in overtime arrangements, did acknowledge the legitimacy of the EC bodies' concern to avoid practices such as excessive overtime which were likely to have adverse effects on *workers' health and safety*. However, they contended that it was for companies, and not national or international legislators, to determine how to balance working time and the most efficient use of plant and machinery, while also ensuring as '*responsible employers*' that overtime working did not lead to the development of unsafe working practices.

While the majority of employers interviewed objected to EC intervention in overtime arrangements, several employers were prepared to accept some EC-level action in this area. They accepted that there was a *role for the EC* here, since some basic standards at EC level would be relevant in the new, barrier-free Single Market of the 1990s to secure a *common protective framework* across the large new labour market. These employers accepted that it was 'reasonable' for the EC bodies to lay down basic principles in relation to safe working and maximum hours, provided that these were not too detailed or impractical to comply with given the widely differing circumstances throughout industry in the UK and across the European Community.

Employers accepting a role for the EC in relation to overtime arrangements also commented that such 'external' initiatives might prompt a beneficial *reappraisal* of practices in the UK. In particular, it was suggested that any EC action to tackle the issue of *systematic overtime* working would be both relevant and potentially beneficial to the UK, where much unnecessary overtime was still worked in some areas and where, these employers suggested, an external catalyst such as the EC might prompt both sides of industry to address an issue which they had hitherto avoided.

Possible EC regulation in respect of weekly *rest periods* and basic *annual holidays* provoked fewer concerns or reactions among the employers visited than the overtime issue. Again, there were *differences of view* among the employers visited. Most did

not object to the EC establishing minimum standards for rest periods and holidays, provided such standards were not too rigid (for weekly rest periods) and did not set minima too high (for annual holidays). However, several employers objected to any EC intervention in the working time field, including provisions on rest periods and holidays. They also argued that if EC regulations were introduced in these areas, many small companies would be reluctant to 'play by the rules', and compliance with the regulations would therefore be likely to be 'patchy' and difficult to enforce.

Among the *trade unions* visited, the main focus of attention in the working time field was the bargaining objective of securing negotiated reductions in the basic working week wherever possible. This *hours reduction aim* was a priority with most of the unions visited, and had not been prompted or directly influenced by EC plans to introduce measures on maximum hours and overtime limits. However, the possibility of such EC measures was regarded by these unions as 'complementary' to their own efforts to secure basic working week reductions.

There was also a general acknowledgement among union officials interviewed that any EC action in the overtime field might 'usefully' bring to the fore the issue of *excessive overtime*, which both unions and employers had so far avoided tackling in the UK. The union officials added, however, that any changes in current overtime practices would require 'careful handling', and negotiators would need to find ways of 'compensating' workers for the loss of the regular extra earnings they had come to expect from the regular overtime they were used to working.

As regards possible EC legislation to guarantee weekly *rest periods* and basic *annual holidays* for all workers, there was general agreement among the trade unions visited that some statutory underpinning of basic provisions in these areas was 'desirable'. Such measures were needed to avoid abuses and protect those workers likely to be most 'vulnerable to exploitation' – for example, young workers and those in wages council sectors where the unions exerted little or no influence. The unions argued that the UK Government had made considerable efforts to dismantle protective legislation during the 1980s, and was unlikely to reintroduce such measures on its own initiative in the near future. The unions therefore accepted that there was a *need for basic EC legislation*. Such legislation, it was argued, could secure *necessary basic protections* for all workers, while leaving the unions free to negotiate better provisions where they could.

Equal Opportunities

Equal treatment and equal opportunities for men and women working in the European Community have long been given a high priority on the *EC's social policy agenda*. The basic EEC Treaty (Article 119) contains provisions establishing the important equal pay for equal work principle; and specific Community Directives (binding legislation) have elaborated on the equal pay principle, and applied the equal treatment principle to other aspects of employment and working conditions and to social security. Over the last decade, various equality Action Programmes have also been formulated (by the European Commission), envisaging further legislative and non-legislative measures to

secure *sex equality* goals. The Social Charter reiterates this multi-faceted approach (Title I, para 16), and its implementing Action Programme highlights the issues of child-care and the protection of pregnant women at work as areas for forthcoming EC-level action (Action Programme, Chapter 8).

While the EC bodies have thus initiated many actions in pursuit of sex equality objectives, they have not sought to take similar actions in the field of *race discrimination*. This has been regarded as an especially sensitive area, best left to appropriate action at national level. The Social Charter affirms the importance of countering every form of discrimination 'including discrimination on grounds of sex, colour, race, opinions and beliefs' (Charter Preamble), but makes no further commitment to action at EC level to counter race discrimination in employment. Similarly, the Charter's Action Programme makes no proposal for EC action in this area, but stresses the need for race discrimination practices 'to be eradicated, particularly in the workplace and in access to employment, through appropriate action by the Member States and by the two sides of industry' (Action Programme, Introduction).

At the time of the *fieldwork* for this project, most of the company personnel and trade union representatives interviewed had a *general awareness* of the existing EC sex equality legislation and the areas likely to be the subject of further EC-level action. Those interviewed for the fieldwork were not equal opportunities specialists, but general managers, personnel specialists, and trade union representatives with bargaining, research or general policy responsibilities. A general rather than detailed knowledge of equality issues was therefore to be expected from such interviewees. In most organisations visited, more detailed knowledge of equality measures and objectives was the responsibility of specialist equality officers (whose remit often covered race and disability as well as sex discrimination issues).

Both employers and trade unions visited for the fieldwork agreed that the *EC* was fulfilling a *'useful' role* in promoting action programmes and legislative measures to further the principle of non-discrimination and equal opportunities for men and women working in the European Community. However, there was less agreement between the two groups of interviewees as to the degree of detail which should be incorporated in future EC sex equality measures.

From the *employers'* viewpoint, the broad thrust of EC sex equality measures paralleled the type of initiatives being considered by many UK companies as a consequence of domestic labour supply pressures. Skill shortages and demographic trends in the UK had prompted companies to look for ways of encouraging women to stay in or return to the labour market. The general *equality agenda* being developed by the EC bodies was therefore *broadly welcomed* by the employers interviewed, as pointing in the same direction as many of their own policies.

