

WHO SPEAKS FOR EUROPE IN THE ILO?
MEMBER STATE COORDINATION AND EUROPEAN UNION
REPRESENTATION IN THE INTERNATIONAL LABOUR
ORGANISATION

PHD THESIS

SEPTEMBER 2006

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Abstract

This thesis answers the question of whether the European Union (EU) Member States have changed their behaviour in order to coordinate EU common representation in the International Labour Organisation (ILO). The study begins in 1973, when European Political Cooperation (EPC) was expanded to include EU Member States coordination in the United Nations, and ends in 2005. The thesis uses archive records and interviews to measure the level of EU representation (issuing common statements) and voting cohesion.

The analysis of EU Member States' coordination is divided into technical issues (ILO labour standards) coordinated through the European Community, and political issues coordinated through EPC/CFSP mechanisms. The hypotheses tested are that technical coordination is easier to achieve than political coordination, and over time the Community driven technical coordination will develop more than EPC/CFSP driven political coordination. The core findings are that technical coordination has developed unevenly across particular issue areas and through time, while in political coordination there is evidence of a strong commitment by the EU Member States to maintaining common foreign policy positions.

Liberal intergovernmental theory is shown to be the most useful for explaining EU Member State technical coordination. Key evidence includes an examination of the impact of treaties on common representation and voting cohesion, the continued importance of national interests and the European Court of Justice Opinion confirming the primacy of Member States in the ILO. Institutional theory was shown to be the most useful for understanding EU Member State political coordination. Three cases studies were used: the Arab-Israel dispute, apartheid in South Africa promoting core labour standards. Empirical

research highlights the social norms and rules of the Geneva diplomats working on EU coordination. The overall conclusion is that the EU Member States remain first and foremost members of the ILO, and speaking for Europe is a secondary concern.

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List of Abbreviations

CAS	Committee on the Application of Standards
CFA	Committee on Freedom of Association
CFSP	Common Foreign and Security Policy
CONUN	UN Coordination
EC	European Community
ECJ	European Court of Justice
ECOSOC	Economic and Security Council
EESC	European Economic and Social Committee
EP	European Parliament
EPC	European Political Coordination
EU	European Union
GA	(UN) General Assembly
GB	Governing Body
GCHQ	Government Communication Headquarters
ILC	International Labour Conference
ILO	International Labour Organisation
IMEC	Industrialised Market Economy Countries
JHA	Justice and Home Affairs
LI	Liberal Intergovernmental
NF	Neofunctional
OSH	Occupational Safety and Health
PLO	Palestine Liberation Organisation
QMV	Qualified Majority Voting
SAP	Stabilisation and Association Process
SC	(UN) Security Council
SEA	Single European Act
TEC	Treaty of the European Community
TEU	Treaty of the European Union
TUC	Trade Union Congress
UN	United Nations

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RESEARCH QUESTIONS AND HYPOTHESES

1. Research Questions

The Member States of the European Union (EU)¹ are simultaneously members of other international organisations such as the United Nations, and in very many cases their membership of those international organisations predates their becoming a member of the EU.² Inside these international organisations European states participate alongside other states seeking to solve collective problems by cooperation. The solutions reached are through intergovernmental negotiation between sovereign states, instead of by coercion through the use of military force. This is also the approach practised within the EU, although the institutional structure of EU far exceeds any other international organisation in existence. The supranational dimension of EU governance has created a highly sophisticated form of multilateralism.

In December 1973 the foreign ministers of the Nine EU Member States produced a public declaration titled the *Document on the European Identity*, which *inter alia* called for the Member States to adopt ‘common positions wherever possible in international organizations, notably the United Nations and the Specialized Agencies.’ (Hill and Smith,

¹ The European Union is taken here and throughout the thesis to include its predecessor treaty organisations, the European Economic Community (EEC), Euratom and the European Coal and Steel Community (ECSC). When ‘EC’ is used in the thesis it refers exclusively to the European Community, the institutions of which it consists and its international legal personality.

² Only the Federal Republic of Germany (FRG) stands out from this general trend, because both the FRG and the German Democratic Republic (GDR) joined the United Nations Organisation (UN) in 1973 (although the FRG joined the International Labour Organisation (ILO) in 1954).

2000: 96) This call was for EU Member States to prioritise working together for the goal of speaking with one voice, and remains explicit today within Articles 18-20 of the Treaty on European Union. As Katie Verlin Laatikainen and Karen E. Smith point out, 'the EU seeks to pool sovereignty and create a common foreign policy in many policy arenas' and label this the EU's approach to multilateralism. (Smith and Verlin Laatikainen, 2006: 3) They contrast this to the multilateralism found in international organisations, where state sovereignty is protected and intergovernmental principles shape decision-making procedures. Based on this distinction, Verlin Laatikainen and Smith frame the working of the EU at the UN as 'intersecting multilateralisms' (Smith and Verlin Laatikainen, 2006: 3) European Union Member States are at the intersection, and they are faced with a choice between acting collectively through their common institutions, or relying on a variety of previous networks of bilateral relations extending across the world based on shared history, language, culture, geography or political similarities. Within Europe these include Spain's links with Latin America, Britain and France's links to the Anglophone and Francophone worlds respectively, and Denmark's to the Nordic group of states. (Manners and Whitman, 2000: Ch.13)

This thesis examines the extent to which the EU Member States are changing their behaviour in one specific international organisation, the International Labour Organisation (ILO), the United Nations Specialized Agency responsible for employment and social policy. Put succinctly, the research questions are as follows:

- Have the European Union Member States changed their behaviour over the period of study (1973-2005) in order to have a common representation of the EU in the ILO?

- Can evidence be found of closer coordination between the Member States being forged in the Community pillar, despite the absence of European Community membership of the ILO?
- Can evidence be found of closer coordination between the Member States being forged on other grounds, such as *inter alia* a common foreign policy or a common European identity?
- Based on this, which theory tells us most about the behaviour of EU Member States and the role of EU institutions within the ILO?

The change in behaviour being looked for is of EU Member States moving away from acting as individual national government members of the ILO (as the 175 ILO members do) and toward acting in a way that prioritises EU representation. The methodology describing and measuring this change in behaviour, as well as a set of definitions, is presented in detail below. However, its primary characteristic is engaging in EU coordination activities and allowing EU-sanctioned representatives to speak on behalf of the national government. In short, we are looking for deviation from a base-line of standard behaviour by ILO member governments, where EU Member State governments coordinate among themselves more often, and are commonly represented collectively more often.

The four questions around which the thesis is designed will be answered through the collection of empirical data gathered from archive records from the ILO, EU documents and interviews with practitioners. However, over the course of the thesis another question will be considered, relating to a qualitative assessment of the performance of the EU. While the multilateral environment of an international organisation makes state cooperation necessary, what are the potential costs of EU coordination and how are they

incurred? At least four answers can be given, two relating to the ILO and two to EU foreign policy. Firstly, in the ILO increased coordination between EU Member State governments could lead to less coordination between the national workers' and employers' representatives and potentially damage the tripartite principles of the ILO. Secondly, EU Member States might be better able to pursue their interests working with other governmental coordination groups, either smaller (such as the Nordic group) or larger, such as the IMEC group.³ Thirdly, on a general foreign policy level, the assumption that EU Member States' interests are naturally congruent needs to be verified, as well as what sort of agreements are produced through coordination (e.g. lowest-common denominator predicted by intergovernmental theory). Finally, the increased size of the EU could make coordination among its members more difficult over time, when one would expect nine states to coordinate more easily than 25.

How does the thesis answers these questions and contribute to the existing literature? The case study of the ILO is an important one to consider because since 1995 the ILO has assumed the role of the primary universal organisation concerned with monitoring and regulating the social dimension of globalisation.⁴ It has developed a role to complement the World Trade Organisation (WTO) by providing the regulatory labour standards of a global economy based on international trade. The WTO's objective of reducing trade tariffs implies increasing economic competition and improving economic efficiency. The ILO seeks to prevent this becoming a 'race for the bottom' in which working conditions are sacrificed in order to stay competitive. The rapid acceleration of global economic liberalisation after the end of the Cold War has raised similar concerns to

³ IMEC – Industrialised Market Economy Countries is comprised of the UN Western Europe and Other Group (WEOG) plus Japan.

⁴ The ILO was given its mandate at the World Summit on Social Development in Copenhagen, 1995.

those of around at the end of World War I, when the ILO was founded. Its constitution recognises the link between domestic stability and international peace, stating that 'poverty anywhere constitutes a danger to prosperity everywhere' (ILO Constitution: Article 1(c)). The EU was founded on similar principles and the EU remains explicitly committed to social and economic development, through the exportation of its own model to neighbouring states through enlargement, as well as in its development policies. (EU, 2005: Paragraph 99)

The ILO case study allows the researcher to hold up a mirror to the two pillars of EU policy-making of the Community (Pillar 1) and the Common Foreign and Security Policy (Pillar 2). The agenda of the ILO spans both areas, and in coordinating in response to various issues the working of each pillar can be compared and contrasted. The two areas roughly correspond to 'low' and 'high' politics, as well as to supranational and intergovernmental decision-making procedures.⁵ The traditional view held by both the neofunctional and intergovernmental schools is that 'low' political issues are more easily agreed upon and form a sound basis for integration, while 'high' politics were and remain a contentious issue that Member States are often divided upon. (Haas, 1958; Lindberg, 1963; Hoffmann, 1966) The reason is that foreign policy is traditionally linked to national sovereignty and national identity, characteristics that define a nation state. The intergovernmental approach argues that the EU will not have a coherent foreign policy while it remains essentially a collection of separate states. Alternatively, critics argue that identity and culture are important (not only material interests), and that a successful common foreign policy can be built over time without fundamentally changing the

⁵ Such dichotomies are useful for framing the overview, but in reality ILO 'technical issues' related to the Community are a mixture of Qualified Majority Voting (QMV) and unanimity. Also, 'political issues' have statements coordinated through the EPC and CFSP mechanisms.

sovereignty of Member States of the Union. (Boerzel, 1999; Tonra, 2001; Smith, 2004)

Does the ILO case assert or refute the basic assumptions about EU foreign policy, namely that coordination of political issues will be much harder than purely technical ones?

This thesis answers these questions by drawing on empirical research from 1973, the year that European Political Cooperation (EPC) began coordinating EU Member States in the UN through the CONUN committee system. I will return to these questions periodically throughout the thesis, as well as summarizing my findings in the conclusion.

2. Definitions, Source Material and Methodology

i. Definitions

This thesis is first an empirical study of the behaviour of the EU Member States in the ILO between 1973 and 2005. Behaviour is measured through three variables, applied throughout the thesis:

- *Coordination* is the meeting of diplomats and officials from the governments of the European Union Member States (most likely with staff from the Council Secretariat and/or Commission present but this is not essential) in any location (national capitals, Brussels, Geneva) with the purpose of discussing an issue on the ILO agenda.
- *Representation* is any verbal or written intervention by Presidency of the Council of Ministers, the European Commission or another EU Member State explicitly representing the views of (i) the Member States of the European Community, (ii) the Member States speaking as the 'Nine' ('Ten' or 'Twelve) members of the European Community or (iii) the EU. Which of the three titles is used depends on

the coordination mechanism used to prepare the intervention. The distinction between (i) and (ii) was preserved from 1973 until 1993, with the former represented in relation to technical instruments and the latter in relation to political issues.⁶ After 1993 all representation was in the name of the EU. In the thesis representation is quantifiably measured through the recording of statements in the Provisional Records of the International Labour Conference.⁷

- *Cohesion* is the uniform voting behaviour of European Union Member States in International Labour Conference record votes. This term is borrowed from Caporoso and Jupille. (Caporoso and Jupille, 1998)

Throughout the thesis the relationship between the three is understood in the following manner. All evidence of representation is verifiable evidence of coordination between the Member States (with or without the assistance of Commission and/or Council staff) because no common statements in the name of the EU Member States is sanctioned without prior agreement. However, there is also intermittent archive evidence of coordination taking place between Member States in policy areas where no formal representation was documented in the ILO Provisional Records. This means that the relationship between coordination and representation is not a two-way street. While one can be certain that when there is evidence of representation, coordination preceded it, reversing the logic is not so simple. Although sometimes no representation signifies that no coordination took place, the absence of evidence of representation does not preclude the possibility that coordination *did* take place, and that the outcome was a decision *not* to represent the EU Member States. All of the substantive argumentation presented in this thesis is based on the concrete link between evidence of representation being taken as evidence of coordination. This approach to gathering empirical data relating to

⁶ The division of the ILO agenda into 'technical' and 'political' issues is discussed in Section 3.

⁷ 'Provisional Records' are the official documents recording proceeding at ILCs.

coordination and representation is not foolproof since there will be times when Member States may have coordinated but no documented record has been found.⁸ Thus statements made about the relationship between coordination and representation have a potential margin of error, although the design of the methodology has sought to minimise it.

Cohesion is measured by looking at the records of EU Member State voting. The voting pattern is either said to be cohesive, (there is voting cohesion) or not, depending on whether all the EU Member States voted the same way or not. In the analysis of technical voting the assumption is made that all Member States vote for the adoption of an instrument (there is a detailed explanation of why this is so in Chapter 5). When an EU Member State abstains from voting, or casts a vote against the adoption of an instrument, voting deviation takes place and cohesion is broken. In the analysis of political voting all three possible votes (for, against and abstention) are viable strategies to promote the EU Member States' interests, depending on the issue being voted on. In both issue areas the association between cohesive voting and common representation is measured, in order to provide a provisional hypothesis on whether common representation and therefore coordination occurs at the same time as cohesive voting.⁹

ii. Source Material

The choice of source material was informed by the three key variables listed above, coordination, representation and cohesion. However, as stated above, gathering evidence showing coordination meetings being held (such as agendas) was very difficult and as a

⁸ The methodology section below details possible situations where measuring representation leads to potential for errors.

⁹ Alternative explanations for why cohesive voting without common representation are also discussed in the thesis, for reasons such as *inter alia* a coincidence of shared interests of like-minded states.

result the methodology was designed to gather as reliable data as possible on representation and cohesion, and then deduce the level of coordination from the general principal that when representation took place coordination preceded it. Evidence showing the existence of coordination meetings as early as 1974 was found in an internal memo sent from the British government (Department of Employment) to the UK Permanent Mission in Geneva.¹⁰ Personal correspondence with a diplomat working as part of the UK mission in 1994 and 1995 also detailed coordination meetings in Geneva, and archival research in the ILO provided evidence of daily coordination meetings between the EU Member States since 2000. (ILO, 2000b; ILO, 2001a; ILO, 2003a; ILO, 2004a; ILO, 2005a)¹¹ Concrete evidence of coordination meetings from the Council Secretariat are equally hard to find. A personal correspondence with an archivist in the Public Archive Office of the Council Secretariat in Brussels stated that the

EU Member States coordinate among themselves before and during the three-week ILC.

Typically, for each topic the Presidency calls coordination meetings as needed, at times daily or twice a day, at times only few times during the ILC. (Bruynel, 2005)

The correspondence continues with confirmation that only four documents relating to International Labour Conference (ILC) coordination meetings were found concerning negotiations on mining in 1994, but they 'are not accessible to the public.' Documents from before 1999 can not be found in the public register, but in the Archives. But as explained earlier there may not be any.' (Bruynel, 2005) Three COREU telex messages from 2002 giving details of Geneva coordination have been found, and

¹⁰ 'At the 1974[International Labour] Conference West Germany held the EEC Presidency, and appeared to manage the chairing of the co-ordination meetings very well. We may therefore be able to draw on their experience concerning the demands on the Secretariat. It would be very helpful if the delegate could ask the West German government representative on the Governing Body, Mr Klotz, at the May 1976 session of the Governing Body or at the 1976 Conference of any advice he can offer on the matter.' (UKREP, 1976)

¹¹ Data relating to before 2000 is not available from the *Daily Bulletin*, because no earlier copies have been kept. However, the *Bulletin* only details coordination meetings taking place either in the Palais des Nations or in the ILO building. Prior to 2004 a considerable number of coordination meetings were held in the EU Council Secretariat offices (known as 'the Bunker') nearby. In 2004 the enlargement of the EU, and the relocation of the Council Secretariat further away meant this was no longer possible. Interviews: Athens, 1 October 2004; Geneva, 21-22 June 2005

documents stating the agreed position prior to the 2004 Discussion on Migrant Workers were supplied to the author. (EC-Council, 2002c; EC-Council, 2002a; EC-Council, 2002b; EC, 2005) In summary, these collected documents show evidence of coordination meetings taking place over the entire length of the survey.

In summary, there is sufficient evidence to substantiate the claim that coordination has taken place in Brussels and in Geneva in preparation for ILCs from as early as 1974. Pinpointing exactly when, how much and on what issues is not possible given the incomplete records. For this reason this thesis goes no further than making the assertion that for the entire period of the study, when evidence of representation is found it is evidence of Member States' coordination too.

The major source of primary reference material used to gather empirical data on representation is the ILO annual legislative assembly, the International Labour Conference, which has fully documented records of proceedings. The Provisional Records have verbatim transcripts of all addresses to the conference plenary, summaries of all interventions made in committee meetings and breakdowns of all record voting by ILO members. Through this method quantitative data for both representation and cohesion was collected for each ILC over the 33-year period (giving 36 in total because three additional Maritime conferences were held in 1976, 1987 and 1996). This was complemented with additional ILO primary sources from the Daily Bulletins of the conferences between 2000 and 2005 (the only ones available in the Geneva archive) as well as selected documents from ILO Governing Body meetings (the executive body).

On the European side documents from the European Commission, Council of Ministers, European Parliament (resolutions and working groups), Economic and Social

Committee and the European Court of Justice are used. These sources are augmented with 20 interviews with various practitioners from the ILO, European Commission, the Council Secretariat, Member State national governments and Geneva Permanent Missions. Archival references from the National Records Office in Kew, London are also used, as is an extensive range of secondary literature. The time-frame begins in 1973, the year in which the first representation of EC Member States was made, to 2005.

iii. Methodology

Representation is measured by the number of statements issued by either the Member State holding the Council Presidency, the Commission or another Member State speaking in the place of the Presidency, where there is an explicit mention of either the European Community or the European Union. In technical committees common statements are usually prefaced with 'the Government Member of X, speaking on behalf of the Governments of the Member States of the EEC'. On the occasions when the European Commission spoke, the statement was prefaced with 'A representative of the European Commission, speaking on behalf of the Governments of the Member States of the EEC'.¹² When the Presidency spoke for the Member States on political issues coordinated through European Political Cooperation (EPC) the statements are prefaced with 'the Government Member of X, speaking on behalf of the 'Nine' ('Ten' or 'Twelve') Member States of the EEC'. After 1993 statements in both technical and political issues were prefaced with 'the Government Member of X speaking on behalf of the Member States of the European Union'. The measurement of representation was done by scanning the Provisional Records of each ILC committee meeting and counting the number of times

¹² The reader should be careful to note that in this context, 'representative' is roughly synonymous with 'spokesperson' or 'diplomat'. It is used differently to the concept of 'representation' in the thesis.

an intervention was made in the name of the Member States. Care was taken to differentiate between interventions and references back to previous interventions so as to avoid double-counting.¹³ Searching for evidence of representation in plenary sessions was easier because it was possible to quickly find statements by diplomats from the Member State holding the Presidency by using the index of conference speakers.

Recording interventions in committee meetings is more difficult than recording interventions in plenary sessions. Plenary sessions are recorded verbatim and are often long statements, with the Presidency speaking rarely more than two or three times to plenary per conference. By contrast committee meetings drafting new instruments (conventions and recommendations) are like long discussions and the Presidency might make up to 80 interventions in the name of the Member States of the EU during the meetings. The drafting meetings can last either one or two years (referred to as First discussion and Second discussion or Single discussion – Standard setting). There are five basic actions carried out by actors in these committee meetings. They are:

- i. Give an opinion in the preliminary discussion of the topic
- ii. Propose amendments
- iii. Propose sub-amendments to an existing amendment
- iv. Speak in support of or against an amendment
- v. Vote to accept an amendment when consensus is not reached

The Presidency can perform actions (i-iv) on behalf of the EU Member States (in fact any government can speak for any group of constituents – usually other governments but occasionally national tripartite partners will speak together). Since the revised guidelines on the role regional groupings can play in Committee meetings after the 1981 Governing

¹³ For example: 'The workers' representative proposed a sub-amendment to the amendment proposed by the Governments of the Member States of the EU'.

Body decision (ILO, 1981f) the European Commission can perform actions (i-iv) too. Neither the Presidency nor the Commission can vote (action v) on behalf of the Member States when a vote is called in a committee meeting.¹⁴

When measuring representation, all four types of action are counted as interventions of equal significance when done so in the name of the EU Member States. The justification for this is that all four actions are necessary to function as a coherent actor in the meeting, and individually demonstrate different facets of coordination. Contributions to the preliminary discussion (i) and proposing amendments (ii) demonstrate preparatory meeting coordination and the establishment of a set of common statements to take into the meeting. Proposing sub-amendments (iii) demonstrates flexibility in the mandate set in coordination meetings and the ability to revise interests to take into account third parties' positions. Finally, supporting or rejecting amendments (iv) represents the ability to quickly coordinate during discussions and to recognise opportunities to pursue EU interests through the initiatives of other parties in the negotiations.

The alternative to giving each one equal weight is to differentiate between the four actions and attribute more significance to one aspect and less to another. One could argue that it takes more coordination to agree on making an amendment (ii) than it does to collectively reject something that might be very obviously against Member States' interests (iv). There are two considerable difficulties with this approach and neither offer a perfectly objective analysis of the coordination process. Firstly, grading each intervention requires the researcher to enter into a very close reading of the proceedings of the meeting and

¹⁴ Voting in committee meetings is usually by show of hands, although occasionally a record vote will be requested (most frequently by either workers' or employers' delegates). Voting is weighted so that the combined number of all government delegates, all workers delegates and all employers delegates is equal (one third each). This contrasts with the conference plenary where 4 national votes are allocated to each member, with two going to the government and one each to workers and employers.

objectively scale the relative significance of each amendment to the Member States interests. This would require extensive knowledge in a number of diverse technical areas and is unfeasible for an analysis that covers 102 instruments over 33 years. The second is that this alternative approach would also require access to the EU coordination meeting to measure the relative complexity of each amendment proposed. It assumes that coordinating the Member States' common amendments is necessarily difficult (i.e. that it is the most variable part of coordination). This need not be the case in an area of policy where extensive Community law already exists, and all amendments are designed to bring the instrument into line with EC law.¹⁵ On balance the approach chosen is the best available because by treating each type of intervention equally it captures the essence of being a coherent actor.

The methodological approach of counting interventions in the name of the EU Member States has another advantage insofar as it provides a clear set of criteria for gathering data in archives that are occasionally ambiguous. The ambiguity arises in Provisional Records when interventions do not begin with the prefaces described above, but nonetheless resemble the product of Member State coordination. The most obvious example of this is the Presidency speaking on behalf of all Member States, but not mentioning the EC or EU. There are two reasons for this. The first is that the Member States decided to speak purely in the context of their own membership of the ILO and not to draw reference from the European Union. The second is that the Reporter responsible for minuting the meeting was not aware that Presidency was speaking on behalf of the EU Member States, or did not associate the named group as being the EU.¹⁶ In these situations

¹⁵ A number of conventions fit this description, such as C184 on Health and Safety in Agriculture.

¹⁶ Reporters are civil servants from ILO member governments seconded to the ILC and are responsible for recording the Committee meetings. They work alongside a Chairperson who is also seconded from a member government, and two

the question arises of whether a particular intervention is a representation of the EU Member States that has been inaccurately minuted? In order to avoid entering a grey area of trying to interpret these cases, when the EC or EU moniker is not explicitly found, it is not counted as an intervention. The potential disadvantage of this is a systematic under-reading of representation due to imperfect archival records. However, given the stated focus on concrete evidence of coordination, this is the approach chosen and used.

A similar situation concerning the representation of a partial group of EU Member States also needs to be considered. Can the Presidency speak in the name of the EU Member States when not all of the Member States are present in the meeting? In the 1970s Luxembourg was occasionally absent from some ILC committee meetings and for this reason preferred to have coordination meetings prior to conference in order to have an input into a meeting it would not otherwise attend.¹⁷ The same situation still occurs today, seen in the case of Presidency coordination of EU Member States in the Fishing Sector Instruments on 2005, when the Netherlands (the previous Presidency) chaired coordination meetings because of the lack of technical expertise in landlocked Luxembourg.¹⁸ Just as the dilemma arose of whether a full listing of Member States making common interventions could be counted as evidence of EC/EU Member State representation, a recurrent list of all Member States minus one raises the question of whether this is actually evidence of coordination between those Member States *present in the committee*. An incomplete group of Member States might not be able to issue statements in the name of the EU, but is nonetheless EU coordination. As before, these cases are not

vice-chairpersons drawn from workers' and employers' delegations. The Reporter is responsible for interpreting the discussion and succinctly recording the substantive points without transcribing each intervention.

¹⁷ 'Incidentally, it would not be surprising if Luxembourg were to advocate prior meetings on all items because they field a small delegation and do not usually cover all Committees in Geneva.' (Hess, 1977)

¹⁸ Interview, Geneva, 22 June 2005

counted in the empirical data sets, although the decision has the potential to lead to the under-counting of cases of representation.

In summary, the methodology of the empirical data collection has been designed around the objective of identifying policy areas where the EU Member States have coordinated to produce common statements, referred to as representation. Cohesion is measured through the voting records of the ILC showing the votes cast by EU Member States. Representation is measured by counting the number of statements made by the Presidency and the European Commission in the name of the EU Member States. The classification of committee meetings according to whether there had been representation will be cross-referenced with voting outcomes and ratifications by the Member States. However, there is another important classification in the data to consider, which is the division between 'political' and 'technical' matters. It is to this that we now turn.

3. Technical and political agenda items

Colleagues have however been unable to trace the origins of the division of handling responsibility between 'technical' and 'political' matters. (...)

I am advised that there are no hard and fast rules about what ILO matter is or is not suitable for discussion in Political Cooperation (PoCo). But broadly PoCo covers questions of political interest to the Nine in the field of foreign policy which fall outside the usual business of the EEC. (Callway, 1978)

The quotation above is taken from a letter written on 5 May 1978 by Mr Callway in the UK government's European Integration Department (Internal) (EIDI) to Miss Grieve in the Department of Employment. The letter explained the difference between technical and political matters deriving from the structure of European integration, with political matters being the concern of European Political Cooperation (EPC) institutions and

technical matters being the concern of the European Community. Bearing in mind that EPC was created in order to establish a clearly separate political dimension to European economic integration that was isolated from the Community's institutions, the distinction between 'technical' and 'political' matters appears to be an artificial, and historically contingent one. Considering that EPC was officially recognised in the Single European Act and the Treaty on European Union (TEU) turned EPC into CFSP and placed it next to the EC in a pillar structure, what place does it have in explaining the ILO agenda today?

Despite the origins of the distinction dating back at least thirty years, the two terms are still used today by diplomats working for both the Member States and the European Union.¹⁹ The 'turf war' between foreign policy and employment policy is recreated in national bureaucracies, with labour ministries responsible for working on technical issues and foreign ministries and their diplomatic staff in Geneva responsible for political work.²⁰ The dichotomy remains inside the EU, with technical issues being the concern of the Community Pillar and political issues in the CFSP Pillar.

i. Technical issues

'Technical' issues on the ILO agenda relate to the preparation, drafting, and revision of ILO instruments (conventions, recommendations and protocols) that set

¹⁹ Interviews: London, 5 July 2004 and 21 September 2004; Copenhagen 3 March 2005; Geneva, 21/22 June 2005; Brussels 18 November 2005.

²⁰ This division of labour was evident in the field work and is discussed in further detail in subsequent chapters. The following archive document illustrates the point too:

'3. I understand from my conversations with you and Bill James last week that the visiting team will man, and chair, the EEC coordination meetings on the 4 ILC technical committees (Administration of Labour, Freedom of Trade Unions, The Working Environment, and Nursing Personnel). We imagine that [UK Geneva] Mission input in the work of these committees, and coordination meetings, will be minimal.

4. EEC coordination on the work of the other ILC committees and the Governing Body will necessarily involve the Mission to a greater extent ... on the various relevant fronts (e.g. Middle East, Article 17, Structure, human rights in Czechoslovakia, etc.)' (Callway, 1977)

standards in employment law.²¹ There are two types of committee meeting that prepare instruments. General discussions are held most years, and allow the tripartite constituents to formulate a set of conclusions to present to Conference that identify policy areas where either new standards are needed or old ones need updating. If a General discussion concludes that there is a need to create or update a standard, the matter is referred to the Governing Body of the ILO, which places an item on the agenda of the forthcoming meeting.²² The second type of committee meeting serves to draft an instrument and sits for either one or two years.²³ Instruments can be based around sectors in the economy (e.g. mining, agriculture, fishing), themes pertinent to many issues (e.g. health and safety, equal opportunities, maternity cover) or the preservation of tripartite labour relations (freedom of association, rights of collective bargaining). It is important to note that although the distinction between technical and political is one that the EU Member States use to classify items on the ILC agenda according to EU structure, the definition of 'technical' is consistent within the ILO according to its role as a standard setting international organisation.

Inside the European Community identifying 'technical' issues is important because the competency to legislate any changes in the law necessary to ratify conventions is sometimes not held by the Member States. Technical issues on the ILO agenda are often related to the content of the *acquis communautaire*, the body of Community law regulating

²¹ Conventions are ratified by ILO member governments and enter into force through domestic legislation. A convention sets out general principles guiding the purpose of the legislation, while recommendations are non-binding but suggest a framework for legislation. Conventions are often accompanied by recommendations to provide a blueprint for legislation. Protocols are additions to conventions that accommodate changing circumstances in the nature of the issue area.

²² A decision to discuss a new area of technical standard-making can also be referred to the Governing Body without it having been discussed at Conference. The Governing Body decide whether the standard will be discussed and finalised in one year, or as is more common, over two years with adoption onto the statute at the end of the second year.

²³ They are referred to as *First Discussion, Standard Setting* (sitting for only one year) or *First Discussion and Second Discussion* (sitting over two years).

and legislating the common market. The specific role of the ILO as the UN Specialized Agency focusing on employment and social issues means that it has always been salient to the process of European economic integration. Over the time period of this thesis (1973-2005) the *acquis communautaire* has developed substantially, both in the scope of its coverage and in the way decisions are taken in the Council of Ministers, including introducing Qualified Majority Voting (QMV) to Title XI on Social Policy, Employment, Vocational Training and Youth in the Treaty of the European Community (TEC). As a result of this, the ability of Member States to implement legislation to allow them to ratify some ILO conventions has been passed to the European Community level, and must be done through the Council of Ministers. However, the EC is not a member of the ILO and hence cannot participate in the drafting of instruments that directly pertain to its competencies. Chapter 3 explains this in more detail.

Although the ‘technical’ issue distinction is extremely relevant to understanding EU expectations of the ILO and the limits to EU action, the distinction is also useful at the level of national governments. Lead government agencies in each European Union Member State are responsible for preparing and negotiating national positions at each ILC. While there is evidence of coordination taking place in Brussels prior to ILCs, these meetings are between staff in the Permanent Representations to the EU, and they are oftentimes not the same staff members who meet in Geneva during conferences.²⁴ Therefore, another characteristic of technical issues that will be discussed in detail in a number of places later in the thesis is that the amount of experience of national diplomats of EU Member State coordination meetings varied over time and between issues areas.

²⁴ Interview: Brussels, 18 November 2005.

ii. Political issues

There are a number of possible ways of defining 'political' issues. On the one hand they could be regarded as 'everything that is not technical', helping to establish a binary catch-all of everything on the ILO agenda. On the other hand, since 'technical' relates to issue areas concerning the European Community, it follows that 'political' relates to issues concerning EPC and later, CFSP.²⁵ The definition used in this thesis draws from both these extremes and is a compromise between the two. Drawing from the distinction between EC and EPC/CFSP, political issues are those which are coordinated through the intergovernmental mechanisms of the EPC and CFSP. Only the Presidency can represent the EU Member States by issuing common statements and they are in the name of the 'Nine', ('Ten' / 'Twelve') prior to 1993 and in the name of the EU thereafter. There is a clearly identifiable institutional framework that coordinates the Member States and this gives the definition a grounding in the structure of the EU.

This raises the question how do the EU Member States decide what issues from the conference agenda should be coordinated through the EPC/CFSP institutions? The distinction between technical and political as a binary classification means that the 'default' setting for coordination in non-technical issues are EPC/CFSP institutions. In this thesis there is less evidence of EU Member State representation in political issues than technical issues, and this reinforces the assumption that the intergovernmental nature of the EPC/CFSP institutions limits the scope of EU Member State coordination by requiring unanimity to produce a common statement.²⁶ Everything that is not 'technical' has the

²⁵ This is the implication of the letter cited in footnote 20.

²⁶ The issue of a common EU position on financing the ILO was mentioned on two occasions as an example of an issue that most states agreed on, but that the UK refused to accept a common position on. The major difference is that most Member States support limiting the ILO budget to zero real growth (thus increasing only in line with inflation) while

potential to be a political issue, since the EU Member States would coordinate on it through the EPC/CFSP institutions. However, given the need for consensus in the intergovernmental decision-making system, the *actual* number of political issues coordinated in the ILO is relatively small.

