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*Labor Market Reregulation
in the European Union:
Chapter and Verse*

by John T. Addison

Policy Study

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This booklet is one in a series designed to enhance the understanding of the private enterprise system and the key forces affecting it. The series provides a forum for considering vital current issues in public policy and for communicating these views to a wide audience in the business, government, and academic communities.

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Introduction

This paper traces the history of supranational labor market regulation in the European Community (hereafter community), now the European Union. It is shown that the attempt to erect a plethora of worker rights at the European level long predates the famous “social charter” and “social chapter” initiatives, which are actually the outcome of policies envisaged almost two decades earlier. Although the persistence of the agency responsible for devising labor market policy in the European Union — the directorate-general for social affairs of the European Commission (hereafter commission)¹ — has ultimately paid off politically, its measures have little or no justification on efficiency grounds. Moreover, the equity rationale for these policies are undercut by the likely disemployment and unemployment consequences of community labor mandates.

There are lessons in all of this for the United States, some of which have fortunately been anticipated by unfunded mandates legislation. The main lesson is the need for vigilance. There is a pressing need to take a hard-nosed look not only at new legislation imposing further burdens on employers but also at the effects of past legislation. The United States is by no means an unregulated labor market (e.g. the Department of Labor is responsible for administering no less than 180 labor statutes).² Note, too, that the Labor Side Agreement under NAFTA and, more generally, the attempt to introduce issues of labor standards into the World Trade Organization framework,³ raise exactly the same set of issues as the European Union’s attempt to reregulate the European labor market. These initiatives are a testament to the political attraction of mandates to all governments — and the role of protectionism in shaping policy — and not just those in Europe.

From Social Action Plan though Social Charter to Social Chapter

Table 1 identifies some four phases of the community “social policy” and the associated pieces of labor legislation. As can be seen, progress on a vigorous social policy on a par with the achievement of economic union has been tortuous. But that goal has now been attained.

Item 1 in the table shows that the origins of community legislation can be traced back to 1973 — even earlier in the case of worker participation initiatives — when the commission put forward an ambitious Social Action Program. This envisaged man-

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The Evolution of Social

Program	Content
1. "Social Action Plan," 1973 ^a	Sought to stiffen union power and to impose social obligations on employers in such matters as health and safety at work, minimum wages, working hours, employee consultation and participation, and the employment of contract labor. The plan also called for a more dynamic community policy on vocational training, broad gender equality, and the extension of social protection to include linking social security benefits to industrial wages.
2. "Social Charter," 1989 ^b	Although a declaratory statement only, the social charter's Social Action Program provided for 47 specific initiatives, 23 of which were to be binding on member states. Approximately 30 binding instruments, were subsequently proposed. Of these, a little over half dealt with health and safety issues, even if Article 118A of the Single European Act was also used to justify measures dealing with employment and remuneration, the improvement of living and working conditions, and the protection of children and adolescents.

Notes:

^a Prior to 1973, the social policy of the Common Market, as it then was, focused on the free movement of labor which was expected to lead to a convergence of social and labor standards. The measures required member states to loosen national restrictions on the employment of workers from other member states, sought to coordinate (not harmonize) social security rights, and gave limited support to a number of labor market programs designed to facilitate the operation of the Common Market.

^b The Social Charter also included a large number of nonbinding measures that were intended to guide opinion in the member states, or which would alter the Commission's budgeting priorities. Note also that the Commission pursued its long-standing proposals on worker participation separate from the social charter.

Policy in the European Union

Action

Main successes were three directives on worker employment protection (in the event of mass layoffs, transfers of business, and firm insolvency), three directives on gender equality (comparable worth, discrimination in hiring, and social security benefits/contributions), and 11 health and safety regulations (including hazardous agents and workplace health and safety "framework" directives). But legislation was blocked in the council on worker consultation and participation (viz. the Vredeling initiative, the European Company Statute, and the Fifth Company Law Directive), parental leave, and the regulation of part-time work, fixed-term contracts, and temporary employment agencies.

The principal measures stemming from the social charter, in ascending order of controversy, are:

- Modifications to existing community vocational training and employment information programs.
- (Eleven) health and safety measures.
- Agency and fixed-term contract workers to be informed of job risks and trained accordingly.
- Modification to existing Community law on mass layoffs.
- Workers to be given a written contract or statement of the employment relation, including information on any collective agreements.
- Ban on child work (except closely regulated "light work") adolescents' work-hour limitations, prohibition of night work, and detailed health and safety requirements.
- Workers "posted" to another country to receive host-country terms and conditions.
- Pregnant workers to receive paid leave after no more than 12 months of employment, prohibited from night and other work, and employers to provide a risk assessment.
- Forty-eight hour maximum working week subject to individual contracting out, plus regulation of rest periods, vacations, and night work.
- Two "atypical workers" directives governing the employment conditions of part timers, those on fixed-term contracts, and agency workers.
- Establishment of multinational works councils in large, European-scale firms.

The Evolution of Social

Program

Content

3. "Agreement on Social Policy," 1933

Commonly referred to as the "Social Chapter." Established a firm treaty basis for community mandates and a second track for European social policy, whereby measures could proceed before 11 (now 14) rather than all 12 (now 15) member states. Set five areas where unanimity would still be required. Major role reserved for the two sides of industry (the "social partners") in the determination of European social policy.

4. Current policy. Broad outline contained in 1994 White Paper ("European Social Policy: A Way Forward for the Union"), and in a "Medium-Term Social Action Program," 1995-1997.

Deliberately vague (see text), lacking detail of social charter. Although some emphasis is accorded consolidation, the further development of a common framework of minimum social standards remains a priority. Also action announced on unadopted social legislation. Effectively, a rolling rather than an explicit action program maintaining the Commission's flexibility of action.

Source: Author's compilation.

(continued)

Policy in the European Union

Action

Main significance is that the Agreement on Social Policy set the pattern for current social policy. Immediate effect was that measures blocked under the social charter were processed under the new machinery that excluded the British. The first example was the proposed directive on European works councils, which was reintroduced under the Agreement in November 1993 and enacted into law in September 1995.

Nearly all social measures were, as of May 1997, being processed via the Agreement on Social Policy; the three principal exceptions at this time being a revision of a 1997 directive on worker rights attendant on the transfer of their companies, a measure covering gender equality in occupational social security schemes, and the posted workers directive (see item 2, above). Recent legislation passed under the Agreement on Social Policy (i.e. excluding the British) includes parental leave, reversal of the burden of proof in gender-equality cases, and most recently an agreement between the social partners on atypical work. The community also seems poised to adopt new legislation on worker participation, following separation of the company law aspects of the European Company Statute and the Fifth Company Law Directives from their participation requirements. Future legislation will focus on further limiting the market escape route to employment protection legislation.

dates in areas such as health and safety at work, minimum wages, working hours, employee participation, and the hiring of contract labor.