However, some concern was expressed about *possible 'over-regulation'* and unnecessarily detailed provisions emerging from the EC's programmes, which might inhibit flexibility and companies' own initiatives. In particular, many of the employers visited were concerned that the possible introduction of EC *maternity and child-care* requirements might involve unnecessarily onerous and costly provisions, which would

be inappropriate for many firms. The burden of any such costs should, it was argued, fall on Government as well as employers.

Some employers were also concerned that the development of a detailed EC sex equality agenda might predetermine companies' priorities as between different groups of workers. These employers stressed that it was important for companies and not the EC bodies to *determine priorities* as regards the special needs of particular workers. For example, workers with responsibilities for elderly parents might merit special treatment just as much as those with young children on whom the EC's attentions were focused.

As far as the *trade unions* were concerned, EC initiatives in the sex equality field were 'setting an *appropriate agenda*'. The unions visited generally regarded these EC initiatives as 'welcome and helpful', particularly as the unions believed there was little prospect of the UK Government taking action to strengthen women's employment protection rights in the near future. The unions noted that the UK Government had taken the lead in objecting to previous EC proposals affecting women (including proposals for maternity protections and rights for part-time workers who are predominantly women).

The unions commented that even where EC equality programmes had not yet resulted in the adoption of binding Community legislation, the publication of EC objectives had already had positive effects. These EC initiatives had helped to put issues such as *parental leave and child-care* more firmly on the UK *bargaining agenda*, and had prompted the unions themselves to give such issues a higher priority. Following publication of the EC's Social Charter, with its stated objective that 'measures should be developed enabling men and women to reconcile their occupational and family obligations' (Title I, para 16), several of the UK unions visited had advised their officials to make use of this basic principle in negotiations to secure improved women's rights at the workplace, without waiting for the formulation and adoption of follow-up EC legislation. Most of the unions visited argued that if EC legislation in this area was subsequently introduced, it should provide guarantees of basic maternity and other protections for all workers, while also enabling the unions to negotiate up from its basic provisions.

While the unions were generally enthusiastic about the EC's initiatives in relation to sex equality, many of the officials interviewed expressed some disappointment that the EC's equality programmes had not yet addressed the issue of *race discrimination* at work or sought to introduce Community-wide legislation in this area. The unions argued that outlawing race discrimination was just as important as outlawing sex discrimination, and should be a Community and not simply a national 'action area'.

Special Protections

Successive EC social policy programmes have acknowledged that certain categories of workers, such as *part-timers*, *young workers* and *the disabled*, may face particular difficulties and require special protections in an employment context. However, the emphasis has been largely on voluntary, non-legislative measures – with no EC

legislation being proposed or enacted in respect of young workers or the disabled, and proposals for EC legislation to bring part-timers within scope of mainstream employment protections proving too controversial for adoption during the 1980s.

The EC's *Social Charter* has reiterated the importance of appropriate protections for part-timers, young workers and the disabled in the Single Market of the 1990s (Title I, paras 5, 7, 20-23, & 26). The Charter's implementing *Action Programme* further envisages the formulation of *EC-level legislation* in respect of each of these categories of workers, since the voluntary approach to their problems hitherto adopted by the EC bodies has not resolved them. Thus, EC legislation on 'contracts and employment relationships other than full-time open-ended contracts', which will lay down minimum requirements regarding the working conditions and social protection for those covered by such arrangements, is envisaged to protect part-time and temporary workers (Action Programme, Chapter 2). EC legislation on 'the protection of young people', to include provisions limiting the working hours of those aged under 18 and ensuring regular medical checks for such workers to secure their health and safety, is also envisaged (Action Programme, Chapter 11). So far as the disabled are concerned, EC legislation is planned to promote 'an improvement in the travel conditions of workers with motor disabilities' (Action Programme, Chapter 13).

At the time of the *fieldwork* for this project, no drafts of the proposed EC legislation had yet emerged. However, the basic principles and proposed areas for action as outlined in the Social Charter and its Action Programme were generally known about and discussed among the company personnel and trade union representatives visited for the fieldwork. In addition to this *general awareness* of planned EC action in relation to part-timers, young workers and the disabled, memories of previous EC plans in this area (particularly plans for detailed legislation on rights for part-timers and temporary workers[6]) also influenced the thinking of the interviewees.

The *employers* visited were most concerned about possible new requirements in relation to *part-time workers*. In general, the employers argued that EC intervention in this area was 'unnecessary', and likely to inhibit their flexibility to determine the labour requirements and conditions most suited to their particular circumstances. Given past proposals from the EC, employers also feared that any EC legislation introduced in this area was likely to be 'over-detailed' and inappropriate to the circumstances of many companies.

Most of the employers visited expressed particular concerns about the likely *cost effects* of any EC requirements in relation to part-timers. Guarantees for part-timers with regard to pay and other benefits could, it was argued, be expensive in themselves. Moreover, they could also have costly knock-on effects, if basic minima for part-timers (including the 'equitable reference wage' referred to in the Social Charter - Title I, para 5) prompted other workers to claim increased pay rates in order to maintain differentials. Such cost considerations might also prompt some companies to reduce their part-time labour and contract out 'peripheral' work previously done by their own part-time employees. Employers therefore argued that EC requirements in relation to part-timers were likely to push up companies' costs and, in some cases, 'price part-timers out of jobs'.

There was less opposition among the employers visited to possible EC requirements in relation to *young workers*. For example, it was generally accepted that some EC-level protections for such workers in terms of working time limits and health checks might be 'appropriate', provided that any such requirements were *not unduly rigid*. However, most of the employers visited did object to any EC-level intervention in the pay field. Concern about the likely *cost effects* of possible EC requirements for young workers to be guaranteed 'equitable remuneration' (Social Charter, Title I, para 21) was based on similar arguments to those advanced about possible pay requirements for part-timers (see preceding paragraph).

As regards possible EC measures to assist *disabled workers*, the responses from employers were generally positive. Most of the employers visited agreed that national measures (the 'quota' system) had not proved very successful in terms of integrating many disabled workers into the labour force. EC initiatives were, therefore, regarded as *potentially helpful*. It was argued that EC action might help to raise consciousness about the problems of disabled workers, encourage such workers to overcome their traditional reluctance to register as disabled, and spur on industry to take positive measures to assist these workers – especially if some financial support could be made available from the EC for the necessary workplace adaptations. However, some employers expressed scepticism as to whether EC measures were likely to produce any better results for the disabled than national measures.