This is not the only definition of political that exists within the circle of practitioners working in the EU. When asked to define 'political', a number of interviewees said that political issues were those that concerned the domestic practices of other ILO member governments. In the formal language of international relations the issue crosses the inside/outside dividing line of state sovereignty and addresses domestic politics in the forum of an international organisation.²⁷ Crossing this line makes such a statement the concern of Foreign Ministries, and illustrates the scope of competency between government departments. It is interesting to note (but the thesis does not investigate the point in any detail) that the distinction between technical and political issue areas, although extremely relevant in defining relations between the EU Member States and the European Community institutions in relation to the ILO, is applied by staff in national governments to explain their own activities. Noting this means that the division between political and technical issue areas is not a unique construct for EU Member States, but one applied by all states in the ILO to some degree.

the UK (and the USA, Japan and Australia among other states) advocates zero nominal growth, (which leads to a budget decrease by the rate of inflation over time). The UK defence of this situation is that the UK position on UN budget funding is decided in the Foreign Office and is therefore a political issue. Interviews: London, 5 July 2004; London, 21 September 2004; Geneva, 22 July 2005.

²⁷ Interview: London, 21 September 2004; Copenhagen, 3 March 2005.

4. A brief sketch of the ILO

The ILO is a tripartite international organisation, with each national delegation composed of four voting members, of which two come from the government, one from the national employers federation and one from the national trade union federation. The two non-governmental parties represent national interests but are also coordinated internationally through two dedicated secretariats in the ILO, and have legislative and executive powers in the organisation. Their independence is protected by the ILO constitution. The constitution stipulates that only states can join the ILO as members, and the unique structure of the organisation has ramifications for the possibility of changing the constitution to allow the European Community to accede to the organisation. Although certain provisions were agreed by the ILO Governing Body in 1981 that allowed European Community diplomats to act more like state diplomats in committee meetings (ILO, 1981f), European Community membership remains a very remote possibility.

i. A brief history of the ILO

The International Labour Organisation is one of fifteen Specialized Agencies of the United Nations system.²⁸ They sit outside the structure of the United Nations Organisation (UNO), which was founded by the UN Charter and contains six Principle Organs (the General Assembly, the Security Council, the Economic and Social Committee (ECOSOC), the International Court of Justice (ICJ), the Secretary General, and the Trusteeship

²⁸ The 15 are: The International Labour Organization (ILO); the Food and Agriculture Organization (FAO); the United Nations Educational, Scientific and Cultural Organization (UNESCO); the World Health Organisation (WHO); the International Bank for Reconstruction and Development (IBRD); the International Monetary Fund (IMF); the International Civil Aviation Organization (ICAO); the International Maritime Organisation (IMO); the International Telecommunication Union (ITU); the Universal Postal Union (UPU); the World Meteorological Organization (WMO); the World Intellectual Property Organization (WIPO); the International Fund for Agricultural Development (IFAD); the United Nations Industrial Development Organization (UNIDO) and the World Tourism Organization (WTO).

Council). The fifteen agencies should not be confused with the funds and programmes that are directly accountable to the Economic and Social Committee, and are financed directly through the UNO budget. The Specialized Agencies have their own constitutions, independent membership from the UNO and have budgetary autonomy, although they work closely and coordinate with each other and the United Nations Organisation. The ILO is the oldest of the fifteen agencies and pre-dates the creation of the UN itself.

The constitution of the ILO was originally drafted by the Commission on International Labour between January and April 1919 and became Part XIII of the Versailles Treaty, officially ending the hostilities of World War I. The treaty was intended to usher in a new era in international relations in the aftermath of the Great War that would be based on international cooperation premised on democratic principles, through the ILO and three other important international institutions, the Assembly and Permanent Council of League of Nations and the Permanent Court of International Justice (that later became the ICJ in the UN Charter).²⁹ With the outbreak of the Second World War the ILO Secretariat was relocated to Montreal, Canada, and with the plans for the post war international institutional framework well advanced, in 1944 the twenty-sixth annual conference met in Philadelphia and restated the aims and objectives of the Organisation in preparation for participation in the UN system. While the basic components of the League were substantially modified before becoming institutions of the UN, the ILO remained fundamentally unaltered in the post-war era.

²⁹ Commenting on the role of US President Woodrow Wilson in the drafting of the Versailles Treaty, Inis Claude said 'Wilson had fought his war to make the world safe *for* democracy; he created his League to make the world safe *by* democracy'. (Italics in original) (Claude, 1971: 52)

ii. ILO institutional design

The institutional design of the ILO is based on three organs, a General Conference of representatives of the Members; a Governing Body (described in Article 7 of the ILO Constitution); and an International Labour Office controlled by the Governing Body. The first organ is the legislative assembly and is known as the International Labour Conference (ILC) and meets never less frequently than once a year, (although roughly every decade an extra conference session dedicated to maritime issues is convened). The primary function of the conference is to agree on the budget, work plan and the drafting and adoption of instruments to the statute of the ILO. The Governing Body (GB) is the executive branch of the ILO, and 'meets three times a year in Geneva. It takes decisions on action to give effect to ILO policy, prepares the draft programme and budget, which it then submits to the Conference for adoption, and elects the Director-General.' (ILO, 2000h: 7) The Governing Body is composed of 56 titular members (28 government members and 14 members from each of the employers' and workers' delegations). The non-governmental seats are allocated at the discretion of the respective groups, while the government seats are allocated according to geographical regions, with eight going to Europe, seven to Asia and to Americas and six to Africa. However, within the 28 government members ten seats are permanently allocated to the states of 'chief industrial importance' in much the same way as there are permanent members on the UN Security Council, except that in the ILO there are no privileged voting actions comparable to the veto.³⁰ The third organ is the permanent secretariat of the Organisation, the International Labour Office, based in Geneva. It is headed by a Director-General who is elected for a five-year renewable term.

³⁰ The states are Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the UK and the USA. Article 7(2) and (3) of the ILO Constitution sets out the procedure for defining them. The provisional membership for 2005-2008 was published at the 2005 ILC (ILO, 2005f)

5. Chapter Plan

The remainder of the thesis is divided into ten chapters. The next chapter sets out the five theoretical approaches to the study of the EU that will be applied to the questions driving the thesis. They are: neofunctional theory, intergovernmental theory, liberal intergovernmental theory, consociational theory, and institutional theory. Each is briefly described and then the key predictions about EU Member State behaviour in the ILO are given, informed by the theory. These hypotheses are the basis of a framework for testing the applicability of each theory in explaining the empirical data gathered. Chapter 2 ends with a list of four key issues to be considered in the thesis. They are:

- The relationship between the EU Member States and the Community
- The role played by the EU Institutions
- The differences and similarities between technical and political issues
- The role played by elites and diplomats

Chapters 3 to 6 are an in-depth examination of the EU Member States' coordination, representation and voting cohesion in technical issue areas, from 1973 to 2005. The empirical data is taken from Appendix 1, which lists all the ILO instruments drafted and adopted onto the statute since 1973. The appendix shows whether there was EU representation during the drafting and how much, the voting records of the EU Member States in each instrument and the overall outcome of the vote. The 32 years of the study are divided into five periods, and these are explained and justified in Chapter 3. Chapter 4 explores the trends and patterns in EU Member State representation, while Chapter 5 explores voting cohesion over the five periods. Chapter 6 summarises the results gathered, and provides additional support for the main finding of these four chapters, which is that in the field of technical coordination, there is no clear association between representation and voting cohesion, contrary to the predictions of a number of theories.

Chapters 7 through to 10 follow a similar format as the previous four, except their focus is on EU Member State coordination, representation and voting cohesion in political issues at the ILO. Chapter 7 provides an overview of the evolution of political cooperation between EU states, from European Political Cooperation (EPC) to the Common Foreign and Security Policy (CFSP). It also surveys the existing literature on EU Member State coordination elsewhere in the UN system and looks for trends and patterns that could inform this case study. Chapter 8 looks at representation and voting cohesion in the ILC from 1973 to 2005, focusing on plenary discussions,³¹ using empirical data from Appendix 2, which lists EU Presidency statements to the plenary and record votes on political issues. Chapter 9 looks at EU Member State involvement in the Committee on the Application of Standards (CAS) between 1973 and 2005, which oversees the adherence to labour standards. The chapter records and explains the rise in EU Presidency statements in this standing committee since 2000, based on the empirical data in Appendix 3. Chapter 10 summarises the main finding of this section, which is that representation and voting cohesion are associated in political issues, contrary to the intergovernmental theory predictions but in support of institutional theory.

Finally, Chapter 11 draws the conclusions from Chapter 6 and 10 together, and compares and contrasts coordination, representation and voting cohesion between technical and political issues. The results of testing the hypotheses generated by the five theories are presented, and the four key issues identified in Chapter 2 are considered and discussed.

³¹ Two conference committees are also considered, the resolutions committee and the standing committee reporting on apartheid in South Africa. Chapter 7 explains how these selections were made.

THEORETICAL FRAMEWORK

In this chapter the four questions set out in the beginning of Chapter 1 are related to the five theoretical explanations for actions of EU Member States in coordinating and producing collective action outputs. For each theory a brief summary of the key aspects is presented, followed by a 'check-list' of predictions that the theory makes about how the European Union Member States *might* behave in ILO, and why they would do so. By referring back to the list during the subsequent empirical chapters detailing actual behaviour, the merits of each theory can be gauged. Before proceeding, let us quickly recap the four central questions:

- Have the European Union Member States changed their behaviour over the period of study (1973-2005) in order to have a common representation of the EU in the ILO?
- Can evidence be found of closer coordination between the Member States being forged in the Community pillar, despite the absence of European Community membership of the ILO?
- Can evidence be found of closer coordination between the Member States being forged on other grounds, such as *inter alia* a common foreign policy or a common European identity?
- Based on this, which theory tells us most about the behaviour of EU Member States and the role of EU institutions within the ILO?

1. Neofunctional theory

Neofunctionalism is a theory of regional integration between states that assumes economic integration will lead to political integration and the constitution of political communities at the supranational level. The theory was developed as a result of the empirical study of Post World War II European integration, beginning with the European Coal and Steel Community (ECSC) in 1952. Jean Monnet's plan brought together the strategic areas of coal and steel production in a single market with oversight by a new supranational institution called the High Authority, which promoted the interests of all states in an unbiased manner that helped to facilitate political integration. The ECSC was expanded into a broader common market after the signing of the Rome Treaty in 1957 (European Economic Community), an early demonstration of the core assumption of neofunctionalism that economic integration in one sector of the economy leads to economic integration in other sectors. The dynamic process was supposed to be self-sustaining, as the 'logic of integration' became the prevailing interest of the elites across the EEC. Integration would eventually lead to political union, and the creation of a supranational actor above the level of the nation state.

Political integration is the process whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations, and political activities to a new centre, whose institutions possess or demand jurisdiction over pre-existing ones. (Haas, 1958: 16)

As well as Ernst Haas' original work, a number of other authors contributed to the field, although by the 1970s the process seemed to have stalled, leading Haas to reject the explanatory power of neofunctional theory. (Lindberg, 1963; Lindberg and Scheingold, 1970; Haas, 1975) The logic of integration was most importantly characterised by the role of non-state actors and European institutions in shaping the direction integration took, and placing it beyond the control of the Member States that had initially started the process.

Domestic social interests (such as business associations, trade unions and political parties) press for further policy integration to promote their economic or ideological interests, while the European institutions (particularly in the Commission) argue for the delegation of more power to supranational institutions in order to increase their influence over policy outcomes. (Hix, 2005: 15)

The pressure from domestic actors from below and Community institutions from above made integration a 'deterministic process' (Hix, 2005: 15) that was outside the control of the Member States.

The dynamism of neofunctionalism comes from the continually expanding number of areas of integration. Lindberg summed up the process by saying that 'a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions, which in turn create a further condition and a need for more, and so forth'. (Lindberg, 1963: 9) Haas identified three mechanisms by which the process took place; 'spillover', 'log-rolling' and 'side-payments' fuel the deepening of existing integration and the widening of integration into new policy areas. Spillover occurs when one area of cooperation requires a new area to be entered into due to the nature of cooperation. Log-rolling and side-payments are actor induced and are part of the process of negotiation, when reluctance by a Member State to negotiate in one area is compensated with a promise to expand cooperation in another one that was previously unconsidered.

As the principal theory of European integration, neofunctionalism would be expected to have plenty of explanatory insight to offer the case study of EU Member State coordination in the ILO. There are four key points that sum up the predictions made by this theoretical approach.

The first is the *increased significance of the European Community*. The integration process is a dynamic one that the Member States do not fully control. As more policy areas become

integrated at the supranational level, there is a spillover effect into the external environment, requiring the European Community to be represented in international institutions.³² The process has been seen in other multilateral institutions (such as the World Trade Organisation and Food and Agriculture Organisation) and it follows that the considerable progress made in creating Community Law in employment and social areas (Title XI of the TEC) would necessitate the same pattern in the ILO. Furthermore, neofunctional theory predicts discernable, incremental steps as the integration process deepens. The first would be greater cooperation between the Member States, followed by the participation of the European Commission on behalf of the European Community. Finally the EC would accede to the ILO, either taking the place of the Member States, as predicted in the Guertsen Report (EP, 1977a) or supplementing them as has happened in the WTO and FAO.

The second prediction is that the *institutions of the European Community will feature prominently*. The most important institution is the European Commission, which will become an active participant in the ILO and represent the European Community. However, as the Community becomes more significant in the ILO, one would expect the other major institutions (the Council, the European Parliament and the European Court of Justice) to all play greater roles in determining the negotiating mandate of the Commission when representing the EC. Evidence of Community institutions participating in the policy-setting process is a sign of neofunctional predictions taking place.

The third prediction is that *domestic non-state actors will play an important role in promoting integration*. The creation of a supranational elite comes about through the transferral of

³² Here 'represented' is consistent with the definition in Chapter 1, meaning that it must have the ability to speak in international organisations.

loyalties and expectations from the national to the European level. If this manifests itself we would expect to find trade union and employers' members of the ILO from the EU Member States working together and with governments to promote their shared common interest. The tripartite structure of the ILO gives these domestic social interest groups an opportunity to promote their agenda through their legislative and executive powers in the organisation. The ILO is a highly conducive international organisation for the non-state actors that neofunctionalism predicts will evolve into a supranational elite to work constructively towards the creation of an integrated Europe.

The final prediction is the *sequence of integration*. Economic integration through the common market is the first step towards eventual political integration, so we would expect to see harmonisation of interests between Member States and the emergence of the European Community as a member in the technical issue areas first. Political issue areas would follow more slowly given the logic of integration. As with all of these points, neofunctionalism predicts ever-closer union over time, and that means incremental change forward.

2. Intergovernmental theory

The intergovernmental approach to theorising the European integration has developed in response to the perceived shortcomings of neofunctionalism. Simon Hix identifies Stanley Hoffmann's 1966 piece *Obstinate or Obsolete? The Fate of the Nation State and the Case of Western Europe* (Hoffmann, 1966) as the origin of intergovernmentalism, which

‘argues that European integration is driven by the interests and actions of the European nation states.’ (Hix, 2005: 12)³³

Intergovernmental theory can be applied to the European integration project as a whole, critiquing the arguments made by Haas and others that the process has a logic of its own and leads to the creation of the supranational entity. Alternatively, it can be applied to explain the behaviour of Member States in European Political Cooperation (EPC) and the Common Foreign and Security Policy (CFSP). Its appropriateness is based on the intergovernmental nature of cooperation (no supranational oversight, unanimity in decision-making), as well as the political nature of the issues discussed. EPC and CFSP are closer to the concerns of realist theory, namely the security of the state and international or ‘high’ politics. Thus the ‘target’ of intergovernmental theory has moved from being integration in general, to the acceptance that economic integration is a reality but that the attempt to create a viable system of political cooperation between sovereign states is flawed. Both angles are discussed below.

Hoffmann led the challenge to neofunctionalism, coining the phrase the ‘logic of diversity’ that means that ‘in areas of key importance to the national interest, nations prefer the certainty, or self-controlled uncertainty, of national self-reliance, to the uncontrolled uncertainty of untested blunder.’ (Hoffmann, 1966: 882) National self-reliance prioritises sovereignty over supranationalism and security over economic cooperation. The basis of this position is the realist concern about the predicament that all states find themselves in, namely how to survive in an anarchical international system.

³³ Stanley Hoffmann was not unsympathetic to the project of closer cooperation between states, as seen in his work on security communities based on relations between North America and Europe.

More recently intergovernmental theory has been focused on EPC and CFSP. (Pijpers et al., 1988; Gordon, 1997) The existence of European integration is no longer contested, but the likelihood of the EU Member States becoming a coherent foreign policy actor while remaining sovereign states is doubted. As Alfred Pijpers has argued, the Member States are involved in an economic enterprise that does not fundamentally alter their national interests in the field of security and defence, which always has been guaranteed by the US through NATO. In an analysis of the history of EPC, the collective 'European' foreign policy that it produced was only possible because no substantive issues relating to the security of the Member States needed to be addressed. The removal of the most salient political questions from the nascent EPC agenda simultaneously made its chances of success greater, while also making it less relevant. (Pijpers, 1988; Pijpers, 1991)

Philip Gordon concurs with this, saying that as 'the 1990s began, European foreign policies were still nationally made, with EPC playing little more than a consultative function.' (Gordon, 1997: 85) The same shortcomings affect the Common Foreign and Security Policy (CFSP), since 'creating a truly effective common European foreign and security policy would mean endowing the EU with the military power to back up its diplomatic and economic initiatives.' (Gordon, 1997: 89) The benchmark for effective action is the US, and although comparing 'the EU's foreign and security policy to that of the United States is, of course, unfair', the comparison 'does serve to highlight just how far the European Union is from possessing the sort of unity, credibility and military power necessary to be an influential actor in global diplomatic and security affairs'. (Gordon, 1997: 74-75) The shortcomings for both Pijpers and Gordon are that CFSP has a weak institutional framework (especially in comparison with the Community pillar), that cannot bind the Member States' actions.

What sort of predictions does the intergovernmental approach make about EU Member State coordination in the ILO? Before going into details it must be stressed that from an intergovernmental perspective the ILO is of little importance because it is far-removed from the central issues in international politics such as peace and security. Furthermore, it is part of the architecture of international institutions that realism is particularly dismissive of. However, one could argue that because the agenda of the ILO consists of less salient political issues, the costs of coordinating a common position between the Member States is low in terms of a threat to their sovereignty. In short, while coordination in the ILO may fall under the CFSP title of the Treaty of the European Union, it does not constitute a significant test of the essence of foreign policy.

The first prediction by the intergovernmental approach is that the *Member States will prioritise the promotion of their national interests* over those of the Community. The extent to which Member State interests are divergent varies, which means common representation is possible on some issue areas. There are often high levels of voting cohesion between *all* delegates at the annual conferences, frequently over 90%. Given this level of consensus reflected in cohesion, it follows that the items being discussed provide gains to all states equally and therefore do not alter the hierarchical order in the international system.³⁴ The intergovernmental approach predicts that Member States remain the most important actors, but also that many issues discussed in the ILO do not tend provoke differences in national interests.

³⁴ Joseph Grieco argued that neo-realists see cooperation between states as possible only when absolute gains are proportionally accrued to the existing hierarchy of powers. The types of issues discussed in the ILO are often examples of such gains for the following reasons. Firstly they are minimum standards that apply evenly to all states. Secondly, the adoption of a standard does not bind a state to ratify it, so there is no infringement on state sovereignty in voting to adopt an instrument onto the ILO statute. Finally, one has to judge whether labour standards make any credible effect on an international hierarchy based on power. (Grieco, 1988)

The second prediction is that there is *more likelihood of common policies between Member States in technical issues than in political issues*. Although intergovernmental theory is based on the assumption that national interests prevail at all times, the level of economic integration already entered into means that there is a higher chance of Member States sharing interests in technical areas than in political areas.

The final prediction is that *EPC and CFSP institutions are weak*, and that the Community institutions are prevented from exercising an active role in policy-making in the intergovernmental pillar. The strength of the Community is based on strong institutions that bind Member States together and have effective sanctions to prevent defection against agreed Community policies. From the intergovernmental perspective, the EU Member States lack an institution with the authority to apply enough coercive force to ensure unitary action. Taking the three points together, the intergovernmental theory tells us that when the Member States act together it is because of a coinciding of national interests. This is more likely in technical issues than political ones, but ultimately the institutional structure of the EU is too weak to effectively create any credible coordinated policy actions by the Member States.

3. Liberal intergovernmental theory

The review of theories moves on to the liberal intergovernmental (LI) approach principally developed by Andrew Moravcsik. He offers an explanation of European integration that can explain the incremental progress made through the negotiated outcomes that led to the creation of supranational bodies, while remaining state-centric. Moravcsik states this clearly when he says the puzzle is 'why sovereign governments in

Europe have chosen repeatedly to coordinate their core economic policies and surrender sovereign prerogatives within an international institution.’ (Moravcsik, 1998: 1)

Moravcsik bases his theory on the empirical study of ‘five grand bargains’ made in the key intergovernmental conferences that shaped the EU and frequently agreed new treaties.³⁵ He breaks the puzzle down into three stages and is adamant that because the ‘integration process did not supersede or circumvent the political will of national leaders’, (Moravcsik, 1998: 4) all the explanatory tools needed are available in the existing political science literature. Moravcsik rejects *sui generis* theories of European integration because he seeks to explain integration as a rational undertaking by the Member States and to refute the logic of integration. Liberal intergovernmental theory fuses a consideration of domestic interests and an assumption that states can use institutions to foster strong cooperation on one hand, with periodic bargaining negotiations between Member States that are shaped by political power on the other.

Moravcsik identifies three crucial variables at each of the three stages of analysis: economic interests, relative power and credible commitments. The first of the three stages is the demand for integration at the domestic level of each Member State on economic grounds. Moravcsik points out that the actual policies developed are ‘second best’ according to economists, (Moravcsik, 1998: 3) which is explained by domestic politics becoming involved and sanctioning a number of side payments to economic sectors to offset the localised adjustment costs of economic integration. The second stage is the intergovernmental bargaining between Member States where the exact outcome is decided. The relative power of the negotiating states shapes the agreement, with ‘non-military

³⁵ Treaty of Rome; Consolidation of the Common Market; European Monetary System; Single European Act; Treaty on European Union.

instruments of political power, including credible unilateral vetos, threats of exclusion, and financial side payments' all being used. (Moravcsik, 1998: 8) The final stage is agreeing upon a system of regulation for the hard-won bargain that will effectively monitor and ensure compliance. Moravcsik labels this stage the institutional choice and argues that it is perfectly rational for states to create supranational institutions to perform this role if they promise to be the most effective. EC institutions are like all other institutions, which are 'devices to manipulate information in order to promote compliance with common rules.' (Moravcsik, 1998: 8) The huge potential economic gains from cooperation, added to the enormous effort needed to reach agreement on a bargain, make the supranational institutional solution of the EC the appropriate response by the Member States.

Wolfgang Wagner has applied a rational choice model of intergovernmental decision-making to the CFSP Pillar of the EU. (Wagner, 2003) In a case study of EU responses to crisis situations, Wagner identified the need to make fast decisions as more important than locking-in compliance to negotiated intergovernmental bargains. Applying the logic of institutional choice, this means that more coherent action in CFSP would benefit from extending qualified majority voting (QMV), but that a greater role for supranational institutions is unnecessary. CFSP actions do not require long-term commitments from the Member States in the way that Moravcsik identifies as being the rationale for creating supranational institutions in the Community pillar.

After considering these contributions too the literature, how far can liberal intergovernmental theory be applied to the case study? Moravcsik's model is designed to explain the development of the Community as the rational and intended consequences of Member State actions. Wagner has applied the same logic to one area of the CFSP, although not one analogous to multilateral institutions.

The first prediction by liberal intergovernmentalism is that *Member States are the primary actors* in the European Union. The treaties negotiated by the Member States determine the role played by Community institutions, and unlike neofunctional theory the institutions do not have the ability to increase their influence in decision-making outside of these treaty re-negotiations. Changes in the level of European Commission activity in the ILO would be expected to take place after major treaty negotiations, as a result of Member States bargaining. However, because the EU Member States' use EC institutions to ensure compliance with treaties, a change in the role of the European Commission in the ILO would be the result of a treaty alteration that had implications for the Community's external relations. Overall, the primacy of the Member States means that coordinated action between them will be derived from shared interests.

The second prediction is that there is a *higher likelihood of coordinated action in technical issues than political ones*. This is based on the logic of Member State primacy, and from Moravcsik's first level of analysis of economic interests. The demand for integration comes from domestic economic actors, and results in the creation of Community institutions. It follows from this that the Member States will have more common interests in areas related to the Community pillar than the EPC/CFSP pillar.³⁶ From this point it follows that technical issues will have higher levels of coordinated action than political ones. This assumption can be supported by looking at Moravcsik's second level of analysis, the intergovernmental bargain. Once a bargain has been negotiated, the Member States have a shared interest in ensuring it is adhered to. When technical items on the ILO agenda are directly relevant to the European Community, the Member States have an interest in seeing

³⁶ Wagner's analysis is of little use in this case study. He argues that responses to crises such as engaging in Petersburg tasks require fast decisions, but the need to act is very often unanimously recognised. In contrast, two of the major political issues in the ILO during the time-span of this thesis, (Arab-Israeli dispute and Apartheid in South Africa) are exactly the opposite. No rapid decision-making was required because of their protracted nature and because of the slow-pace of ILO actions, while they were highly contentious political issues that divided the Member States.

that the interests of the Community are taken into account. Adding these two lines of reasoning (economic interests and intergovernmental bargain) together, the Member States have shared interests in the *content* of technical issues, and shared interests in seeing the *application* of technical issues. By contrast, political issues do not have the same level of shared importance to the Member States.

The final prediction is in the *role of European Community institutions*. According to the third level of Moravcsik's analysis, institutional choice, the Member States use the supranational institutions to oversee the compliance of the bargained agreement as effectively as possible. Adapting this idea means that the Member States will be willing to use the Community institutions to oversee and enforce compliance with any bargain agreed concerning participation in the ILO. In contrast to intergovernmental theory that emphasises the sovereignty of the Member States that enables them to act unilaterally if they choose to, liberal intergovernmental theory's acknowledgement of institutional oversight as an effective regulator of Member State behaviour means that the Community institutions will be used to 'lock-in' an agreement.

4. Consociational theory

Consociational theory was developed by the political scientist Arend Lijphart in the late 1960s to explain how democratic states comprised of a number of distinct and divided communities arranged their domestic politics. (Lijphart, 1975) Consociational theory has been applied to national politics in the Netherlands and Switzerland, and primary research question is why does a political party holding a majority in the national government not capitalise on its position and consolidate its hold on power through constitutional reform? Moreover, the interests of minority groups are protected even when they are incapable of

building a coalition of sufficient size to block a vote. The 'majoritarian principle in the system as a whole, which is characteristic of other forms of democracy, is suspended in favour of the requirement of consensus'. (Taylor, 1993: 83)

The explanation for this is that while there may be a high degree of plurality between competing political groups, the political elites are homogeneous in character, sharing a common interest in the long-term viability and stability of the political system. This is because in the long term the elites all recognise that they will belong to the majority *and* the minority positions at different times in the future. If one political group gained a majority and asserted itself too forcefully against the interests of the others, there would be an eventual backlash and the system would become volatile. Consociational theory

both as a process of consensual decision-making and as a pattern of elite behaviour, can be seen as a strategy of cooperative conflict resolution (and even of conflict prevention), whereby the elites transcend intergroup fragmentation through negotiated agreements or settlements based on a politics of accommodation. (Chrysoschoou, 2001: 137)

A paradoxical outcome of consociational politics is the relationship between the identity of the groups and the national government. Although national politics between groups (or 'segments' as Paul Taylor calls them) is one of accommodation and consensus, the politics inside segments retains a high level of internal discipline designed to preserve its distinctness. (Taylor, 1993: 83) The claim of uniqueness of each segment is the basis of each claim to membership of the state-level political system. Taylor identifies this paradox in the development of the European Community noticeable in the early 1990s:

on one hand, pressures towards and increasing centralisation of arrangements under the heading of political and monetary union seemed to have increased... whilst, on the other hand, a number of members ... were obviously using the Community to develop their sense of their own identity as separate states. (Taylor, 1993: 80)

Integration is a manifestation of supranational processes of European integration predicted through neo-functional theory, while diversity has continued significance for state sovereignty advocated by intergovernmental theory. The two theories are usually regarded as mutually exclusive, and Taylor sums this up by asking if the development of the European Community invariably leads to the weakening of the state, as if in a zero-sum relationship. The application of consociational theory is based on drawing a parallel between the relationship between the segments and state on the national level, and the Member States and the European Community at the regional level. Consociational theory argues that 'the state and the international organisation are capable of being mutually reinforcing.' (Taylor, 1993: 80)

The European Community is the political system and the Member States are the 'segments' that retain individual identity and the plurality of the system. However, straddling the EU Member States is a European elite that understands that their shared interest in preserving the EU in the long term will only be possible if there is a careful respect of the views of the minority. Taylor pinpoints President de Gaulle's resistance to further integration at supranational level in 1965 and the Luxembourg Compromise as the tipping point between the zero-sum integration where 'what went to the centre was equal to what was lost to the parts' (Taylor, 1996: 9) and a 'symbiotic' relationship between state and Community.

Each had become essential to the survival of the other. Put differently: there were arrangements at the European level which had become semi-detached from the state, representing a distinctive level of political activity, interacting with national affairs, but containing its own values and imperatives, including that of survival. In this arrangement states retained sovereignty within the transnational system. (Taylor, 1996: 78)

Like neo-functionalism, consociational theory relies on a European elite to explain the working of the EU, but there is one important difference. While in neo-functionalist theory the elite is part of the dynamic process of integration, in consociational theory the elite's interest is in preserving a status quo between the Community and the Member States. While on the one hand the elite preserves the integrity of the system through consensus politics, it also preserves the plurality of the system's national identities. The institution of the Presidency of the Council captures the essence of the dualism between state sovereignty and the interests of the Community. Despite the appearance of the institution as the embodiment of the intergovernmental approach to decision-making,

the Presidency generally recognised that they could not simply use this opportunity to pursue national interests: they also needed to push the interest of the collectivity. They became defenders of the Community and upholders of the interests of their own state, a duality of purpose which was partly the result of socialisation – the consolidation of the regime's injunctions on behaviour – and partly the result of the rational calculation that to pursue national interests too blatantly would be counter-productive. (Taylor, 1996: 90)

What sort of behaviour by the EU Member States would be predicted by consociational theory? There are four main predictions that this approach offers. The first concerns the *membership of the European Community to the ILO*. The 'symbiotic' relationship between the EC and the Member States is characterised by integration and state sovereignty simultaneously. Consociational theory argues that the gradual expansion of the *acquis communautaire* and its relevance to ILO issues does not inevitably lead to Community membership of the ILO in the place of the Member States. Continued integration at the European level is possible without Community membership of the ILO, if one argues that the EU Member States' membership of the ILO is important in preserving the distinctness of the segments.

The second prediction concerns the *role of elites*. Building on the point made above that consociational theory explains why the EU Member States have sought to preserve their distinctness through ILO membership, for this to be operationalised it must become a policy of the European elite. The tripartite membership of the ILO contains trade union and employers' federations from the EU Member States, as well as national government officials. While in neo-functional theory transnational elites are potential advocates of integration, according to consociational theory there is a strong tendency to preserve the autonomy of the segments. One would expect transnational elites (trade union and employers federations) to promote the independent membership of the EU Member States in the ILO by using the instruments at their disposal to preserve their national autonomy.

The third prediction is that the *role of the Presidency* captures the symbiotic nature of relations between the Community and the Member States. The Presidency straddles the interest of the Member States in preserving their sovereignty and also the importance of Community and integration for long-term political and economic stability. We would expect the Presidency to play an important role in managing both sets of interests in the ILO. The role of the Presidency is also to seek consensus in the decision-making process, because it is through consensus that minority concerns are protected. As Taylor says: 'the condition for retaining the common decision-making system is that the fear of fragmentation is greater than the fear of weakening segmental authority'. (Taylor, 1993: 88)

The fourth prediction concerns the *role of the Commission*. Taylor identifies the implications for consociational theory on the European Commission as the central bureaucracy. In this role, the bureaucracy must be 'an umpire rather than the promoter of any specific ideology.' (Taylor, 1993: 88) This is contra neo-functionalism where the specific ideology of the European Commission would be to promote the European

Community in the ILO. Instead, consociational theory sees the role of the Commission as a mediator between the segments of the system, a strategy that is necessary considering the long-run likelihood of all segments to belong to the majority *and* minority over time. Siding with one segment against another in the present risks undermining credibility as a bureaucracy in the future, when the relative positions of the segments is reversed. In the case of the ILO we would expect to see the Commission becoming less involved in the representation of the EU, (which reflects a particular ideology) and more involved in assisting the Member States.

5. Institutional theory

The fifth and final theory to be applied to the empirical data in this thesis is institutionalism. March and Olsen define an institutional approach as 'one that emphasises the role of institutions and institutionalisation in the understanding of human actions within an organisation, social order, or society.' (March and Olsen, 1998: 948) Further clarification is given as follows:

An institution can be viewed as a relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations. ... Practices and rules are also embedded in resources and the principles of allocation that make it possible for individuals to enact roles in an appropriate way and for a collectivity to socialise individuals and sanction those who wander from proper behaviour. Institutionalisation refers to the emergence of institutions and individual behaviours within them. (March and Olsen, 1998: 948)

In a review of the literature, Hall and Taylor identify three 'seminal' questions which the institutional approaches seek to answer: 'how do actors behave, what do institutions do, and why do institutions persist over time?' (Hall and Taylor, 1996: 939) In the same review the two authors identify three competing strands in the field of 'new institutionalism' that seek to answer these three questions, albeit in different ways. The three schools are labelled

historical institutionalism, rational choice institutionalism and sociological institutionalism. (Hall and Taylor, 1996: 936) Hall and Taylor's central claim is that the three schools evolved independently, and using the core questions their progress can be compared and contrasted.