The commission's problem was that it had a very narrow treaty basis for pursuing social legislation while having to adhere to the principle of "subsidiarity" (roughly meaning that community action should only be contemplated if there was a genuine need for it). Treaty basis means those sections of the treaty establishing the common market (the Treaty of Rome of 1957) specifically dealing with social policy. As a matter of fact, apart from establishing the principle of equal pay for equal work, the 1957 treaty mentioned very little about social policy, its thrust being almost exclusively economic.⁴ Economic, not social, integration was what the treaty was all about.

*Economic, not social, integration was
what the Treaty of Rome was all about.*

Undeterred, the commission proceeded on a number of fronts consistent with its Social Action Plan: health and safety regulation, equal pay, employment protection, worker consultation, board-level worker participation, temporary work, and parental leave. The table indicates that its successes were few and far between outside the areas of gender equality and health and safety legislation (where member states were apparently anxious not to be seen as "competing," and where it quickly became accepted that the objective was not to be "subordinated to purely economic considerations").

Whenever the commission strayed too far from national practice — or the sensibilities of politicians — it came up against the constraint that its measures be passed by unanimity in the 12-member Council of Ministers, the supreme decision-making agency in the community. In short, any member state could defeat legislation by opposing it in council. Prime Minister Margaret Thatcher is of course equated with vigorous use of the veto. But it is widely accepted that many nations hid behind the British veto while piously expressing support for individual pieces of legislation, and thereby appealing to several constituencies back home.

Thatcher's opposition to the Brussels bureaucracy was based in part on pronounced system differences between Britain and continental Europe and an over powerful union movement. She was

also determined to tackle Britain's socialized economy and burgeoning public sector, characteristics shared with other European nations. Labor market reregulation would take the British economy down precisely the wrong path, so Thatcher duly applied the British veto with gusto.

But things soon changed. First, to facilitate completion of the internal market, Thatcher agreed to more frequent use of majority voting under the Single European Act (SEA) of 1986 (ratified in 1987). This change would speed up decision-making and expedite economic union, but by the same token also make it easier to pass social legislation. A British veto alone would no longer be sufficient to turn back ambitious social policy legislation. On social policy, Thatcher may have thought that since the SEA only provided for majority voting on health and safety legislation under Article 118A of the Act⁵ this would minimize any danger. After all, the thrust of the SEA, like that of its predecessor, was distinctly economic; apart from Article 118A it contained little social policy content. (But, to anticipate what follows, a wily commission was shortly to seek to justify all manner of legislation on health and safety grounds.)

Secondly, the entry of Spain and Portugal into the community in 1986 changed attitudes among member states because the new entrants (plus Greece, which had been a member since 1981) raised the specter of "social dumping," or unfair competition. A third factor was economic recovery. Economic growth, if sustained, takes the edge off many employment mandates that would otherwise impose obvious costs. Even if it had once seemed that the community was about to head down a deregulatory labor-market path as a result of Thatcher's efforts, the stage was now set for a sea-change in social policy.

The Social Charter

Returning to Table 1, it can be seen that just two years after the implementation of the SEA, the community was to issue a solemn proclamation of fundamental worker rights, the so-called social charter in December 1989. The social charter was a declaratory statement that was not binding on its signatories, and which, characteristically, the British refused to endorse. But it was nevertheless accompanied (indeed preceded) by a detailed Social Action Program (see item 2 in the table). And each piece of draft legislation foreshadowed in that program was to be brought before the 12-member Council of Ministers, including the British.

Legislative proposals came thick and fast in the wake of the

publication of the social charter's action program. The hallmark of the legislation was the commission's creative use of Article 118A. Examples include the proposed directives on the 48-hour maximum working week, pregnant workers, and child labor. These measures proved controversial precisely because they contained terms that had no well-determined link with health and safety and, insofar as they pertained to "the rights and interests of employed persons," seemed to be undercut by another provision of the treaties establishing the common market [namely Article 100A(2), requiring unanimity]. Meantime Thatcher had been forced out of office in November 1990.

In introducing its measures, whether under majority voting or unanimity, the commission clearly still had to "negotiate," watering down its proposals when it faced special resistance in the council, again spearheaded by the British. With unanimity, British opposition (grounded in that country's very different labor market institutions and voluntaristic traditions, and its continuing domestic policy emphasis on privatization and incentivization) meant that major social charter and other⁶ initiatives were doomed. The chief "victims" were the commission's atypical worker-draft directives and a proposal seeking to establish works councils in European-level (i.e. multinational) corporations.

The supporters of mandates are prone to understate the reach of the social charter measures, noting the compromises made to ensure their passage.⁷ Compromise is a two-way process, however,⁸ such that it may reasonably be claimed that the commission had emphasized the compromises introduced in to the social charter measures (listed in Table 1). By 1991, the commission made very good progress on the slew of social charter initiatives. But the commission continued to be frustrated by British opposition. Prime Minister John Major, though a less strident critic of social engineering than Thatcher, nonetheless remained a considerable irritant. While proceeding with its ambitious social charter agenda, the commission sought an alternative.

The Social Chapter

This brings the narrative up to the famous "social chapter." (See item 3 in Table 1.) To complicate matters, the term is a misnomer since there is no social chapter per se but rather an "Agreement on Social Policy." Periodically in the European Community, there are "intergovernmental negotiations" that precede major extensions of community competence (i.e. constitutional authority), amending the treaties establishing the common market (first

the Treaty of Rome and then the SEA). During the 1991 negotiations, the commission actively sought to extend the reach of social policy, and to widen the treaty basis permitting qualified majority voting beyond the tenuous hold of Article 118A.⁹ To this end, it proposed a special chapter to the proposed new treaty — the Treaty on European Union.

The political solution was to append a Protocol on Social Policy to the new Treaty on European Union of 1991. The Protocol was signed by all 12 member states. It noted the intention of 11 of them to implement mandates under an Agreement on Social Policy, the terms of which were annexed to the protocol. In short, social policy could now be pursued via a procedure that specifically excluded the British.

The agreement marks a watershed in the history of community labor market regulation. Not only does it signal the formal integration of the two sides of industry at the European level (the “social partners”) into community decision making, but it confirms and clarifies the legal competence, or authority, of the community on social policy while extending the basis of majority voting.

The Protocol on Social Policy to the new Treaty on European Union of 1991 marks a watershed in the history of community labor market regulation.