As far as the *trade unions* were concerned, possible *EC measures* to assist disabled workers were regarded as *potentially helpful* in stimulating new initiatives in the UK. Many of the unions visited argued that specific EC obligations and requirements, rather than simple broad statements of principle (as in the Social Charter), would be needed to achieve results for *disabled workers*. However, the unions accepted that broad statements of principle could help to raise consciousness about the issues as a useful first stage, with firm legislative measures coming later.

The unions also gave a *general welcome* to the EC's plans for *protective legislation* for *part-timers* and *young workers*. The unions argued that such measures were needed on two counts. First, to ensure that part-timers and young workers were not excluded from any of the standard employment protections to which other mainstream workers were entitled (eg dismissal and redundancy entitlements). The second reason for such measures, in the unions' view, was to secure the *special protections* which part-timers and young workers might need over and above standard employment protections. For example, young workers might need special protections against long working hours which could damage their health; while part-timers might need special measures to ensure that they did not miss out on training opportunities because they were not present when standard training was carried out. The unions were basically concerned to ensure that 'guarantees' were established against the abuse or marginalisation of part-timers and young workers. Any minimum guarantees set by the EC could later be 'improved upon' in collective negotiations where possible/relevant.

Health and Safety

The EC bodies have long regarded health and safety at work as a priority area for Community-level action in the social field. Early social action plans, followed by more specific health and safety programmes, were drafted by the EC bodies during the 1970s and 1980s, and gradually a corpus of *EC health and safety legislation* began to emerge as these programmes were implemented. A new burst of activity has taken place since the passing of the 1987 Single European Act, which has enabled EC health and safety measures to proceed to adoption more speedily than before by the use of majority voting procedures in the EC's Council of Ministers (see Chapter I).

Among early legislative measures adopted under these new procedures have been an EC *framework Directive* on workplace health and safety, laying down broad principles in this area (No 89/391/EEC); and a series of follow-up *individual Directives* elaborating on specific aspects of these principles. These individual Directives have covered such issues as minimum workplace requirements, the use of work equipment and of personal protective equipment, the handling of loads, and the use of display screen equipment. The EC's Social Charter reiterates the importance of continuing with measures of this kind (Title I, para 19); and the Charter's Action Programme envisages further legislation at EC level to tackle health and safety problems in areas such as the building industry and on board ships (Action Programme, Chapter 10).

At the time of the *fieldwork* for this project, most of the company personnel and trade union representatives interviewed had a *general awareness* of the EC health and safety legislation already enacted and of the likely areas for further action. A much more *detailed knowledge* of health and safety issues was found among those who were specifically assigned health and safety responsibilities in the organisations visited. Several such *specialists* were interviewed in the course of the fieldwork, though the majority of interviews took place with general managers, personnel specialists, and trade union representatives with bargaining, research or general policy responsibilities.

There was general agreement among both the *employers and trade unions* visited that EC intervention in the health and safety field was both appropriate and helpful. Given that this area has not been deregulated in the same way as many other aspects of employment protection in the UK, and that only minor legislative and practical changes would be necessary to meet basic EC-level standards, this generally *positive response* from both sides of UK industry was perhaps not surprising.

The *employers* interviewed generally agreed that it was appropriate for the EC to intervene in the health and safety field and to establish Community-wide standards here. They were concerned that the EC bodies should formulate legislation which set reasonable *'achievable' standards*, and which was not over-detailed or unduly rigid. It was argued that if the EC set basic standards of this kind, it could have beneficial effects in the UK. For example, if such standards were regarded as 'achievable' by most UK employers, they might be encouraged to tighten up on slack practices generally. Workers too might become more *'safety conscious'* as a result of high profile EC initiatives. The problem of getting workers to 'use' any protective equipment supplied to them was cited by several employers as one which might be resolved by new safety

conscious attitudes. Generally, the employers visited felt that EC initiatives on health and safety could help to stimulate further actions in this field in the UK.

As noted above, the approach adopted by the EC bodies in formulating health and safety measures for the 1990s has involved the drafting of a broad framework Directive, followed up by a series of individual Directives dealing in detail with particular areas and issues broadly covered in the basic framework measure. The employers interviewed generally welcomed this method of proceeding. However, it was suggested that both the EC bodies and national Governments could usefully produce guidelines or *codes of practice* to accompany each of these Directives and to spell out their practical implications.

The broad general principles laid down in the 1989 *framework Directive* 'on the introduction of measures to encourage improvements in the safety and health of workers at work' (89/391/EEC) were generally regarded as appropriate by the employers visited. The employers viewed these general principles as reasonable, and sufficiently '*flexible*' to enable them to satisfy the EC's requirements in ways most suited to their particular workplace circumstances. The employers gave no examples, however, of how they saw this 'flexibility' operating in practice.

While the framework Directive's provisions were welcomed by employers on these 'flexibility' grounds, some *concern* was also expressed about how the provisions might be used by UK trade unions. Employers were especially concerned about the Directive's references to '*balanced participation*', in the context of requirements for employers to consult workers and/or their representatives on health and safety issues. Employers feared that UK unions might see this recognition of participation rights in one area (health and safety) as 'legitimising' claims for involvement and participation in other areas. Most of the employers interviewed were anxious to discourage any claims of this kind, and to avoid any increase in UK trade unions' influence generally.

Most of the *individual Directives* formulated by the EC bodies to elaborate on specific aspects of the framework Directive were regarded as broadly acceptable by the employers visited. However, some concerns were expressed about the Directive concerning work with *visual display units* (VDUs). Several employers remained unconvinced of the need for any legislation, either national or EC-wide, to regulate work with VDUs. They argued that the 'risks' involved with such work were as yet unproven, and that voluntary recommendations rather than formal legislation would be more appropriate at this stage. Employers also objected to specific provisions in the EC's Directive on visual display units (90/270/EEC). In particular, they were concerned about provisions entitling employees working on VDUs to regular, free *eye tests*. Concern here was directed not only at the direct *costs* for employers of introducing such tests (which were not yet standard practice in most of the companies visited), but also at the possible wider implications of such measures. For example, employers argued that the new emphasis on 'eye tests and work' might encourage workers to 'blame' any general eye problems on the working environment, even though other/outside factors might be the cause, and this could lead to time-consuming compensation claims.