Jupille, Caporaso and Checkel acknowledge the significance of Hall and Taylor's categorisation of the institutions literature, and agree that there are multiple varieties, although 'among these stood two seemingly opposed variants (rational and sociological) and one hybrid that could be shaded toward one or the other pole (historical).' (Checkel et al., 2003: 11) March and Olsen also identify two schools in the institutions literature, with one branch driven by the 'logic of anticipated consequence and prior preferences' and the other driven by the 'logic of appropriateness and senses of identity.' (March and Olsen, 1998: 949) The former corresponds to rational choice institutionalism, while the latter to sociological institutionalism. March and Olsen assert that the two approaches are not mutually exclusive, and have identified 'four major interpretations of the relationship between the two logics.' (March and Olsen, 1998: 952) The first is when one of the two logics dominates and is clearly the most applicable. The second distinguishes between major decisions and minor refinements, and attributes one logic to decision-making and the other to refinements. The third is termed 'developmental', and gives instrumental (consequential) reasons for creating institutions, but accepts the development of identity and rules later. The final interpretation is when one logic is labelled as a 'special case' of the other, and subsumes it into its logic, for example by arguing that rational behaviour is a social construct. (March and Olsen, 1998: 952)

Given that there is broad agreement in the literature that there are two, clearly defined institutional approaches, what does each entail? Jupille *et al* choose individualism

and optimality as the key defining attributes of the rational choice approach. 'Individuals want things, and they act in such a way as best to obtain what they want.' (Checkel et al., 2003: 12) March and Olsen concur, saying that the instrumental approach assumes that 'society is constituted by individuals for the fulfilment of individual ends.' (March and Olsen, 1998: 951) Hasenclever *et al* identify Robert Keohane, Stephen Krasner, Oran Young and Duncan Snidal as exponents of the rationalist approach. (Hasenclever et al., 1997: 23-135) John Ruggie identifies the neo-utilitarianism as the basis of the rational choice institutional approach, by saying that 'neorealism and neoliberal institutionalism are drawn directly from microeconomics.' (Ruggie, 1998c: 862)

By contrast, the sociological approach takes account of the 'substantial role of identities, rules, and institutions in shaping human behaviour.' (March and Olsen, 1998: 951) By doing so, the sociological approach overcomes the principle flaw which is levelled at the rational choice model, namely that it treats

states' identities and interests as exogenously given, i.e. as not-theorised initial conditions in explanations of international phenomena ... [and is] a significant source of variation in international behaviour and outcomes is ignored and *ipso facto* trivialised. (Hasenclever et al., 1997: 136)

Within the sociological institutional approach, Hasenclever *et al* make a distinction between 'weak cognitivists' that 'focus on the origins and dynamics of rational actors' understanding of the world' and 'strong cognitivists' that 'inquire into the origins and dynamics of social actors' self-understanding in the world.' (Hasenclever et al., 1997: 137) Hasenclever et al provide examples of theorists working in each group. They cite the work of Ernst Haas (social learning), Peter Haas (epistemic communities), John Ikenberry (Post WWII Keynesian world order), Robert Jackson (post colonialism) and Joseph Nye (simple/complex learning) as weak cognitivists.

To this list we could also add the work of Martha Finnemore and Kathryn Sikkink among others, who have developed the idea of norm entrepreneurship starting from a set of basic questions: 'How do we know a norm when we see one? How do we know norms make a difference in politics? Where do norms come from? How do they change?' (Finnemore and Sikkink, 1998: 888) The authors then proceed to consider how norms develop over their life, from emergence to becoming established and accepted. For this they turn to Sunstein's work on the life cycle of a norm, who has identified three important stages. The first is its emergence through the work of 'norm entrepreneurs' who 'attempt to convince a critical mass of states (norm leaders) to embrace new norms'. (Finnemore and Sikkink, 1998: 895) Once a threshold level has been reached, referred to as the 'tipping point' the norm becomes promoted widely by state leaders through a process of socialisation. (Finnemore and Sikkink, 1998: 902-904) This is referred to as the period in which the 'norm cascades' through actors in the international system, until it reaches the third and final stage, which is internalisation. (Finnemore and Sikkink, 1998: 904) This is characterised by the norms being 'taken for granted'. Through the norm cycle individuals (norm entrepreneurs) introduce standards of behaviour that over the course of the cycle become widely established and accepted, and come to characterise normal behaviour.

The institutional approach has been adapted to the specific context of the EU, asking how the institutions of the EU have effected the behaviour of the Member States. The name widely used for this is 'Europeanization', which Kevin Featherstone notes has recently proliferated widely in the literature. His primary misgiving about the usefulness of the term 'Europeanization' is its vague definition. 'The obligation of the researcher is to give it a precise meaning.' (Featherstone, 2003: 3) In his survey of the recent literature using the term, he distinguishes four basic ways of using it. The first two are labelled

‘maximal’ and correspond the Europeanization as a historical process and as cultural diffusion. The third and fourth are

a process of institutional adaptation; and as an adaptation of policy and policy processes.

The first two are maximalist interpretations and have little direct connection to the impact of the European Union. The other two categories are minimalist and are more closely linked to the operation of the European Union. (Featherstone, 2003: 5)

Following Featherstone, the two aspects of Europeanization that are of concern in this thesis are firstly institutional adaptation, which is the ‘domestic adaptation to the pressures emanating directly or indirectly from EU membership’, and secondly adaptation of policies and policy processes (which includes the CFSP dimension incorporated in national foreign policies). (Featherstone, 2003: 7)

Institutional adaptation

Institutional adaptation is more relevant to the Community pillar of the EU, and to technical issues on the ILO agenda. Featherstone also identifies three key variables in the application of institutional theory to the study of the European Union; firstly the ‘goodness of fit between EU level processes, policies and institutions and those found at the domestic level’ (Featherstone, 2003: 15); secondly the logic of consequences; and finally the logic of appropriateness. (Featherstone, 2003: 15) Boerzel and Risse note the significance of these three components in the study of institutional adaptation, but refer to goodness of fit as ‘misfit’.

[T]here are always two conditions for expecting domestic changes in response to Europeanization. First, Europeanization must be inconvenient, that is, there must be some degree of ‘misfit’ or incompatibility... This degree of fit or misfit leads to adaptation pressures, which constitute a necessary, but not sufficient condition for expecting domestic change. The second condition is that various facilitating factors – be it actors, be it institutions – respond to the additional pressures, thus inducing change. (Boerzel and Risse, 2003: 58)

Europeanization is triggered by a need to adapt policies to make EU and national fit together. EU Member States seek to minimise the amount of misfit by uploading national preferences to the EU level, thus harmonising domestic policies with EU policies (and forcing other EU Member States to face compliance problems). 'As a result, all Member States – including the "big three", Great Britain, France and Germany – face significant, albeit different degrees of adaptational pressures when they have to download European policies.' (Boerzel and Risse, 2003: 62)

Boerzel and Risse identify two types of misfit, one arising from policies and the other from institutions. The former is short term, while pressure to adapt institutions can take much longer. 'Institutional misfit is less direct than policy misfit. Although it can result in substantial adjustment pressure, its effect is more likely to be long term and incremental.'³⁷ (Boerzel and Risse, 2003: 63) The two logics of consequences and appropriateness explain the way in which Europeanization takes place to overcome the misfit. Rational choice institutionalism operates through the redistribution of domestic power, in which some actors grow stronger and others weaker. For example, liberal intergovernmental theory predicts the strengthening of the national executive, while neofunctional theory claims that supranational institutions gain from adaptation. Alternatively, a logic of appropriateness is observed, where 'European policies, norms and the collective understandings attached to them exert adaptational pressures on domestic-level processes' through the either 'change agents' or political culture. (Boerzel and Risse, 2003: 58)

³⁷ Tanja Boerzel explored institutional misfit between the 'cooperative federalism' of Germany and the 'competitive regionalism' of Spain in response to pressures from European integration to transfer legislative and administrative powers from regional to national assemblies. (Boerzel, 1999)

Boerzel and Risse define the outcome of these processes as Europeanization, which is the

emergence and development at the European level of distinct structures of governance, that is, of political, legal and social institutions associated with political problem solving that formalises interactions among the actors, and of policy networks specialising in the creation of authoritative European rules. (Boerzel and Risse, 2003: 59)

Because Europeanization is a process over time, we see evidence of it taking place in the ILO, as well as observing evidence of it having taken place in the past. According to the definition above, when Europeanization takes place in the present it is about finding solutions to the problem of European Community representation, and these take the form of Member States and/or the Commission speaking for the Union. However, we would expect to see higher levels of EU common representation in technical issues where there is already a high degree of integration at the Community level. Here, misfits that occurred in the past have been minimalised through earlier Europeanization of domestic policies with EU ones. There are two predictions relevant to the thesis; firstly, that in policy areas where there is considerable policy harmonisation through Europeanization, EU common representation should be easier because the EU Member States have already gone through the process of establishing common interests and common laws. Secondly, in areas where there remains misfit between the domestic and EU level, EU Member States seeking to upload their competing domestic policies to the ILO will not be able to agree on a common EU representation.

Adaptation of policies and policy processes

The pressure on EU Member States to adapt to European-level policies also takes place in national foreign policies. The Member States make common foreign policy decisions by a process of intergovernmental negotiation and cannot be forced to adapt

national positions if misfit occurs. Nonetheless, changing foreign policies have been observed, and Europeanization is used to explain it. Ben Tonra defines Europeanization as

a transformation in the way in which national foreign policies are constructed, in the ways in which professional roles are defined and pursued and in the consequent internalisation of norms and expectations arising from a complex system of collective European policy-making. (Tonra, 2000: 229)

Tonra places emphasis on the socialisation of foreign policy diplomats and staff, who over time develop a coordination reflex through which national interests become partially determined by expectations of what EU common interests might be. Simon Nuttall's inside view of the policy-making process of EPC during its informal years (1970-1986) likening it to a club with a close cooperative spirit. (Nuttall, 1992) In contrast to the assumption that intergovernmental meetings inevitably leads to lowest common denominator outcomes, 'median lines' were the policy outputs. Philippe de Schoutheete agrees saying that 'the embarrassment of being singled out' was too great for states to derail decisions. (de Schoutheete, 1987: 65) Michael E. Smith has also done substantial work on the institutionalisation of EPC and CFSP, which he refers to as the 'institutional logic of cooperation'. His empirical research led him to identify three logics of institutionalisation: functional, appropriateness and socialisation (Smith, 2004: 240). In contrast to the authors cited above, he found the first two proved to be the most useful for explaining the behaviour of EPC/CFSP participants who

organised their cooperation on the basis of two fundamental principles, one functional (do not attempt to codify working procedures until they have proved their necessity) and one normative (always respect the EC's own legal culture). ... These processes also led to the gradual internalisation (or 'Europeanization') of EPC/CFSP procedures and policies in EU Member States'. (Smith, 2004: 242)

How can the study of institutionalisation inform the research undertaken here? The first way is that weak institutions can become stronger over time and practitioners play a role in the process. This applies specifically to the EPC/CFSP institutions that are responsible for coordinating political issues in the ILO. Following M.E. Smith's work we would expect to see a strengthening of the institutional framework coordinating political issues, and this would be seen (following the methodology set out in Chapter 1) as more common statements (representation) by the Presidency. If strong institutions are associated with greater voting cohesion (based on the assumption that strong institutions influence the behaviour of Member States) then we would expect to see voting cohesion increase over time too. However, if the basis of political cooperation in the early period of EPC was 'negative' policies designed to protect the external interests of the Community, it follows that Member States shared common interests and coordinated on the basis of that.

The second prediction is that changing the behaviour of practitioners leads to institutional change. Tonra, Nuttall and de Schoutheete agree that practitioners are important 'change agents' (Boerzel and Risse, 2003: 59), and following Finnemore and Sikkink's work on norm entrepreneurs, the relationship between agents and structures is opened up to scrutiny. The two are mutually constitutive, meaning that structures are defined by the behaviour of agents, but over time if agents change their behaviour new structures will emerge that define new boundaries of what is possible. In the case of institutionalisation, diplomats (agents) work within a set institutional framework (structure), but through evolving practice, new opportunities, and initiatives taken by staff the institution changes over time. Evidence of diplomats engaging in new practices in the coordination process would show changing institutional design.

6. Summary

To summarise this review of the literature, the common threads running through the various approaches are listed below, along with the various 'scenarios' of possible findings.

a. The Member States and the Community

The relationship between the Member States and the European Community in the ILO is the most important dividing line between the theories. For most there is a binary distinction between them, where increased importance in the ILO for one comes at the cost of decreased importance for the other. For neofunctionalists there is a trend over time for greater integration between the Member States that results in a stronger supranational Community. On the other hand, intergovernmental theory regards the positions of the Member States as static over time, and that they will retain the right to pursue their national interests at any time. Liberal intergovernmental (LI), consociational and institutional theory lie between the two positions, with LI stressing that the Community could become a more prominent actor in the ILO but only after specific changes to the treaties that would be at the behest of the Member States. Consociational theory sees Member States and the Community in a symbiotic relationship that once established, will not change, while institutional theory looks at the pressures upon Member States to change their domestic political system and policies as a result of membership of the EU.

The empirical data looks for evidence of representation and voting cohesion in the annual conferences. Over the period of the survey an increase in both variables would be expected by neofunctional theory, while intergovernmental theory predicts that even if a

pattern does exist between the two, it is explained through national interests alone.³⁸ For liberal intergovernmental theory we would expect any changes in the level of representation or voting cohesion to reflect the major intergovernmental conferences and their treaty amendments (in this case SEA: (ratification 1987); TEU: (ratification 1993), Amsterdam (ratification 1999) and Nice (ratification 2001). Consociational theory predicts a plateau of representation and voting cohesion that corresponds to symbiotic equilibrium. Institutional theory predicts that as a dynamic process between the two levels, with variation in representation and voting cohesion over time.

b. The Institutions

The significance of the European Union institutions in representing the Community and shaping the behaviour of the Member States follows a similar dividing line as the one between Member States and the Community above. Intergovernmental theory applied to the CFSP Pillar of the EU (and to EPC before it) regards the weakness of the institutions as the crucial flaw in the credibility of the EU as an international actor. In the ILO the weakness of the institutions would be manifested most clearly in the political issues on the agenda, where Member States would be most likely to pursue national interests, and the situation would worsen as the EU enlarged. By contrast, the sociological branch of institutional theory (the logic of appropriateness) assumes that the lack of supranational oversight in the EPC/CFSP pillars is not necessarily detrimental to common representation and voting cohesion. Despite the weakness of formal institutions, informal institutions based on shared identity, reflective decision-making and peer pressure to conform have all be identified as reasons for increasing cohesion in the EPC/CFSP

³⁸ The thesis compares EU Member State voting cohesion with the general level of cohesion between all delegates voting at conference to address this point. See Chapter 5.

institutions over time. The building of shared identities and interests leads to higher levels of cohesion and this process does not necessary dependent on the size of the Union. A larger number of Member States could be argued to put more pressure on individual states to agree to common positions.

Neofunctional theory predicts an ever-closer union leading to stronger institutions playing a greater role in the representation of the Community in the ILO. Voting cohesion would be made unanimous through the accession of the Community to the ILO, and on issues where Member States still vote cohesion would increase over time. Through the greater participation of the Community, the ECJ and EP could be expected to become more involved in ILO affairs, as would be predicted by liberal intergovernmental theory. The European Commission's role in representing the Community in the ILO is determined by the treaties as discussed above. The arrangements agreed are subject to institutional monitoring and enforcement, which in the case of a dispute between Member States and European Commission are to be decided by the ECJ.

According to consociational theory the Presidency represents the symbiotic relationship between the Community and the Member States. It bridges the gap between the supranational and intergovernmental decision-making processes, and the theory helps us to understand the role that the institution plays. Evidence of a strong influence of the Presidency on the coordination process would support consociational theory.

c. Technical and Political Issues

This third distinction follows the same cleavages as the previous sections. Neofunctional theory predicts that the EU will develop into a strong actor in technical issues first, and that this in time will lead to spillover into political ones. However, in both the trend over time will be closer union between the Member States with a growing role for the Community and its institutions. The intergovernmentalists refute the possibility of effective coordination without strong institutions, and point to political areas as the best example of this. Their position is diametrically opposed to that of neofunctionalism, which is summed up by saying that there will never be meaningful coordination in political areas (what coordination that does go on in the ILO between Member States is of low salience), and the coordination in technical areas is only possible because of the shared national interests underpinning it. Both agree that there is a higher possibility of coordination in technical issues than political ones.

Liberal intergovernmentalism and consociational theory also broadly agree on this point. The former is not directly applicable to the CFSP pillar, and focuses on explaining growing integration only in the Community framework. The latter theory supports similar conclusions for two reasons. The first is that it is focused on the tension between the supranational Community and the sovereignty of the Member States. This follows the technical / political division rather than challenging it. The second reason is that theory's emphasis on preserving the identity of the segments means pointing to distinctive foreign policies, as seen in the literature on identity and interests in European foreign policy. (Hill, 1983; Manners and Whitman, 2000)

d. Elites and diplomats

What impact do diplomats have on the coordination of EU Member States in the ILO? Two theories (neofunctionalism and consociational theory) are based on assuming the existence of a European elite as an integral part of their operation. Neofunctionalism predicts that non-state members of the supranational elite (such as European trade unions and employers' groups) become more influential as there is a power shift within the EU governance structure. The logic of consequences applied through Europeanization sees the adaptation in response to misfit benefiting such elites. Consociational theory predicts that segments remain separate and that trade union and employers' federation members of the European elite seek to preserve their national identities and block initiatives to establish a European Community membership in place of the Member States. These groups could use agenda-setting power and voting in the ILO to block the accession of the European Community to the ILO. One might also expect the elite members to exert influence through their representatives on European Economic and Social Committee (EESC). Records of trade union and employers' federations interventions in committee meetings and plenary sessions, as well as EESC reports will show whether this is happening or not.

Diplomats representing the governments of the Member States are considered in the sociological approach to institutional theory. The socialisation of diplomats through coordination meetings leads to the formation of new identities and common interests. Socialisation is a method of overcoming policy misfit by adapting national policies to accommodate them in EU-level policies.. The success of this adaptation depends on how often the diplomats meet and how closely they work together. One would expect adaptation to be more likely in technical issues rather than political ones because of the more effective institutional pressure exerted by the Community pillar. However, Geneva

based diplomats work more frequently together, and have a higher likelihood of adapting to social pressure.

Now that we have a clear idea of what to look for in the empirical data, as well as having identified the hypotheses and key variables, the following eight chapters export the empirical data, beginning with technical coordination and then looking at political coordination. In the conclusion we will return to these points as establish which theories have been supported and which have been rejected by the data.

THE FOUNDATIONS OF TECHNICAL COORDINATION

The following four chapters investigate common EU representation and voting cohesion of EU Member States in the technical committees of the International Labour Conference between 1973 to 2005. As set out in the opening chapter, ‘technical’ issues on the ILO agenda relate to the preparation, drafting, and revision of ILO instruments (conventions, recommendations and protocols) that set standards in employment law. An important secondary component in the definition is that technical issues are coordinated through the institutions of the European Community (Pillar 1) as opposed to the political issues coordinated through EPC/CFSP. As was explained in Chapter 1, the behaviour of EU Member States is being *modelled* through three variables; coordination, representation and voting cohesion. However, it is being *measured* through only two of them (representation and voting cohesion), working on the assumption that these two measurable variables are the outputs from coordination. This chapter introduces the framework that will be used over the coming four chapters, while Chapter 4 presents the empirical data on representation and Chapter 5 the empirical data on voting cohesion. Finally, Chapter 6 summarises both sets of results, locates the most important common factors and contrasts the explanatory performance of the theories being tested.

Because technical issues in the definition used here are partly defined by their connection to the Community pillar, how the Community pillar developed over time has a bearing on how the EU Member States coordinate their common representation, and potentially on how they vote. For example, as the *acquis communautaire* has expanded to

include more areas of social and economic policy in the Treaty of the European Community's Title XI on Social Policy, Employment, Vocational Training and Youth, EC law becomes more relevant to the drafting of ILO instruments for two reasons. The first is to make EC law compliant with ILO standards so EU Member States can ratify conventions, and the second is to use ILO standards as a guide to best practice in drafting EC law. Understanding the nature of the legal relationship between the European Community, its Member States and the ILO is crucial to understanding the struggles between the European Commission and the Member States for the right to speak for the European Community. For this reason, a detailed explanation of the 1993 European Court of Justice (ECJ) Opinion 2/91 is given first in Section 1. Section 2 then compliments the explanation of the Court's opinion by expanding on the background circumstances. Section 3 introduces the five periods into which the 1973-2005 survey is divided into, and contextualises them in the history of the European Union. Section 4 reviews the crosscutting issues that will be considered in the following chapters and the last section gives the rationale for which theories will be tested by looking at technical issues.

1. Contested Competency in the European Court of Justice

The European Community is an 'observer' in the ILO, albeit granted special privileges to intervene in the drafting of technical instruments by virtue of its status as a 'regional grouping'. (ILO, 1981f) In other Specialized Agencies of the United Nations it has surpassed this, having full membership of the Food and Agriculture Organisation (FAO) and has been credited with 'Active Observer' and 'Privileged Observer' status in a number of the other Specialized Agencies, as well as in UNO Funds and Programmes. (Taylor, 2006: 134) Outside the UN system the most important example of EC membership of a multilateral organisation in the World Trade Organisation (WTO). Why

has the ILO been passed over in the general trend of greater EC participation in multilateral organisations?

As Lucia Cavicchioli points out in her analysis of relations between the European Community and the ILO, Community competence over a policy area being discussed in the ILO can occur in three ways. (Cavicchioli, 2002: 265) The first is when the entire content of a convention falls under the exclusive competency of the Community; the second when parts of the convention content fall under the exclusive competency of the Community and other parts fall under the exclusive competency of the Member States; and the third is when parts of the convention are under the exclusive competency of the Community and other parts are under concurrent competency.³⁹ Who represents the Member States in each of these three scenarios is the question the ECJ was asked to answer. The heart of the problem is that exclusive Community competence means that the Member States have transferred their powers to legislate to the Community, and with it their sovereign authority to act internationally in relation to those issues. At the same time, the Community remains an observer in the ILO and is unable to represent itself through its legal personality directly.

This stalemate is unlikely to change for two reasons. The first is the constitution of the ILO stipulates only states may join the ILO. Article 1§2 of the ILO Constitution says that:

The Members of the International Labour Organization shall be the States which were Members of the Organization on 1 November 1945 and such other States as may become Members in pursuance of the provisions of paragraphs 3 and 4 of this article.

³⁹ This analysis follows the Opinion of the ECJ, 2/91, *Convention N° 170 of the International Labour Organization concerning safety in the use of chemicals at work*. Issued 19 March 1993

According to Article 36 of the ILO Constitution, amendments must be passed by a majority of two-thirds of votes cast at the annual legislative meeting of the organisation, the ILC. The amendments only take effect when ratified by two-thirds of ILO member governments including five of the ten states of 'chief industrial importance'.⁴⁰ Without a change in the constitution there remain fundamental structural reasons why the European Community cannot accede to the ILO. The second reason is that the tripartite structure of the organisation means that supranational government representation would be incompatible with national workers' and employers' representation. This situation has led to an impasse in both the negotiation of instruments and the ratification of instruments. The Member States have ceded the right to act, while the Community is prevented from acting. The problem was first recognised in 1977, and dealt with on an ad-hoc basis until 1991, when the Commission asked the ECJ to rule on the matter. (ECJ, 1993)

i. Conventions C153 (1979) and C162 (1986)

The first ILO instrument relating to an existing piece of EC legislation (Regulation EEC No 543/69 of the Council of 25 March 1969) was the convention concerning hours of work and rest periods (road transport) 1979 (C153). The issue was first discussed in a preparatory meeting in 1977, and then at the ILCs in 1978 and 1979. During the negotiations there was uncertainty about whether the EC Member States or the European Commission should speak on matters concerning the European Community. When the Commission did represent the EC Member States it significantly exceeded the scope of

⁴⁰ These ten states hold permanent membership to the ILO Governing Body (its executive body) and are: Brazil, China, France, Germany, India, Italy, Japan, the Russia Federation, the United Kingdom and the United States of America.

actions granted by its official status as an observer in the ILO.⁴¹ A parallel concern of both workers and employers was the reduction in consultation between the tripartite national representatives and an increase in consultation exclusively among EU governments.

'The problem of the Community's competence in the context of the ILO arose once again during the preparation of Convention No. 162 concerning safety in the use of asbestos (1983 to 1986), an area which has been covered by four Community directives.' (ECJ, 1993: 'Grounds' VI) The Commission took the view that this convention fell within the exclusive competency of the Community. (EC, 1994: 3) This interpretation was not disputed by the Member States but because the Community was not part of the ILO, 'the Council decided that the Community and its Member States would put forward the Community's position on the basis of the relevant Community directives.' (ECJ, 1993: 'Grounds' VI) The Commission tried to annul the Council decision and took their case to the European Court of Justice (Case 217/86), but withdrew it when on the 22 December 1986 the Council adopted a 'decision of general scope on the arrangements governing Community participation in negotiations on ILO conventions falling within the exclusive competency of the Community.' (EC, 1994: 3) The Council decision, 'while ensuring the prior consultation of employers' and trade union organisations, envisaged the adoption by Council of a decision authorising the Commission to negotiate'. (Cavicchioli, 2002 p.265) In the opinion of the ECJ, this decision was 'confined to cases coming within the exclusive competence of the Community' (ECJ, 1993 'Grounds' VI) and therefore addressed the fundamental problem of the Member States ceding decision-making authority to the supranational level while simultaneously the Community was unable to negotiate.

⁴¹ The need for the Commission to play a more active role in the negotiation of instruments led the Governing Body to draft a document outlining what Commission can do during committee meetings. (ILO, 1981f; ECJ, 1993; Cavicchioli, 2002: fn23)

ii. Convention C170 (1990): Contested Competence

The issue arose again in July 1988 when the ILO began the consultation process for the *Convention concerning safety in the use of chemicals at work, 1990 (C170)*, when 'it became clear that differences in opinion existed between the Commission and the Council on the exercise of external competence by the Community.' (EC, 1994: 3) The normal procedure for drafting an instrument is for a questionnaire to be circulated to all ILO members prior to conference, in which the government, workers' and employers' representatives reply (and have the option to consult each other). The Commission considered the issue an exclusive competence of the Community and requested the Member States send the completed questionnaires to Brussels so that it could formulate a single response. Several EU Member States ignored this request and sent their replies directly to the ILO and prevented the 'transmission of replies at Community level.' (ECJ, 1993: 'Grounds' VI) The Commission requested authority from the Council to negotiate on behalf of the Community in a letter on 12 May 1989, but the matter was not discussed until the Council Meeting (Labour and Social Affairs) on 30 November 1989, when 'the Council adopted a Decision authorising the Commission to present the Community point of view during the negotiations in question, subject to close consultation with the Member States. The latter retained their right to express views on aspects which fell within the areas of national competence.' (ECJ, 1993: 'Grounds' VI)

In accordance with the ILO Constitution (Article 19 §5c), after a convention is adopted onto the ILO statute all member governments have twelve months to bring the convention before the relevant authorities, decide whether it will be ratified and then report their decision to the ILO. After the 1990 conference the Commission wrote to the Member States saying that the relevant authority in the case of C170 were Community

institutions. In response to this 'several national delegations to the Council indicated their refusal to accept that the Community had exclusive competence to conclude the Convention' and the matter was brought before the ECJ. (ECJ, 1993: 'Grounds' VI) In considering its opinion, the ECJ took note of all previous precedents, received written observations from a number of Member States and the European Commission, and addressed the question of where competence lay, and how the nature of representation should be made given the constraints imposed by the ILO constitution. The major contribution made by the opinion to an understanding of Community representation in the ILO was its systematic appraisal of the three possible circumstances in which some portion of exclusive competency is relevant to the instrument.

iii. ECJ Opinion 2/91

Germany argued that because the Community is not a member of the ILO, the entire case was not admissible, and that seeking a greater role of the Community in ILO affairs would undermine the tripartite structure. This point was not accepted by the ECJ decision. (ECJ, 1993: 'Reasoning') The governments of Germany, Spain, Denmark, France, Ireland, the Netherlands and Belgium argued that the convention was joint competency, and that this meant that a Council decision was not needed to ratify the convention. The UK government argued that the nature of the Community law (found in Article 118a TEC) was minimal, and that they 'cannot justify any external competence on the part of the Community.' (ECJ, 1993: 'Grounds' VI) The Court upheld both of these arguments in their final verdict. (ECJ, 1993: 'Reasoning') In a summary of the decision prepared by the Commission, four main conclusions of the opinion were given. Firstly, 'the conclusion of the ILO Convention No. 170 is a matter which falls within the joint competence of the Member States and the Community.' (ECJ, 1993: 'Reasoning') The second was that 'the

Court pointed out that the independent role of the EU Member states and the social partners – trade unions and employers’ associations – must not be restricted.’ (ESC, 1995:

1) Thirdly, the Court ‘ruled out the possibility of exclusive external competence being founded on internal rules constituting minimum requirements, at least when the international standard covering the same matter is also a minimum requirement.’ (EC, 1994: 4)⁴²

The final conclusion of the ECJ opinion is the least clear, which is that ‘cooperation between the Community and the Member States is all the more necessary in view of the fact that the former cannot, as international law stands at the present, itself conclude an ILO convention and must do so through the medium of the Member States.’ (ECJ, 1993: ‘Reasoning’) ‘Through the medium of the Member States’ returns the question of Community representation back to square one, since in the interpretation of one scholar, this implies that the ‘Member States would have to act on the Community’s behalf thereby exerting a competence which formally is no longer theirs.’ (Cavicchioli, 2002 p.265) The Economic and Social Committee noted that a ‘dispute had been smouldering for several years between the EC Commission and most Member States about the EU’s legislative competence in respect to the establishment of ILO standards.’ (ESC, 1995: 1) Opinion 2/91 did not resolve the dispute, and despite the Court’s ruling, ‘no form of co-ordination between the EC Member States and the European Commission seems to have been developed as to the negotiation and conclusion of international labour conventions.’ (ESC, 1995: 1) As will be demonstrated in Chapter 4, the Opinion locked the European Commission out of representing the Member States for a decade.

⁴²The ESC own-initiative opinion commented that ‘the Commission, in the Committee’s view, failed to recognise that there is a qualitative difference between the ILO’s standardisation work and the EU’s legislative role. Whilst EU Regulations or Directives are legally binding upon Member States (or become legally binding after a transition period), the incorporation of ILO Conventions into national law is optional.’ (ESC, 1995: 1)

2. European Union institutions and the ILO

In 1975 the European Commission reported to the Council and the European Parliament on the possibilities and difficulties of ratification by the EU Member States of a list of conventions concerned with labour standards concluded within the ILO and the Council of Europe. (EC, 1975) This was not the first time that either the European Commission or the EP had considered the question of Member State ratifications; there had been two previous occasions in 1967 and 1972. (EC-Council, 1967; EP, 1968; EC-Council, 1972; EP, 1972) On the latter occasion, the decision was made to review the situation again after Denmark, Ireland and the United Kingdom entered the Community in 1973.

The report noted the number of ratifications by the Member States of each convention and commented on their current performance towards ratification. The language used by the Commission in the report was strikingly blunt. On passing judgement on the failure of Belgium, France, Ireland, Luxembourg and the UK to ratify Convention 111, 'the Commission feels compelled to insist that each of the five named Governments make every effort to speedily ratify this convention, which regulates a very important sphere for the provision of true equality between workers within the Community.' (EC, 1975: 48) Furthermore, not only was the European Commission report clear about what it expected Member States to do, it was also clear on the reasons why it believed they should do it.

The Commission confirms the statements it made in the previous report, when it said 'with the exception of certain efforts made by Benelux, the Member States took no active part in coordinating the international labour conventions, whether they are adopted by the ILO or by the Council of Europe.' (EC, 1975: 38)

Why was the European Commission so anxious that the EU Member States ratify ILO standards? The answer is that while today the social and labour laws regulating the Single Market are legislated at the Community level by the Council and Commission, this was not always the case. At the time of the drafting of the Treaty of Rome there was no internal legal competence at the Community level to produce laws that bound all Member States. Instead, Article 118 of the Treaty of Rome sets out the principle that the Member States would harmonise their national policies by the adopting international labour standards, such as those of the ILO and Council of Europe.⁴³ The 1977 Working Document from the EP Committee of Social Affairs, Employment and Education states that the significance of Article 118 was

the execution of at least some of the aspects of [the Communities'] social policy could be allowed to depend on progress already achieved in the framework of other international organisations, in particular the ILO. This procedure has not always been satisfactory and specific Community action has been taken in certain areas.

The activity of the ILO has, then been regarded as an integral part of efforts to create a Community social policy as laid down in the Treaty of Rome, whether in the form of new legislation or the harmonisation of existing national legislation, and this view still holds good today. (EP, 1977a: 12 §1.6)

⁴³ COM (75) 142 *Final Third report from the Commission to the Council on the possibilities and difficulties of ratification by the Member States of the first list of conventions concluded within other international organisations* lists the following conventions from the ILO:

Convention 103 concerning maternity protection

Convention 111 concerning discrimination in respect to employment and occupation

Convention 117 concerning aims and basic standards for social policy

Convention 118 concerning the equality of treatment of nationals and non-nationals in respect of social security

Convention 118 recommendations concerning the guarding of machinery

Convention 120 concerning hygiene in commerce and offices

Convention 121 concerning benefits in the case of employment injury

Convention 122 concerning employment policy

And from the Council of Europe:

European Social Charter

European Social Security Code and Protocol to the European Social Security Code

This approach was used when the development of Community law, the *acquis communautaire*, was in its infancy. As well as using other international organisations to set intra-EC labour standards, they would also provide the mechanism to ensure that they were being complied with. The Community was therefore harmonising *and regulating* its internal laws through external, third party international organisations. The European Parliament and the Commission interpreted Article 118 as a treaty obligation on the Member States to harmonise their ratifications of ILO instruments. This is where the justification for the forceful language comes from, and is also the first example of the Commission trying to coordinate the ratification of instruments by the Member States.