As noted earlier, the lingering ambiguity of social policy in the treaties establishing the common market meant that the commission was forced to be creative in fixing the authority for its actions. This usually meant justifying draft legislation in terms of health and safety to avoid the unanimity problem. Although this strategy provided no guarantee of acceptance, it was safer than proceeding under other treaty bases that required unanimity. Now at last, the Commission was to have a basis for social policy that could not be legally undercut. Specifically, the Agreement on Social Policy set down five areas where qualified majority voting would apply and another five areas where unanimity was required.

Qualified majority voting under the Agreement on Social Policy is permitted for measures covering improvements in the environment to protect workers’ health and safety, working conditions, the information and consultation rights of workers, gender equality, and the integration of persons excluded from the labor market. Hitherto, with the exception of health and safety, passage of such mea-

asures typically required unanimity. Unanimity was still required for five other defined areas, including matters of employee representation and co-determination, social security, and dismissals protection. Nevertheless, with the exclusion of the British, such unanimity would be easier to attain. To repeat, yet more important was the establishment of a firm treaty basis for such measures.

The Agreement on Social Policy does identify some topics outside its competence (including legislation on pay, the right to strike, or lockout, and the right of association). Draft legislation on such matters has therefore still to be processed by the commission under the "social charter route," that is, before all 12 (now 15, with the entry of Austria, Sweden, and Finland) member states. But enough has been said to indicate that there were now two sets of rules governing social policy in the new European Union.

Perhaps the most important aspect of the Agreement on Social Policy is the new role accorded the two sides of industry in the formulation of social policy.

Perhaps the most important aspect of the Agreement on Social Policy is the new role accorded the two sides of industry in the formulation of social policy. But before discussing this role, it is first necessary to summarize the progress made under the social charter.

By the end of 1996, of the 26 binding measures stemming from the social charter (see item 2, third column of Table 1) no less than 18 had been enacted into law, another four were close to passage, and just four were either deadlocked in council or dormant.¹⁰ Of the adopted measures, eight dealt with health and safety per se, building on a body of 17 pieces of analogous legislation enacted before the social charter.¹¹ Given that the commission had itself acknowledged that "there is now in place a series of binding provisions which ensure fairly broad protection for workers' health and safety at the workplace," it is clear that the social charter brings to an end an era of such legislation or at least heralds an interval of consolidation.

Apart from health and safety, most of the other proposals enacted into law also had a basis in Article 118A, even if their link to health and safety is at best tenuous. Cases in point are the wide ranging directives on working hours, pregnant workers, and the

regulation of the hours of children and young workers (see item 2, Table 1). The remaining directives dealing with collective dismissals, vocational training, the elderly, and administrative labor market procedures required unanimity and for this reason necessarily occasioned less debate.

As for the (then) pending measures, three again dealt with health and safety per se (e.g. offering protection to workers from exposure to chemical and physical agents) and one required that workers posted from one country to another were to receive the remuneration package applying in the host country.

The three measures deadlocked under the social charter (the fourth dealing with disabled workers is dormant) have proven extremely controversial. Two of these directives sought to regulate part-time work, temporary work, and fixed-term contracts, which the commission collectively terms “atypical work.” The other was aimed at securing the introduction of transnational works councils in European-scale undertakings. Since all three proposals have since been pursued under the distinctly separate machinery of the Agreement on Social Policy it is appropriate to return to this second policy track. Even prior to using the new machinery, however, the commission had by the end of 1996 achieved most of the legislation foreshadowed in the social charter’s action program.

Social Dialogue and the Social Partners

In the preceding discussion of the Agreement on Social Policy, it was noted that the two sides of industry at the European level — the so-called social partners — have been accorded a formal role in the design of legislation. This development marks the culmination of a process of “social dialogue.” Joint consultations between the two sides of industry (and the commission) were inaugurated in 1985 by Jacques Delors — then president of the European Commission — the intention being that these consultative meetings would result in negotiations and collective agreements that would substitute for commission mandates.¹² This development was long delayed. The parties issued a number of anodyne joint opinions but steered clear of European-wide framework collective agreements.

It was the slew of mandates being introduced under the 1989 social charter’s action program plus the threat of a major increase in community competence as a result of the deliberations of the intergovernmental conference reviewing the community constitution in 1991 that caused the employer side in particular to look

more favorably upon the social dialogue process. Its hope was that collective agreements would prove less coercive than mandates. In October 1991, agreement was reached on a new form of social dialogue that closely accorded with the intention of Delors blueprint.

These proposals were submitted to the intergovernmental conference and were incorporated verbatim in the relevant sections of the Agreement on Social Policy. The long-standing consultation rights of the social partners were formalized, and they were offered the right in effect to take over legislation. The process is as follows. First, the commission must consult the social partners on the possible direction of community social and employment policy prior to drawing up any concrete proposal, and then once again on the content of any actual proposal. Second, at any point in the latter consultations, the social partners can inform the commission that they would like to negotiate on the issue. If so, they are given nine months to reach an agreement. If agreement is reached, this can be given force of law by a council decision. If no agreement is reached, the matter reverts to the commission, which will then seek adoption of its own legislation in the normal way.

A "social gap" is emerging between the United Kingdom and the other member states of the European Union.

The social partners have indeed taken over legislation on a number of occasions under the new route opened by the Agreement on Social Policy. Thus in November 1993, the commission decided to withdraw its draft proposals on transnational works councils from the social charter procedure and to use the new legislative route. During the second stage of consultations, following on the submission of a draft directive by the commission, the social partners announced that they would begin negotiating on a works councils agreement of their own. They were unable to reach closure, leading the commission to return to its draft which was adopted in the reduced council (i.e. without the British) in September 1995.

But the social partners were able to negotiate a framework agreement on parental leave. In February 1995, the commission had revisited its abortive 1983 proposals on parental leave. The parties requested that the legislative process be suspended and were able to negotiate a framework agreement, the first of its kind, in December 1996.¹³

Currently, the commission is actively using the procedures of the Agreement on Social Policy. As a result, a “social gap” is emerging between the United Kingdom and the other member states of the European Union. As noted under item 4 in Table 1, just three pieces of draft legislation are being processed under the old social chapter route. All other social policy initiatives are being processed via the Agreement on Social Policy. In this connection, the (reduced) council has adopted legislation that reverses of the burden of proof in discrimination cases. Essentially, this means that once the plaintiff shows a series of facts which would, if not rebutted, amount to direct or indirect discrimination, then the burden of proof immediately switches to the respondent. Most recently, the social partners have reached an agreement on “flexibility in working time and security for workers.” This agreement, which will subsequently be ratified by a council decision, is the hybrid successor of the commission’s two atypical worker proposals long stalled in council under the social charter route. The measure seeks to achieve employment rights for such workers that are equivalent to those enjoyed by workers on full-time, open-ended contracts.