As far as the *trade unions* were concerned, EC intervention in the health and safety field was generally regarded as both ‘useful and appropriate’. Many of the unions visited noted that the EC bodies were seeking to secure ‘improvements’ in health and safety standards throughout the Community, rather than simply to achieve lowest common denominator standards. This was very much in line with the unions’ own aims of achieving real ‘progress’ in the UK, and of ensuring that there was no ‘slipping’ of standards already achieved in UK health and safety. The unions hoped that *EC legislation* in this field would help to *raise standards* generally and to remove abuses throughout the Community. Such EC initiatives might also help to enhance safety awareness among workers, and provide a new stimulus for the unions themselves to engage in further collective negotiations on safety-related issues on their members’ behalf.

While the trade unions broadly welcomed the EC’s legislative agenda in the health and safety field, some *concerns* were expressed as to its ability to ‘secure results’. Several union officials interviewed drew attention to recent UK experience, where relatively wide-ranging national legislation lacked the back-up of sufficient factory inspectors to secure effective enforcement of those provisions in all areas. The unions were therefore concerned that EC measures would not be effective unless they were backed by stronger and better-resourced *enforcement mechanisms*. They hoped that the EC bodies would not leave such enforcement resourcing entirely to national initiatives, as had so far been the case.

The unions were also concerned that the EC bodies should address the issue of *compensation* for workers sustaining *industrial injuries*, and not leave this too to national initiatives. The unions regarded present UK arrangements as ‘far from satisfactory’, and depending too much on the outcome of individual court cases rather than any standard entitlements. Despite the difficulties of intervening across a Community with widely differing systems of redress and compensation, the unions argued that the EC should secure *minimum standards* in this area of major concern to many workers. Traditionally, the EC bodies had regarded the detail of any compensation systems, in the industrial injury field and in other areas such as dismissal and redundancy compensation, as most appropriately dealt with at national rather than EC level.

The broad general principles laid down in the 1989 *framework Directive* ‘on the introduction of measures to encourage improvements in the safety and health of workers at work’ (89/391/EEC) were generally regarded as appropriate by the trade unions visited. Some concern was, however, expressed about the ‘consultation’ provisions in this EC Directive. Article 11 of the Directive, dealing with the *consultation of workers* by employers, requires employers to consult ‘workers and/or their representatives’ on all questions relating to safety and health at work. This formulation is potentially broader than existing UK provisions, since the EC provisions allow for non-union representatives to be involved in consultations and not simply recognised union representatives as under current UK law. This broader approach worried some of the union officials interviewed, who felt that it might reduce *union influence* in the future. It was also suggested that non-union representatives might not be very ‘effective’ in fulfilling workplace safety functions on behalf of employees, since they would have

received training for this role, if at all, from the employing company and would therefore lack an 'independent' approach. More positively, however, several unions argued that the broad formulation of the EC's consultation provisions could be a 'useful way in' for union representatives at workplaces where unions were not formally recognised by employers and did not, therefore, enjoy consultation rights under current UK law.

The trade unions generally welcomed the various *individual Directives* which had been drawn up to elaborate on specific aspects of the EC's 1989 framework Directive. These Directives deal with safety requirements for the workplace, work equipment, personal protective equipment, the handling of loads, and work with display screen equipment. In particular, the unions visited welcomed principles in the individual *workplace safety* Directive (89/654/EEC) applying health and safety obligations to a very wide range of workplaces; and in the individual Directive on *personal protective equipment* (89/656/EEC) confirming that such equipment should only be used when workplace risks cannot be avoided by technical means or work reorganisation.

In contrast to the employers visited (see above), there were no reservations among the unions about the 'appropriateness' of EC legislation on work with *visual display units* (VDUs). It was generally felt that *basic standards* were *needed* here, and that provisions in the individual Directive on VDUs (90/270/EEC) requiring all employers to assess the possible risks of such work and to take appropriate action, including regular health checks, eye tests, etc, could only be helpful. It was also felt that EC legislation might stimulate more voluntary initiatives and agreements on VDUs. The banking and finance union, BIFU, had, for example, drawn up basic 'VDU Guidelines' for its members, which had been translated into formal agreements with employers at many workplaces. The prospect of EC requirements on these same issues could, it was argued, make the negotiation of further agreements tailored to the needs of particular workplaces more relevant and easier to secure.

Freedom of Movement and Mobility

It has long been one of the *fundamental principles* of the European Community that nationals of the EC countries should be able to work or pursue self-employed activities anywhere in the Community on an equal footing with nationals of every other EC country and free from discrimination on grounds of nationality. The principle of 'freedom of movement for workers' is enshrined in the basic EEC Treaty (Article 48); and as the Community has developed, a series of binding EC Regulations have been adopted to deal with the practicalities of workers moving within the Community to take up employment opportunities. The EC bodies have also sought to remove 'paper barriers' to mobility, by introducing measures to secure 'mutual recognition' of formal educational qualifications from the different EC countries, and by undertaking technical work to secure 'comparability' of other training qualifications[7]. The EC's *Social Charter* reiterates the basic freedom of movement principle, and again stresses the need to eliminate practical obstacles to the operation of this principle such as those 'arising from the non-recognition of diplomas or equivalent occupational qualifications' (Title I, paras 1-3). The Charter's *Action Programme* seeks to continue and develop measures to ensure that the free movement principle applies as widely and effectively as possible.

It also envisages new legislation to tackle problem areas, such as the varied working conditions applied to workers sub-contracted from one EC country to another (Action Programme, Chapter 4).

At the time of the *fieldwork* for this project, there was a *general awareness* among the company personnel and trade union representatives visited of the EC's basic free movement principles, and of the areas where obstacles to mobility were being tackled or where further EC-level action was planned. However, these issues were not regarded as of 'immediate relevance' by many of those interviewed, and had in general been considered and discussed in the organisations visited far less than most of the other Social Charter action areas. The view that labour mobility across EC countries was largely a matter for continental Europe, little affecting the UK with its island location, was still quite widespread.

The *employers* visited generally recognised that the Single Market would mean a potentially larger, but also more competitive, labour market pool from which to recruit and meet their future workforce needs. Several multinational companies had begun to 'Europeanise' their *graduate recruitment* procedures, in anticipation of the new market situation, by taking the traditional 'milk round' trawl for graduate recruits to other parts of the EC as well as the UK. Other companies were considering such moves, and had begun to develop exchange visits among graduates and small groups of key workers.