The Council clearly did not share the same view as the European Commission on what its role should be in influencing Member States' decisions to ratify international labour conventions. In a reply given by Mr Vredeling of the Commission to a question from the European Parliament in 1980, it was stated that COM (75) 142 'was not discussed by the Council.' (EP, 1980) After the 1975 report by the Commission no further such summaries of Member State ratifications took place. A European Parliament resolution of 16 May 1977 requested the Council to instruct 'the Commission to continue to follow closely in the future, in consultation with the International Labour Office, not only the progress being made with ratifications, but also the actual application by Member States of ratified conventions, *and to continue to report regularly on this subject to the Council and the Parliament*' (emphasis added). (EP, 1977b: Point 8) The fact that the Council did not discuss the third report was the reason given as to why 'the Commission has been unable to comply with the wishes expressed by Parliament in point 8 of the resolution.' (EP, 1980)

At the same time as using the ILO as the external auditor of labour standards within the Community, the European Parliament was considering the likelihood of the

European Community joining the ILO. Towards the end of the 1970s there were high expectations voiced in a European Parliament report that in time the European Community would accede to the International Labour Organisation (ILO) as a full member and take the place of the nine Member States. The basis of this assumption was that as the Community developed more comprehensive legislation regulating social and employment law in the Single Market, the competency of the Community would encompass the ILO policy agenda.

The example of relations between the EEC and GATT in particular raises the question of the possibility of the Community becoming a member of the ILO in place of the individual Member States.

Accepting that this could not take place immediately, in view in particular of the tripartite principle laid down by the ILO statute, it is hard to avoid the conclusion that there can be no fundamental legal objection to such a move although obviously a number of legal and other adjustments would be necessary which would require a certain time and depend on the willingness of both parties to accept change. (EP, 1977a: §2.9)

During the 1980s the European Parliament continued to call for greater Commission oversight of Member State ratifications of ILO standards, as well as simultaneously calling for the EC to supersede the Member States inside the ILO. A resolution in 1984 reiterated the Parliament's belief that the Communities would become a member of the ILO (§F), but also seems to be promoting an idea of joint membership with the Member States *and* the EC ratifying conventions (§1). (EP, 1984) The ideas were repeated two years later when the Parliament recommended that the

Commission, the Council and governments of the Member States make an assessment of those factors impeding the ratification of international labour standards, and notably conventions, by the EC Member States or, in the case of Council Directives, by the European Community, and that they take a political decision to help improve international labour standards and ensure compliance with them in the Community and throughout the world. (Emphasis added) (EP, 1986)

The Parliament's recommendation for joint membership of the Community and the Member States in the ILO marked a change from the earlier position of the Community superseding the Member States in the ILO. It was based on the recognition of exclusive Community competences derived from EC law, and the responsibility of seeing that these laws were compliant with ILO standards would rest with the Commission. This marked a substantial change from the earlier rationale for Member States' ratifications. Originally the purpose of ratifying conventions was to *establish* harmonised internal EC laws. However, making Community law complicit to ILO standards implies that EC law had established itself inside the Community, and was being extended in its external competence.

With regard to the Commission, the policy shift from its assertive position in 1975 had turned full circle by the late 1980s. In 1988 an MEP asked why only Spain and Portugal had ratified the 1981 convention concerning occupational safety and health (C155). The response she received was that 'it is not for the Council to comment on questions concerning the ratification of ILO Conventions.' (EP, 1988) This answer was not surprising given the Council's record on avoiding discussing the issue of ratifications. However, a similar question asked in 1990 addressed to the Commission concerning Member State ratifications of the 1975 convention concerning migrant workers (C143). Mrs Papandreou answered on behalf of the Commission that with 'respect to ILO instruments, Member States are free to ratify them or not as they see fit.' (EP, 1990)

3. Time periods of the survey

The survey has been divided into five time periods of roughly equal length. The purpose is to facilitate a comparison of EU Member States' behaviour over time, and judge whether it changes over time. By making the boundaries of the periods congruent with structural changes in the European Union brought about by treaty amendments it is possible to see their impact on EU Member State representation and voting cohesion.

i. Period 1: 1973-1980

Period 1 begins with the accession of Denmark, Ireland and the UK to the European Economic Community (EEC) and to European Political Cooperation (EPC) on 1 January 1973, taking the membership total from six to nine, and also marking the beginning of efforts to increase the political influence of the EEC in the United Nations. (Luif, 2003) This was also the year that the Federal Republic of Germany and the German Democratic Republic were admitted into the United Nations, although both had been members of the ILO since 1954. 1973 was the first year that the Presidency spoke for the EU Member States, in a technical committee drafting the convention concerning the minimum age of employment (C138) and was also the first year the Presidency spoke on a political issue.⁴⁴ Thus the year the survey begins is the first year of representation in the name of the 'Member States of the EEC' and the year of the enlargement from six to nine Member States.

⁴⁴ A spokesperson for the European Commission addressed the annual conference plenary from 1971 onwards, but spoke only in the capacity of the European Community's observer status in the ILO.

The first period ends with the 1980 annual conference, bringing the total number held during Period 1 to eight (seven regular conferences and one special Maritime session in 1976). The membership of the Community is constant throughout Period 1 at nine, and thus provides an opportunity to see if there was any change in behaviour of this group of states before the EU embarked on a process of enlargement over the following six years. From the history presented above it is clear that during the 1970s the Commission and the European Parliament enthusiastically promoted Community membership of the ILO and saw the role of Member States as one of representing the interests of the Community until the EC acceded to the ILO in their place. Despite the decade's reputation as the one that disproved neofunctionalism as Ernst Haas concluded (Haas, 1975), the rhetoric from the EP was one of quiet confidence for the future of the EC inside the ILO, while the Commission took seriously its self-appointed mandate of highlighting the inconsistencies with EU Member State ratifications of ILO conventions.

ii. Period 2: 1981-1986

Period 2 begins with the accession of Greece into the EU in 1981, and ends in 1986 with the accession of Portugal and Spain, two enlargements that incorporated poorer states into the EU and had the potential to change the dynamics of EU decision-making. Of the three, Spain had the highest number of ratifications of ILO conventions, outnumbering all of the previously existing members of the EU with 102. Portugal had ratified 65 conventions on entry in 1986 which was very close to the EU Member State average of 67, while Greece had considerably less at 38. (See Table 3.1 for ratification levels) Thus despite their geographic and economic differences with the rest of the EU Member States, the average number of ratifications by EU Member States did not change as a result of their entry. The period contains seven ILCs (once again there was an

additional maritime conference in 1986) and over the course of this period the EU adjusted to being a larger group of states; how did this effect the level of representation and voting cohesion?

Period 2 also includes the legal preparatory steps for the Single European Act that was signed in 1986 and ratified by the 12 Member States in 1987. The SEA signposted the direction that future economic integration would take, and therefore the comparison between Period 2 and Period 3 is intended to help measure the impact of this legislation on technical coordination in the ILO.

iii. Period 3: 1987-1992

This period begins with the coming into force of the Single European Act, and ends with the completion of the Maastricht Treaty (although it came into force in November 1993). The period also fits with Tsebelis and Grant's second epoch of EU legislation-making. 'The second epoch of European integration began when the SEA was ratified. In this period the Council became a more effective legislative institution, at the cost of national sovereignty.'⁴⁵ (Tsebelis and Garrett, 2001: 359) The period has a constant number of Member States, so represents a period of consolidation for the EU, although in terms of legal development it marks a period of great change. One of the major purposes of the SEA was to prepare for the creation of a Single Market on 1 January 1993, which would 'remove all physical, fiscal, and technical barriers to trade within the 12 Member States, ensuring an area without internal frontiers in which the free movement of goods,

⁴⁵ Tsebelis and Grant identify the first epoch between 1957 and 1987, which includes Periods 1 and 2 in this survey. The first epoch was called 'the Luxembourg compromise period' and was 'characterised by legislative gridlock in the Council. In this period the Council was an ineffective collective institution, with the system of national vetos protecting the sovereignty of Member States.' (Tsebelis and Garrett, 2001: 359)

persons, services and capital is assured.’ (McCormick, 2005: 70) The legislation required to do this covered social and employment legislation, and required the harmonisation of labour standards across Member States, something that clearly relates directly to the technical standards of the ILO. An important additional objective in the SEA was Community cohesion, which helped ‘poorer parts of Europe, revitalised regions affected by serious industrial decline, addressing long-term unemployment, providing youth training, and helping the development of rural areas.’ (McCormick, 2005: 71)

A further development in the field of social policy during this period was the 1989 Charter of Fundamental Social Rights for Workers (also known as the Social Charter) that ‘promoted the free movement of workers, fair pay, better living and working conditions, freedom of association, and protection of children and adolescents.’ (McCormick, 2005: 71) These issues are integral to the EU’s social model, and also constitute some of the primary interests of the ILO and its standard setting. As a result, the movement of the EU in this direction would be expected to have an impact on the behaviour of the Member States in the annual conferences of the ILO.

iv. Period 4: 1993-1997

Although Period 4 is relatively short in comparison with the other periods (6 conferences, one of which was a maritime conference), a considerable amount took place during it. Firstly, the Maastricht treaty came into force, and with it the creation of the European Union. The Union consisted of three pillars, of which the European Community (Pillar 1) contained the economic and social policies of the Single Market. The origins of Europe’s third and current epoch lie in the Maastricht Treaty, and these foundations were cemented at Amsterdam ... the Commission’s legislative agenda-setting powers are far

more limited than they were in the immediate post-SEA era.’ (Tsebelis and Garrett, 2001: 359) The Treaty on the European Union contained the Social Charter as a Protocol and gave Member States the opportunity to sign up to the commitments contained within it. This meant the charter gained formal recognition in the law of the EC. The period also included the 1995 enlargement of the EU with the accession of Austria, Finland and Sweden. At the time the average number of ratifications of ILO conventions by the Twelve was 71.5. Austria entered the EU with 48 ratifications, while both Finland (75) and Sweden (70) were close to average.

1993 was also an important year because it marked the first conference after the publication of the ECJ Opinion 2/91 (in March 1993) concerning the responsibilities of the Member States and the European Commission for representing the European Community in the ILO, as well as resolving the issues of EC membership and the division of legal competencies between EC and the Member States in issues relating to ILO instruments and where authority lies to ratify them. The conclusion came down in favour of the Member States, reiterating their duties as members of the ILO and seeking to accommodate the division of EC competencies within that framework. On first appearance this seems to be a victory for intergovernmentalism, putting the Member States before the Community. However, the dispute between the Commission and the Member States was adjudicated through the ECJ, an institution of the Union with only limited judicial powers in the second pillar. Observing Period 4 will allow us to see the impact of the opinion on Member State behaviour.

v. Period 5: 1998-2005

Period 5 begins in 1998, the year after the Treaty of Amsterdam was signed.⁴⁶ The Social Charter was moved once again, this time becoming part of the main body of the TEU in Articles 138 and 139 (Article 139 was subsequently altered again at the IGC in Nice, 2000). Not only did the full gamut of social legislation become standardised across the EU, it also gave a more formal role to EU tripartite social partners in decision-making in the field of EC employment law. Since the 'Amsterdam Treaty the social partners have gained substantial influence over the legislative activities of the European Community in the area of social policy.' (Cavicchioli, 2002: 262 fn4) This means that 'agreements negotiated by the European social partners, could, if the latter so wished, be given legal effect by a Council decision and transposed into the national legislation of Member States.' (EC, 2004b)

The role of the tripartite members has increased in prominence in the EU policy making structure with the adoption of the 2000 'Lisbon agenda', a ten-year programme designed to promote employment and sustainable growth, and in 2003 the Council agree to hold a Tripartite Summit on Employment and Growth. (EC-Council, 2003a) The incorporation of the social partners into the policy-making system of the EU has been driven by five key Commission Communications between 1993 and 2005. (EC, 1993; EC, 1996; EC, 1998a; EC, 2002a; EC, 2004a) While the Union has institutionalised consultations with the social partners in EC legislative processes, it is unclear whether this has taken place as a response to the claims that it threatened the tripartite principles of the ILO, or if failing to gain greater influence led to a focus more on intra-Union social policy.

⁴⁶ The signing took place on 2 October 1997 but the Treaty did not come into force until 1 May 1999.

The final important change included in Period 5 is the enlargement of the EU from 15 to 25 Member States on 1 May 2004. The enlargement brought in a number of poorer, former communist countries, with very mixed histories of ILO involvement. Some, like Lithuania and Latvia, re-joined as members of the ILO, after having been subsumed into the Soviet Union after 1934. Slovenia, Slovakia and the Czech Republic replaced former ILO members and re-ratified the conventions signed by their predecessors. In 2004 the EU 15 had ratified an average of 74 conventions, and the range of ratifications of accession states varied considerably from around 70 (Poland and Slovenia) to around 35 (Lithuania and Latvia). Intergovernmental theory would predict that a 40% increase in the size of EU membership would make common representation and voting cohesion considerably harder, and this is tested in the thesis.

4. Theories tested and crosscutting issues concerning technical coordination

Let us briefly recap how each theory would predict the behaviour of the EU Member States and their approach (or not) to coordinating in preparation for the technical issues areas of the ILO. In order to do this, a list of five 'crosscutting' issues has been drawn up, which constitute the major points of contention between the competing theories. By looking at how these issues influence EU Member State behaviour, we will be able to weigh up the relative strengths and weaknesses of the competing theories. The five crosscutting issues are:

- i. The role of national interests
- ii. The role of the European Commission and the Presidency of the Council
- iii. The technical issue area under discussion
- iv. The number of Member States in the EU
- v. The possibility of change over time of an EU position

i. The role of national interests

The five theories can be differentiated according to how much significance the national interests of the Member States will have over the course of the survey. Neofunctionalism predicts a decreasing significance over time and a corresponding increase in the establishment of European interests. In contrast to this, intergovernmentalism predicts that national interests always be of greater concern than European ones, and that the Member States do not fundamentally alter in this respect through becoming a member of the EU. Furthermore, there will be no change in this over time, reiterating the lack of change in the international system drawn out from its realist roots.

Between these two extremes lie firstly liberal intergovernmentalism, which accepts that national interests remain significant, but in the social and economic sphere national interests can be aggregated at the European level without compromising the importance of the Member State. This is because the institutional structures of the European Community provide a comprehensive safeguard against cheating on the agreed rules of cooperation. Furthermore, the three large Member States (France, Germany and the UK) not only shape the direction the EU takes through their power in intergovernmental bargaining, but also retain national interests outside the EU and pursue those independently when it suits them.

Consociational theory is concerned with the equilibrium between the opposing logic of the supranational Community and the sovereign identity of the Member States. The national interests of the Member States are on the one hand to retain the economic and social cohesion of the Community, while on the other hand to preserve their identity as segments. The theory therefore predicts a pattern of behaviour that at times promotes

the interests of the Community, while at other times promotes the national interests of the Member States. However, these variations take place around an equilibrium position that will not change considerably over time.

Finally, the institutional adaptation by EU Member States when faced with misfit between domestic and EU policies occurs when interests cannot be reconciled. EU Member States seek to minimise misfit by petitioning for the uploading of national policies to the EU level. The ILO is another forum in which competing national policies are put forward to be uploaded into new ILO standards, and those that are successfully adopted by the ILO are legitimised by it. Since ILO standards are taken into consideration when drafting Community law, winning the argument between rival policies in the ILO can help to win the argument again in the EU later on.⁴⁷

ii. The role of the European Commission and the Presidency of the Council

The European Commission and the Presidency both speak for ('represent') the EU Member States in technical committees in the ILO. What is said is agreed in coordination meetings of Member States beforehand. The question is what impact do coordination meetings have on forging European interests out of the multitude of national interests? Can either the Commission or the Presidency build consensus on European interests? The importance given to these two institutions by the theories depends on whether they regard membership of the EU as having the potential to change Member State behaviour. To the intergovernmentalist, neither the European Commission nor the Presidency can alter the fundamental positions of the Member States, and if their interests are not being served they

⁴⁷ ILO standards are taken into consideration by the European Commission when preparing new EU directives. Interview: Brussels, 18 November 2005

will act alone or with other, non-EU like-minded states if necessary. Neofunctionalists regard these as powerful institutions that gain more influence over time as the Member States engage in an ever-closer union. As noted above, European Community membership of the ILO was a goal for a number of years in the 1970s and 1980s, and the European Commission would be expected to become the most influential actor.

From a liberal intergovernmental perspective the importance of these two institutions is the same as all EU institutions, namely to ensure that the treaties agreed by the Member States are fairly upheld and that the scope of action they prescribe is carried out efficiently. Their primary job is to serve the Member States, and to ensure that the Community operates as efficiently as possible so as to maximise their economic and social gains from membership. A fundamental claim made by LI is that European integration is entirely at the behest and control of the Member States, and challenges directly the neofunctional claim that a logic of integration exists. To this end, the Commission and the Presidency represent the Member States' common interests, but do not expand the limits of what those interests are. That is done during intergovernmental conferences negotiating treaty reforms.

Consociational theory highlights the role of the Presidency in capturing the balance between the two tendencies of integration and preservation of the segments. As discussed in the previous chapter, the Presidency is responsible for representing the Community while at the same time remaining one of the Member States. The willingness of the other Member States to allow the six-month term to have a national 'stamp' that reflects the national interests of that state is recognition of the need to maintain individual national identities, even while working as the face of the Community.

Institutional approaches can be divided into a 'logic of consequences' and a 'logic of appropriateness'. The former operates through LI or neofunctional mechanisms, as the distribution of power changes and are described above. In a logic of appropriateness, such as the 'weak cognativists' identified by Hasenclever *et al*, the work of Peter Haas is taken as an example and explains the role of epistemic communities. The Commission staff fulfil this role by circulating new ideas between the Member States and assist in enacting those ideas into policy, thus performing a expert role in policy coordination.

iii. The technical issue area under discussion

How many technical issues should be the subject of EU coordinated representation? Will the number be fixed or will it grow over time? Neofunctional theory predicts that the number will grow over time through spillover, both expanding the *acquis communautaire* inside the Community and as Member States coordinate in the ILO. Log-rolling also takes place during EU Member State negotiations, bringing issues that were previously off the agenda onto it, in return for agreeing to deals in the original area. The dynamic nature of neofunctional theory and the predictions it makes about the logic of integration are highly relevant to the technical issue-areas discussed in the annual conferences of the ILO.

Intergovernmental theory takes the opposite view, that EU membership does not fundamentally alter the pursuit of national interests as the primary goal of international cooperation. Indeed, an intergovernmentalist would point to the many occasions when there are high levels of consensus across all ILO member governments, as well as workers

and employers delegates.⁴⁸ Such consensus can be seen in the voting records on the adoption of technical instruments, occasionally accepted unanimously by all delegates. In such an environment it is difficult to attribute any significance to EU membership as altering behaviour.

According to liberal intergovernmental theory the number of technical issues in which coordination takes place is determined by the treaties, which set the extent to which the Community acts and how decisions are made. The fundamental tenet is that the Community serves the interests of the Member States, which in the Single Market is to provide increasing levels of wealth and welfare to their domestic constituencies. When an ILO technical issue directly relates to established parts of the *acquis communautaire* the Member States will choose whether to coordinate or not, but the scope will be limited to existing common law and there will be no dynamic growth as predicted by neofunctionalism except in treaty amendments.

Consociational theory identifies issue areas where the Community is strong as where the Member States will coordinate on technical issues, while technical areas relating to issues that the Member States use to define their national identities will not be the subject to EU common representation. What is important is that the balance between the two sides is maintained, and therefore after a period of intense EU Member State representation we might expect to see a period of regression as the equilibrium between the Community and its Member States is re-balanced.

⁴⁸ See Appendix 1. Examples include: C139/R147 Occupational Cancer (1974); C150/R158 Labour Administration (1978); C164 Seafarers' Health Protection (1986); R175 Safety in Construction (1988); R177 Safety in the Use of Chemicals (1990); C182/R190 Worst Forms of Child Labour (1999)

Finally, institutional approaches reiterate the importance of misfit between the EU Member States and EU policy in determining the level of common representation. After Europeanization has taken place at the EU level, common representation of the Union in the ILO is more likely. However, it is not a smooth transition as foreseen by neofunctionalism, and may be uneven over time or between Member States, as Featherstone warns. (Featherstone, 2003: 4)

iv. The number of Member States in the EU

Of central concern to all theories is the impact that the size of the EU has on its common representation and voting cohesion. There is also the second dimension to enlargement, which is how does the entry of new Member States with existing national interests affect the EU as a whole? Beginning with intergovernmental theory, simple arithmetic shows that increasing the number of Member States means more national interests and the likelihood of greater fragmentation. Achieving common representation and voting cohesion becomes more difficult with the arrival of each new member. Moreover, as the EU enlarges to take in states with divergent histories (such as the former military dictatorships of Southern Europe or the former communist countries of Eastern Europe) the chances of agreeing on common interests decreases further. By contrast, neofunctional theory does not foresee these problems because as European integration deepens over time national differences diminish. New members are integrated into the existing institutional and legal structures of the EU, and this means that diverse national histories do not constitute the stumbling blocks foreseen by intergovernmentalists.

Consociational theory is based on maintaining the distinction between the constitutive units and the whole system (the Community), so the increase in membership

should not necessarily create additional problems. On the one hand neofunctionalism argues that new members join the Community at its current level of development, with shared interests derived from its economic success. On the other hand new members are not required to forgo their previous identities on entry, and thus diverse national histories are advantageous to the EU system as a whole. Such histories are part of the preservation of the segments, which the political system's survival is predicated on.

From a liberal intergovernmental perspective, the divergent interests of states are only of concern during intergovernmental negotiations on major issues, such as treaty reform. The parameters of common representation are set by the existed, agreed treaties, while the likelihood of national interests being pursued outside the EU framework, (leading to a potential breakdown in either common representation or voting cohesion) is most likely with only large Member States, of which the three most important have been members since the beginning of the survey.

Following the logic of appropriateness, the size of the EU need not create any substantial difficulties in common representation and voting cohesion. According to Featherstone, what is important is whether actors 'develop commitment to the institution or are persuaded by the legitimacy of its claims.' (Featherstone, 2003: 15) Size could work in favour of common representation, as Member States outside the common position are under increased pressure to act 'appropriately' by sheer weight of numbers.

v. The possibility of change over time

The final consideration is the likelihood of change over time in the behaviour of EU Member States in the technical committees of the ILC. As set out in the methodology

section in Chapter 1, the measurable variables chosen are EU common representation and voting cohesion. If evidence is found showing change in this area, which direction would each theory predict the change to go in, and how would it explain it? Intergovernmental theory predicts no change over time, given the constant concern to pursue national interests. Intergovernmental theory questions what impact EU membership makes on Member States in an organisation that deals with issues of 'low politics' that have high levels on international consensus. Consociational theory predicts no aggregated change over time in the level of representation and voting cohesion, once an equilibrium position has been established. Balancing the Community's supranational elements with the preservation of clearly identifiable constitutive parts is the main concern of all EU politicians. This concern does not change over time, so we would expect to see cyclical patterns in representation and voting cohesion, with peaks and troughs levelling out over time at an equilibrium position.

One of the guiding questions driving new institutionalism (according to Taylor and Hall) is how to explain the process of institutional development and change. The sociological school understands change in response to the norms of the EU Member States and the actors working there. However, the theory provides no insight into which direction this change will take over time. The rational choice approach is able to be more specific, and is found in the LI and NF approaches. Liberal intergovernmental theory predicts that changes will take place in the aftermath of intergovernmental bargains being struck over the content of treaties. Whether there is more or less representation and voting cohesion depends on what the negotiations decide. For example, the Single European Act's expanded qualified majority voting (QMV) in the area of occupational health and safety, and as a result we might expect to find more common representation afterwards because the intergovernmental decision to move to QMV signals that it is an area of Community

interest. Alternatively, a decision to retain unanimity in the Council in a particular issue area indicates less chance of common representation in the ILO because of perceived national sensitivities in that area. Finally, neofunctionalism predicts constant and progressive change over time, increasing the depth and breath of common representation and voting cohesion, as Member States become more integrated over time. As discussed above, this is due to spillover linking new issue areas of coordination, and the establishment of European interests over national ones.

5. Summary

This chapter set out the framework for investigating the common representation and voting records of the EU Member States in technical issues, specifically the drafting and voting onto the ILO statute of conventions and recommendations. This is a Community pillar area of coordination and the purpose of the framework is to identify and measure change in EU Member State behaviour, quantified by representation and voting patterns. A number of key dates in the history of European Community representation in the ILO were noted, most importantly the *Convention concerning safety in the use of chemicals* (1989). This led to the European Court of Justice issuing Opinion (2/91) on whether the Commission or the Member States were the relevant authority to consider the ratification of the instrument. The Opinion set the boundaries of Commission involvement in the ILO that were adhered to for the following decade. The chapter also set out the five time periods that will be used as the temporal framework for the empirical research, as well as five 'crosscutting' issues of central importance. They are (i) the role of national interests; (ii) the role of the European Commission and the Presidency of the Council; (iii) the technical issue under discussion; (iv) the number of Member States in the EU; and (v) the possibly of change over time.

Table 3.1: EU Member State and accession state ratifications of ILO conventions: 1986, 1995, 2004

1986		1995		2004	
Country	No. Rats	Country	No. Rats	Country	No. Rats
Belgium	76	Belgium	73	Austria	45
Denmark	55	Denmark	61	Belgium	76
France	98	France	96	Denmark	60
Germany	60	Germany	67	Finland	81
Ireland	48	Greece	59	France	104
Italy	88	Ireland	51	Germany	68
Luxembourg	46	Italy	88	Greece	63
Netherlands	68	Luxembourg	54	Ireland	58
UK	68	Netherlands	77	Italy	92
		Portugal	64	Luxembourg	63
		Spain	103	Netherlands	82
		UK	65	Portugal	70
				Spain	106
				Sweden	76
				UK	66
Average	67	Average	71.5	Average	74
Greece (1981)*	38	Austria	48	Cyprus	50
Portugal	65	Finland	75	Czech Rep.	64
Spain	102	Sweden	70	Estonia	33
				Hungary	57
				Latvia	44
				Lithuania	38
				Malta	55
				Poland	73
				Slovakia	64
				Slovenia	72

Note:

Although Greece joined the EU in 1981, it is included in the same column as Spain and Portugal for comparative purposes.

Chapter 4

EU MEMBER STATE REPRESENTATION IN TECHNICAL COORDINATION

This chapter looks at the representation of the EU in technical committees of the annual International Labour Conferences (ILC) from 1973 to 2005 and answers three basic questions:

- Who has represented the EU, how often and when?
- How much has the EU been represented and has the level changed over time?
- In which issue areas has the EU been represented and have they changed over time?

These questions have been formulated by taking into account the possible role of three of the 'cross-cutting issues' set out in Chapter 3, namely the role of the Presidency and the Commission, the type of issue being considered and the temporal dimension of possible change over time. According to neofunctional theory we would expect to see the role of the Commission grow over time in core areas of the integration, with a high probability of spillover into other areas following afterwards. By contrast, intergovernmental theory predicts no development of Commission representation, and where Member States are represented by the Presidency they will be in areas of low salience. Liberal intergovernmental theory is tested here through the inclusion of the specific time periods corresponding to treaty-based changes to the Community pillar. Consociational theory's emphasis on balancing the segments with the whole is considered through contrasting the Presidency and the Commission's role in representing the EU.

In order to answer these questions empirical data from ILC Provisional Records of technical committees has been gathered and is set out in Appendix 1, 'ILO Instruments and EU Voting and Interventions'. This chapter uses the data in the four columns on the right of the table. Representation is measured by the number of statements made by the Presidency and the number of statement made by the Commission (two columns).⁴⁹ The third column records the length of the technical committee discussion by the number of paragraphs in the Provisional Record.⁵⁰ The fourth column is labelled 'EU participation level' and is the total number of EU statements (columns one and two) divided by the number of paragraphs (column three). The level is measured as a decimal with a range from no participation (0.000) to total participation where an EU intervention made in every paragraph (1.000).⁵¹

In the first section the question of who represents the EU is considered, using the data on the number of statements made. In the second section the level of participation is calculated and in the third section the level of participation is measured according to issue area. At the end of the chapter the different theories' predictions about EU representation will be revisited in the light of the empirical findings.

⁴⁹ This chapter follows the definition set out in Chapter 1, where 'representation' is any verbal or written intervention by Presidency, the Commission or another Member State explicitly representing the views of (i) the European Community, (ii) the Member States as the 'Nine' ('Ten' / 'Twelve') through EPC or (iii) the EU.

⁵⁰ Measuring the length of a technical committee meeting is an imprecise science. The number of sittings, the number of pages or the number of paragraphs in the Provisional Record could all be used. The length of a sitting is not fixed, and the type-setting of Provisional Records means that the length of each document changes over time. Paragraphs have been chosen because each one usually covers one substantive point in the discussion. However, the number of paragraphs per Provisional Record has increased over the length of the survey for a number of reasons. Firstly committee meetings are longer with more participants speaking; secondly conventions and recommendations are becoming more detailed, and more discussion needs to take place in order to prepare them. Thirdly, there has been a change in style by some Reporters (the seconded government official in charge of preparing the Provisional Record) and one paragraph is given to each major intervention by a delegate in the committee. Finally, advances in word-processing technology makes more detailed records possible.

⁵¹ Chapter 1 set out five types of intervention each participant can make.

1. EU Representation by the Presidency and the Commission

In this section we are interested in who speaks for the EU in the technical committees of the ILC, and how has it changed over the course of the survey. The first reference to the European Economic Community (EEC) was made in 1973 in the second discussion on *Minimum Age for Admission to Employment*, when ‘the Government members of the European Economic Community countries represented on the committee’ were mentioned twice. (ILO, 1973b: 485 §26, 487 §48) This was not the first time that the Member States of the European Community had spoken together at an ILC committee meeting. In 1972 in the first discussion of the Minimum Age instruments ‘the government members of Belgium, France, the Federal Republic of Germany (FRG), Italy and the Netherlands (subsequently referred to as “Common Market” countries)’ made seven interventions. (ILO, 1972: 540 §25)⁵² However, the 1973 common statements made by the Belgium government diplomats were in the name of the nine Member States of the EEC and constitute the first Presidency statement matching the criteria set out defining EU representation. Appendix 1 lists all subsequent EU representation by staff of the Presidency and the Commission. Table 4.1 summarises this information by detailing the number of technical committee meetings at which one or both of them spoke for the EU.

The table shows the number of committee meetings at which the EU was represented during the five time periods into which the survey is divided into. The table provides data that allows two comparative dimensions between the five periods; firstly who was representing the EU, and secondly the average number of committees per conference at which the EU was represented. The patterns drawn from this preliminary look at the

⁵² It should be noted that Luxembourg was absent from the committee meeting and Common Market coordination took place without it.

empirical evidence already point to a number of interesting conclusions about what has happened in the last 30 years.

i. Committees per conference

Let us look first at the average number of technical committees the EU Member State are represented in and compare it to the average number of technical committees per conference. By dividing the number of committees in which the EU Member States were represented by the number of technical committees, a percentage figure is calculated showing the level of representation and shown in the right hand column of Table 4.1. In the period between 1973-1980 the EU was represented on average at 1.6 committee meetings out of 4.1 per conference (or 39.0%). The number increases dramatically to 2.7 committees in the period 1981-1986 (67.5% of technical committees) during the preparation for the Single European Act (SEA), and drops slightly to 2.2 committees in the period between the SEA and the Maastricht treaty negotiations of 1992 (equivalent to 66.7%). The level of representation falls again between 1993 and 1997 to a record low of 1.5 committee meetings per conference, but this was during a period when fewer technical issues on the agenda and representation is calculated at 46.9%. The level climbs again in the final period after 1998 to an average of two committees per conference (64.5%). Overall, the aggregated data from 1973-2005 shows that the EU has been represented on average at two committee meetings per year since 1973, or 57.1% of the technical committee meetings.

ii. Identifiable trends

Two conclusions can be drawn from this that already begin to hint at which theories are more relevant than others. Firstly, the level of EU representation has not grown in a linear manner that suggests an ever closer union over time, as predicted by neofunctional theory. The period of most intense representation came between 1981 and 1986, and the following six years were also above average in terms of the levels of representation. In the five years from 1993 onwards the level of representation was lower than the two previous periods and closer to Period 1. This trend was reversed after 1998 and the number of committee meetings returned to a level on a par with the average of the whole survey, at two, and slightly above average when calculated as a percentage of all technical meetings. The number of committee meetings in which the EU Member States are represented varies over time, and is neither constant nor a gradually increasing process over time (as neofunctionalism would predict). What is the cause of this variation?