The Future of Social Policy

This brings us to the future of social policy in the European Union. Current and future policy up to 1999 is set down in a commission white paper that lacks the definition and directness of the social charter for reasons that we would attribute to a more pressing set of economic constraints than hitherto.¹⁴ The commission’s new medium-term action plan pursuant to the white paper does, however, identify the further development of minimum social standards as a priority and emphasizes the need to more carefully police future legislation while codifying and systematizing past initiatives.

The lull in legislative activity versus the heady days of the social charter is only superficial. It is logical for the commission, which has lost none of its activist zeal, to consolidate its measures — to dot the i’s and cross the t’s — and to ensure that member states have transposed community legislation into national law and are punishing transgressors. And at the same time, it has in place what can be described as a “rolling action plan” designed to be augmented as circumstances permit and as new “needs” emerge. This constructive ambiguity preserves the commission’s flexibility at a time when Europe is much preoccupied by its poor competitiveness and rising unemployment. (Between 1991 and 1996

employment within the European Union shrank by 3.1 percent, and currently one in nine workers is unemployed.)

If past experience is any guide, the commission is awaiting better economic times, the outcome of negotiations on a new set of revisions to the constitution of the European Union, and the stance of Britain's new prime minister, Tony Blair. It will return to the legislative fray with a no less ambitious agenda, a dense web of supportive legislation (and constituencies) already in place, and likely further enhanced authority. It should soon be business as usual again.

On a more practical level, it seems that worker participation and consultation will receive early attention. The commission has achieved a major success with the passage of a directive that mandates transnational works councils in enterprises with at least 1,000 employees including 150 or more workers in each of at least two member states. However, the commission's comprehensive initiatives on worker participation have not fared well. After all, its proposals for a European Company Statute and the Fifth Company Law directive date back to the early 1970s. (See Endnote 6.) To break the political deadlock on this vexed question the commission has convened a high-level expert group (the so-called Davignon group). Major progress is likely if the commission can couch or justify its proposals in terms of the role of vague participative structures in building high performance organizations. This is, of course, quite a separate question than mandating participation but the commission may be expected to successfully blur the issues.

A Postscript

The U.K.'s newly elected Labour Government just announced its intention to abide by the Agreement on Social Policy. That supposition has since proved correct. The new government has just announced its intention to sign up to the Agreement on Social Policy. It has also signalled its intention to introduce a new Low Pay Commission, which will set minimum wages (previously determined by "wages councils" abolished by the Conservatives in 1993). At the same time "New Labour" has also proposed welfare reform that will, it seems, end hand-outs for those unwilling to enter government training and other employment programs. It also acted to secure greater independence for the Bank of England.

The policies announced by New Labour thus represent something of a mixed bag, embracing "conservative" notions while at the same time agreeing to expansive social commitments on the

European level. A cynical view might be that signing up to the Agreement on Social Policy permits the administration to satisfy one (perhaps the sole remaining) element of “Old Labour” dogma, while largely subscribing to many of the reforms introduced by previous Conservative governments. In any event, its actions would seem to presage an acceleration of European labor-market mandates.

This conclusion is underscored by the June 1 election of a Socialist government in France, which heralds policy drift in that country and fewer constraints on the commission in matters of social policy. Indeed, the undoubted short-term costs of systemic economic reform in France served to secure the election of Lionel Jospin, whose coalition government with the communists is thus likely to warmly embrace — much more so than Blair’s New Labour — the elusive notion of a European “social space” within which all manner of mandates will be applied.

Rationale

Although the commission is required to offer an evaluation of the possible labor market effects of its proposals — via so-called *fiches d’impact* — it has rarely done so. (In Europe there is assuredly no counterpart to the Unfunded Mandates Reform Act of 1995.) There are a number of reasons for this failure. First, and most obviously perhaps, the social affairs directorate does not have the resources to undertake such studies. Frankly, it has the reputation of being something of a mom-and-pop operation compared with other commission directorates. Second, even if it had the trained manpower, it will always be a difficult exercise to chart the effects of potential changes in the law — which will inevitably be modified as a result of political compromise in council — across the diverse regimes of the various member states. Third, there is not the will, as indexed by the fact that the commission has rarely framed its proposed mandates in economic terms. It is simply considered obviously a matter of right that workers be granted a set of basic entitlements. It was earlier noted that health and safety legislation is “not [to] be subordinated to purely economic considerations” and also that health and safety have formed the treaty basis for much social legislation. Basic rights, so the assertion runs, protect the least advantaged workers in the market and act as some form of in-work safety net.

Now it has to be squarely acknowledged that efficiency is not the only criterion for judging mandates. Equity considerations may

indeed be accorded greater priority. Society may well prefer to achieve a redistribution in favor of its poorer members. But the issue is whether the poor are advantaged by such moves and whether, in fact, there are not more efficient redistributive mechanisms (e.g. earned income tax credits versus minimum wages). The commission has eschewed consideration of these issues. However, its recent emphasis on an “employment chapter” in the draft revision of the Treaty on European Union suggests that it is trying to mop up the unemployment induced by certain of its mandates that have hurt those who were intended to be helped by the measures.¹⁵

Despite its reticence to embrace economic arguments, the commission has nevertheless offered two broad economic rationales for its actions. Either implicitly or explicitly, much commission activism would appear to rest on the notion of “destructive competition.” This refers to a process of competition between member states that is supposedly distortionary and destabilizing. In essence, the argument is that it is wrong for countries to compete on the basis of different social standards, because such competition will inevitably reduce the overall level of worker protection. This process is often termed “social dumping” and is widely condemned in Europe. For example, when the Hoover plant in Dijon, France, relocated to Cumbernauld in Scotland because nonwage costs were considerably lower in Scotland, the French political establishment lambasted the move as social dumping. From the commission’s perspective, the obvious way to prevent these distortions is to harmonize on the basis of some standard.

This first argument often shades into a second, which is that competition threatens to disrupt the achievement of the single market itself. Unless workers feel that they have a share in the European enterprise (outside their interests as consumers), then political pressures could derail the European train. From a policy perspective this is not synonymous with the social dumping idea since it might be argued on second-best grounds that workers should receive compensation for agreeing to change that benefits all individuals as consumers, while prejudicing some of them as producers. The community could set aside funds to blunt the adverse consequences of change rather than erecting job protection rules that may impede the allocation of labor from declining to growing sectors of the economy. No such subtleties are recognized by the commission.

What is the status of these two arguments? Social dumping for its part is a long-discredited argument going back to League of

Nations days. Poorer countries have to compete on the basis of lower wages and conditions. Remove this advantage and their principal competitive edge evaporates. It is surely no accident that the poorer nations of the community only accepted social charter legislation raising their labor costs after they had received the promise of much increased subventions from the community's structural funds.¹⁶ (By 1992, Portugal, Greece, and Ireland were receiving annually as much as 3.5 percent, 2.9 percent, and 2.3 percent of their respective gross domestic products from these funds.) The major increase in the social funds — the bulk of which went to the lagging regions — in 1988 and again in 1993 is more to be seen as compensation to the poorer member states for acquiescing in the erosion of their competitive position by reason of actual and future harmonization costs than as reflecting the convergence criteria under monetary union.