At one of the companies visited – a UK subsidiary of a German multinational – a *pilot scheme* was in operation, enabling a certain number of UK school-leavers to be taken into the company's training scheme in Germany. After completion of such training, the students were free to leave and go to university,to stay on with the company in Germany or elsewhere in continental Europe, or to become employees back in the company's UK subsidiary. This pilot scheme was regarded by the company as a forerunner for a more general system of direct recruitment and training within the company on a European-wide basis, and for career planning in the future 'across' the company's main European operations. At the time of the visit to the UK company, no detailed results were yet available from the pilot scheme.

Overall, new recruitment and retention *strategies* geared to the Single Market environment were at an *early stage* in the companies visited, and few initiatives had been taken on a European-wide basis outside the graduate field. Several employers expressed concern that UK workers might increasingly be tempted to consider taking up employment opportunities in other parts of Europe, as such opportunities became better known and more available. These employers acknowledged that UK companies would need to make their own employment packages more attractive to avoid losing potentially good recruits in this way. It was generally felt, however, that any increased 'dynamism' and 'mobility' arising from the new Single Market environment in the EC would, on balance, be a positive development.

EC initiatives to remove unnecessary *'paper barriers' to mobility*, and to secure greater clarity and interchangeability of vocational qualifications within the Community,were also broadly welcomed by the employers visited. They expressed some concern,

however, that such measures should not in any way prejudice employers' freedom to select the most 'suitable' workers for any available jobs, irrespective of paper qualifications.

An interesting indication of *workers' preparations for greater mobility* was noted in the chemical sector. Here, organisations representing managers, chemical engineers and research scientists in France, Germany, Italy and the UK signed a '*Mutual Assistance Agreement*', in spring 1990, to provide information and advice for managerial and professional workers working away from their home country on relevant contractual and working conditions. The Agreement was specifically aimed at encouraging 'the mobility of managers within the Single European Market'. Under the Agreement, each of the signatory organisations 'undertakes, in its own country, to provide information and advice to expatriate members of the other countries and to place them in contact with its local representatives, to interpret their contracts of employment, and to advise them on the conditions prevailing at their workplace'.

Most of the *trade unions* visited recognised that the EC's Single Market could open up important new *job opportunities* for individual workers. Greater freedom of movement and *mobility* for workers within the EC was, therefore, generally welcomed by the unions. Efforts by the EC bodies to secure interchangeability of vocational qualifications within the Community and remove unnecessary 'paper barriers' to mobility were especially welcomed by the UK unions, as a means of enhancing job opportunities for individual workers.

The unions expressed some concerns, however, about possible '*negative aspects*' for the trade unions themselves of greater labour mobility within the European Community. For example, some unions were concerned that established employment conditions in the UK might be undermined, and the unions' own influence lessened, if employers began to recruit regularly from further afield. Other unions were concerned that the UK trade unions could lose members, if British workers began to be tempted away from the UK by the higher social standards and superior employment packages on offer in other parts of Northern Europe.

Training

Vocational training has always been a key element in EC social policies – with practical *financial support* being made available from various Community funds to support training initiatives at local and regional levels in the EC Member States. EC measures in the training field have facilitated rather than required training initiatives in the EC countries, and have not as yet imposed binding training requirements on Governments or industry or introduced any standard training leave rights for workers by means of Community legislation. The EC's *Social Charter* sets out the basic aim for the 1990s that 'every worker of the European Community must be able to have access to vocational training and to receive such training throughout his working life' (Title I, para 15). The Charter's *Action Programme* follows this up with a commitment to a specific EC measure 'on access to vocational training', which would ensure 'the setting up of continuing and permanent training systems enabling every person to undergo retraining,

more especially through leave for training purposes, to improve his/her skills or to acquire new skills, particularly in the light of technical developments' (Action Programme, Chapter 9). The Action Programme gives no indication of whether this new EC measure will take the form of binding legislation or simply a non-binding recommendation.

At the time of the *fieldwork* for this project, no further details had emerged as to the form or content of the planned new EC training measure. However, there was a *general awareness* among the company personnel and trade union representatives visited of the basic principles and commitments on training in the EC's Social Charter and its Action Programme. There was also some speculation as to the likely content of the new EC training measure.

There was a general acceptance among the *employers* visited that skills training to meet the technical and competitive challenges of the 1990s was 'in everyone's interests'. However, EC intervention via legislation in this field was not generally regarded by employers as the most appropriate way of securing wider and better training in the UK. Some employers suggested that *Government incentives* for companies carrying out training would be a better stimulus, and would avoid what they regarded as the inevitable 'inflexibility' of legislative provisions. Others argued that there was a need to change *attitudes to training* in the UK -away from the traditional industry view of training as a 'cost' and towards the view (more prevalent in countries such as Germany) of training as an 'investment'. EC-level guidance, it was argued, might help to bring about a change of attitudes in this direction.

If EC legislation on training were to be introduced, most of the employers interviewed felt that it should link any basic *training entitlements* to the requirements of the company as well as the needs of the individual worker. Any provision for individual training unrelated to *company needs*, perhaps in the form of individual 'personal development plans', should, it was argued, be a non-obligatory 'extra' to basic company training provisions. Two of the companies visited had already adopted a 'dual approach' of this kind – with separate schemes for vocational training linked to business needs, and for training linked to individual workers' needs, in operation. Overall, the employers were concerned to maintain the 'flexibility' to determine the most appropriate training arrangements for their particular organisations. The imposition by the EC of any 'rigid' or 'impractical' training requirements was, in the employers' view, 'to be firmly resisted'.

As regards *language training*, few of the companies visited had initiated any special measures in preparation for the increasing cross-Europe communications expected after completion of the EC's Single Market process at the end of 1992. There was, however, an awareness that this could become an important issue for the future – with some companies giving more weight to linguistic skills in their recruitment processes; and others conducting '*language audits*' to assess their existing language resources among employees and to identify future needs in this area.

As far as the *trade unions* were concerned, there was a similar awareness that *language training* could become an important issue in the future, though few specific initiatives

to secure more training of this kind had yet been taken by the unions visited. Some unions were, however, examining how best to train their key negotiators in the most relevant European languages for the 1990s, and were seeking EC funding for such training; while other unions were using the approach of the EC's Single Market to press claims with employers for language training for staff likely to be involved in European-wide activities. A minority (two) of the unions visited argued that English was a main business language, and that there was no need for specific language training unless a particular job warranted this.