The variation in the level of EU Member State representation over time is not proportional to the number of technical committee meetings being held. The number of technical items on the agenda has steadily declined over the course of the survey, from an average of 4.1 in Period 1 to 3.1 in Period 5. The decline can be explained by the changing number of instruments drafted at ILCs. In the 1970s and early 1980s each ILC (excluding maritime conferences⁵³) typically adopted instruments in two issue areas per year after second discussions, and held the first discussions for the following year's instruments. Since then there has been a trend towards adopting the instruments related to one issue

⁵³ The exceptions to this are the Maritime conferences that draft three or four instruments in one conference. These take place roughly every decade (1976, 1986, 1996 during the survey, and another in 2006 that is outside of the data set) and EU representation was high in the first two, but non-existent in the 1996 conference. This coincided with a period of low representation between 1993 and 1997.

area per year, resulting in there being rarely more than three technical committees meeting each year. Of these three, one is a second discussion, another a first discussion for the following year and the additional meeting is often either a general discussion or prepares a revision of an existing instrument.. Archival evidence points to a prioritisation of second discussion items on the agenda and this supports the claim that the level of EU representation is, at least partially, determined by the ILC agenda.⁵⁴ Present-day practitioners concur with this and regard first discussions as an exploration of what is possible, and hard negotiations only begin with the second discussion that leads to the drafting of a finalised instrument.⁵⁵

If the level of EU Member State representation does not vary in proportion to the changing shape of the ILC agenda, then over time the EU Member States must be altering the areas where they are commonly represented. The factors determining what causes the alteration in the pattern of common representation can either come from inside the EU (such as a greater involvement in first discussions or general discussions) or from outside the EU. The primary external factor capable of altering the pattern of EU common representation is the ILC agenda. The second conclusion to be drawn is that exogenous factors such as ILC agenda-setting could have a significant influence over EU Member State representation. This is important because all of the theoretical models being tested are concerned with the internal logic of EU integration and its impact on EU coordination in the ILO. These theories will have only limited explanatory power if external variables have a role to play too. The next step is to refine the analysis of the empirical data and continue

⁵⁴ There will be a need for coordination in the normal way in the Social questions Working Group in May on common amendments to the Working Environment paper which is up for discussion for the second time. Nursing Personnel has already been discussed by the Group and probably needs no further coordination. As to the other two items [Administration of Labour and Freedom of Trade Unions] it is probably for the UK experts to consider whether useful coordination could take place'. (Biddiscombe, 1977) In 1977 the Working Environment and Nursing Personnel were second discussion items, while the other items were first discussions.

⁵⁵ Interviews: London, 21 September 2004; Copenhagen 3 March 2005

to look for evidence supporting or refuting the competing theories derived from EU Member State actions. For this reason it is necessary to look at the intensity of representation, rather than simply whether it takes place or not.

2. Quantitative measurement of EU Member State representation

In this section we move onto the question of how much representation takes place? The data gathered in Section 1 recorded all technical committee meetings at which at least one statement was made representing the EU. As was discussed in Chapter 1, this is an imprecise measure of representation because there are a number of possible scenarios when the products of EU coordination are overlooked because they do not have the 'official' label of EEC or EU. However, it was reasoned that no better alternative existed and in its favour it offers concrete evidence of coordination having taken place in order to prepare the common statement. In this section the amount of representation is taken into account, and by doing so we will be able to see if there are trends over time pointing towards more representation per committee meeting. Although there may be a limit to the number of technical committee meetings at which the EU can be represented, the number of common statements produced is at the discretion of the EU Member States.

i. Explanation of the data

All of the data presented in Table 4.2 has been calculated using the 'EU participation level' data in Appendix 1. As explained above, this figure is calculated by dividing the total number of EU representation statements by the Presidency and the Commission by the length of the Provisional Record from which they have been counted,

measured in paragraphs. This serves as a simple scaling device, telling us that when the EU was represented by 10 statements made in a technical committee meeting that was recorded in 200 paragraphs, this would be equivalent to 20 statements in a technical meeting recorded in 400 paragraphs of text. The higher the number the more frequently the EU Member States are represented through a common statement by either the Presidency or the Commission.

For each period the scores for EU participation in each instrument were collected, and listed from smallest to largest. The list can be used to summarise the performance of the EU Member States' during the period, and five columns on the right hand side of the table do this. The columns labelled 'lowest' and 'highest' show the scores lying at each end of the list. The range is distance between them, calculated by subtracting the lowest figure from the highest figure. The median value is the score lying in the middle position of the scale, and the mean is calculated by adding up all the scores and dividing by the total number of scores (the 'average').⁵⁶ The purpose of doing all this work is to see if the level of participation of the EU Member States through their collective representation follows the same pattern as the previous data, which suggests there has been little change over 30 years.

ii. Mean levels of participation

Comparing the figures in the 'mean' column show that the level of participation in technical committee meetings rose during the first three periods and then fell during the

⁵⁶ The inclusion of a median value helps to ensure that the mean value has not been skewed by a few outlying scores from the data set. When a comparison of mean values and median values produces the same results then it shows that all the data sets in the survey have similar profiles.

next two. The number of times the EU was represented in a committee by a statement by the Presidency or the Commission was highest between 1987 and 1992, controlling for the length of meetings. The figure of 0.148 in this period tells us that aggregated over the six conferences, in technical committees where the EU was represented by either the Presidency or the Commission, (and therefore when coordination took place), 14.8% of paragraphs (or roughly one in seven) contained an intervention in the name of the EU.⁵⁷ When this figure is compared to the other periods we see that EU representation was three times greater between 1987 and 1992 than between 1973 and 1980, and 1998 and 2005. Similarly, the level is twice as high as the previous period (1981-1986), and about 50% higher than the one directly afterwards (1993-1997). The intensity of EU representation in ILC technical meetings peaked between the SEA and Maastricht Treaty, and between 1998 and 2005 it was barely more than it was during the 1970s.

The problem with building a story of EU representation based on calculating the mean level of representation is that the information could be misleading if the data sets used contain a wide range of samples. For example, if there were a small number of technical committees with very high levels of representation, the mean figure would rise and may not give an accurate picture of how much representation took place in the majority of the committees. One way in which we can double-check the accuracy of the picture painted by the mean data is to look at the median figures. As explained above, the median figure is the middle data entry in a list of all entries of the particular set. It can tell us two things. Firstly, if there is a difference between the ranking order of the five periods

⁵⁷ It is possible that one paragraph contained more than one intervention by the EU. For example, the Presidency could propose an amendment to the document under discussion, the amendment might not be accepted by one party in the negotiations. In response to this the Presidency could suggest a sub-amendment to accommodate the objections. The process could continue with further steps to reach consensus, and all of this might be recorded in one (long) paragraph. In such cases, the original EU amendment, and any subsequent sub-amendments are counted separately in the data table as distinct interventions. The five types of interventions are discussed in the methodology section in Chapter One.

when sorted by mean and when sorted by median, it alerts us to the possibility that a few 'extreme' cases (at either end) are causing distortions. Secondly, if the median and the mean are very close, we can be sure that the data is evenly distributed across the time period, and not skewed either positively or negatively.⁵⁸

iii. Median levels of participation

Looking at the median data column we find out two things. Firstly, the order of periods is the same when using the median as when using the mean. This finding supports the case presented above that the level of EU representation has risen and fallen, and that it was strongest between 1987 and 1992. The second noticeable fact is that in all of the periods the median is less than the mean, which is referred to as a 'positive skew' in the distribution of data. A positive skew occurs when a small number of high values are included in the data set and leads to a higher mean than is a true reflection on the data set. Therefore we can say that while the identified trend of increasing representation until the 1987-1992 period and a decline thereafter is verified. However, the intensity of representation is exaggerated, with some very highly coordinated technical meeting EU representation, but the majority being less than the mean figure.

Looking over the data in the columns showing the lowest and highest values (and also the range between them) helps to demonstrate this point. In every period except the third one (1987-1992) there were committees with very low levels of participation (0.001, 0.003 or 0.005). Figures this low mean that only one or two common statements were

⁵⁸ The issue of a skewed sample is important because we are using the data to summarise the behaviour of the EU Member States over a period of 6 to 9 conferences. When a data set is skewed, the amount of useful information that it can give is distorted, either by exaggerating the level of representation or under-playing it. When using statistical tools, awareness of their limitations is an important consideration before drawing conclusions.

presented during the whole committee. By contrast, between 1987 and 1992 there were no such cases where EU coordination resulted in only a couple of common statements as outcomes. However, it is interesting to note that with the exception of the first period, all other periods contained some committee meetings where there were very high levels of EU representation (0.292, 0.279, 0.215, 0.249). These cases are the reason for the positive skew of the sample distribution, but they tell a far more important story in relation to the thesis. They show that the EU Member States *can* coordinate their common representation very effectively, and have been able to do so for a long period of time, since Period 2 (1981-1986). The question that arises from this is what issue areas do they work this closely in, and have they been the same throughout the survey? This question will be answered in Section 3.

iv. Identifiable trends

Before moving on to Section 3, this section should be concluded with a brief comparison of the results from the Table 4.1 and Table 4.2. The first table showed a peak level of representation during the second period of the study (1981-1986), followed by a gradual decline over the third and fourth periods, where the EU Member States were represented on average at 1.5 technical committee meetings per year (or 46.9%). The level rose in the fifth period to two committee meetings, higher than either Period 1 or Period 4, and as a percentage nearly as high as Periods 2 and 3. Table 4.2 shows a rise in intensity of representation over the first three periods to a peak between 1987 and 1992, which then declines over the two following periods. What sort of relationship should we expect to find between the two? Answers can be grouped as those that see EU coordination as a finite resource and those that see no limit to the outputs of coordination. The former position assumes coordination is a zero-sum business and more time spent in one area means less

time for another area. In this case, when the EU is represented more often, the intensity of representation would be expected to decrease. Intergovernmental theories endorse these predictions based on the constant need to drive bargains between Member States. On the other hand the latter position is supported by supranational theories, where coordination is a positive-sum business and the more it is entered into the greater the demand for more coordination in other areas. The logic of integration predicts that representation can be more frequent and higher in intensity simultaneously.

Neither position is conclusively refuted or supported by the data in Tables 4.1 and 4.2. The most significant periods are 3, 4 and 5. In Period 3 the data shows that highly intensive representation (0.148) coincided with a high percentage of participation in technical committees, (66.7%), and appears to substantiate neofunctional predictions about the likelihood of wider (more frequent representation in more issue areas) and deeper (more interventions per committee) occurring simultaneously. Periods 4 and 5 appear to refute this, each exhibiting either depth or width but not both. In Period 4 there is a marked decline in width seen in the fact the EU Member States were only represented in 46.9% of committees, yet spoke frequently in them (0.099). Period 5 exhibits the opposite trend, with considerable width (64.5% of committee meetings) but saying much less in them (0.052). Thus without being able to discern clear trends, the chapter turns to look at the issue areas under discussion. It was observed that in four of the five periods there has been very intensive representation despite variance in the mean level. This pointed to the possibility that the EU is better represented in certain policy areas than others, and if this is so, then the power to set the ILC agenda influences EU Member State behaviour.

3. EU Member State representation by issue area

This section answers the question in which issue areas have the EU Member States been represented and have they changed over time? In order to do so the technical committees that the EU Member States has been represented in that are listed in Appendix 1 have been sorted by issue area. The categories of issue area have been taken from Article 137 of the Treaty of the European Community, part of Title XI on Social Policy, Employment, Vocational Training and Youth.⁵⁹ Table 4.3 lists the nine issue areas (two are not used as no instruments fell into them), the decision-making procedure in Council, and into each group the ILO instrument, how the EU was represented (Presidency or Commission) and the participation level (averaged over two sessions where appropriate). The purpose of doing this is to see in which policy areas the EU has been well represented, and for how long. Therefore in this section the data is not been divided into time periods, but issue areas. The columns in Table 4.3 list the issue area, the paragraph in Article 137 from which they come, the method of decision-making in the Council on that issue on the left of the table, and on the right the columns give information about the ILO instrument being drafted in the technical committees, the year of completion, who represented the EU Member States and the participation level.⁶⁰ The six instruments at the bottom of the table do not fit into the Article 137 categories.

⁵⁹ The 11 paragraphs are: (a) health and safety, (b) working conditions, (c) social security, (d) termination of employment, (e) information and consultation of workers, (f) representation and collective defence, (g) rights of nationals from third countries, (h) excluded persons, (i) equality, (j) social exclusion and (k) the modernisation of social protection. The classification uses the version of Article 137 that was revised in Nice 2000. No attempt has been made to apply the relevant version of Article 137 to the specific time period under study because it was decided that one rigid set of categories was simpler than applying multiple ones over time.

⁶⁰ When the technical committee met twice the participation level is calculated by averaging the scores from both meetings.

i. Issue areas

The first striking feature is the concentration of representation in the first two issue areas, ‘the improvement in particular of the working environment to protect workers’ health and safety’ (§a, referred to throughout as “health and safety”) and ‘working conditions’ (§b). With 15 instruments relating to health and safety and 13 to working conditions, they account for over half of the EU representation during the survey, with 15 other instruments split over the seven remaining issue areas, and six outside.⁶¹ Looking at the years the instruments were completed, we see that a health and safety issue (the Minimum age of employment⁶²) was the first area in which the EU Member States coordinated a common position in the name of the EU, and that there has been consistent representation in this area throughout the whole survey. The working conditions committees display similar characteristics, starting in 1976 with a series of conventions concerning the working conditions of seafarers, and continuing right through to 2005 Fishing Sector instrument.⁶³ The 15 remaining instruments in which the EU was represented during the drafting process in technical committees correspond to seven issue areas in Article 137. The majority fell into ‘the modernisation of social protection systems’ (§k), although the treaty clearly states that it is ‘without prejudice to point (c)’.⁶⁴ If a pattern has emerged showing a high level of coordination in health and safety and working conditions over the length of the survey, why is there only sporadic coordination in the

⁶¹ This totals 49 and is less than the 71 recorded in Table 4.1 because a number of instruments had EU coordination at the first and second committee meeting.

⁶² The convention concerning the Minimum age of employment (C138) is of the eight core labour standards that are promoted globally by the ILO through the 1998 Declaration on the Fundamental Rights at Work which made universal ratification of the eight instruments a priority. This has been classified as a health and safety issue because it is about the basic protection of children. Similarly, the convention concerning the worst forms of child labour (C182) has also been included as a health and safety issue.

⁶³ The convention concerning the fishing sector failed to be adopted in the 2005 ILC plenary, the only instrument to fail during the survey. Since coordination did take place, the data has been left in the tables.

⁶⁴ The difference between the two is the voting procedure, with QMV applied to §k and Unanimity to §c. There is a discussion of this below.

other issue areas? The answers will become clear by the end of this section, after looking at the significance of Council voting procedures, representation and the level of participation.

ii. Council voting procedures

Table 4.3 includes a column showing how each issue area is voted on in Council meetings, either by qualified majority voting (QMV) or unanimity (Una). The reason for including this was the hypothesis proposed by intergovernmental theory that in issue areas where the Council works on a unanimity principle there would be lower levels of coordination (and hence representation) in the technical committees. This is because these issues are deemed by the EU Member States to be closer to national interests and therefore less likely to be considered suitable for EU common representation. The data in the table supports the former statement, namely that there has been limited EU representation in the three issue areas decided by unanimity, ‘social security and social protection for workers’ (§c), ‘protection of workers where their employment is terminated’ (§d, referred to throughout as “termination of employment”) and ‘conditions of employment for third-country nationals legally residing in Community territory’ (§g referred to as “migrant workers”). In these cases the Presidency has spoken for the EU Member States but the level of participation has been very low, except in the 2004 general discussion on migrant workers. However, this was a general discussion and was not a policy-making committee.

The table does not support the second statement that supranational representation to the same extent. All other issue areas are covered by this type of decision-making in Council, and there are very varied levels of representation, both in terms of time and intensity. In keeping with the conclusions drawn above, there does not seem to be a trend towards closer union and greater representation based on the supranational pillar of the

Community that we might expect. While we can say with a degree of confidence that the Member States are willing to draw the line at areas of national interest, they are not willing to move freely towards common representation in other areas as a neofunctional theory predicts.

iii. Representation

The table clearly illustrates an established pattern of who speaks for the EU and when. There are three possibilities: the Presidency speaking alone, the European Commission speaking alone or a combination of both speaking together in the same meeting. Least frequent is European Commission representation of the EU Member States alone, which happened only twice, once in 1975 and once in 1985, both times relating to the issue of 'equality between men and women with regard to labour market opportunities and treatment at work' (§i referred to as "equality"). Each time only one statement was made, (this is shown in Appendix 1 and reflected in the very low participation level, 0.008 and 0.011) and on both occasions it was in a general discussion. The table shows five instruments in the field of health and safety where the Commission represented the EU in tandem with the Presidency over nine years between 1984 and 1993. They were consecutive instruments in the regular conferences, interrupted only by the 1986 Convention concerning seafarers' health protection (C164) that was drafted in the 1986 special maritime conference. By far the most common occurrence was the Presidency speaking to represent the EU Member States alone, which occurred 41 out of 49 times in the survey.

What factors explain the eight non-conforming cases in the sample? Looking first at the two examples when the Commission represented the EU Member States alone, their

contribution to general discussions is a notable feature. In both cases the Commission explained European Community policy in a general discussion; in 1986 the general discussion on youth employment was lead by the Presidency and the EU was not represented in a general discussion again until 2003.⁶⁵ In terms of the theories being tested in the thesis, it offers evidence that the logic of integration appeared to be working in 1975, with the representation of the EU by the supranational authority. However, this practice stopped after 1986, and responsibility for speaking in general discussions was taken over by the Presidency in 1986 but that representation was not considered important until 2003. This implies that the logic of integration was curbed during the mid-1980s and intergovernmentalism returned to the fore.

More common was the practice of the Presidency and the Commission representing the EU Member States together. This began in 1984 and represented a new phase in EU Member State representation that suggested economic integration was leading to common external representation. To a neofunctionalist this would be a sign of an ever closer union being built by the Member States. Alternatively, Moravcsik's liberal intergovernmental theory asserts that through intergovernmental bargaining new powers are intentionally handed over to the supranational authority by the Member States. While the former expects integration to occur gradually over time, the latter locates change in the periods after intergovernmental conferences (IGCs) and new treaties. Two statements from Commission staff during the opening remarks in the technical committee drafting the convention concerning safety and health in construction (C167) are significant. The 'harmonisation of health and safety is part of the completion of the Internal Market' (ILO, 1987h: §15) was stated at the first discussion in 1987, while one year later a Commission

⁶⁵ Occupational safety and health (2003), The employment relationship (2003), Migrant workers (2004) and youth employment (2005).

delegate said that the 'Single European Act would enable safety and health legislation to be adopted by majority vote'. (ILO, 1988h: §20) From these two statements the reason for the Commission becoming involved in representing the EU Member States is explicitly linked to the expansion of the common market and the Single European Act (SEA). Combined with the evidence that the Commission stated playing an active role in representing the EU Member States in 1984 (the first discussion of the C161 that was completed in 1985), neither the neofunctional nor liberal intergovernmental theory is successfully supported or refuted. While the reference to the SEA points to it being seen as significant in explaining the position of the EU Member States, there is no discernable change in representation before and after the treaty.

A discernable change in representation is very clear after 1993, when the European Commission stopped representing the EU Member States. This coincided with the ratification of the Maastricht treaty, but the more compelling reason for the absence of the Commission is the European Court of Justice Opinion 2/91. The European Commission claimed it was the relevant authority to decide if the Member States could ratify the Convention concerning safety in the use of chemicals (C170), something that was contested by a number of the Member States. After hearing petitions from both sides the ECJ's opinion favoured the Member States, upholding their claim that they remained the relevant authority because of their membership of the ILO. However it also accepted the point raised by the Commission that some issues discussed in the ILO were Community competency and the Member States were unable to act unilaterally without consultation together. The Court obliged the Member States to coordinate in these areas, and while we see a continuation of high levels of participation in health and safety issues (e.g. mining (C176), agriculture (C184) and occupational health (C186)), the Commission no longer played any role representing the EU. From the perspective of liberal intergovernmentalism,

this is an example of an intergovernmental bargain between the Member States (since they were divided over the issue) being locked-in through the use of ECJ (the third stage 'institutional choice' of the model).

iv. Level of participation

The final column of the table to look at is the level of participation. The data in the column substantiates a number of the claims made above. In the area of health and safety, the participation level rises steeply in 1981, and is consistently high to the end of the survey in 2005, dipping only in the 2003 general discussion.⁶⁶ Thus despite the changes in who represented the EU, health and safety has always been an area of strong coordination and representation. The area of working conditions has nearly as long a history of representation as health and safety, although the level of participation has been consistently lower. It peaked in 1990-1991 with the convention concerning the working conditions in hotels and restaurants (C172) but has fallen since then. Despite the relatively low level of participation, the fact that there has been representation tells us that the EU Member States coordinate in this area.

The next three issue areas in Table 4.3 are all decided by unanimity in the Council and there has been very little EU representation in these areas, both in terms of the number of committee meetings and the level of participation. The relationship between voting procedure in the Council of Ministers and representation has been discussed above, as has the issue area of equality being addressed by the Commission. The remaining three issue areas are: 'the integration of persons excluded from the labour market' (§h referred to

⁶⁶ The low level of participation in the convention concerning the worst forms of child labour (C182) is because the EU were part of a larger group of around 40 states that coordinated common statements. The EU was not mentioned by name, and for the reasons discussed in the methodological section of Chapter 1 are not counted in the data sample.

as “excluded persons”); ‘the combating of social exclusion’ (§j); and ‘the modernisation of social protection systems’ (§k). The trend in both excluded persons and social protection is a rise in the level of participation followed by a decline, with the former peaking in 1986 and the latter in 1988.

v. Identifiable trends

In Section 1 EU representation was measured by counting the number of technical committee meetings per conference and as a percentage of all technical committees over the five time periods. When the data was compared over time there was a discernable peak during the second period, followed by a decline and a rise again in the fifth period. Across the whole survey the average number of technical committees at which the EU was represented was two per conference, although there was a steady decline in the number of technical committees. From the data in Table 4.3 we can see that the variations in the level of representation peaked during the period in which a large number of health and safety issues were on the agenda. This shows that frequency of EU representation is heavily influenced by the ILC agenda, the issue areas it covers and how many issues are discussed. This means that when testing the validity of theories that predict the course of integration based in intra-EU variables (such as neofunctionalism), the impact of exogenous independent variables (such as ILC agenda setting) must be considered.

In Section 2 the measurement technique was refined by looking at the intensity of representation. Although the *frequency* of representation is partially determined by the external variable of the ILC agenda, the *amount* of representation remains internally determined. Over the five periods of study the mean and median levels of participation both showed a peak period of representation between 1987 and 1992. Data from Table 4.3

shows that of the 13 committee meetings during this period, five were health and safety related, four related to working conditions and four to the modernisation of social protection.⁶⁷ These three issue areas have the highest frequency of representation and are all decided in Council by QMV, which points to the conclusion that the ILC agenda between 1987 and 1992 was particularly conducive to EU representation. Once again this means that the increased intensity of EU representation was not exclusively due to intra-EU logic, but affected by external variables. However, we could argue that *because* of the changes introduced by the SEA and the development of the Single Market, it *was possible* to increase representation in these areas. This reverses the causal direction of the argument, and means that the reason why we attribute significance to the area of health and safety (such as stating that the EU is most frequently represented there) is the result of the development of Community competency. The concrete insight that Table 4.3 gives to the results derived from Table 4.2 is that there were mutually conducive circumstances during the period 1987 and 1992 in *both* the ILC agenda and the development of the EU. Disentangling the two in order to give a one-way direction of causality is not easy, and trying to do so would probably lead to missing important points. We will return to this point after gathering more information.

4. Implications for theory

The answers to the three questions set out at the beginning of this chapter will help to identify which of the different theories have been able to predict the behaviour of the EU Member States and their common representation in the technical committee meetings of the annual conference.

⁶⁷ The committee meetings were: C167 (2), C170 (2), C174 (1), C171 (2), C172 (2), C168 (2), C173 (2).

Who has represented the EU, how often and when? Table 4.1 shows that the European Commission has only represented the EU on ten occasions out of 71 committee meetings, twice acting alone and eight times in conjunction with the Presidency.⁶⁸ In terms of a shifting balance between the intergovernmental and supranational approaches to understanding European integration, the evidence points far more to the former than the latter. This fact alone is not sufficient to refute neofunctionalism, but taking into account when the Commission played a role does provide substantial evidence against it. The chronological order is the reverse of what we would expect to see if the logic of integration was at work. The first representation by the supranational European Commission without the Presidency took place in 1975, only two years after the first representation by the Presidency. The second occurrence was ten years later, and after that all Commission representation took place in conjunction with the Presidency. The joint representation ended in 1993 and did not appear again until 2003. This pattern is the opposite of what neofunctionalism would predict, and throws into doubt any possibility of an incremental growth of external representation.

The intergovernmental approach predicts the retaining of power in the Member States and the promotion of national interests, which is a plausible explanation for stable frequency of representation over the length of the survey. Since there is no long-term increase in representation, and the level of representation in Period 1 (1973-1980) is higher than period four (1993-1997), one could interpret this as showing that integration has not had any noticeable effect on representation. The changes in representation that we would expect to see if liberal intergovernmental theory was applicable are not clearly discernable,

⁶⁸ Note that Table 4.1 shows all committee meetings where common representation took place, while Table 4.3 shows all instruments where common representation took place. When common representation took place in two committee meetings in successive years discussing one instrument, this is counted twice in Table 4.1 and once in Table 4.3.

with the largest change between periods coming before the SEA. The impact of the SEA was to slightly diminish representation, the impact of Maastricht was to diminish it further, and the Amsterdam Treaty improved it slightly. In Section 1 the data showed fairly constant levels of EU Member State representation despite a declining number of technical committees per year. Evidence was given to show that representation was prioritised for second discussions, which limited the total number per conference. However, by applying the sociological school of new institutionalism this level of representation is explained as being the level that agreed by EU Member States. Once started, successive Presidencies based their coordination on previous years' practices.⁶⁹ Consociational theory posits that the Presidency is the compromise between the supranational and intergovernmental approaches to decision-making. The early activity of the Commission, followed by its gradual demise could be interpreted as an embedding of the status-quo compromise between the two approaches to EU integration, which since 1993 has been established. The re-emergence in 2003 of the European Commission is a challenge by supranationalism on the equilibrium position of the previous ten years.

How much has the EU been represented and has it changed over time? The data from Table 4.2 added more definition to the picture sketched out in Table 4.1. The process of change was made much clearer, with rise and identifiable peak in the intensity of representation between 1987 and 1992. During the periods either side there was a rise from, and decline to, approximately the same level (0.050). This data refutes neofunctionalism through the demonstration of considerable decline after a period of growth, and refutes intergovernmentalism because it shows that coordination and common representation can be considerable at times. Consociational theory is difficult to apply to

⁶⁹ Note how the UK prepared for the 1977 ILC by consulting the German diplomats who worked on the 1974 ILC.

the data, since it shows no evidence of establishing an equilibrium. However, liberal intergovernmental theory appears to be substantiated insofar as after the Single European Act we can observe a noticeable change in Member State behaviour, as noted by Tsebelis and Garrett in their 'second epoch'. (Tsebelis and Garrett, 2001) Furthermore, taking into consideration the ECJ opinion of 1993 we have an example of an institutionalised agreement to end Commission involvement in the ILO negotiations. The insight from the institutional approach that misfit is an important determinant in the level of policy integration taking place fits with the period of peak representation. Like LI, the legislation undertaken in Period 3 after the SEA resulted in a prolonged period of Europeanization and consequently a high level of common representation.

Section 3 answered the question of which issue areas has the EU been represented and have they changed over time. Neofunctionalism is supported by the finding that representation increases in issue areas where there is QMV in Council, illustrating a spillover from the supranational decision-making processes inside the European Community to the external representation in the ILO. The highest intensity of coordination are found in these issue areas, although, as mentioned above, the trend over time is not one of growth as would be predicted. Conversely, issue areas requiring unanimity between Member States in Council are seldomly represented in the ILO, and when they have been, it has been very low intensity. Liberal intergovernmental theory predicts that after the various treaties we should see substantial changes in representation, either in an issue area or across issue areas. The increase in representation around the 1986 SEA appears to substantiate this position, while the subsequent treaties appear to have done nothing to improve the level of representation, described as the 'third epoch'. (Tsebelis and Garrett, 2001) A more significant event is the 1993 ECJ opinion (2/91) that produced an institutional agreement to represent the EU in technical committees

exclusively through the Presidency. The decrease in the level of policy misfit between the Member States and EU-level policy caused by pressure to Europeanization and create Community law is substantiated by the empirical data regarding issue areas. The areas of higher representation are also those in which the level of incompatible policies has been minimised.

5. Summary

This chapter looks at who represents the EU Member States in technical committees in the annual ILCs, based on data recorded in Appendix 1. Three questions were asked of representation: by whom, how much and in which issues? Three of the five crosscutting issues introduced in the previous chapter were identified as useful issues to consider; the role of the Commission and the Presidency, the technical issue under discussion, and the possibly of change over time. There are five key findings in this chapter. The first is that the content of the ILC agenda is an important exogenous variable. The second is that there is a wide variation in the level of representation over the course of the survey, implying that the level of EU representation varies according to the particular issue area under discussion. Thirdly, it was demonstrated that there is a higher level of representation in issues that are the subject of qualified majority voting in the Council, as defined in Article 137 of the Treaty of the European Community (TEC). Fourthly, the most common form of EU representation was by the Presidency speaking on behalf of the EU, (61/71 times), while joint representation by the Presidency and Commission staff took place eight times, and the Commission staff spoke alone twice. Finally, there was a change in representation following the publication of the ECJ Opinion 2/91, after which the Commission refrained from representing the EU for ten years. It was argued that the Opinion was an institutional agreement as defined by liberal intergovernmental theory.

Table 4.1: EU Member State representation in technical committee meetings listed by Presidency, Commission and Combined representation, 1973-2005, aggregated into five periods.

Period	Conferences	Presidency Represent'n	Commission Represent'n	Combined Represent'n	Total no. of Committees Represented	Represented/ Committees/ Percentage*
1973-1980	9	13	1	0	14	1.6/4.1 39.0%
1981-1986	7	16	1	2	19	2.7/4.0 67.5%
1987-1992	6	9	0	4	13	2.2/3.3 66.7%
1993-1997	6	8	0	1	9	1.5/3.2 46.9%
1998-2005	8	15	0	1	16	2.0/3.1 64.5%
1973-2005	36	61	2	8	71	2.0/3.5 57.1%

Key:

Conferences: number of conferences during the time period.

Presidency Representation: Committee meetings where only the Presidency spoke on behalf of the EU.

Commission Representation: Committee meetings where only staff from the Commission spoke on behalf of the EU.

Combined Representation: Committee meetings where the Presidency and the Commission spoke on behalf of the EU.

Total number of Committee meetings: Sum of all committee meetings in which the EU was represented.

Represented/Committees/ Percentage*: This column shows three pieces of data used in the following calculation:

- 1: total number of committee meetings at which the EU was represented divided by number of conferences;
- 2: the average number of technical committee meetings per conference during the period;
- 3: (1) divided by (2) to give level of representation measured as a percentage of all technical committees held.

Table 4.2: Level of EU participation in technical committee meetings where EU Member State representation took place, 1973-2005, aggregated into five periods.

Year	Total	Lowest	Highest	Range	Median	Mean
1973-1980	14	0.003	0.142	0.139	0.032	0.049
1981-1986	19	0.005	0.292	0.287	0.047	0.075
1987-1992	13	0.043	0.279	0.236	0.116	0.148
1993-1997	9	0.003	0.215	0.212	0.094	0.099
1998-2005	16	0.001	0.249	0.248	0.035	0.052

Key:

Total: number of technical committees during which the EU was represented during the time period.

Lowest: Lowest level of participation recorded during the time period.

Highest: Highest level of participation recorded during the time period.

Range: Highest level minus lowest level.

Median: Middle value along the range of participation levels (e.g. the 8th value in a set of 15)

Mean: Sum of all values of participation levels divided by the total number of committee meetings

Notes:

All data is expressed as a decimal calculated by dividing the total number of EU statements (Presidency + Commission) by the total number of paragraphs of the provisional record of that technical meeting.

Possible range: 0.000 would mean no statements were made; 1.000 would mean that every paragraph of the provisional record contained a reference to an EU statement (e.g. highest figure 0.292 means that nearly one in three paragraphs contained an EU common statement).

Table 4.3: EU Member State Representation in ILC technical committees listed by relevance to Article 137 of the Treaty of the European Community, 1973-2005

Issue Area	Article 137 §	Council Voting	ILO instrument	Year	Representation	Participation Level
Health and safety	(a)	QMV	C138: Minimum Age	1973	Presidency	0.025
			C148: Environment	1977	Presidency	0.038
			C155: OSH	1981	Presidency	0.186
			C161: Health Service	1985	Pres+Comm	0.197
			C162: Asbestos	1986	Pres+Comm	0.097
			C164: Seafarers Health	1986	Presidency	0.147
			C167: Construction	1988	Pres+Comm	0.198
			C170: Chemicals	1990	Pres+Comm	0.173
			C174: Industrial Accid.	1993	Pres+Comm	0.142
			C176: Mining	1995	Presidency	0.132
			C182: Child Labour	1999	Presidency	0.005
			C184: Agriculture	2001	Presidency	0.169
			R194: Occ Disease	2002	Presidency	0.075
			Gen: OSH	2003	Presidency	0.036
			C186: Occ. Health	2005	Presidency	0.173
Working conditions	(b)	QMV	R153: Seafarer protect	1976	Presidency	0.015
			C145: Seafarer employ	1976	Presidency	0.024
			C146: Seafarer Leave	1976	Presidency	0.053
			C147: Merchant Ship	1976	Presidency	0.072
			C153: Road transport	1979	Presidency	0.081
			C166: Sea' Repatriation	1986	Presidency	0.034
			C171: Night Work	1990	Presidency	0.096
			C172: Hotels & Rest.	1991	Presidency	0.178
			C175: Part-time work	1994	Presidency	0.038
			C177: Home Work	1996	Presidency	0.002
			— Contract Labour	1998	Presidency	0.108
			Gen: Employ relation	2003	Presidency	0.042
			— Fishing Sector	2005	Presidency	0.003
Social Security	(c)	Una.	C183: Maternity Law	2000	Presidency	0.008
Employ' Termination	d)	Una.	C158: Employ Term'	1982	Presidency	0.007
3 rd State Nationals	(g)	Una.	C143: Migrant Work	1975	Presidency	0.019
			Gen: Migrant Worker	2004	Presidency	0.034
Excluded persons	(h)	QMV	C159: Disabled Per	1983	Presidency	0.013
			Gen: Youth Employ'	1986	Presidency	0.115
			Gen: Youth Employ'	2005	Presidency	0.047
Equality	(i)	QMV	Gen: Equal Opportunity	1975	Commission	0.008
			Gen: Equal Opportunity	1985	Commission	0.011
Social Exclusion	(j)	QMV	R162: Older Workers	1980	Presidency	0.129
Social protection modernisation	(k)	QMV	C156: Family Respon.	1981	Presidency	0.010
			R169: Employ' Policy	1984	Presidency	0.070
			C165: Sea' Soc Secure	1986	Presidency	0.041
			C168: Employ' Prom	1988	Presidency	0.152
			C173: Insolvency	1992	Presidency	0.072
Non-classified in Article 137	—	—	C160: Labour Statistics	1985	Presidency	0.101
			C181: Private agencies	1997	Presidency	0.064
			R189: Job Creation	1998	Presidency	0.051
			R193: Coop promotion	2002	Presidency	0.002
			C185 Seafarer Identity	2003	Pres+Comm	0.003
			R195 Human resources	2004	Presidency	0.001

Notes:

Article 137 § e (information and consultation) and f (representation and collective defence) did not apply to any of the instruments considered.