There is in fact no justification for the argument that harmonization of social standards is a logical precursor of economic integration.

There is in fact no justification for the argument that harmonization of social standards is a logical precursor of economic integration. Rather, harmonization is likely to be the net outcome of a process of economic integration. Social standards are akin to normal goods (the demand for which rises with income). As countries become richer, they are likely to demand higher standards of health and safety in the workplace — the poor can't afford to be choosy! (If we nonetheless find ambitious standards in poorer countries to begin with, we would infer that the laws are not enforced and this inference is in fact supported in the data.) None of this is to deny that individual member states might feel that institutions such as "social partnership" facilitate growth, but rather to argue that the process of economic integration does not require harmonization of national welfare states. It can be denied, however, that a country's social system is other than a component of national competitiveness. Thus, for example, the dramatic upswing of trade between the United States and Europe was not based on previous harmonization, any more for that matter than was the main thrust toward integration in the common market as it then was.

As for the notion that it might prove necessary to compensate workers for change, this argument has greater force. But offering

a bribe to producer interests to facilitate integration raises the specter of a grants-aided economy where producer interests focus more on the political marketplace than the economic marketplace. From this perspective, inserting a pan-European dimension merely exacerbates the problems of rent-seeking behavior.

But if neither argument holds much water, there is every possibility of particular sources of market failure in the community that might provide suitable cases for treatment. (It is revealing that the commission nowhere saw fit to justify its measures on such necessarily more specific grounds.) Thus, insurance-type arguments might be used to support mandates on maternity leave, public goods arguments to justify legislation on health and safety at work, simple externality arguments to underscore the need for severance pay in imperfectly rated unemployment insurance systems, and prisoner's dilemma to make the case for mandatory participation, and so on. But it is one thing to identify a potential source of market failure, another to determine its extent and severity, and quite another to devise appropriate remedies (the notion of government failure).

Indeed, equity appears by default to be the principal basis for commission activity in the area of social policy.

The point raised by market failure is that it may counter the presumption that mandates cost jobs or, more formally, cause welfare losses. Thus, for example, if firms are forced to provide a service that workers value at more than its cost of provision, employment will actually increase in the wake of a mandate since the wage will fall in a greater amount, other things being equal. The other side of the coin, however, is that where the mandated benefit is valued at less than its costs of provision, then even flexible wages will not prevent employment from falling.¹⁷

This paper will not investigate in detail the theory and practice of mandates.¹⁸ Suffice it to say that the following issues have to be addressed. First, one has carefully to demonstrate the sources of market failure that the policies are designed to correct. Second, one has to move from theory (and parameterization) to policy. It cannot be presumed that the government can be relied upon to correct matters. Only if the costs of market failure outweigh the cost of potential government failure is the mandate required on efficiency grounds. The principal source of government failure —

apart from self-seeking behavior from bureaucrats and politicians — is informational for reasons associated with the heterogeneity of markets and market participants. This latter consideration assumes even greater importance in a pan-European setting given the diversity of the constituent market economies. Here the basis of the commission's failure to examine the specifics of the market failure argument is most clearly exposed: since market failures will differ between countries, this can only undermine the case on welfare grounds for harmonization.

It was noted earlier that efficiency is not the only justification for mandates. There is also the question of equity. ("Social consensus" can also be interpreted in an equity light.) Indeed, equity appears by default to be the principal basis for commission activity in the area of social policy. Two major issues are posed here. First, measures that may conceptually increase earnings equality may not do the same for incomes in the presence of unemployment effects. Here the fundamental question is whether the focus should be upon employment mandates that benefit only those in employment. The second issue concerns the degree of equality of incomes that is sought. The problem here stems from the tradeoff between average income and equality of incomes. It is precisely in this latter context that efficiency considerations are inextricably bound with distributional issues. If the disadvantaged are, as seems likely, the victims of measures setting minimum standards for working conditions, the goal should be one of identifying policies that least affect efficiency while redistributing toward the disadvantaged, or, more plausibly, to devise policies that improve the prospects of unskilled and disadvantaged workers directly. These considerations are, it should be said, nowhere articulated by the commission, perhaps because it is all too easy to envisage mandates that are the worst of both worlds, serving to increase both inefficiency and inequality.

Impacts

But one can proceed further in two ways. First, one can look at the costs of regulation in Europe as a result of existing national practices on which the commission has sought to build. Second, and partly in this light, one can examine the logic of supranational mandates.

Empirical results on the labor market effects of employment mandates are mixed, but there is mounting evidence that employment protection costs jobs. Economists' cross-national studies have

typically constructed indices or rankings of the perceived coerciveness of a country's employment protection rules based either on employer opinions as to the severity of these constraints or on the observer's independent assessment using a mix of objective measures (such as levels of severance pay entitlement) and subjective estimates (such as scores reflecting best-guesses as to the actual intrusiveness of legislation). Cross tabulations and simple correlation analysis have been the preferred method of inquiry. Sample results are that the employment-population ratio (private sector employment growth per capita) is negatively correlated with a measure of the overall regulatory climate (an index of dismissals protection), that long-term and youth unemployment is higher in more regulated regimes, that the ratio of youth to overall employment rises with an index of dismissals protection, and that temporary work is increasing in the restrictions placed on the dismissal of regular workers.²⁰

The best known econometric study is that of Edward Lazear, who focuses on just one measure of employment protection rather than a "reputation index," namely, the severance entitlement in months of pay due to an individual blue-collar worker with 10 years of service, permanently laid off for economic reasons.²¹ Using data for 20 countries from 1956 to 1984, Lazear regresses a variety of labor market indicators on the severance pay variable, time (and its square), and controls for the proportion of the population of working age and economic growth. It is reported that more generous severance pay is associated with reduced employment, elevated unemployment, and lower labor-force participation rates. The effect of severance pay on unemployment is particularly striking: increases in severance pay explain the bulk of the rise in joblessness in a number of European countries (e.g. France, Italy, and Portugal). Supportive estimates are provided by the Organisation of Economic Co-operation and Development (OECD) in an analysis of the effects of dismissals protection on the incidence of long-term unemployment (i.e. that lasting more than 12 months), using data on 19 countries averaged from 1979 to 1991.²² The OECD reports that long-term unemployment is strongly increasing in the generosity of a country's dismissals protection.