On the subject of *vocational training* generally, all the unions visited stressed the importance of *investment* in training and skills for the 1990s. The unions generally felt that EC initiatives in this area could be helpful, especially if they imposed *standard obligations* on all employers to provide training for their workers or contribute financially to training arrangements. Some unions were also seeking to make training a key element in *collective bargaining*. For example, the white-collar MSF union had formulated a model 'Training and Staff Development Agreement' for union officials and representatives to use as a basis for initial discussions with employers on what the union viewed as 'the most important and fundamental employment issue for the 1990s'. The union believed that such discussions could lead to the establishment of joint company/trade union training committees, which would enable the union to exert a clear 'influence' over the development of training at workplace level.

A *'joint' approach* to training was already in evidence in the sectoral initiatives in which some of the unions were involved. For example, in the *printing sector*, the NGA union had engaged with the industry's employers in a joint examination of the implications of the European Single Market for the printing and graphics industry in the UK. After identifying, among other things, areas of skill shortage where retraining was needed to enable the UK to compete effectively in the Europe of the 1990s, the union joined with employers and certain local authorities in setting up a *skills centre* for the industry, backed also by some funding from the EC. The union also had a 'Recruitment, Training and Retraining Agreement' with the industry's employers, under which provision was made for *joint annual discussions* on manpower and training needs.

In the *retail sector*, the UK union USDAW had also been involved in a joint initiative with employers on training – this time via discussions between *European-level* union and employer federations for the industry. A joint agreement on training in the retail trade had been reached, in October 1988, between CECD (the European Retail Employers' Federation) and AURO-FIET (the European Union Federation for Retailing and Commerce, of which the UK union USDAW was a member). This *joint 'Memorandum'* recommends that:

> Minimum vocational training standards should be established at European level and should ensure that employees are equipped with a sufficient level and breadth of qualifications to enable them to meet occupational requirements and to adjust to subsequent changes in their working lives. To this end, multi-disciplinary programmes should be established which give consideration to the qualification requirements of work organisation, product changes and the use of technology.

Information, Consultation and Participation

It has long been regarded as an important *social policy objective* of the European Community to encourage greater *'involvement' by workers* in the affairs of the firms for which they work. The EC bodies have stressed the importance of workers being informed and consulted about company decisions likely to affect their interests, and of opportunities being made available for them to participate in decision-making processes and share in the prosperity of the firms for which they work. Arrangements for worker involvement/participation vary greatly among the different EC countries. The EC bodies have sought to secure some common participative principles across the Community, but to date this objective has proved highly controversial and difficult to achieve. Throughout the 1970s and 1980s, the EC bodies put forward proposals for legislation in the social and company law fields which incorporated participation provisions; but these all proved too *controversial* to secure the necessary unanimity in the EC's Council of Ministers for adoption as Community law. The best known of these non-adopted proposals have been the *proposed Fifth Directive* (a company law proposal), concerning the board structure of public limited companies and procedures for employee involvement; and the *proposed 'Vredeling' Directive* (a social law proposal), on procedures for informing and consulting employees in large national and multinational firms[8].

The EC's *Social Charter* affirms the basic principle that 'information, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in the various Member States' (Title I, para 17). The Charter's *Action Programme* envisages *two new measures* to give effect to this principle. The first is essentially a successor to the ill-fated 'Vredeling' proposal, and will involve a new EC proposal on 'procedures for the information, consultation and participation of the workers of European-scale undertakings'. The second measure will take the form of a Recommendation from the European Commission on 'equity-sharing and financial participation by workers'. These two new measures are referred to only in outline in the Action Programme (Chapter 7), with detailed contents to be worked out by European Commission officials and made known when the first drafts of the proposed measures are released.

In addition to the measures outlined in the Social Charter's Action Programme, a new *company law measure* including worker participation elements is also envisaged by the EC bodies as part of the preparatory measures for the EC's Single Market. A European Market calls for a European Company. This is the basic tenet which has prompted the EC bodies to develop new proposals for a *European Company Statute*. The essence of these proposals is that they will enable, though not require, a company operating in several parts of the new Single Market to incorporate as a 'European company', and to secure simplified administrative and tax arrangements. Where a company opts to incorporate on this European basis, it will have to establish certain participative rights for its employees. It will be able to choose from three possible *forms of participation* – namely, participation in determining the membership of the company's supervisory board (if there is a two-tier board structure); participation through a staff representative body distinct from the governing bodies of the company; or a form of participation to be established by collective agreement. The EC bodies have deliberately allowed for

some flexibility in the choice of participation options, and have included them in a measure which is itself optional (companies being free to choose whether or not to incorporate on a European basis), in an effort to avoid the controversies which beset past company law participation proposals.

At the time of the *fieldwork* for this project, a first draft of the proposed European Company Statute had just been released, but no further details of the two new measures outlined in the Social Charter Action Programme (on information and consultation procedures in European-scale undertakings and on financial participation for workers) had yet been published. There was a *general awareness* among the company personnel and trade union representatives visited of the outlines of the measures so far released. There was also considerable awareness of the EC's past proposals in this area (Fifth Directive and Vredeling proposals). The *differing concerns* of employers and trade unions in response to these EC initiatives reflected their differing concerns about the balance of power in the UK industrial relations field. Employers were generally anxious to maintain the current deregulated, flexible industrial relations climate, and to avoid any return to the UK climate of the 1970s when the trade unions had far more influence. By contrast, the trade unions were concerned to restore their lost influence, and to improve the channels for representation of workers' interests.

From the *employers'* point of view, there was a general acceptance among those visited that employee involvement in various forms – via communications, consultations, representation, financial involvement, etc – could contribute to company profitability and competitiveness. There was, however, a concern that EC initiatives might bring in requirements for costly and bureaucratic new mechanisms which were 'inappropriate' in a UK context now based on *voluntarism rather than regulation*. Employers were also concerned that EC measures to secure greater involvement rights for workers might open the door to renewed union influence in the UK. One personnel director of a major UK company summed up the employers' general position thus: 'There is no ideal model of involvement which can be transplanted into any organisation. Each has to work out what forms of involvement are best suited to its own characteristics and culture. Involvement is more likely to take root if it is voluntary and not imposed by law. The intervention of the law is relevant only where firms do not get their own house in order. Firms which have developed effective involvement strategies appropriate to their own circumstances should not be forced by law to do something else, or to turn the clock back to the damaging trade union/managerial relationships of the 1970s.'