Gen: General Discussion

Contract Labour and *Fishing Sector* did not result in instruments being concluded. The former was aborted after the divisions between tripartite members were too great, while the latter failed to be adopted by the plenary.

Chapter 5

EU MEMBER STATE VOTING COHESION IN TECHNICAL COORDINATION

This chapter builds on the findings presented in the previous one, which looked at EU Member State representation at the International Labour Conferences (ILC) from 1973 to 2005. In Chapter 1 a two-stage analytical process was described, linking coordination to representation in the first step and representation to voting cohesion in the second step. This chapter presents further empirical data on technical coordination found in Appendix 1, comparing EU Member State voting cohesion with the occurrence of EU Member State representation. The chapter is structured around the following four questions:

- Is there a relationship between EU representation and EU Member State voting cohesion?
- Is EU Member State voting cohesion explained by the general pattern of voting in the ILC?
- Which Member States are likely to disrupt cohesive voting?
- In which issue area(s) is non-cohesive voting more likely to occur?

It should be noted that throughout the analysis of voting cohesion in technical instruments the expectation is that all EU Member States will vote for the adoption of instruments onto the ILO statute in the plenary record vote. This assumption is supported by the data, which in the survey of 102 record votes in the plenary and a total of 1199 votes cast by EU Member States between 1973 and 2005, only 47 were cast as either

abstentions or votes against the adoption of the instrument.⁷⁰ This means that 96.2% of votes cast were for the adoption of an instrument, and this is explained by one observer with experience of negotiating ILO instruments by the unwillingness of governments to jeopardise the adoption of an instrument they have invested considerable time in negotiating.⁷¹ To do so would lead to the criticism that they do not consider the ILO to be a credible institution, and if the ILO fails to perform its mandate the blame falls on governments for their lack of support. Given the very high levels of EU Member State voting cohesion, the occasions when cohesion is broken have additional significance due to their rarity. The relatively small number of cases makes a detailed study of *why* it occurs possible. One final point to note is that the number of record votes in which there is no EU Member State cohesion is less than the number of actual votes against and abstentions (47). This is because sometimes more than one Member State votes against or abstains.

1. EU Member State representation and EU Member State voting cohesion

A working hypothesis of this section is that the EU Member States are more likely to vote cohesively to adopt an instrument if they have been commonly represented by the Presidency or the European Commission during the drafting of the instrument. This is based on the assumption that representation is founded on coordination, and that

⁷⁰ This is calculated as follows:

1973-1980: 33 record votes and 9 Member States: 297 votes cast.

1981-1985: 17 record votes and 10 Member States: 170 votes cast.

1986-1994: 26 record votes and 12 Member States: 312 votes cast.

1995-2003: 23 record votes and 15 Member States: 345 votes cast.

2004-2005: 3 record votes and 25 Member States: 75 votes cast.

Total: 1199; see Tables 5.3 and 5.4 for Member State voting records

⁷¹ Interview, London 5 July 2004. This point was made in specifically about the 1998 *Declaration on Fundamental Rights at Work*.

coordination facilitates both common EU interests and an EU identity. Speaking together and voting together appear logically consistent, and this can be explained by all the theories considered. Neofunctional theory predicts common interests, which form the foundations of common representation and will be promoted through voting cohesion. While intergovernmental theory is sceptical about the successfulness of coordination, in low salience issues where representation takes place (national interests permitting), common voting is possible. The important difference between the two is that EU membership has not changed national interests. Liberal intergovernmental theory concurs, because exercising vetoes (such as voting against the adoption of an instrument) is used by Member States as a bargaining tool, but in the case here would only damage their credibility as a negotiator. While consociational theory emphasises the need for a clear distinction between the Member States and the Community, the Member States retain an interest in ensuring that the Community functions well as a political entity and we would expect cohesive voting after representation. Institutional approaches concur, working on the basis of assuming that once Europeanization has taken place, i.e. after a policy misfit and adaptation between the national and EU-level policies has happened, common interests will be agreed. Thus representation and voting cohesion are in support of those interests.

Table 5.1 shows the aggregated data gathered from the 102 record votes on the adoption of an instrument onto the ILO statute listed in Appendix 1. The results of the votes are sorted by two separate criteria. The first is whether the EU Member States were represented during the drafting of the instrument (noted in bold type in Appendix 1) and this is the independent (or explanatory) variable. The second is whether the EU Member States voted cohesively, or whether either one or more Member State abstained or voted

against an instrument, and this is the dependent (or response) variable.⁷² If the hypothesis set out above is correct, we would expect to find high levels of voting cohesion after common representation.

The data found in the first and second rows of the table supports this hypothesis. The level of voting cohesion after common EU representation is 74.6%; while in record votes in which there has been no common representation the frequency drops to 61.3%. Further supporting evidence is found in the data on abstention and votes cast against the adoption of an instrument. Abstentions rise from 21.1% to 29% in the absence of common representation, and the example of votes against appears even more conclusive, rising from 4.2% to 9.7% in the absence of common representation. Thus on first appraisal the data seems to support the hypothesis by demonstrating the trends predicted.

However, it is also important to determine how significant the data is, in terms of whether the magnitude of trend is convincing enough to remain confident that there is a genuine association between representation and cohesive voting. Using statistical analysis to test the level of association between the two variables, we find that we cannot confidently rule out the possibility that there is no association between representation and voting cohesion (i.e. we cannot reject the null hypothesis).⁷³ We do not need to rely on statistical calculations alone to see this, since the bottom row of figures aggregating all record votes together clearly points to the same story. In this row all the data is grouped together regardless of whether common EU representation took place. By doing this, but

⁷² During some record votes one or more abstention and one or more vote against were cast in the same ballot. In such cases the vote is recorded once in the 'against' category (to avoid double-counting).

⁷³ This was done by using a chi-square test for significance. The chi-square value of 2.264 at 2 degrees of freedom places the value close to 0.30 (2.408) along a normal distribution curve. Under normal circumstances the null hypothesis is only rejected when the chi-square value falls at 0.05 or less on the distribution curve, which corresponds to higher than 95% certainty. See Appendix 5 for full calculations.

still sorting the group data into the three categories of cohesive voting, abstentions and votes against, we are able to see what happens when the explanatory variable is ignored. If after doing this we do not see a large change in the results, we know that the explanatory variable does not explain very much. This is exactly what we see when we compare the level of cohesion overall (70.6%) with the level after common representation (74.6%). This jump of only 4% is too small to be sure that the hypothesis that EU representation leads to cohesive voting by the EU Member States is correct.

This finding is surprising and seems to go against the predictions of all of the theories considered. However, it is an aggregation over 32 years and as was shown in the previous chapter, there have been ebbs and flows in the level of representation during the five periods of the survey. Therefore it would not be surprising if aggregating these fluctuations lead to the appearance of no statistical significance between the two. Yet this defence of the theories' predictions remains speculative until a more thorough investigation into the voting cohesion of the EU Member States has been undertaken. The following three sections provide the investigation, after which we will reconsider whether there is a relationship between representation and voting cohesion after all.

2. EU Member State voting cohesion in the ILC

This section answers the question of whether EU Member State voting cohesion can be explained by general voting patterns in the ILC. If this were the case, it would lend weight to the evidence suggesting that there is no association between representation and voting cohesion. Instead it would show that the different voting behaviour of the EU Member States is a reflection of larger divisions across all voting delegates at the ILC. It would also give an alternative explanation for why the EU Member States have been

observed voting in the way that they have. The hypothesis under consideration here is that there is an ideological division in the ILO between economic liberalisation and less market regulation on the one hand, and social democracy and more market regulation on the other hand. The two non-governmental partners in the ILO represent the poles of the ideological spectrum, with employers' federations on the right and workers' trade unions on the left. Governments are situated between the two and may move closer to one or the other over time, according to the preferences of the party in government. Although the ILO strives to reach agreement through consensus whenever possible,⁷⁴ it is not always possible and the vote to adopt an instrument is an opportunity to voice protest against its content. The division in the vote to adopt an instrument is a measure of the level of consensus between the tripartite constituents, with unanimity showing complete consensus.

The data tables in this section are drawn up from the record votes listed in Appendix 1. The data is divided into the five periods described in Chapter 3 (1973-1980, 1981-1986, 1987-1992, 1993-1997, 1998-2005) and all votes are considered regardless of whether EU representation took place or not. For each record vote the number of votes cast 'For' was calculated as a percentage of the total number of ballots ('for', 'against' and 'abstain'), and were divided into ranges of 5 per-cent (e.g. 95.1% to 100%). This gives a measure of consensus within the entire delegate body of the conference in relation to an instrument, ranging from 100% to the lowest level of 66.1% (which was the 2005 convention on the fishing sector that failed to be adopted). Secondly, each record vote was classified by either EU Member State voting cohesion or no EU Member State voting

⁷⁴ Interview, London, 5 July 2004.

cohesion. Data was sorted by both cohesion/no cohesion and by level of plenary voting cohesion on the 5% scale. Tables 5.2a to 5.2e show the results for each period.

Before looking at the data in detail, the template of the tables lends itself to a simple form of analysis of the behaviour of the EU Member States within the ILC. On the left of the table is a vertical scale measuring plenary consensus, approximating to the y-axis on a graph. Horizontally across the table is cohesion on the left and non-cohesion on the right, approximating to an x-axis. Considering these two factors on a 2x2 matrix we can construct a quadrant diagram, as shown in Diagram 5.1. In the top left hand corner, EU Member State voting cohesion and plenary consensus coincide. To the right plenary consensus is maintained but the EU Member States do not vote together. In the bottom left corner the EU Member States vote cohesively in record votes that show low levels of consensus between ILC delegates (split over ideological issues) and in the bottom right hand corner, low levels of consensus in the Plenary and EU Member States vote non-cohesively. Most importantly in terms of explaining EU Member State voting behaviour are two lines drawn through the centre of the diagram, one from top-left to bottom-right (Line A), and the other bottom-left to top-right (Line B). If EU Member States' voting is influenced by the ideological division across the ILO, we would expect to see cohesion when there is consensus in the plenary, and no cohesion when there is little consensus in the plenary. This would be reflected by a clustering of data along Line A, in the top-left and bottom-right corners.⁷⁵ However, if the data falls along Line B, then the EU Member States are not being influenced by the overall consensus in the plenary. These two lines are powerful tools to detect the influence of the plenary on the Member States' voting.

⁷⁵ In the tables the division between 'top' and 'bottom' quadrants is 85%, meaning the 85.1 to 100% counts above the line, and 85% and less below.

Looking at the first period (1973-1980) in Table 5.2a, we see that of the 33 record votes during the period, only four resulted in non-cohesive voting by the nine EU Member States. The majority resulted in voting cohesion (29/33 or 87.9%), and of those 29, over half (16) occurred in record votes where over 95% of the plenary delegates votes for the instrument to be adopted. In the range from 90.1 to 95% a further six instances of EU Member State cohesive voting took place, and the remaining seven at various intervals below that. By contrast, of the four record votes without cohesive EU voting, one was in the 75.1 to 80% range, two in the 80.1 to 85% range and only one in the 90.1 to 95% range. There is a clearly identifiable trend of EU Member State cohesive voting in record votes with high levels of overall plenary consensus, and to a lesser extent the cases of non-cohesion fall in votes where the plenary is more divided. There is an approximate fit with Line A and although there are relatively few cases on non-cohesive voting and they are scattered closer to the bottom right corner than the top right corner.

The second period (1981-1986) illustrated in Table 5.2b is slightly different. In this period there is a higher level of consensus within the entire plenary as seen by 17 out of 25 record votes exhibiting 95.1% or more of all ILC delegates voting for the adoption of instruments. No votes were lower than the 75.1 to 80% range, which means that this period was the most harmonious in terms of tripartite consensus out of the five. Within this environment EU Member States voting cohesion was recorded at 20/25 or 80%, marginally lower than the 87.9% recorded in the previous period. Given the very high level of plenary consensus, it is not surprising that some instances of EU Member States voting non-cohesively in record votes occurred the range of 95.1 to 100% range (three times). Using the quadrant model to understand the distribution of the data, the top-left and top-right quadrants are both important which means that a simple pattern of influence from by the ILC plenary consensus does not explain everything.

Table 5.2c presents the data gathered between 1987 and 1992 (Period 3) and shows evidence of a continuing trend over time. Voting cohesion between the EU Member States fell again, to 8 votes out of 14 (57.1%). However, this occurred at a time when the level of consensus in the ILC plenary was much lower than previous, with only 36% of instruments passing with more than 95.1% of the record vote (compared to 47% in Period 1 and 68% in Period 2). Furthermore, 28.6% of the instruments were passed with less than 75% of the delegates supporting them, compared with 6% in Period 1, and in Period 2 no instruments passed with such a low level of support. In terms of appraisal through the quadrant model, while there are six out of eight examples of cohesive voting towards the top-left corner (plenary consensus), there are two in bottom-left quadrant, while on the other side the majority of non-cohesive EU votes also fall in the top half of the table, albeit clustered around the 85.1 to 90% range. Adhering to the specified boundary between the top and bottom of the table as the 85.1% and above ranges, the EU Member State voting pattern appears to be symmetrical, with roughly equal occurrences on cohesive and non-cohesive voting regardless of ILC plenary consensus. This shows that EU Member States voted independently from the plenary consensus.

Table 5.2d shows the most dramatic shift in the pattern of EU Member State voting in any of the five periods. Between 1993 and 1997 the EU Member States voted far more frequently apart, achieving only 4 cohesive votes out of 17 record votes (24%). The reason why they were very frequently divided can partly be explained by the fact that during this period plenary consensus was not as high as at other time, with only one instrument being adopted with more than 95.1% of the vote. However, eight were recorded in the 90.1 to 95% range and another four in the 85.1 to 90% range.⁷⁶ The

⁷⁶ If one looks at the number of instruments passed by more than 85.1% of the record vote every period except the fifth is similar. The respective percentages are (Period 1 to Period 5) 72, 80, 73, 76 and 62.

quadrant model has a heavy bias in the direction of the top-right corner with nine split votes, although the corresponding quadrant in the bottom-left (EU cohesion and no plenary consensus) is empty. To the extent that any example corresponds accurately with a model (Line B), of the five periods surveyed here Period 4 is the nearest to demonstrating that ILC plenary consensus did not influence the voting behaviour of the Member States.

Finally, looking at Table 5.2e we see a return to a clearly established pattern of high levels of EU Member State voting cohesion. With 11 out of 13 cohesive votes (84.6%) the final period of 1998-2005 demonstrates nearly as much cohesion as between 1973-1980. The concentration of data in the top-left corner, along with the two instances of non-cohesion in votes with low levels of plenary consensus corresponds to the quadrant model (Line A), which suggests the Member States' voting pattern reflects the broad ideological trends in the plenary as a whole. However, that is not the whole story for this period, because there is also a high frequency of low levels of consensus in the plenary (3 record votes passed with less than 70.1% of the vote). This makes Period 5 the period of greatest ideological polarity and the record of successful EU voting cohesion should be considered in that light.

The purpose of this section was to ask if the general pattern of voting in the ILC could explain voting cohesion of EU Member States, given the evidence presented in Section 1 that an alternative explanation to the association between representation and cohesion was needed. In order to do this, a methodology was devised to compare the level of consensus in the ILC plenary with the instances of EU Member State voting cohesion. In order to make the analysis simple, a quadrant model was proposed with two lines of inference, one proposing that EU voting reflected ILC voting (Line A), and the other that it did not (Line B). When tables broadly conformed to Line A, (as they did in Period 1, 2

and 5) we are able to say that EU voting cohesion occurred during period of consensus in the ILC plenary.

However, Line B shows that the EU voting cohesion was *not* influenced by plenary consensus, and this opens two alternative lines of explanation. The first is in the bottom-left quadrant: the EU voted cohesively despite the plenary being divided, so logic of integration did influence EU Member States behaviour. Alternatively, in the top-right corner the EU Member States are divided *despite* consensus among the ILC plenary members. This means that although there is ideological agreement about the acceptability of the instrument, particular Member States still objected to it. In Period 3 there was an approximate symmetry between cohesion and non-cohesion, which suggests that EU voting cohesion took place regardless of what was happening in the ILC, and therefore other variables influences EU voting behaviour that were independent to the ILC plenary. In Period 4 the failure to vote cohesively cannot be easily attributed to ideologically contentious instruments that fragmented consensus in the ILC plenary as a whole. In this case national interests would be a good place to start the investigation.

3. EU Member States and voting deviation

Which Member States disrupt EU cohesive voting by abstaining or voting against the adoption of technical instrument, and why do they do it? The answer provided by intergovernmental theory is because national interests are more important than European cohesion. When there is EU Member State voting cohesion it is because the common EU interest is aligned to national interests, and when they are not aligned Member State voting behaviour follows the path that serves its own interests. According to liberal intergovernmental theory the pursuit of national interests is calculated over the long term,

and Member States are more willing to accept sub-optimal collective agreements in return for better agreements in the future. In the same way, small Member States are more reluctant to challenge collective agreements because they consider the future costs of such action on their credibility during negotiations. However, the three most powerful Member States (France, Germany and the UK) still seek to maximise their national interests, especially in situations when they are marginalised by the European common position. By contrast neofunctional theory predicts closer EU integration over time and as a part of that we would expect to see growing voting cohesion over time too. A consociational approach to the study of European integration seen as a symbiotic relationship between the supranational Community and the intergovernmental Member States looks for tension between the two, and would be reflected by fluctuations in the level of cohesion over time. Finally, the institutional approach looks at the degree of misfit between national and EU-level policies. Deviating voting can be explained as a way of uploading national policies into the ILO that have not gained acceptance at the EU-level.

In order to see which of the theories provides the best explanatory framework for the empirical evidence, Table 5.3 shows the occasions on which Member States have either abstained from voting or voted against an instrument over the course of the survey. Dividing lines have been inserted to show the five periods of the survey. Table 5.4 lists the number of occurrences by Member State aggregated over the survey period. (It should be noted that states absent from the list have never abstained or voted against the adoption of an instrument in the period from 1973 to 2005). The data is drawn from Appendix 1 and instruments in bold type correspond to EU representation during their drafting.

There are a number of interesting points to note from the data presented in Tables 5.3 and 5.4, including which states have broken the cohesion of the EU by their voting

action, what sort of votes have been cast and how often. The United Kingdom has abstained from voting 18 times and voted against an instrument six times during the survey, and accounts for just over half of all 'deviations' away from a cohesive position (24/47).⁷⁷ France has abstained seven times, followed by Portugal with five abstentions, the Netherlands with four, Germany with two abstentions and a vote against, and Luxembourg and Denmark both with two abstentions.⁷⁸ The method of deviation is also noteworthy. The most frequent voting deviation was an abstention, practiced over the entire period of the survey by all of the states listed. Far less frequent was the recourse to vote against the adoption of an instrument, which only happened on seven occasions, all between 1994 and 1996. Six of the seven were votes cast by the UK, while the seventh was cast by Germany, an otherwise compliant Member State unused to deviating.

From this we can see that the UK most frequently pursues its national interests and deviates from common position of the other EU Member States. France, albeit far less often, also pursues its national interests at the cost of EU cohesion. Germany does not appear to conform to this trend, having only deviated three times during the course of the survey, less than either the Netherlands or Portugal. However, it is the only Member State aside from the UK to have voted against an instrument. A vote against an instrument is a stronger political statement than an abstention,⁷⁹ although in the ILO voting system an

⁷⁷ 'Deviation' and to 'deviate' are used in this section as shorthand for either abstaining or voting against an instrument and refer to the actions that lead to non-cohesive voting between EU Member States. The term is borrowed from Lindemann. (Lindemann, 1982: 126) They are used equally for instruments where there has and has not been EU representation. While one might question how a state can 'deviate' when no coordination has taken place (or more specifically in the case of this thesis' argument, when no *concrete proof* of coordination can be found). In these cases the record of EU Member State voting of 96.2% for the adoption of all instruments can be taken as evidence that it is not hard to predict the behaviour of the majority of EU states and their voting.

⁷⁸ It should be pointed out that the 1975 Migrant Workers instruments (C143 and R151) were responsible for nine abstentions, (nearly one-quarter of all recorded during the survey) and constitute Denmark's only deviance, one-half of the Netherlands' and two-thirds of Germany's deviations.

⁷⁹ Interviews: London, 21 September 2004; Athens, 30 September 2004; Copenhagen, 3 March 2005; Brussels, 18 November 2005.

abstention is potentially a more damaging action given the quorum rule, as witnessed in the failure to adopt the 2005 convention on the fishing sector.⁸⁰ Taken together these considerations point to the primacy of the large Member States acting in pursuit of national interests while the smaller states are less willing to do so. Indeed, out of the thirty cases of non-cohesive voting, on only three occasions was one of the three large Member States *not* part of the group deviating (1990 Protocol on Night Work: Portugal, and 1997 Private Employment Agencies: (C181/R188) Luxembourg). This evidence points in the direction of liberal intergovernmental theory rather than intergovernmental theory because small states are less willing to deviate in comparison to the large three. Pursuing national interests does not preoccupy all Member States to the same extent.

Looking at the data in Table 5.3 there is no clear correlation between EU representation and voting deviation. Of the 30 cases, 18 were after common representation and 12 were after no EU representation. On balance, it would appear that voting deviation is slightly more likely after common representation than without. However, as shown in Section 1, there is no statistical significance between the two variables when aggregated over the length of the survey. Let us turn instead to look in detail at the five periods into which the survey has been divided, and see if explanations can be found for voting behaviour during each one.

⁸⁰ The voting system in the ILO operates as follows. A record vote is passed when a simple majority of votes are cast in favour, provided that a quorum of two-thirds of delegates registered to vote at conference is reached. To block a vote, either a majority of votes must be cast against the item, or a minority of one-third of votes must be cast as abstentions. This means that an abstention is very frequently used in a tactical manner against the adoption of an instrument or a resolution, rather than as signalling a neutral stance on an issue.

i. Period 1

In the first period (1973-1980) there were five instances of voting deviation over four instruments out of a total of 33 record votes (12.1%), spaced at regular intervals (1973, 1975, 1977 and 1980). In each case the UK abstained from voting, and in the 1975 Migrant Workers instrument five of the nine Member States abstained in record vote to adopt the convention, and four did likewise for the recommendation. This was the largest mass-deviation from the expected position of voting 'for' adoption, and given that five Member States out of a Community of nine abstained, the abstention constitutes the majority position. EU representation only took place in the second year, and only three interventions were made by the Presidency, to express the incompatibility of Community law with the instrument. In this respect, the voting deviation of the five Member States was not based on national interests but on Community interests, and supports neofunctional predictions about Community interests superseding national ones. The counterpoint to this is the even level of UK abstentions throughout the period, contradicting the prediction of an ever-closer union developing over time.

ii. Period 2

In the second period, from 1981 to 1986 there were five deviating votes, but these came during a period of 25 record votes, meaning 20% non-cohesion. During this period there were more Member States in the EU, with the accession of Greece in 1981 bringing the total to 10, and in 1986 Spain and Portugal joined, totalling 12. Intergovernmental theory predicts that voting cohesion decreases as the number of states increases, and this appears to be validated by the increase in non-cohesion from 12.1% between 1973 and 1980 (Table 5.2a) to 20% (Table 5.2b). However, on closer examination the five cases of deviance were recorded by the UK (four) and by France (one), both of which are large

Member States. We note from this that although the EU enlarged, the Member States that continued to vote independently from the majority of Member States were large states. This lends more weight to liberal intergovernmental explanations that places more emphasis on the relative power of EU Member States, and the higher likelihood of these states acting alone rather than small and medium sized states.

iii. Period 3

During Period 3 (1987-1992) there was a constant number of (12) Member States, and the number of instruments where there was non-coherent voting increased to six out of 14 record votes, or 42.9%. The third period has a number of other important differences to the second period. Firstly, the 1991 instruments on working conditions in hotels and restaurants (C172/R179) was the first time since the 1977 convention concerning nursing personnel that one of the large Member States (the UK) was joined by a smaller Member State in voting deviation (the Netherlands and Portugal). In the intervening 14 years the France and the UK were the only Member States to abstain in the vote to adopt a convention or recommendation. This was the first instrument since the 1975 convention concerning migrant workers (C143) that small Member States deviated in voting *after* common EU representation, and in 1975 it was because of an incompatibility between the instrument and Community law. As significant was the 1990 abstention by Portugal on the protocol on Night Work for Women. This was the first deviating vote cast by a small Member State independently from a large Member State also casting a deviating vote. In terms of implications for the different theoretical schools, this period appears to reflect stronger intergovernmental trends, with less cohesion and smaller EU states willing to vote according to their national interests at the expense of cohesion. The trend of ever-decreasing cohesion over time is the opposite of the predictions of a neofunctional model.

iv. Period 4

Period 4 (1993-1997) has the lowest level of cohesion during the survey. 13 out of 17 record votes contained deviating voting by one or more Member State, or 76.4% of the time. Not only did the level of cohesion decrease, but the scale of the deviation increased, seen in the seven cases of voting against the adoption of an instrument. This behaviour was not observed in any other period, and as noted above was limited to the large EU Member States, (UK six times, Germany once). Of the 20 actual instances of voting deviation (some instruments contained more than one deviating vote) five were from small EU Member States. Portugal abstained three times with either the UK (twice) or France (once) accompanying them in voting deviation, but Luxembourg alone abstained during the voting for the adoption of the convention and recommendation concerning private employment agencies (C181/R188). This was the only other example apart from the 1990 Protocol where a small state alone deviated from the expected behaviour.

Singling out exceptional behaviour by the UK proves difficult given its very high level of deviation over the entire survey. However, the period from 1994-1996 is particularly noteworthy with four abstentions and six votes against. In 1994 the UK voted against the adoption of an instrument for the first time, the convention concerning part-time work (C175), while Portugal and France both abstained, and abstained during the record vote to adopt the accompanying recommendation (R182). In 1996 the UK voted against the adoption of both the convention and recommendation concerning home-work (C177/R184), with Germany also voting against the convention. In November 1996 there was an addition maritime conference at which the UK continued to vote against and abstain during the adoption of instruments. This behaviour is significant for two reasons. The first is that the level of consensus in the maritime plenary is very high, averaging across

all votes 88.2% in 1976, 98.3% in 1986, and 92.6% in 1996.⁸¹ For one Member State to deviate so strongly from the conference consensus is highly unusual. Secondly, the voting behaviour of the UK cannot be explained through the protection of a set of core national interests. In all six record votes at the maritime conferences the UK employers' and workers' representatives voted in favour of the instruments, suggesting that there was no reason why these maritime instruments were against UK national interests. Furthermore, two of the three conventions (C178 concerning labour inspection and C180 concerning hours of work) were ratified by the UK government in 2003 and 2001 respectively. It would therefore appear that the UK government's voting behaviour was motivated by interests that were not directly concerned with the content of the instruments. This finding will be explored in more depth in Chapter 6, but its significance is that EU voting cohesion in the fourth period of the survey was affected by a UK government policy that was not directly related to the content of the instruments under discussion.

v. Period 5

Period 5 (1998-2005) appears to be a return to normality in terms of voting cohesion and EU Member State behaviour. Of the 13 record votes during this time, there were only two deviating votes (both abstentions by the UK), meaning that non-cohesive voting took place on 15.4% of the time. This is back down to roughly during Period 1, a fact that is all the more significant because the EU grew from nine to 25 Member States during the survey. The size of the EU does not appear to have direct significance on the voting cohesion of the Member States. Although the highest level of non-cohesion was measured between 1993 and 1997, during which the EU enlarged from 12 to 15 members,

⁸¹ Consensus is measured in the same way as is used in Section 2, calculated as the vote 'For' as a percentage of all votes cast. The average for each year is calculated from all votes held during the maritime conferences, data from Appendix 1.

the 15 members from 1998 to 2003, and the 25 members in 2004 and 2005 voted more cohesively than previously. This evidence suggests that contrary to intergovernmental theory, the size of the EU does not adversely affect the level of cohesion. Indeed, of the 16 Member States that have joined the nine members between 1973 and 1980, only one (Portugal) has deviated from the normalcy of voting for the adoption of instruments.

This section asked which Member States disrupt EU cohesive voting by abstaining or voting against the adoption of technical instrument, and why do they do it? The answers that are provided by looking in detail at the data on abstentions and votes against in Table 5.4, and show that the UK most frequently votes contrary to the normal pattern of behaviour of EU Member States, which is to affirm the adoption of technical instruments. France, to a lesser extent behaves in the same way, as did Germany, Portugal, the Netherlands, Luxembourg and Denmark. This goes some way to substantiating liberal intergovernmental predictions about the behaviour of large Member States, while refuting intergovernmental predictions that *all* EU Member States are equally disposed to protection their national interests. Furthermore, enlargement of the EU did not correlate to increased levels of non-cohesion, and new Member States with the exception of Portugal have not deviated from the path of normalcy.

In terms of change over time, the five periods chart a rise from 1973 to 1997 in the level of non-cohesion, followed by a drastic fall after 1998. In Section 2 ideological divisions between the tripartite constituents were identified, and governments were located between the poles of regulation favouring trade unions and limited regulation favouring employers. Deviating voting based on ideological grounds by the EU Member States occurs when a Member State does not favour regulation (since all votes measured as deviating are deviations away from passing instruments to increase regulation), and the

traditionally more open market, liberal economic orientation of the UK points to probable motivation. The credibility of this motivational factor will be judged over the coming chapters, and one important consideration is whether the policy areas in which the UK (or any other EU Member State) decided to deviate in is a matter of national or Community competency. If it is the former, then the national interests can continue to be defended by a government through refusal to ratify an instrument. If it is the latter, the national interest at stake may be subject to qualified majority voting in the Council, and thus 'indefensible' there. In the language of institutional theory, there is forced downloading of EU-level policies that misfit with preferred national policies. In such cases, are deviating votes in the plenary protests against the Community's *acquis communautaire*?

Finally, the detailed case of the 1996 maritime conference raises a third line of inquiry concerning the formation of national interests and voting behaviour. The high number of deviating votes that were evidenced not to be based on ideological aversion to the content of the instrument, (as shown by UK workers' and employers' acceptance) means that voting on technical issues can be influenced by national interests beyond the scope of the instrument. Some of these points cannot be answered within the scope of an empirical analysis of voting records and will be considered in the following chapter. One issue that can be analysed is the relationship between deviating voting and issue areas, and the following section does this.

4. EU Member State voting behaviour and issue areas

This section returns to look at Table 5.3, and compares the EU Member States' abstention and votes against to the type of issue area. In the previous chapter it was shown that more representation takes place in issue areas that relate to parts of the social and

employment law of the European Community that are decided by qualified majority voting than unanimity. Given this, we now ask in which issue area(s) is non-cohesive voting more likely to occur?⁸²

Starting at the top, the first case of abstaining in the vote to adopt the convention concerning the minimum age of employment (C138) by the UK was the only time a TEC Article 137 paragraph (a) issue, occupational health and safety, was the subject of a voting deviation. In the previous chapter it was shown that the majority of EU representation takes place in the area of ‘working environment to protect workers’ safety and health’, and that it constitutes a large part of the ILC agenda. The single occurrence of deviating voting in this area in 1973, and never subsequently substantiates the neofunctional assumption that integration will build stronger cohesion among the Member States. Moving onto the issue (b) area of ‘working conditions’, we see that nine of the 19 instrument areas are in this field.⁸³ They span from 1977 to 1996, so unlike the demise of non-cohesion shown in the field of occupational health and safety, the same is not observed here. The only other issue area that is decided by QMV under Article 137 of the TEC to have caused non-cohesive voting is (k), ‘the modernisation of social protection systems’. Two instruments fall under this category, the employment policy recommendation of 1984 (R169), and the convention concerning seafarers’ social security (C165). The former drew an abstention from the UK government while the latter drew an abstention from the French government.

⁸² Six instruments were identified as not pertaining to TEC Article 137 and are therefore excluded from this analysis. They concern: Labour Statistics (C160); Private employment agencies (C181/R188); Job Creation (R189); Promotion of cooperatives (R193); Seafarers’ Identity documents (C185) and Human resources provision (R195).