Although there are data problems with both studies,²³ more recent and better motivated research by Stefano Scarpetta provides strong evidence of the negative consequences of employment protection legislation for unemployment development for a sample of 17 countries from 1983 to 1993.²⁴ Scarpetta uses a wider measure of employment protection than does either Lazear or the OECD,

based on a index of the severity of employment protection, and deploys a more extensive array of controls. He reports evidence of a significantly positive relation between the employment protection measure and overall unemployment. Stronger yet is the deleterious effect of employment protection on youth unemployment and nonemployment.

Admittedly that there is much less consistency among national studies. Although some analyses do point to negative effects of job protection legislation (or, for the United States, of the attenuation of the common law hire-at-will principle) on employment outcomes, other studies fail to uncover any evidence that deregulation, say, is associated with higher employment or with a more rapid speed of employment adjustment.²⁵ That being said, despite their disaggregation, the national studies fail to use direct measures of firing costs and the like, and typically rely on simple dummy variables allied to the passage of legislation. Clearly at the national level much more attention needs to be paid to the details of individual employment mandates and to issues of parameterization.

The notion of harmonization of social standards has to be seen as dangerous nonsense.

It is by no means inconsistent with the cross-national evidence that certain countries with very different systems of job regulation may nonetheless record similar levels of unemployment, among other things. That is to say, some trade-offs may be feasible at the national level. Thus, Karl-Heinz Paqué has argued that the cultural space of Europe provides enough leeway for a broad social search process that may lead to very different results depending on the mentality of the population and particular local conditions.²⁶ But Paqué notes that social systems have to survive a market test; in a sense, they are put up for “adoption” by the market. Those that survive are competitive. That being said, it should be noted that Paqué’s model also recognizes the need for adaptation if the circumstances on which a particular set of arrangements were predicated changes. Adaptation is, then, critical to the survivability of a broad system.

If one accepts the argument, note in all of this that there is absolutely no scope for harmonization. Harmonization of social standards not only ignores the very different trade-offs that are said to be feasible in different regimes but it also places a straightjacket on experimentation with different social systems by ossifying the

status quo. For both reasons, the notion of harmonization has to be seen as a dangerous nonsense from this perspective. Second, Paqué's own argument has to come to grips with the empirical results from the cross-national studies. In particular, just how much leeway does a country have to diverge from the average? Some indication that the more generous social systems may no longer be able to cope is provided by the collapse of the "exemplars" so beloved of social engineers; principally, the Swedish model and currently perhaps the German system. The acceleration in technological change and international competition may have exceeded the ability of the most ambitious social systems to adjust sufficiently. An alternative view, of course, would be that this acceleration may have simply exposed the fundamental contradictions in these systems.

Although it would be dangerous to overstate the precision of economists' estimates of the effects of employment protection, given the still parsimonious characterizations of employment and unemployment, there is clearly nothing in the evidence reviewed here to support the commission's emphasis on the upward harmonization of labor standards. Indeed, the evidence is to the contrary. And there are other empirical regularities to suggest that job protection rules further marginalize those most at risk and to sharpen insider-outsider distinctions. Thus, an analysis by Jane Morton and Stanley Siebert examining the human resource management practices of multinational companies with plants in the United Kingdom and other member states of the European Union suggests that the less regulated British labor market favors the employment of inexperienced outsiders — with apparently no loss in efficiency.²⁷ This finding also ties in with aggregate data on comparative trends in unemployment rates by skill. That is to say, there is little suggestion of a deterioration in the relative unemployment of unskilled workers in the United Kingdom, whereas this is decidedly not the case for continental European countries such as Germany and France.

The bottom line is that there is enough in the data to give considerable cause for concern regarding the efficacy of measures analogous to those being pursued by the commission under the social charter and "social chapter" initiatives from the perspectives of both efficiency and equity.

Wider Lessons

It is fashionable in the United States to blame Europe's lamentable job creation record and high unemployment rates on the web of rules that govern the employment relation in that region.

Although it is difficult to pin down the precise orders of magnitude, the evidence increasingly seems to support this common sense notion even if other factors doubtless contribute to Eurosclerosis. (The candidates here include strong unions, inadequate incentives on the supply side including overgenerous unemployment benefits, an inflated public sector, high nonwage costs, and other rigidities that perpetuate the effects of adverse shocks.)

If reports are to be believed, the commission is all too aware of the fact that employment protection costs jobs.

And, if reports are to be believed, the commission is all too aware of the fact that employment protection costs jobs. Apparently, in its own publications the commission has sought to suppress even naive cross tabulations between indices of the coerciveness of the employment regulatory regime and/or termination costs and the employment ratio.²⁸ The reason has surely to do with the inescapable conclusion that Europe is indeed increasing the degree of employment regulation though the erection of a set of European-wide rules. Such actions restrict a country's freedom to maneuver when greater flexibility is required because of heightened international competition and accelerating technological change. It is no accident that new policies have to be devised to protect those harmed by employment mandates whether they be individual member states (assisted through the social funds mechanism) or individual workers (for whom all manner of training schemes are being proposed). There is, therefore, no surprise in the moves being made to incorporate an "employment charter" into the revised Treaty on European Union.

And what of the lessons for the United States? Perhaps the first of these is the danger that declining unionism (currently some 10.2 percent in the private sector) might stimulate a demand for job protection mandates, with the state (or, more accurately, employers) now providing benefits once linked to union membership. There is, then, an incipient demand for regulation stemming from the decline in worker representation. This is emphatically not to argue that union organization should be fostered but, rather, a statement offered in recognition of the force of producer interests. [Artificial limits on employee involvement in nonunion companies stemming from Section 8(a)2 of the National Labor Relations Act should, of course, be lifted.]

Another sign of a pent up demand for regulation is the attempt to insert social clauses into trade agreements. This phenomenon will be familiar to U.S. readers, not least because there is a powerful constituency for such arrangements in this country sustained in part by worries over rising income inequality, if not increased unemployment per se. In fact, the trade literature does not suggest that international trade is responsible for a substantive part of the increase in U.S. income inequality,²⁹ but this is unlikely to deflect demands that U.S. trading partners tighten up their child labor laws, among other things, in return for more favorable access to this market. Frankly, the use of international labor standards is none other than a mirror image of European notions of “distortions of competition” and “destructive competition.” The doubtful pedigree of these ideas was discussed earlier, and is not reiterated here.

Another aspect of the incipient demand for regulation in the United States is to be found in public opinion polls. Apparently, a large majority of the American public favors higher minimum wages. It might reasonably be speculated that the same is true of advance notice and parental leave, both of which have fairly recently been enacted into U.S. law. There is little concern with the disemployment effects of such regulations. The empirical evidence suggests that minimum wages do not reduce poverty or help the most disadvantaged.³⁰

And European ideas are not lacking in the U.S. academic community. Perhaps the best example is provided by a number of frankly corporatist solutions favored by the ill-fated Dunlop Commission — though to be fair, it did a valuable service by identifying the regulatory morass that is U.S. labor law. Another example is provided by the uncritical advocacy of German-style mandatory works councils.