Most of the employers visited argued that they already had in place *information and consultation mechanisms* which gave employees 'sufficient' involvement in company affairs – often via *direct communications* between management and employees rather than through the medium of trade union representatives. Employers were concerned to maintain maximum 'flexibility' in relation to such workplace arrangements. They were generally anxious to avoid 'unnecessary' or 'over-frequent' *information disclosure*, and to ensure the *'confidentiality'* of any sensitive company information. As regards *consultation* mechanisms, employers were especially concerned to keep these *separate from bargaining arrangements*. They feared that the EC's broad, multi-option approach to consultation and involvement issues risked 'blurring' consultation and bargaining arrangements and 'enhancing' trade union influence.

Many of the employers visited also expressed fears that new, EC-inspired consultative mechanisms might be viewed by UK trade unions as a first step on the road to *European-wide bargaining*. However, the employers also acknowledged that such a result was 'a long way off' – especially as trade unions in the various EC countries were divided among themselves and had not yet started to develop a consistently united approach across national boundaries. There was some support among employers for certain types of *representative arrangements* at European level, such as the 'European Branch Commission' approach adopted at the Thomson Group and several other international groups. Such arrangements were supported by these employers subject to the proviso that the arrangements were 'voluntarily' introduced and were an 'appropriate' response to a particular company's needs. (At *Thomson*, which was French-based but with operations in many other parts of Europe and worldwide, the company had decided to create a common representative system in which the recognised unions in each European country took part in joint annual meetings with management as part of a new information-giving process. The system had been introduced when the company was involved in restructuring activities and attendant closures and redundancies which had to be carefully handled with differing sets of employee representatives.)

The EC's proposed *European Company statute* – with its provisions enabling companies to incorporate on a European basis and enjoy simplified administrative and tax arrangements, but also requiring employee participation mechanisms in such companies – was *not welcomed* by most of the employers visited. Despite the multi-option participation provisions in the proposed Statute (see above), employers generally viewed these provisions as a 'negative' part of the new corporate package. They wanted to maintain their own freedom of choice as to when and how to introduce any further involvement mechanisms in their companies. The employers also noted that any future decision on whether to incorporate as a 'European Company' would be likely to be based on the 'balance of advantage' for the company in administrative and commercial terms, with the participation elements only coming into consideration if the tax and other benefits were regarded as sufficiently advantageous to make incorporation a 'relevant' option for the company.

There was little discussion with the employers visited about the possible *financial involvement* of employees in company affairs. The EC bodies had not yet formulated any detailed proposals in this area at the time when the fieldwork interviews took place. However, several of the companies visited already operated share option schemes for their employees, and such schemes were generally regarded by the employers interviewed as a 'useful' form of employee involvement.

The *trade union* view of share option schemes and other similar forms of *financial involvement* for employees was somewhat less enthusiastic. Although those unions interviewed did not raise outright objections to such schemes, they were concerned that any share or profit-related schemes should be operated as 'supplements' to the pay arrangements for workers in an organisation and should not become 'substitutes' for any element of standard pay entitlements. Again, as with the employers visited, no detailed discussions were held with the unions on this issue.

However, there was more discussion of, and enthusiasm for, the EC's proposed *European Company Statute* among the trade unions visited. The unions welcomed the emphasis given by the Statute to the need for employees' interests to be represented in large companies with European-wide operations. Although recognising that the Statute was a voluntary measure, the unions hoped that a number of major companies would decide to take up the European incorporation option and would begin to develop new European-wide involvement and consultation mechanisms which would offer the unions a *new means of influence* for the 1990s. At the very least, it was hoped that common representative systems such as that in operation at the Thomson group might become more widespread. (At Thomson, recognised unions from the different European countries where the Group operates take part in joint annual information meetings with management – see above.) Such arrangements could provide a useful source of *comparative information* for workers and their representatives in major European companies. The unions also hoped that if the European Company Statute was adopted and became an accepted part of the EC company law framework, other company law proposals which had been in the pipeline for some time but had proved too controversial to gain the necessary political consensus for adoption (notably the proposed Fifth Directive which provided for worker involvement/participation on company boards) might eventually reach the EC statute book and give UK trade unions a further channel of influence.

The unions visited recognised, however, that their hopes might not be realised in the short term. They therefore acknowledged that they should themselves seek to develop closer *links with unions in other parts of the EC*, and to *exchange information* more widely through existing formal and informal mechanisms. The basic provisions in the EC's Social Charter on 'information, consultation and participation for workers' (Title I, paras 17 & 18), though only very basic principles, could also be used as an immediate 'basis for action' by UK unions, it was argued.

The large *GMB union*, for example, advised local union representatives in the UK to *use the EC Charter's provisions* as a basis for actions of the following kind:

> To 'ask for the right to have joint meetings with workers elsewhere in Europe', if the company has European-wide operations.
>
> To 'argue that management must involve the workforce in plans for adopting new technology'.
>
> To 'insist as union representatives on knowing what is going on, especially when the company is being reorganised, or when mergers or redundancies are threatened'.
>
> To argue that management should anticipate further EC-level action by 'making plans' for worker participation now.
>
> To 'press employers to expand the work of health and safety committees'.

Although the basic principles in the EC's Social Charter had no binding force in themselves, the GMB union believed that the statement of broad 'fundamental social

rights' in the Charter enabled such issues to be raised with employers on a 'serious' basis and with some prospect of a 'serious' response. Overall, the unions visited were concerned to establish union, and not simply 'employee', representatives as the conduit for future consultations and information disclosure.

Freedom of Association and Collective Bargaining

The basic principle of freedom of association, though an established principle of international law developed by such bodies as the International Labour Organisation and the Council of Europe, has not been the subject of EC legislation. The EC bodies have long regarded issues relating to trade union membership and activities, including such key activities as collective bargaining, as the concern of EC Member States and more particularly the two sides of industry within those Member States with their own traditions and practices. *EC-level legislation* in this area has therefore been regarded as *inappropriate* and impractical – given the widely differing bargaining practices and traditions in the EC Member States.