⁸³ There are 19 issues areas and 30 instances of non-cohesion because sometimes one issue area has had two instruments, i.e. Part time work, C175 and R 182.

Three issue areas detailed in Article 137 that require unanimity of all Member States when decision-making in the Council were covered in the survey. The first, 'social security and the protection of workers' (c) was discussed in 1986 in the instruments concerning seafarers' welfare (C163/R173) and again in 2000 with the instruments concerning maternity protection (C183/R191). On both occasions the UK abstaining from voting during the adoption of the instruments. The same happened in 1981 with the convention concerning collective bargaining, (C154) which relates to the 'representation and collective defence of the interests of workers and employers, including co-determination' (f) when the UK abstained during the adoption of the instrument. The final example relates to Article 137 paragraph (g), which concerns 'conditions of employment for third-country nationals legally residing in Community territory'. The 1975 instruments concerning migrant workers (C143/R151) were seen as being contrary to this instrument and five EU Member States abstaining during the vote to adopt the convention and four in the vote to adopt the recommendation.

Taken together, these form an interesting set of results. Firstly, the relationship between cohesive voting and unanimity in the Council decision-making process appears to be an inverse one. In 1975 there was a coordinated effort to challenge the content of an ILO instrument based on its incompatibility with Community law.⁸⁴ This is the only time such action has ever been taken (e.g. 5/9 of the EU abstaining), while in all subsequent cases where unanimity decision-making issues are discussed in a technical committee they led to a UK abstention. The EU Member States conformed to the predictions of

⁸⁴ The EU Member States wanted the convention to be divided into two parts, which would distinguish between serious violations and social security arrangements. In the preparatory consultation that year, three Member States all requested the convention to be changed. Denmark said that 'further consideration should be given to the question of dealing with the two Parts in two separate conventions.' (ILO, 1975e: 3) The French government 'would have no objection to a single Convention if, in accordance with international practice, followed in particular by the ILO, it could be ratified Part by Part.' (ILO, 1975e: 4) The UK government said that 'Part II of the proposed convention should form a separate instrument from Part I.' (ILO, 1975e: 6) The final convention did not include this provision. (ILO, 1975d: 652-655)

neofunctional theory more during the beginning of the survey than towards the end, which contradicts the normal expectations one would have concerning a gradual increase in voting cohesion over time. This evidence also confirms a consociational explanation of a growing symbiotic balance between the Community and the Member States, which the UK above all has been anxious to maintain the differentiation between the two. Another point to take into consideration is how revisions to the Treaty on the European Community have altered the decision-making procedures in Article 137. Changing the decision-making procedure indicates the salience of the issue to the Member States and how likely they are to acquiesce to putting EU voting cohesion before national interests in record votes.

Why has there been so little voting cohesion between the EU Member States in the area of working conditions (TEC Art. 137 §1b), especially when by comparison there has been so much in the other area of intense activity, occupational health and safety? The level of plenary consensus in the instruments has varied, from around 90% in the case of C171/R178 (Night work), C177/R184 (Home work), C179/R185 (Seafarer recruitment) and C180/R187 (Seafarers' hours of work). At the other end of the scale the C172/R179 (Working conditions in hotels and restaurants) and C175/ R182 (Part-time work) score only around 70% in plenary consensus. Therefore some issues are ideologically heavily divided, while in others there is far greater consensus. With no clear pattern it is as yet not possible to find an explanatory link between issue area and voting. As the previous section also concluded, causal variables outside the specific nature of the technical instrument are likely to be influential in some decisions concerning national interests. When these variables come into effect, analysing the data alone is insufficient.

5. Summary

This chapter began by refuting the hypothesis that increasing common representation lead to more cohesive voting between the EU Member States. This result was based on aggregated data from the whole of the survey (1973-2005) and could be challenged on the grounds of that the definition of EU representation is imprecise because it is difficult to measure. The definition is set out in Chapter 1, but this result did also not take into account degrees of representation. However, based on the data gathered under the methodological framework set out, no statistical significance between the two variables was found. This finding challenged all of the tested theories in one way or another.

The chapter moved on by looking at three other possible causal variables; the general level of consensus in the ILC plenary, patterns of behaviour by individual Member States and issue areas. The purpose of looking at these variables was to see what caused the national interests to come to the fore. The decision on whether a given technical instrument would support or threaten national interests was framed in terms of the ideological landscape of the ILO, between advocates of more social regulation and advocates of more market liberalism. The normalcy of the EU Member States in record votes is to vote for the adoption of an instrument and places the ideology of the EU in the social regulation camp, as would be expected from the nature of the Community's integration process. It was argued that one reason why deviating voting occurs is because those states wish to protest against the ideological position of the EU, or wish to re-assert their national position as free-market supporters. Whether or not this is successful depends on the division of competencies between the Member States and the Community and the decision-making processes, as to whether the Member State can effectively enact the policies they wish to promote.

Another issue to consider is whether the decision to abstain or vote against an instrument is determined by the ideological position of an EU Member State vis-à-vis the content of the instrument, or whether attitudes to the ILO in general affect voting behaviour. This has two important consequences for the thesis. The first is that it means that the factors determining EU Member State voting behaviour lie outside the issue area of a particular technical issue, and any associations and trends detected between voting and instrument may not be the sole explanatory variables. The second is more fundamental because it challenges one of the core assumptions of the thesis. The division between technical and political issue areas has been recognised in the archives and in interviews, and also in the division between Community and EPC/CFSP decision-making processes. If, as seems plausible in the case of the UK in 1996, a Member State has used its votes on technical issues as a statement on their views to the organisation as a whole, it means that technical issues are sometimes politicised. This means that EU voting cohesion in technical areas is a hostage to fortune of the political whims of the Member States' and has less to do with the level of representation and by extension, coordination. This would explain the results gathered in Section 1 concerning the lack of a statistically significant association between representation and cohesive voting, because on random occasions non-cohesion takes place when a Member State uses the record vote to register their dissatisfaction with the ILO.

Table 5.1: EU Member State voting in the adoption of technical instruments onto the ILO statute: 1973-2005

	All EU Member States vote cohesively	1 or more EU Member State abstains	1 or more EU Member State votes against	Total:
EU Member States' represented during drafting	53 (74.6%)	15 (21.1%)	3 (4.2%)	71 (100%)
EU Member States' not represented during drafting	19 (61.3%)	9 (29.0%)	3 (9.7%)	31 (100%)
All record votes:	72 (70.6%)	24 (23.6%)	6 (5.9%)	102 (100%)

Table 5.2a: EU Member State voting cohesion in ILC Record Votes (Technical Issues) correlated against the overall level of voting cohesion, measured as vote 'for' as a percentage of all votes: 1973-1980

Level of voting cohesion in the record vote %	Number of record votes with EU Member State voting cohesion	Number of record votes without EU Member State voting cohesion	Total:
95.1 – 100.0	16	0	16
90.1 – 95.0	6	1	7
85.1 – 90.0	1	0	1
80.1 – 85.0	2	2	4
75.1 – 80.0	2	1	3
70.1 – 75.0	1	0	1
65.1 – 70.0	1	0	1
Total:	29	4	33

Table 5.2b: EU Member State voting cohesion in ILC Record Votes (Technical Issues) correlated against the overall level of voting cohesion, measured as vote 'for' as a percentage of all votes: 1981-1986

Level of voting cohesion in the record vote %	Number of record votes with EU Member State voting cohesion	Number of record votes without EU Member State voting cohesion	Total:
95.1 – 100.0	14	3	17
90.1 – 95.0	1	1	2
85.1 – 90.0	1	0	1
80.1 – 85.0	3	0	3
75.1 – 80.0	1	1	2
70.1 – 75.0	0	0	0
65.1 – 70.0	0	0	0
Total:	20	5	25

Table 5.2c: EU Member State voting cohesion in ILC Record Votes (Technical Issues) correlated against the overall level of voting cohesion, measured as vote 'for' as a percentage of all votes: 1987-1992

Level of voting cohesion in the record vote %	Number of record votes with EU Member State voting cohesion	Number of record votes without EU Member State voting cohesion	Total:
95.1 – 100.0	5	0	5
90.1 – 95.0	1	1	2
85.1 – 90.0	0	3	3
80.1 – 85.0	0	0	0
75.1 – 80.0	0	0	0
70.1 – 75.0	2	1	3
65.1 – 70.0	0	1	1
Total:	8	6	14

Table 5.2d: EU Member State voting cohesion in ILC Record Votes (Technical Issues) correlated against the overall level of voting cohesion, measured as vote 'for' as a percentage of all votes: 1993-1997

Level of voting cohesion in the record vote %	Number of record votes with EU Member State voting cohesion	Number of record votes without EU Member State voting cohesion	Total:
95.1 – 100.0	0	1	1
90.1 – 95.0	3	5	8
85.1 – 90.0	1	3	4
80.1 – 85.0	0	1	1
75.1 – 80.0	0	1	1
70.1 – 75.0	0	1	1
65.1 – 70.0	0	1	1
Total:	4	13	17

Table 5.2e: EU Member State voting cohesion in ILC Record Votes (Technical Issues) correlated against the overall level of voting cohesion, measured as vote 'for' as a percentage of all votes: 1998-2005

Level of voting cohesion in the record vote %	Number of record votes with EU Member State voting cohesion	Number of record votes without EU Member State voting cohesion	Total:
95.1 – 100.0	6	0	6
90.1 – 95.0	2	0	2
85.1 – 90.0	0	0	0
80.1 – 85.0	0	0	0
75.1 – 80.0	1	0	1
70.1 – 75.0	0	1	1
65.1 – 70.0	2	1	3
Total:	11	2	13

Diagram 5.1: Possible outcomes of a 2x2 matrix measuring the level of voting cohesion between ILO tripartite constituents (For vote as % of total) and European Union Member State cohesion

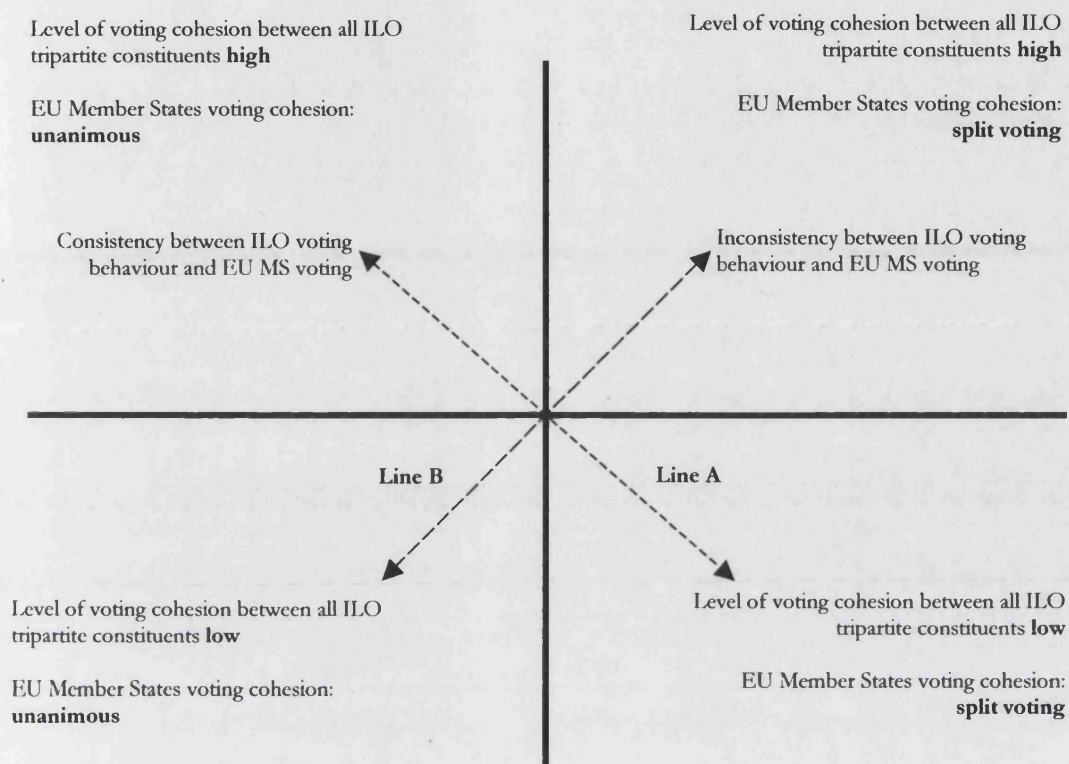


Table 5.3: EU Member States' abstentions and votes against the adoption of technical instruments onto the ILO statute 1973-2005.

Year	Instrument/ TEC Art 137(§)	Denmark	France	Germany	Luxemb'g	NL	Portugal	UK
1973	C138: Minimum Age a							Abst.
1975	C143: Migrant Work g R151: Migrant Work g	Abst. Abst.	Abst.	Abst. Abst.		Abst. Abst.		Abst. Abst.
1977	C149: Nursing Personnel b					Abst.		Abst.
1980	C154: Collective Bargain f							Abst.
1984	R169: Employ Policy k							Abst.
1986	C163: Seafarer Welfare c Maritime R173: Seafarer Welfare c							Abst. Abst.
	C165: Seaf Soc. Sec. k		Abst.					
1989	R169: Indigenous People -		Abst.					
1990	C171: Night Work b R178: Night Work b Pro: Night Work Women b						Abst.	Abst. Abst.
1991	C172: Hotels / Restaurt b R179: Hotels / Restaurt b					Abst.	Abst.	Abst. Abst.
1994	C175: Part-time Work b R182: Part-time Work b		Abst.				Abst. Abst.	Ag'st Abst.
1995	Protocol: Labour Ins. -		Abst.				Abst.	
1996	C177: Home Work b R184: Home Work b			Ag'st				Ag'st Ag'st
1996	C178: Labour Inspect. - Maritime R185: Labour Inspect. - C179: Seafarer Recruit b R186: Seafarer Recruit b C180: Hours of Work b R187: Hours of Work b		Abst. Abst.					Abst. Abst. Ag'st Ag'st Abst. Ag'st
1997	C181: Private Agencies - R188: Private Agencies -				Abst. Abst.			
2000	C183: Maternity Protect c R191: Maternity Protect c							Abst. Abst.

Key:

Abst.: Abstention from voting

Ag'st: Vote against

Only Member States that have either abstained or voted against shown in table. All other Member States have voted for all instruments between 1973 and 2005.

Bold text shows EU representation took place during drafting.

Lines divide table into five periods studied.

TEC Article 137: QMV §1(a,b,e,h,i,j,k) Unanimity: §1(c,d,f,g)

Table 5.4: EU Member State deviant voting (abstentions and votes against) in ILC record votes to adopt technical instruments onto the ILO statute, in relation to whether common EU representation took place during the drafting of the instrument: 1973-2005

	Denmark	France	Germany	Luxem'g	NL	Portugal	UK	Total:
Abstain after EU rep.	2	4	2	2	3	4	11	28
Against after EU rep.	0	0	1	0	0	0	3	4
Sub-total:	2	4	3	2	3	4	14	32
Abstain after no rep.	0	3	0	0	1	1	7	12
Against after no. rep.	0	0	0	0	0	0	3	3
Sub-total:	0	3	0	0	1	1	10	15
Total:	2	7	3	2	4	5	24	47

Note:

Only EU Member States that have ever abstained or voted against an instrument are shown.

TECHNICAL COORDINATION: SYNTHESIS AND DISCUSSION

This chapter concludes the survey of EU Member State coordination, representation and voting cohesion in technical issue areas of the ILO. Chapters 4 and 5 have concentrated on analysing empirical data gathered from ILC Provisional Records on the interventions in the name of the EU Member States and their behaviour in record voting. We will correlate all the information generated on the five periods and use it to consider which of the cross-cutting trends introduced in Chapter 3 are relevant and how the five theories tested in this part of the thesis have fared in relation to the empirical findings. To summarise, the purpose of this chapter is to answer the following three questions:

- How has representation and voting cohesion changed over the last five periods?
- Which crosscutting trends have been most influential?
- Which theories best explain the behaviour of the EU Member States?

1. Representation and voting cohesion over the survey

i. Period 1

The period between 1973 and 1980 had the highest level of voting cohesion of any of the periods of the survey, but also very low levels of common EU representation. The voting cohesion rate of 87.5% is significant too because the first period has the largest number of record votes (33). Increasing the sample size makes establishing a high level of cohesion more difficult as it captures more issues that are potentially controversial.

However, there were only nine Member States during the period, which according to the logic of intergovernmental negotiation one would assume would make voting cohesion easier to reach. In contrast to the significant levels of voting cohesion, the frequency of EU representation was 1.6 committees per conference, which corresponds to 39.0% of the technical meetings held during the period and the lowest recorded. The intensity of EU representation was the lowest recorded at 0.049. Period 1 of the survey points more to an inverse relationship between representation and voting cohesion rather than a direct proportionality as was tested at the beginning of Chapter 5.

What role did the ILC agenda play in shaping EU Member State cohesion during this period? There was a high level of ILC plenary consensus during this period, as shown by the distribution of the data alone 'Line A' in the quadrant model in Diagram 5.1. This, coupled with the frequency of occupational health and safety issues during the time, produced a favourable setting in which the EU Member States could frequently find agreement when adopting instruments. Since it has already been established that there was a low level of common representation during the period but a high level of cohesion, the permissive environment cannot be ignored as a variable influencing the data. Evidence pointing to external (i.e. ILO) factors influencing EU Member State voting cohesion are very important because they locate the causal explanations for EU Member State behaviour outside the EU, and as a result weaken the explanatory power of theories of EU integration such as neofunctionalism.

ii. Period 2

In Period 2 (1981-1986) the level of voting cohesion fell slightly from the first period, from 87.5 to 80% based on a smaller number of record votes (25). Meanwhile, the frequency of EU representation rose dramatically to 2.7 committees per conference (67.5 of all technical meetings), the highest level during the survey. The intensity of representation rose too, albeit less dramatically to 0.075 (from 0.049). The size of the EU grew twice during Period 2, from nine to ten with the accession of Greece in 1981 and then to twelve in 1986, but these enlargements did not lead to a significant fall in the level of voting cohesion. Period 2 is also characterised by the highest level of ILC plenary consensus of any of the five periods under study, with 17 out of the 25 (68%) record votes during that period passed with 95.1% or more of the votes cast in favour of adopting the instrument.

Why did the level of voting cohesion fall in this period, and why by this amount? There are three different ways to answer the question and it is not possible to separate out the explanations into isolated, testable hypotheses. The first is that the level of voting cohesion fell because the two enlargements of the EU made the likelihood of agreement between 10 (and then 12) less than with nine. The second is that the levels of representation and voting cohesion are inversely proportional, although this has yet to be demonstrated. The third is that the higher level of overall consensus in the plenary contributed to a higher level of voting cohesion between the EU Member States that would otherwise have been expected.

iii. Period 3

EU Member State representation during Period 3 (1987-1992) was significantly more intense than in any other period in the survey, recorded as 0.148 (compared to 0.049 and 0.075 in the previous periods and 0.099 and 0.052 in the subsequent ones). The frequency of EU representation was also high, averaging 2.2 committees per conference, but with fewer technical committee meetings held this remained an impressive 66.7% and the second highest level of the entire survey. The period also marked a significant shift in the nature of EU representation, with the first committee meetings in which the Presidency and European Commission both spoke on behalf of the EU Member States. Yet coupled to this flourishing of EU representation was a drastic decrease in the level of voting cohesion, which fell from 80% in the previous period to 57%, or 8 votes out of 14. Once again we find evidence that suggests that representation and voting cohesion are inversely proportional.

Period 3 is also characterised by a lower level of plenary consensus than the previous periods, seen in the fact that 4 of the 14 (29%) record votes during the time were passed with less than 75% of the vote in favour.⁸⁵ The voting cohesion of the EU Member States was judged to have altered in this period, away from the 'Line A' axis of Periods 1 and 2 when cohesion and consensus were approximately aligned, to a pattern of symmetry with a roughly equal number of cohesive and non-cohesive votes distributed evenly across all the levels of consensus in the plenary voting. What does this tell us about the behaviour of the EU Member States during the period? On the one hand the lower level of consensus

⁸⁵ 75% represents one vote in four which is the size of the workers' and the employers' blocs, and reflects a lack of consensus of either bloc. As noted earlier, the two non-government parties sit on the ends of the ideological spectrum of interests in the ILO.

could have contributed to the lower level of voting cohesion. On the other hand, the pattern of voting in the quadrant model suggests that there was less inference from the level of consensus in the plenary as a whole into the voting of the Member States. As is the case in the other periods thus far, trends can be identified but they are only useful for identifying possible lines of inquiry, rather than proving concrete causal linkages.

iv. Period 4

Period 4 from 1993 to 1997 does not follow all the trends identified over the three previous periods. Firstly, the frequency of EU common representation declined in during the period, to a low point of 1.5 committees per conference. Although the number of committees was also in decline, this still resulted in only 46.9% of technical meetings. At the same time the intensity of representation also fell, although it was recorded at 0.099 which was still the second highest of the survey. Voting cohesion fell to 24%, or just 4 record votes out of 17. Meanwhile the level of consensus in the ILC plenary did not reach the levels seen between 1973 and 1986 (Periods 1 and 2) when the number of votes passed by more than 95% of the delegates was around a half of all instruments adopted. Nevertheless 13 of the 17 fell in the range between 85 and 100%, which puts it broadly on par with those earlier periods. This means that the low level of EU Member State voting cohesion cannot be attributed to the ambient consensus in the ILO. The quadrant diagram actually suggests exactly the opposite because the distribution of voting follows the 'Line B' model of autonomy from the ILC plenary consensus.

v. Period 5

The result of Period 5 (1998-2005) closely matches the first period of the survey. Voting cohesion stands at 84.6% (or 11 out of 13 record votes) which is the second highest of the survey. The level of representation intensity was 0.052, marginally higher than the 0.049 of Period 1. However, the level of representation in committees was considerably higher at 64.5% than the figure recorded in Period 1 of 39.0%. The behaviour of the EU Member States appears to be similar to the early period, a particularly interesting finding considering that the membership stood at 15 for six of the conferences, and 25 and the final two. The growth in membership does not seem to have had a significant impact on the level of cohesion measured in a willingness to speak with one voice, although what the single voice says is considerably less than in Periods 2, 3 and 4.

There is an important difference between the first and final period in terms of the level of consensus in the ILC plenary. While in the early years there was a clustering of consensus around the 95.1 to 100% range, in Period 5 there are two clusters, one around the 95.1 to 100% range and the other at the opposite end (65.1 to 70%). This pattern shows that the agenda of the ILCs over Period 5 has been a mixture of ideologically contested and non-contested issues. In the midst of this polarised environment, the EU Member States have remained cohesive in their voting.

The conclusions from this synopsis are that no single theory explains EU Member State behaviour by linking the level of common EU representation to voting cohesion over the entire study. A tentative inverse relationship between representation and cohesion appears to hold for Periods 1, 2, 3 and 5, and can be applied to Period 4 if one considers only the intensity of representation and not frequency. One theoretical explanation for this

is that the process of coordinating an EU common representation creates at the same time a drive by some Member States (usually the UK) to re-assert their national identity by voting autonomously from the rest of the Member States. These two actions that appear to be antagonistic to one another resemble the symbiotic process captured in consociational theory, of the Community and the Member States retaining separate, strong identities. There are two issues that cast doubt over this conclusion. The first is that it has been statistically shown that there is no positive relationship between representation and cohesion over the survey, so there can be no inverse relationship either (because that would have been noted in the data). Secondly, the quadrant model looked for the association between EU Member State voting cohesion and ILC plenary consensus, and demonstrated a positive correlation in Periods 1 and 2 (Line A) and a negative one in Period 4 (Line B). There cannot be a relationship between EU representation and voting cohesion if there is evidence of a correlation between the EU and the ILC plenary too, because that locates the causal explanation outside of the Union. For this reason we will look for more plausible explanations in the crosscutting issue areas identified in Chapter 3.

2. The explanatory power of the crosscutting issues

i. National interests: protecting sovereignty

The crosscutting issues will be discussed in the order in which they appear to be most relevant to the case of EU representation and voting cohesion in the technical committees of the ILC. The first issue is the national interests of the individual Member States. Intergovernmental theory posits the 'logic of diversity' as the antithesis to the 'logic of integration', reminding us that national interests will prevail as the end of the day when issues of sufficient significance are involved. The questions that naturally arise from this

position are as follows; firstly, are the issues handled in the ILO of sufficient significance for the EU Member States to have divergent national interests? Secondly, would Member States still pursue their national interests after coordinating a common representation of the EU in a technical committee? Finally, how does abstaining or voting against an instrument actually protect national interests? Answering these questions will help to establish whether national interests really do provide an explanation into the voting behaviour of the EU Member States.

Beginning with the last question, how does the vote of any government in an ILC plenary adopting an instrument affect its obligations to that instrument? A government that votes to adopt an instrument onto the statute of the organisation does not incur any additional responsibilities as a result of its action. Regardless of how a government votes, all governments are obliged by the Constitution of the ILO to bring the instrument before the relevant national authorities within twelve months of adoption by the ILC. The authorities consider the possibility of ratifying the instrument, and they communicate their decision to the ILO Secretariat. (Article 19 §5) If they decide to ratify the convention, the Secretariat begins the necessary preparations. However,

if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

Once it has been decided that a convention is unsuitable for ratification, an ILO member state has no obligation to ratify a convention in the future, only report occasionally on the

progress (if any) being made. This is an obligation on the government regardless of their vote, so how a state votes in the plenary has no consequences on its domestic law and does not infringe upon its national sovereignty.

ii. National interests: ideological

If the record votes to adopt instruments onto the ILO statute have no direct impact on the future implications of what that state must do, the reasons why states choose to vote the way they do must lie somewhere other than in the defence of national sovereignty. What sort of national interests are they protecting? There are two ways in which a deviating vote can serve a national interest, both of which have been mentioned in the previous chapter. The first is when the voting behaviour is used to signify an ideological position, most commonly contrary to the content of an instrument on the grounds that is a step too far in the direction of market regulation.⁸⁶ The second is when the record vote is used to express dissatisfaction with another issue not directly related to the content of the instrument, and thereby politicising the technical issue. This answers both the first and second questions posed above because the common EU representation is focused around the technical issues of the instrument, while the voting to adopt it can become a separate issue if a Member State wishes to use it as a political platform. Using the record votes in this way does not usually jeopardise the overall outcome of the vote on

⁸⁶ An example of deviant voting because an instrument *did not contain enough regulation* can be seen in the record vote to adopt the convention concerning maternity protection (C183) in 2000. Of the 22 votes cast against the instrument 18 were by the government and workers' representatives of Argentina, and Chile, all four of the Uruguayan delegation (including the employers' representative), and the governments of the Dominican Republic, Guatemala, El Salvador and Nicaragua. The expectations of the group fell short of the final outcome, as illustrated in the following extract from the minutes of the committee meeting negotiating the final text

'The Government members of Argentina, Bolivia, Brazil, Chile, El Salvador, Guatemala, Peru and Venezuela considered that the proposed amendment [to include an optional article on Parental leave] was an excellent initiative. ... However, they did not support the proposed amendment since it sent a signal of modernity which was not consistent with the removal of protection so far agreed.' (ILO, 2000i: §508)

conventions, which with the exception of the convention concerning the fishing sector of 2005, have all been adopted during the survey.

Let us look first at an example of defining national interests along ideological lines. Some issues discussed in the ILO are deemed sufficiently important that opposing them is a genuine matter of national interest. During Period 4 of the survey (1993-1997) the UK voted against two pairs of instruments, one relating to Part-time work (C175/R182) and the other to Home work (C177/R184). The UK government was deeply hostile to the subject of some of the instruments under discussion in 1994 and 1995. A member of the UK delegation noted the following points about the Part-time work instrument negotiations, which were in their second year in 1994 and that the UK voted to reject.

In contrast to most other European countries, the UK Government was generally opposed to the extension of rights for part time workers on the grounds that the proposed convention would contradict its policy of labour flexibility. Whereas some countries had problems with particular articles... the UK alone was vehemently opposed to the whole convention. (The Major Government has no intention of ratifying it despite acceptance by the conference). Privately several countries expressed their dismay at this attitude. (UK-Diplomat, 1994b)

The same attitude was expressed about the Home-work convention in its first discussion in 1995, which the 'UK Government position was one of opposition to the proposed instrument and their delegate fought to weaken the Convention, wherever possible'. (UK-Diplomat, 1995) It should be noted that the UK position was issue specific, because the same delegate noted that with regard to the 1995 Protocol on Convention 81 discussions, the UK was 'in full accord with the terms of the protocol and may actually agree to its ratification'. (UK-Diplomat, 1995)

Objections to particular instruments on the grounds of national interests help to define the ideological orientation of a government. All EU Member States are also

members of another governmental coordination group within the ILO called IMEC (Industrialised Market Economy Countries).⁸⁷ The IMEC group is very similar in membership to the Western Europe and Other Group (WEOG) in the United Nations Organisation, except that IMEC also has Japan as a member too. It was originally known as the 'Geneva group, comprising permanent representatives of major non-communist contributors, [and] was initiated in 1964 to achieve consensus on budget policy within that significant group.'⁸⁸ (Cox and Jacobson, 1974: 124) During the Cold War it represented the capitalist West against the Soviet Bloc and the leadership of the United States was an important factor in defining its character.

IMEC and the EU have different attributes and what some observers perceive as a strength in IMEC others perceive as its weakness, and vice versa for the EU. For example, supporters of IMEC point to its larger membership and collective weight within the ILO, and argue that through this it is better able to pursue certain goals, especially concerning the ILO budget.⁸⁹ However, the size of IMEC means that the number of state interests that must be considered is much larger, and the areas in which agreement can be reached are fewer in number and less specific in detail.⁹⁰ The spectrum of political approaches to labour law in the IMEC group ranges from social democratic models in the Nordic states to free market approaches of Australia, New Zealand, the USA, and to a lesser extent, Japan. On balance, the non-EU part members of IMEC are more staunchly in favour of

⁸⁷ IMEC consisted of the EU 15 (1995-2004) plus USA, Canada, Australia, New Zealand, Switzerland, Norway and Japan. Turkey, Cyprus and Malta frequently coordinate alongside the IMEC states. In November 2004 the Dutch Presidency negotiated the entry of the 10 new Member States into IMEC. Interview, Geneva 22 June 2005.

⁸⁸ Six IMEC members have permanent seats on the ILO Governing Body (US, Japan, Germany, France, Italy and the UK), and control a large proportion of the total ILO budget. The budget is still an area in which the IMEC group coordinates and the EU Member States do not. In 2005, the IMEC group contributed 83% of the annual budget to the ILO. Interviews: London, 21 September 2004; Geneva, 22 June 2005. (ILO, 2005c)

⁸⁹ Interview: London, 21 September 2004

⁹⁰ Interviews: Copenhagen, 3 March 2005; Geneva, 21 & 22 June 2005.

market liberalisation than regulation and offer a competing ideological position to the social regulation of the EU, with the exception of Norway and Switzerland.

A second difference between the EU and IMEC is the ethos behind their coordination meetings. The IMEC group is a forum for an informal exchange of ideas and information between national governments, which debates an issue and find areas of agreement but delegates do not feel under pressure to reconcile divergent opinions into a single IMEC position.⁹¹ In contrast, Geneva based diplomats with first hand experience of both IMEC and EU coordination meetings claimed that the latter are more formal and aim to find common positions.⁹² IMEC is more like an intergovernmental group while the EU is more supranational in its efforts to produce a unitary position on each issue.⁹³ When EU Member States advocate IMEC coordination in preference to EU coordination, they do so either because IMEC is a *stronger* bloc (a 'positive' reason), or because they want *weaker* EU coordination (a 'negative' reason). EU Member States that advocate closer coordination see IMEC as a hindrance and calls to use it as blocking techniques against closer EU coordination.⁹⁴ For this reason support for IMEC coordination is regarded as incompatible with strong EU coordination, because they reflect different principles regarding the autonomy of members and their national interests.

⁹¹ Interview: Geneva, 22 June 2005

⁹² 'Coordination' is used here because the interviewers have first hand experience of the coordination meetings, and there is also empirical evidence of the times and dates of the daily EU Member State coordination at the ILC from 2000 to 2005. From 2004 onwards the EU Member States met daily between 9 and 10 a.m. in the same room as the IMEC group, which met between 10 and 11 a.m. This technique was used to give the EU Member States a physical presence in IMEC and also to reach common positions on some issues on the IMEC agenda. Some diplomats presiding over the EU coordination meeting became frustrated when commonly agreed positions were ignored by some EU Member States in the IMEC meeting. The explanation for this given by more pro-IMEC states was that the purpose of IMEC was a general discussion and that would not work if 15 or 25 members all repeated the same thing. Interviews: Geneva, 21, 22, 24 June 2005. (ILO, 2004a; ILO, 2005a)

⁹³ Interview: Athens, 1 October 2004

⁹⁴ Interview: Geneva, 22 June 2005

If an EU Member State wishes to challenge the prevailing social protection ideology of the ILO and assumes that EU Member States will not support it, then the IMEC group offers an alternative coordination network that has a more free-market orientation. The UK remains one of the most committed EU Member States to IMEC,⁹⁵ which is partly due to the use of the English language among many of the non-EU members, as well as the close political ties with those countries. Furthermore, the tri-annual meeting of UK government delegates for the Governing Body meetings forges close working relationships with other permanent members, most importantly America, Germany and Japan.⁹⁶ Coordination with EU partners that are less well known on a personal level and have less experience of ILO business is seen as a lower priority than maintaining the well-established and well-functioning relations with important IMEC governments. In personal correspondence with a member of the UK delegation to the ILC in 1994 and 1995, the delegate wrote that there were divided loyalties between EU coordination and IMEC coordination. In 1995 the UK participated in both groups (as all EU states did) but prioritised IMEC over the EU. 'The UK was a member of two blocs – the EU and IMEC. Of the two blocs they considered IMEC by far the most effective. This was also my impression. The IMEC meeting was well chaired and decisive'. (UK-Diplomat, 1994a; UK-Diplomat, 1995)

iii. National interests: political

The second way in which national interests could be invoked as an explanation for a deviating vote was through using a record vote to register a political grievance against

⁹⁵ So too are (in 2005 when the question was asked) Germany, the Netherlands and to a less extent, Denmark. Interviews: London, 21 September 2004; Copenhagen, 3 March 2005; Geneva, 22 June 2005.