As a matter of fact, one increasingly hears allegations of “market failure” in the United States. Such considerations, as was noted earlier, provide the basis for all manner of mandates. But it is one thing to identify a possible source of market failure, another to determine its relevance (including whether or not it is reducible in principle), and quite another to design policies to remediate the position if it is shown to be nontrivial. Alarmingly, one sees increasing signs of what might be termed a “try-it-and-see” approach among U.S. observers; that is, introduce a mandate (say, one that provides the worker with 60 days notice of impending job loss) and if this proves too costly (or too weak) modify the standard. The practical lesson of the European experience is that mandates where they are revised are always modified in one direction — upward. There is no evidence to suggest that mandates can be judiciously

finetuned. The overriding suggestion is that, unlike old soldiers, ill-advised mandates do not fade away, but instead, just go marching on. The European experience is a pertinent reminder, if one were needed.

Some would argue that Europe has learned its own lesson. After all, so the argument runs, has not the pace of social regulation slackened to a crawl, and is not the existing pattern of pan-European regulation rather a loose constraint upon firms anyway? Has not Europe charted its noncompetitiveness, and is it not attempting to lower employers' nonwage costs? And is not the British experience providing valuable evidence of what might work?

The European Union provides an interesting case study for the United States, and in the process will hopefully ward off overly ambitious mandates.

Would that this were the case. First, the notion that Europe must not seek to compete with low-wage low-skilled economies but should instead locate at a higher point on the value-added spectrum is being used as an argument for not challenging — even evaluating — the basis of employment mandates. So the focus shifts away to more palatable discourse based on, say, the importance of employer-worker cooperation on building high performance organizations. (Why these forms do not emerge spontaneously is, of course, not seriously addressed.) Second, the recent success of British deregulation is still not viewed with favor. Thus it is argued that the substantial rise in British employment is of the “atypical worker” variety, and that Britain is somehow locked into a low-training, low-wage equilibrium.³¹ Third, the activist social affairs directorate of the commission has not changed its spots. The hiatus in regulation has been shown to be more apparent than real. Recall that the commission now has a much firmer treaty base for its actions than at any time, extended majority voting, and a veritable web of “supportive” legislation in place which it can first consolidate and then build upon. Added to which, the British are now on board.

The European Union provides an interesting case study for the United States, and in the process will hopefully ward off overly ambitious mandates. This may be the most fundamental lesson, given that the forces making for greater labor market regulation are not exactly distinguished by their absence in the United States.

Although it is entirely appropriate to continue to evaluate individual mandates on their merits, that evaluation must at all times conform to a higher standard than has been set by the Europeans. The European experience may even assist in securing a review of existing employment mandates in the United States (e.g. Davis-Bacon). For the Europeans, however, unless the status quo is challenged, the plot can only thicken and the problems multiply.

Notes

1. Some brief comment is needed on the institutions of the European Union. The basic point is that the Commission of the European Union proposes and the Council of Ministers of the European Union disposes. The commission is made up of representatives of the member states, and makes decisions on a majority basis. Each commissioner has a field of responsibility. The commissioner for Employment, Social Affairs and Education (currently, Pádraig Flynn of Ireland) is responsible for labor issues. His directorate, known as DGV, formulates social policy and devises the mandates discussed here.

All draft legislation, not just that proposed by the social affairs directorate of the commission, has to run the gauntlet of the council, the supreme decision-making body of the community. The council represents member governments through the participation of the ministers responsible for the specific topic under consideration — so that membership of the body changes with the agenda. Council decisions were originally made on the basis of unanimity but revisions to the treaty establishing the common market have, as will be seen, increasingly allowed for (qualified) majority voting in labor and, of course, other policy areas.

Draft legislation, proposed by the commission, is discussed in the council, which may adopt the proposal, modify it, or fail to take action. This depiction of the process is in fact a considerable oversimplification of the legislative procedure since it ignores the role of the European Parliament. Until recently there were in fact three distinct legislative routes for draft legislation, under “consultation,” “cooperation,” and “co-decision” procedures, which progressively accord the European Parliament more of an influence. But for the vast bulk of labor legislation, the supremacy of the council is to all intents and purposes undiluted. That said, in a more far-reaching departure, a new legislative route opened up by the “Agreement on Social Policy” — further examined in the text — now allows the two sides of industry at the European level to set policy.

2. Interesting information on the extent of employment regulation — and litigation — in the United States is contained in the deliberations of the Dunlop Commission. See commission on the Future of Worker-Management Relations, *Fact Finding Report* (Washington, D.C.: U.S. Department of Labor/U.S. Department of Commerce, May 1994); Commission on the Future of Worker-Management Relations, *Report and Recommendations* (Washington, D.C.: U.S. Department of Labor/U.S. Department of Commerce, December 1994).

3. For a useful review of the backdrop to the insertion of social (and environmental) clauses into trade agreements, see Drusilla K. Brown, Alan V. Deardorff, and Robert M. Stern, "Issues of Environmental and Labor Standards in the Global Trading System," paper presented at the Conference on *Globalization, Technological Change, and the Welfare State*, American Institute for Contemporary German Studies, The Johns Hopkins University, Washington, D.C.: June 9-10, 1997.
4. In the Preamble to the Treaty of Rome, a "constant improvement in . . . living and working conditions" is stated as a central objective. But note that this improvement was to be realized primarily through the liberalization of trade and economic mobility, not previously via social legislation.
5. Article 118A of the Single European Act provides that "Member States shall pay particular attention to encouraging improvements, especially in the working environment, as regards the health and safety of workers and shall set as their objective the harmonization of conditions in this area, while maintaining the improvements made."
6. Alongside the social charter, the commission pursued a number of other initiatives. The most important of these concerned worker participation. Under the *European Company Statute* (in turn the template for separate legislation on European Associations, European Cooperative Societies, and European Mutual Societies), companies choosing to incorporate as a *European Company* — there were certain financial and tax benefits from so doing — had to meet one of four types of compulsory worker participation, including worker directors. Under separate legislation in the form of the proposed *Fifth Company Law directive*, similar obligations were to be imposed on public corporations employing 1,000 or more workers. In both cases, the legislation proposed was less detailed and prescriptive than their precursors which required worker directors on obligatory supervisory boards.
7. Thus, the commission's initial proposals on mass layoffs had called for such dismissals to be declared null and void in the event that the directive's information and consultation requirements had been breached by employers. This clause had to be dropped to secure adoption of the measure in council. Similarly, the pregnant workers directive had originally called for maternity leave to be paid at 100 percent of normal earnings, which had to be trimmed back to a level consistent

with the levels of sick pay obtaining in the individual member state to gain acceptance. The working time directive had sought an inalienable 48-hour week, which was subsequently modified so as to allow workers to elect to work more than this limit.