The EC's *Social Charter* spells out the basic freedom of association principle for the first time in an EC text. This *statement of the basic principle*, and the rights which flow from it, is very similar to the formulations adopted in other international texts such as International Labour Organisation Conventions and Council of Europe texts[9]. In particular, the EC's Social Charter affirms the right of employers and workers in the EC to set up professional organisations to defend their economic and social interests; their freedom to join or not join such organisations; the right for these organisations to negotiate and conclude collective agreements; and, in the event of a conflict of interests, the right to resort to collective action including the right to strike (Title I, paras 11-14). While the EC bodies regard it as important to spell out these principles in an EC text, they hold to the view that the application of these principles is a matter for the two sides of industry themselves or, where appropriate, national Governments. The Social Charter's *Action Programme* does not, therefore, call for Community legislation to back up these non-binding principles. It does, however, commit the European Commission to drafting an advisory 'Communication on the role of the Social Partners in collective bargaining' (Action Programme, Chapter 6).

At the time of the *fieldwork* for this project, the European Commission had not begun drafting its advisory Communication. However, the Social Charter's provisions had been released and were the subject of much general discussion in industrial relations circles. There was a *general awareness* among the company personnel and trade union representatives visited of the Charter's enunciation of the freedom of association principle, and some speculation as to what might be the consequences of this new enunciation of the principle at EC level.

Freedom of Association

The *employers* visited generally raised no objections to the basic principle of freedom of association as spelt out in the EC's Social Charter. They noted that the Charter provisions did not of themselves confer any specific rights on UK trade unions. Rather,

they were a statement of intent to the effect that the unions should be 'enabled' to enjoy the freedom to exist, and to engage in appropriate collective activities in the EC Member States, in accordance with the conditions laid down by national laws and practices. Employers particularly drew attention to the fact that the EC formulation of the freedom of association principle made no mention of union recognition rights, and placed no obligations on employers to recognise or negotiate with any trade unions. Insofar as the EC provisions represented *'no change' for employers* in the UK in terms of collective rights and obligations, these EC provisions were viewed as 'acceptable' by the employers visited.

However, employers expressed some concern about the Social Charter's explicit reference to 'the right to strike'. It was felt that the mere mention of this as a 'right' might have the effect of 'encouraging' some groups of UK workers to have recourse to industrial action more often, and not simply as a last resort. Some employers also felt that it was unfortunate that the Social Charter's freedom of association provisions placed so much emphasis on the *'rights'* of workers' representative bodies, and made no mention of their *responsibilities*. These employers would like to have seen mention made of trade unions' responsibilities to act 'reasonably' and to respect any agreed disputes procedures and notice provisions.

So far as the *trade unions* were concerned, however, all of those visited welcomed the enunciation of the freedom of association principle in the EC's Social Charter. It was generally felt to be 'helpful' to have such a principle made explicit throughout the European Community. The unions recognised that the Social Charter principles did not afford workers any enforceable rights as such, but they argued that the *'moral' force of the Charter* provisions might prevent or at least enable an early challenge to be made to any future GCHQ-type situation (where a group of workers was denied the right to join an independent trade union on security grounds).

The unions pointed to the main problem facing them in many situations in the UK, namely the lack of any procedures for securing *recognition* by an employer for collective bargaining purposes if the employer was unwilling to grant recognition, irrespective of union strength in a particular area. The Social Charter's freedom of association provisions did not address this issue. However, most of the unions visited felt that the basic *association principle* could be a '*useful starting-point*' in pre-recognition situations.

Collective Bargaining Impact

At the conclusion of the fieldwork interviews concerning specific aspects of the new social agenda being developed by the EC bodies under the Social Charter and its implementing Action Programme, brief discussions took place with the interviewees about the *general impact* of the EC's social agenda on collective bargaining practices in the UK.

So far as the *employers* were concerned, while they reported a growing trend towards decentralised bargaining arrangements, they also stressed that in their organisations this had not in any way been prompted or influenced by any EC-level developments. Indeed,

the natural thrust of preparations for the EC's Single Market might be expected to point in the opposite direction – with business strategies and decisions linked to the large new barrier-free Market needing to be more rather than less centrally focused. However,so far as collective bargaining was concerned, employers were keen to push the focus increasingly on to local negotiations – not least as a means of maintaining the recent UK trend away from central trade union influence. The *level of bargaining* at the companies visited had thus been *unaffected* by EC developments.

Employers also reported that the *content of collective negotiations* had so far been largely unaffected by EC-level initiatives. However, employers commented that the unions with which they dealt were 'taking notice' of the EC's social agenda, as outlined in the Social Charter and its early follow-up actions. Employers were therefore expecting the unions to include more EC-inspired issues in *future bargaining demands*. No specific examples were given of the issues thought most likely to be included in such future demands. However, employers argued that they themselves were most likely to take EC-inspired issues seriously where the issues had some real prospect of being incorporated in EC legislation in the near future. The issues would then 'need' to be addressed, and negotiations on their application to the particular workplace or organisation 'would not be inappropriate'.

Many employers also expected to see a growing trade union interest in developments elsewhere in Europe, and an increase in *claims for 'comparability'* with employment conditions in other parts of the EC. Several employers were already preparing to review the differing conditions applied in their own organisations in different parts of the EC, and the reasons for such differences, in anticipation of an increasing 'comparability' climate in the future. Most employers were also strengthening their *contacts* with counterparts in other parts of Europe.

So far as the *trade unions* were concerned, there was a similar emphasis on strengthening *links* with counterparts elsewhere in the European Community. In the short term, the unions were looking to become better informed about conditions in other countries, in order to prepare *comparability* claims for their negotiations with UK employers. In the longer term, the unions were looking to secure *joint arrangements* with continental unions in particular companies, as a step on the road to their ultimate goal of *European collective bargaining*. At the time when the fieldwork took place, however, the level of collective negotiations in the areas where those unions interviewed were active in the UK showed no signs of becoming 'Europeanised'. Indeed, as those employers interviewed had also noted, it was becoming increasingly decentralised rather than mirroring the centralising business thrust of Single Market preparations.

As regards the *content of collective negotiations*, however, the unions reported that they were starting to use the new EC agenda, as outlined in the Social Charter and its Action Programme, to seek a *higher priority* for issues of particular concern to them. Such issues included the position and entitlements of part-time workers, information disclosure, equal treatment, training, and health and safety. The unions argued that if they were able to secure negotiated improvements on such issues by adding EC arguments to their negotiating armoury, then the new high-profile EC social agenda would have already begun to 'prove its worth' to the UK trade union movement.