8. For example, in the case of mass layoffs, changes were also introduced in to the legislation that made it easier to reach the employment threshold triggering the mandate. Again, the pregnant workers directive was further modified to deny member states the right to set eligibility requirements that exceeded one year's length of service, while the working hours directive had initially contained no reference to its most controversial element, the 48-hour week.
9. Strictly speaking, other treaty bases permitting majority voting at this time were Articles 57(2) and 66, pertaining to self employment and the provision of services; Article 54(3) on right of establishment; and Article 100A on implementing the single market, even if largely undercut by Article 100A(2).
10. On the plethora of nonbinding instruments issued under the aegis of the social charter, see John T. Addison and W. Stanley Siebert, "The Course of European-Level Labor Market Regulation," in John T. Addison and W. Stanley Siebert (eds.), *Labour Markets in Europe — Issues of Harmonization and Regulation* (London: The Dryden Press/Harcourt Brace & Company, 1997), pp. 28-34.
11. Indeed, virtually all the health and safety proposals had a basis in a June 1989 workplace health and safety framework, or umbrella directive.
12. Note that Article 118B of the SEA committed the commission to develop the dialogue between the two sides of industry at the European level so that "relations based on agreement" might emerge if the parties so wished.
13. This is an appropriate point to note that the social partners are not all-inclusive organizations, since outsider organizations on both sides of industry have disputed the status of the parental leave agreement. The "authorized" social partners comprise, on the employer side, the Union of Industrial and Employers' Confederations of Europe (UNICE) and the European Centre of Public Enterprises (CEEP) and, on the employee

side, the European Trade Union Confederation (ETUC).

14. Europe's problems of rising unemployment and reduced competitiveness are recognized in the commission white paper "Growth, Competitiveness, Employment — The Challenges and Ways Forward into the 21st Century," COM(93) 700 final (Brussels: Commission of the European Communities, 1993).
15. The "employment chapter" makes a high level of employment an aim of the European Union. It may also be viewed as providing a further impetus to social policy.
16. The structural funds are now designed to promote economic and social cohesion, although this has not always been the case. They include the European Social Fund, the European Regional Development Fund, and the European Agricultural Guidance and Guarantee Fund. Two-thirds of the structural funds are allocated to regions that lag behind the rest of the community — "Objective 1" regions.
17. It should be noted that the case against mandates cannot be sustained on the argument that regular markets are free of distortions. Were that the case, the parties could simply contract around inefficient mandates.
18. For a detailed review of which, see John T. Addison and Barry T. Hirsch, "The Effects of Employment Regulation: What Are the Limits?" in Bruce E. Kaufman (ed.), *Government Regulation of the Employment Relationship* (Madison, Wisconsin: Industrial Relations Research Association, 1997).
19. But for official British estimates of the "compliance costs" of various social charter measures, see John T. Addison and W. Stanley Siebert, "Recent Developments in Social Policy in the New European Union," *Industrial and Labor Relations Review* 48 (October 1994): 5-27.
20. These results are taken from David Grubb and William Wells, "Employment Regulation and Patterns of Work in EC Countries," *OECD Economic Studies* 21 (Winter 1993): 7-58; Hugh Mosley and Thomas Kruppe, "Employment Protection and Labor Force Adjustment: A Comparative Evaluation," Discussion Paper (Berlin: Wissenschaftszentrum Berlin, April 1993); W. Stanley Siebert, "Overview of European Labour Markets," in John T. Addison and W. Stanley Siebert (eds.), *Labour Markets in Europe: Issues of Harmonization and Regulation* (London: The

Dryden Press/Harcourt Brace & Company, 1997), pp. 229-243. A dissenting voice is Guiseppe Bertola, "Job Security, Employment and Wages," *European Economic Review* 34 (June 1990): 851-879.

21. Edward P. Lazear, "Job Security Provisions and Employment," *Quarterly Journal of Economics* 105 (August 1990): 699-726.
22. OECD, "Long-Term Unemployment: Selected Causes and Remedies," *Employment Outlook* (July 1993): 83-117.
23. These are discussed in John T. Addison and Jean-Luc Grosso, "Job Security Provisions and Employment: Revised Estimates," *Industrial Relations* 35 (October 1996): 585-603. They report stronger support for Lazear's employment results than for his employment findings.
24. Stefano Scarpetta, "Le Rôle des Politiques du Marché du Travail et des Dispositions Institutionnelles Concernant le Chômage: Une Comparaison Internationale," *Revue Economique de l'OCDE* 26 (1996): 53-113.
25. A sample of country studies is reviewed in Christoph F. Buechtemann, "Introduction: Employment Security and Labor Markets," in Christoph F. Buechtemann (ed.), *Employment Security and Labor Market Behavior. Interdisciplinary Approaches and International Evidence* (Ithaca, New York: ILR Press, 1993), pp. 3-66.
26. Karl-Heinz Paqué, "Does Europe's Common Market Need a Social Dimension? Some Academic Thoughts on a Popular Theme," in John T. Addison and W. Stanley Siebert (eds.), *Labour Markets in Europe: Issues of Harmonization and Regulation* (London: The Dryden Press/Harcourt Brace and Company, 1997), pp. 105-117.
27. Jane Morton and W. Stanley Siebert, "Social Dumping and Insider-Outsider Distinctions in the European Union," Discussion Paper, Department of Commerce, University of Birmingham, January 1997.
28. "Brussels Riven by Job Market Row," London: *The Financial Times*, November 8, 1996, p. 2.
29. For a useful review of the literature, see Gary Burtless, "International Trade and the Rise in Earnings Inequality," *Journal of Economic Literature* 33 (June 1995): 800-816.

30. John T. Addison and McKinley L. Blackburn, "Minimum Wages and Poverty," Discussion Paper, Department of Economics, University of South Carolina, 1996: John T. Addison and John B. Chilton, "Nondisclosure as a Contractual Remedy: Explaining the Advance Notice Puzzle," *Journal of Labor Economics* 15 (January 1997): 143-164.
31. For a refutation of the former argument, see Peter Robinson, "Just How Far Has the U.K. Labour Market Changed: 'Flexible' Employment and Labour Market Regulation," Discussion Paper, Centre for Economic Performance, London School of Economics, 1997. On the notion of a low-wage, low-skill equilibrium, see the essays in Alison Booth and Dennis J. Snower, *Acquiring Skills: Market Failures, Their Symptoms and Policy Responses* (Cambridge, England: Cambridge University Press, 1996).

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