⁹⁶ Interview: London, 21 September 2004

another, non-related issue at the ILO. The period when this seemed most plausible was between 1993 and 1997, when the UK voted against six instruments and abstained from voting four times. Three of those votes against instruments (C175, C177 and R184) were explained above as ideological positions against the specific instrument. However, during the 1996 Maritime conference six other instruments were drafted (three conventions C178, 179 and 180 and three recommendations R185, 186 and 187). The UK abstained three times and voted against the other three while the UK workers' and employers' representatives voted to adopt all six.⁹⁷ The UK government later ratified two of the conventions (C178 and C180), which demonstrates that the conventions were not against the UK national interest. What explanations can be given for the UK's action during this period? The answer proposed is that these votes were used as a method of protest against wider political resentment of the ILO.

The political protest was made against the repeated threat by the ILO to invoke the highest penalty against the UK government for breaching one of the fundamental labour standards, convention concerning the right to organise and bargain collectively (C87 and C98). The standing committee of the annual conference in charge of monitoring ILO member states' adherence to conventions, the Committee on the Application of Standards (CAS), had called on the UK government to give evidence of its actions to rectify its practices that were found to be in breach of C98. The practices in question related to Section 13 of the Trade Union and Employment Rights Act (1993) that allowed employers to pay non-union employees more than union employees. The UK government had been brought before the committee in 1985 for its failure to allow trade unions to operate within

⁹⁷ There was no ideological protest against the instruments either. Of the 21 IMEC (EU and non-EU) states at the conference, and across the three tripartite constituents, only 11 deviating votes were cast (6 belonging to the UK government) out of a possible 378.

one of its intelligence agencies, GCHQ. The dispute wrangled on for over 10 years as the British Conservative government repeatedly failed to address the concerns raised by the CAS.

A member of the UK delegation in 1995 described the situation in the Committee on the Application of Standards ('the Committee') that year as follows:

At the beginning of the conference the Committee selects the particular cases that will be discussed over the ensuing weeks. This year there was an air of anticipation at the conference as it became apparent that the Government would have to defend its handling of its trade union ban at the GCHQ Cheltenham spy centre. 1995 was the 10th anniversary of the ban and it was reported that the UK workers' side were pushing for a "special paragraph", the ultimate ILO repudiation, and a move normally used as a sanction against military dictatorships.

The stakes seemed to have been raised still higher by the then Employment Minister Michael Portillo's signal that the government might threaten to pull out of the ILO altogether if it was denounced at the conference. (UK-Diplomat, 1995)

The 'special paragraph' was not agreed in 1995, but this issue was raised again in the summer conference in 1996, when the same piece of legislation was contested again in relation to three further violations of C98. (ILO, 1996g: 224-226)⁹⁸ The British Trade Union Congress (TUC) gave detailed evidence in the hearing in the CAS against the UK government, and the situation was summed up by John Monks, the General Secretary of the TUC, with the following statement:

Once again the UK has been found guilty of breaching basic human rights at work. Employers are not allowed to pay women less than men, or black people less than white people, but in Britain they can legally pay union members less than non-union members. This is an outrage. The government should urgently repeal this measure.⁹⁹

⁹⁸ The cases were *Associated Newspapers Ltd. v. Wilson*, *Associated British Ports v. Palmer* and *Harrison v. Kent County Council*.

⁹⁹ Details of the case were found at <http://list.waikato.ac.nz/pipermail/prir-l/1996-June/000788.html> (accessed 08-12-2004)

Although no special paragraph was agreed in the CAS, the Committee on Freedom of Association, which convenes three times a year during Governing Body meetings to pass judgement on violations of conventions 87 and 98 met on June 6 1996 to consider Case 1852, brought by the Trade Union Congress (TUC) against the UK government. The claim made was that section 13 of the Trade Union Reform and Employment Rights Act was in violation of the ILO core standards. The TUC had repeatedly brought cases involving this law to the ILO, and Case 1852 alleged 'acts of interference by the employer in the functioning of workers' organisation and lack of adequate legal protection'. (ILO, 1996a: 138) The committee recommended that the Governing Body approve a recommendation that

The Committee calls again on the Government to take steps to amend section 13 of the Trade Union Reform and Employment Rights Act so that it ensures workers' organisations adequate protection from acts of interference on the part of the employer and so that it does not result in fact in the discouragement of collective bargaining. The Government is requested to keep the Committee informed in this regard. (ILO, 1996a: §498a)

The UK government was under continuous pressure from the ILO to amend its domestic law, stemming from a continuous stream of complaints by the TUC.

The argument that has been made thus far concerning national interests can be summarised in the following way. Two explanations for voting deviation based on national interests have been given; voting deviation can be explained by government commitment to ideology (most often free-market liberalism) or by using the technical instrument to make a political protest against an unrelated issue. In order to make the case for these two explanations, I put forward the argument that the way a government votes does not obligate it to ratify a convention, so voting deviation is not needed to protect national sovereignty, the most basic defence of national interests. This argument can be substantiated with empirical evidence showing which EU Member States have ratified the

conventions that were drafted with EU representation as presented in Appendix 4.1. The table shows all the conventions drafted since 1973 during which the EU Member States were represented by either the Presidency or the Commission. The table is split into 5 periods, corresponding to those used throughout the analysis of technical coordination. The data shows only three instruments that a Member State (the UK) has ratified after previously either abstaining or voting against its adoption. One was a core labour standard that all EU Member States are expected to ratify,¹⁰⁰ while the other two are the maritime conventions discussed above and explained as political actions in protest against the ongoing complaints raised in the CAS. What these results show is that strong claims about the protection of national interests such as the upholding of state sovereignty cannot be considered in the case of ILO labour standards, because they do not challenge the autonomy of the state. Voting deviation must therefore be for other reasons, and such as the ideological and political ones set out above.

iv. Agenda setting

The power to set the agenda of the annual conferences is an important consideration in determining how much common EU representation will take place, as well as the likelihood of voting cohesion between the Member States. As has been shown in the previous two chapters, the EU Member States do not coordinate in a vacuum, but instead coordinate in response to the content of the agenda. Examples of this include noting the decline in the number of technical issues on the agenda, as well as the correlation between higher intensities of representation in occupational health and safety and working

¹⁰⁰ This includes the 10 new members. As of June 2006, 23 EU Member States have ratified all eight core conventions. The Czech Republic and Estonia have both ratified seven, and are yet to ratify the convention concerning the minimum age of employment (C138). The reason given by a Commission staff member was that the legal services capable of translating and processing the official texts were overwhelmed with work. Interview: Brussels, 18 November 2005.

conditions. It was also shown that different issue areas evoke different ideological responses from the EU Member States, spread over a spectrum between favouring social regulation and favouring market freedom. The agenda is set by the ILO Governing Body, based on a mixture of standing committees (such as the ILO budget, the Committee on the Application of Standards and the Resolutions Committee) and recommendations from the conference tabled as resolutions (most instruments are included this way).

Agenda setting is significant to the study of EU Member State behaviour because it represents an exogenous explanation for EU representation and voting cohesion that needs to be factored into any theoretical framework being applied. For example, while neofunctionalism might be appropriate for explaining the increasing intensity of EU representation in the area of health and safety, how can this explanation be separated from the evidence showing that the ILC agendas of the mid 1980s and early 1990s contained a higher number of OSH instruments than average? On the one hand we would not be able to observe neofunctional logic in action without a permissive series of ILC agendas, but on the other hand the EU Member States would not have been able to increase the intensity of their common representation without the SEA and preparation for the Single Market in 1992. By equal measure, intergovernmental theory appears more valid during periods when the content of instruments are controversial. Liberal intergovernmental theory's emphasis on the periods of time after intergovernmental treaties cannot be strictly tested because the ILC agenda will influence the results gathered. The conclusion from this is not that we cannot freely apply theory to understand the behaviour of EU Member States in the ILO, but instead we must remember that the results we gather and the interpretation we make must factor in an assessment the impact of external influences.

v. The Presidency of the Council

The Presidency of the Council is responsible for chairing coordination meetings in Geneva as well as preparatory meetings in Brussels. In technical issues the additional staff brought in to carry out the additional responsibilities of the Presidency come from Brussels and the national capitals, while for political issues the Geneva Permanent Mission Staff play a more active role.¹⁰¹ They work with colleagues from the national capitals of the other Member States, who have high levels of technical expertise but may not have much familiarity with the process of EU-style decision-making, which can make negotiating more difficult.¹⁰² Institutional theory gives us the insight that national officials with only a little experience of European coordination will be less exposed to the socialising pressures that close cooperation between officials brings. In these cases, EU representation is likely to be low intensity because coordination is between reluctant government officials from Member State national capitals.

The compartmentalised nature of technical committee coordination is evident not only by the fact that delegates from the EU Member States come from narrow technical specialities in national governments with little EU experience, but also in the skill with which the Presidency chairs meetings. An example of this can be found from the 1995 ILC, where coordinating meetings were taking place for two instruments, a first discussion on Home Work and a protocol on labour inspection. According to a delegate from the UK the coordination for the Home Work committee was poorly organised, and the chairing of the EU meetings was squarely to blame for them 'meandering endlessly even when minor points were being discussed.' (UK-Diplomat, 1995) On one occasion a junior observer was

¹⁰¹ See Chapter 1: (Biddiscombe, 1977; Hess, 1977)

¹⁰² Interview: Geneva, 21 June 2005

sent to an EU meeting instead of the more senior UK delegate, and this ‘incensed’ the French Presidency, although the attitude of the UK delegation was ‘If we’re upset them [the French] we know we’re doing our job.’ (UK-Diplomat, 1995) Commenting on a different EU coordination meeting for labour inspection protocol at the same ILC:

In contrast to my experience with the French President of the EU group looking at Home Work I found his colleague to be most helpful and courteous. The European countries agreed to support one of the UK amendments and to have a free vote on the second as there was no common position amongst the EU. (UK-Diplomat, 1995)

This example illustrates how the actions of the Presidency can effect the outcome of the coordination process, as well as how very different levels of EU representation in technical committees can occur at the same conference.

3. Theoretical explanations re-considered

i. Neofunctional theory

Given that this part of the thesis looks at the coordination of EU Member States in technical issues, one would expect neofunctional theory to serve as a useful tool. However, the evidence gathered in the two previous chapters challenges the theory at the level of its core assumptions as well as on its operational mechanisms. The usefulness of the theory is as a mirror, held up to the case study and showing the areas where we would have expected the Member States to have behaved differently.

Looking first at the core assumptions of neofunctional theory, the first area where the empirical study challenges the theory is in an evolutionary development of closer cooperation between the Member States over time. Over the five periods of the survey, none of the indicators chosen to measure either representation or voting cohesion have

demonstrated evidence of a continuous process of integration. Instead, the similarities between Period 1 and Period 5 suggest that the cyclical pattern of behaviour over time might be more accurate in describing the behaviour of the Member States. What is also certainly clear is that after three periods of incrementally more intense representation (Period 1 to 3) there was a fall (from Period 4 to 5), and that in terms of voting cohesion, the same pattern was repeated slightly earlier in the survey (growing from 1 to 2, falling over periods 3 and 4, and increasing again in the fifth).

The second core assumption challenged in the claim made that there is no statistical association between representation and voting cohesion. Although this claim was based on aggregated data from the whole survey, four of the separate periods demonstrated a slight inverse relationship between the two, while the fourth period (1993-1997) proved inconclusive. Neofunctional theory would expect the two to be directly proportional because the more common representation means either (a) more coordination has taken place in order to mandate the Presidency (or European Commission) to speak more widely on behalf of the Member States; or (b) that a detailed and well-established *acquis communautaire* exists in the issue area and it is the basis of EU interventions. In both cases, there are common interests shared by the EU Member States, which once promoted in the drafting of an instrument should then be adopted onto the ILO statute. It would be a waste of time and resources to coordinate a common representation without doing as much as possible to see it 'locked in' to an ILO instrument. Yet the evidence from this case study is that this does not always happen.

In terms of what neofunctionalism would predict as measures of the changing behaviour of the EU Member States, three of the most important are: (1) an increasing role for the European Commission including the possibility of European Community

membership of the ILO; (2) the decline in heterogeneous national interests and establishment of EU-level common interests; and (3) a mechanism of spillover between issue areas enhancing the scope of coordination. The role of the European Commission has been limited to speaking on behalf of the EU Member States, and the idea of Community membership has not become any more of a reality over the length of the survey. Where the Commission did develop its role was in two areas, firstly speaking without the Presidency on the subject of equality, and secondly in the area of occupational health and safety (OSH) speaking alongside the Presidency. However, while this did develop and there was a confirmation by the Commission that the preparations for the Single Market were the basis of integration in the area of OSH,¹⁰³ it promptly ended in 1993 after ECJ Opinion 2/91, despite further OSH instruments being drafted in 1994/5 (Mines, C176), 2000/2001 (Agriculture, C184) and a general convention in 2005, to be completed in 2006. Although the European Commission did contribute to the 2003 Seafarers' Identity Document, the total contribution by the Commission has not grown constantly, but instead developed and then receded, contrary to the thesis of a logic of integration.

National interests appear to be far more influential in shaping EU Member State voting during the course of the survey that one would have expected. A gradual decline in national interests influencing voting and a corresponding increase in EU voting cohesion was predicted. One could argue that voting cohesion could also take the form of common abstentions or votes against an instrument, if such action was deemed to be in the interests of the EU Member States, although in practice this is very unlikely because it would signify that the EU did not share the ILO's objectives of social protection. The coordinated

¹⁰³ 'Measures to harmonise health and safety at work could complement the steps being taken to complete the internal market of the EC by 1992.' (ILO, 1987h: §15)

abstentions of five of the nine Member States (Denmark, France, Germany, NL and UK) in the record vote to adopt the convention concerning migrant workers in 1975 (C143) comes closest to this sort of action. However, it was a majority vote but not a cohesive vote and it occurred only once in 1975. Far from seeing an increase in this sort of behaviour, it points to a decline in actions predicted by neofunctionalism. Instead, Member States vote according to the rationales given above based on either ideological or political grounds. The highlighting of political issues is especially important because neofunctionalism assumes economic integration precedes political integration, and its explanatory power in technical issues was based on the assumption that technical issues were non-political.

Finally, the identification of national interests based on ideological objections to some technical committees makes the dynamic process of spillover more difficult in the ILC. For spillover to work we would expect the EU Member States to agree to log-rolling between technical committees, agreeing to a common statement in one committee in return for a 'reward' in another committee. The specialisation of delegates from the EU Member States national governments and their compartmentalised mandates is different from Brussels-style negotiating,¹⁰⁴ and they rely on their own established network of contacts that do not necessarily include exclusively EU Member States.¹⁰⁵ Taken together, this makes spillover across the conference agenda more difficult, as demonstrated in the example of the French Presidency in 1995.

¹⁰⁴ Interview: Geneva, 22 June 2005

¹⁰⁵ Interview: Athens, 1 October 2004

ii. Intergovernmental theory

As the alternative to neofunctional theory, the substantial evidence refuting neofunctionalism should signal the usefulness of intergovernmental theory. There are a few features that do support this approach but they do not make a convincing case for it. The first argument in support of intergovernmentalism is the continued importance of national interests in shaping EU Member State behaviour. The statistical evidence against a significant association between representation and voting cohesion demonstrated this, as did the quadrant diagram that pointed to EU Member State voting being moderately aligned with ILC plenary consensus. The importance of these points is that membership of the EU does not lead to the Member States voting differently to how they would otherwise vote if they were not members. The level of consensus in ILC plenary sessions is an indication of how broad common interests are, the cohesive voting of EU Member States is attributed to consensus, not EU membership itself. Intergovernmental theory does not predict autonomous pursuit of national interests on every occasion (hence the possibility of consensus in the ILC), but rather that the pursuit of national interests will be the first priority over broader EU interests. The fact that intergovernmental theory does not preclude cohesive voting is important because on average the level of cohesion between EU Member States in ILO record votes is high (around 70% as shown in Table 5.1).

The intergovernmental approach predicts that all EU Member States would pursue their national interests regardless of their size and relative power within the EU by virtue of their sovereign status. We do find evidence of smaller EU Member States voting autonomously from the majority of members (voting deviation) although only Portugal and Luxembourg have acted truly independently, on three occasions between them. Far more frequently either French or British voting deviates from the majority position alone,

or other small Member States join them. A far more damning criticism of the intergovernmental position exposed by the empirical research is the lack of change over time in the level of voting cohesion, despite the continuous enlargement of the EU from nine to 25. With a nearly three-fold increase in size over the survey we would expect to see far less common representation, but the mean and median data from Tables 4.2 show that Periods 1 and 5 are remarkably similar.¹⁰⁶ While the data shows a continued willingness to pursue national interests from time to time, it is a small number of Member States (principally the UK) that have always behaved in this way, rather than being an inherent characteristic of EU decision-making.

iii. Liberal intergovernmentalism

The applicability of liberal intergovernmental (LI) theory begins where intergovernmental theory falls down. A central plank of this approach is the built in assumption that the big three EU Member States (France, Germany and the UK) operate with slightly different rules to the other Member States. In the intergovernmental negotiations the three use the non-military tools of power politics (such as the threat of veto) to ensure that none of their fundamental interests are damaged by the treaties created. In the same way that their national interests take precedent in negotiations, the evidence gathered in this thesis shows that the UK to a great extent, France to a lesser extent and Germany to a certain extent have all acted to protect their national interests ahead of maintaining EU voting cohesion and common EU representation. The majority of smaller EU Member States accommodate themselves to the common positions, so as not to jeopardise their credibility in future negotiations, seeing their best interests lying inside

¹⁰⁶ Period 1: Mean: 0.049; Median 0.032. Period 5: Mean: 0.052; Median 0.035.

the EU. This assumption holds mostly true, with Portugal being the only Member State to have joined the EU after 1973 and to have deviated in its voting.

Another important result from the data that supports LI is the impact of treaties on the different periods of the survey. Two examples stand out, the Single European Act (SEA) and the Maastricht Treat. The SEA set out the framework to build the Single Market by harmonising employment and social protection legislation, as set out in Article 137 of the TEC. The growth in the intensity of representation was most obvious in OSH legislation, as was the growing role of the European Commission in speaking for the EU Member States. This also concurs with Tsebelis and Garrett's 'second epoch'. (Tsebelis and Garrett, 2001) In 1993 the pattern of behaviour drastically changed. The role of the Commission ended and the Member States through the Presidency took sole responsibility for representation, even in OSH where there was previously joint representation. The timing coincides with the entry into force of the Maastricht treaty, which reduced the influence of the Commission, characterised as the 'third epoch'. (Tsebelis and Garrett, 2001) However, it also coincides with the ECJ Opinion 2/91 which resolved the long-running dispute over who represents the EU Member States in the ILO. In this respect the opinion closely matches Moravcsik's treaties, insofar as it constitutes the third stage of his model of institutional choice. Moravcsik explains the rational choice of Member States to create supranational institutions through their interest in preventing other Member States cheating on the hard-fought intergovernmental agreements. The supranational ECJ opinion serves to secure the agreement.

The third piece of supporting evidence is the integration in some areas of social policy that are of low salience to national governments, such as OSH. Other issues that are more relevant to the national identity of each Member State will not be integrated so easily,

such as those that have a strong ideological component. The very low levels of representation in areas that are decided by unanimity in the Council (as defined in TEC Art. 137 (§c,d,f,g)) is to be expected because the intergovernmental negotiations drafting the treaty identified those areas as high salience. The low levels of voting cohesion on instruments concerning working conditions are also examples of how integration takes place at the discretion of governments and not in accordance to a teleological process with its own dynamic mechanisms.

iv. Consociational theory

Does the evidence from the case study confirm or refute the applicability of consociational theory to the EU Member States' behaviour in the ILO? There are a number of ways in which it does appear to be appropriate, in its ability to explain the fluctuations in the level of representation and voting cohesion over time, the uneven development of coordination in some issue areas and not others, as well as explaining the significance of the Presidency, something that the other theories considered above tend to overlook.

Beginning with the fluctuating level of representation and voting cohesion over the five periods, the explanation given by consociational theory is the need to find equilibrium between the Member States' intergovernmental aspirations of maintaining their national identities (as 'segments') and their supranational aspirations of economic gain through the development of the European Community. The theory predicts that progression too far in one direction will lead to a counter-balancing movement in the opposing one in order to retain stability in the system. The supranational dimension in the case study is common EU representation, based on Member State coordination and the establishment and promotion

of common interests, which are common because they are European Community interests. Alternatively, voting cohesion and the instances when voting deviation has taken place measures the intergovernmental dimension. This is when an EU Member State seeks to preserve their individual status as a segment distinct from the Community. When reviewing the five periods, the rise in representation over Periods 1 to 3 is accompanied by a decrease in voting cohesion, as the intergovernmental counter-balance of the supranational development. Period 4 marks a radical re-alignment with reduced representation and very high levels of non-cohesion. Period 5 illustrates how the re-alignment was too extreme in an intergovernmental direction, and the level of voting cohesion has risen again, although the supranational element (representation) remains low. This situation is a return to the equilibrium of the 1973-1980 period, which in turn led to a period of supranational development. This analysis also provides a theoretically grounded explanation of why representation and voting cohesion are not statistically associated, which is because they can work in opposing directions as well as together.

Within the framework of a consociational theory explanation for the balancing of representation and voting cohesion, the uneven development of EU representation in some technical issue-areas and not others is also explainable. Using a similar argument to liberal intergovernmental theory, the area where the EU Member States exhibited most common representation (OSH) is one that is best handled at the Community level, and equally importantly, does not compromise the identity of the Member States. The argument that the defence of national interests takes place on ideological grounds is directly applicable to the consociational theory concern for preserving the individuality of segments. EU Member States choose to abstain or vote against instruments that challenge the market ideology of the government, most commonly by seeking to be seen as more favourable to the free market than to social regulation. Following the consociational theory

position through this case study, the conclusion is reached that common representation and non-cohesive voting are *not* contradictory actions, but instead promote the unique balance between supranational and intergovernmental pressures within the EU, which both need to be kept in check in order to preserve the equilibrium in the EU system.

Finally, consociational theory explains the role of the Presidency in the context of the symbiotic relationship between supranationalism and intergovernmentalism. The six-month rotating Presidency of the Council is responsible for nearly all EU representation in the ILC (the exception being the European Commission spokespersons listed in Appendix 1). As chair of the coordination meetings, the Presidency decides the scope of representation and facilitates bargaining between Member States over agreeing what will be said. The Presidency does not have a free-hand in deciding which committees the EU will be represented in because it must follow precedents from previous conferences (i.e. second discussions are prioritised, previous instruments discussed, issue areas relating to Community law) as well as what was agreed during the Social Questions working group in Brussels. However, the Presidency is responsible for shaping the outputs of coordination meetings in Geneva between the technical experts sent from each national government, who may have little experience of EU coordination. Some Presidencies are regarded as being closer to the European Commission than others, and preconceptions over their independence can influence the expectations of national delegates as to whether their interests will be served.¹⁰⁷

The main criticism levelled against consociational theory is the role played by European elites assumed to have an interest in the preservation of the EU, and therefore

¹⁰⁷ Examples of such Presidencies include Greece in 2003 and Luxembourg in 2005. Interviews: London, 21 September 2004; Copenhagen, 2 March 2005; Geneva, 22 June 2005.

limit the extent to which national interests are pursued. In the technical committees, as mentioned above, there are some networks of experts that have more experience of ILO coordination through IMEC than the EU. These experts also come from within national governments that may not have much experience of EU-style coordination, and hence bring into doubt the credibility of assuming a European elite. The explanation given in support of non-cohesive voting for the maintenance of different segments is easier to substantiate when voting deviation is triggered by ideological differences, rather than political motivations. This was also seen in Chapter 3 when evidence was given of the tripartite national members (workers and employers) using the ESC own-initiative report to promote their own interests in maintaining the distinctiveness of each segment by criticising Commission plans for greater European level coordination of governments. (ESC, 1995)

v. Institutionalism

The core assumptions of the institutional approach being applied to technical coordination come from the study of institutional adaptation, which Featherstone identified as the goodness of fit, the logic of consequences and the logic of appropriateness. The key empirical findings that we have to consider are the apparent lack of statistical association between EU representation and voting cohesion in technical issues, the lack of any sustained increase in the level representation over time, the importance of national interests, the role of the Presidency and exogenous ILC agenda setting power.

Starting with the concept of 'misfit', while incompatibility between national and European policies in the Community pillar leads to Europeanization and adaptation, 'this is

a major difference to other international institutions which are simply based on voluntary intergovernmental arrangements.' (Boerzel and Risse, 2003: 61) Although in some policy areas (notably occupational health and safety) there is a very high level of common representation, in other policy areas there is not, while we also found evidence of EU Member States deviating in their voting behaviour after common representation.

Why has Europeanization taken place so patchily? The answer lies in the two logics of action used to overcome misfit, the logic of consequences and the logic of appropriateness. Europeanization through the logic of consequences is the result of a redistribution of domestic power, with some actors winning and other actors losing. In contrast, in the logic of appropriateness leads to redefined interests based on shared identities and interests. When Europeanization has taken place through sociological processes common representation and voting cohesion between the EU Member States is observed. When Europeanization takes place through rational choice processes the 'losing' parties remain convinced of their national interests, despite acquiescence to EU-level policies. We can explain the lack of EU common representation and deviating votes as attempts by EU Member States Europeanized through the logic of consequences to upload their national policy preferences to the ILO. If successfully uploaded, the national position will be legitimised by being incorporated into an ILO standard, and can shape future EU legislation when the Commission consults relevant ILO standards. This explanation fits well with the observation of competing ideologies between greater social protection and market liberalisation.

4. Summary

This chapter correlated the empirical findings across the five periods of time from Chapters 4 and 5 with the five theories and the five crosscutting issues. Over the five periods there was no clearly identifiable relationship between coordination and representation, and none of the theoretical approaches conclusively fitted the observed pattern of EU Member State behaviour. Of the five crosscutting issues, three were identified as being of greatest usefulness in explaining the observed behaviour; national interests, ILC agenda setting and the Presidency of the Council.

The first was national interests, operating through the promotion of an alternative ideology to the majority of EU Member States, or as a protest against the ILO. The role of IMEC is important because it offers EU Member States a rival forum for coordination with a stronger orientation for economic liberalisation. IMEC coordination is more informal than EU coordination and less supranational in its decision-making process. IMEC remains important in the coordination of budget agreements and in preparation for the Governing Body, and its strength in these areas limits the number of areas of EU coordination. Furthermore, evidence was gathered to show that some of the actions of the UK government, which accounted for over half of all instances of deviating voting, could be explained as protests against the reporting of core labour standard (C87, C98) violations taking place in the UK during the 1980s and 1990s.

The second crosscutting issue was agenda setting, an important exogenous variable influencing the gathering of data. Recognising this is crucial when assessing the applicability of theories that focus exclusively on the internal dynamics of EU Member State behaviour. Finally, the Presidency of the Council was another important crosscutting issue, since the

level of coordination and the successful outcome of meetings was dependent on the skill and experience of the Presidency staff.

The appraisal of the competing theories found neofunctionalism to be of little use, despite the expectation that it would accurately predict the behaviour of the EU Member States in technical issues. Coordination and representation did not clearly correlate with each other, there was no noticeable increase in the level of coordination over the survey, national interests continued to be an important variable and no evidence of spillover between issue areas was found.

The applicability of intergovernmental theory is problematic because of its inability to explain why the level of coordination has varied over time but remains unaffected by the size of the EU. Increasing the size of the EU has not effected the level of coordination.

Liberal intergovernmental theory is supported by three observations. Firstly, the evidence that the 'big three' Member States act differently to other Member States. Secondly, the varying levels of representation and voting cohesion in different periods shows the impact of treaties on the behaviour of Member States, and the ECJ Opinion also acted as an institutional agreement. Finally, the low political salience issues identified by QMV in Article 137 correspond to those where the coordination is most developed.

Consociational theory is supported by the identification of fluctuating levels of representation over time, as well as variation around an equilibrium position that corresponds to a symbiotic balance between Community and Member States. The role of the Presidency is also recognised, although the assumption of a homogeneous European

elite cannot be supported because of the hostility of national workers' and employers' representatives towards EU coordination.

Finally, institutional theory employs two methods of policy change to explain Europeanization (rationalist and sociological). The empirical data showed technical issues could be categorised as either having successful common representation and cohesive voting, or as having limited common representation and deviating voting. The former exhibits the characteristics of the logic of appropriateness, where common identities and interests are agreed and common representation is regarded as legitimate. The latter exhibits the characteristics of the logic of consequences, where power has shifted but interests and identities remain unchanged.

THE FOUNDATIONS OF POLITICAL COORDINATION

The following four chapters investigate the common EU representation and voting cohesion of the EU Member States in response to selected political issues arising on the agenda of the annual International Labour Conferences, from 1973 to 2005. As discussed in the Chapter 1, ‘political’ issues are not as easy to define as the technical issues surveyed in Chapters 3 to 6. This is because two definitions of political were offered; the first a ‘negative’ definition that was ‘everything that is not technical’, while the second ‘positive’ definition was agenda items where the EU Member States coordinate common representation through the EPC/CFSP decision-making apparatus. The positive and negative adjectives are not used to give a value judgement about the issue area, but instead reflect whether the definition says something about what the issue *is* (positive), or what it *is not* (negative).¹⁰⁸ In order to clarify this distinction, the following issues have been the subject of an EU common statement during the course of the survey:

- The conditions of Arab workers in the Occupied Territories
- Concern for human rights and trade union rights in Chile
- The adoption of the report of the Committee on the Application of Standards
- The structure of the ILO
- The apartheid regime of the South African Government
- The recognition of ILC delegates from Serbia and Montenegro

¹⁰⁸ For example, the practice of forced labour in Myanmar is the subject of EU Presidency statements and can be classified as a political issue. By contrast the ILO biennial budget is not a technical issue, but there is no coordinated common EU position. (Interview: Geneva, 22 June 2005) If there were a common position, it would be coordinated through the intergovernmental CFSP pillar. This is an example of a ‘negative’ definition of a political issue; it is not technical, yet also not subject to actual coordination.

- Violations of core labour standards in Myanmar, Colombia, Zimbabwe, Belarus and Sudan

By contrast, the following issues (*inter alia*) recur frequently on the ILC agenda, are not technical but no common EU representation is made:

- The admission of new members to the ILO
- Granting permission to vote to governments that have not paid their fees
- Election of the President of the annual conference
- The adoption of the biennial budget

The study of political coordination, representation and voting cohesion in this chapter and the following three uses empirical data from the first list of actual political issues, as opposed to potential political issues in the second list. Chapter 8 presents the empirical data on EU Member State representation and voting cohesion in the ILC plenary between 1973 and 2005. Chapter 9 looks at the EU Member States' participation in the Committee on the Application of Standards (CAS) since 1973, and the development since 2000 of EU Presidency statements. Finally, Chapter 10 summarises both sets of results, identifies the most important common factors and contrasts the explanatory performance of the theories being tested.

The remainder of this chapter gives an overview of the development of European Political Cooperation (EPC) and its transition into the Common Foreign and Security Policy (CFSP) with the Maastricht Treaty of 1992. The history is complemented by a review of the literature on EU Member State coordination in the UN system, which is predominantly focused on the General Assembly.¹⁰⁹ The chapter ends with a summary of the five theories and provides a framework for testing which theory is most useful to explain EU Member State coordination in political issues in the ILC.

¹⁰⁹ Work has also been done on the World Trade Organisation and environmental regimes, but there is insufficient space to consider it here.

1. EPC and CFSP: A brief history

In December 1969 the six Member States of the European Community met in The Hague to discuss ways of addressing the discrepancy between the economic and political power of the European Community. It was already apparent that the EC was an economic 'giant' and a political 'dwarf'. The communiqué produced at the end of the meeting (The Hague Summit Declaration) urged 'paving the way for a united Europe capable of assuming its responsibilities in the world of tomorrow and of making a contribution commensurate with its traditions and missions'.¹¹⁰ (Hill and Smith, 2000: 725) This set in motion a process that became known as European Political Cooperation (EPC), and is the ancestor of today's Common Foreign and Security Policy (CFSP). The ancestral heritage comes from both the objective of EPC (to give Europe a single voice in international politics), and its institutional design that is strictly intergovernmental in nature. Simon Nuttall sums up the motivation for an intergovernmental system of political cooperation in which 'France, in particular, was determined that no taint of Community or supranational procedures should sully the pure milk of national foreign policy.' (Nuttall, 1997: 19)

In order to ensure the separation of European Community and EPC affairs, the Foreign Ministers of the Member States met in two capacities, one as the General Affairs Council of the EC and the other as national government Foreign Ministers in EPC. In each role they had a separate team of support staff, coordinated by the Committee of Permanent Representatives (COREPER) for European Community Council meetings and by Political Directors for EPC affairs. To clarify which capacity the Foreign Ministers were

¹¹⁰ Communiqué of the Conference of the Heads of State and Government of the Member States of the European Community (The Hague Summit Declaration), The Hague, 2 December 1969. Paragraph 1

acting in, the title 'the Six' signified that the sphere in which the Member States were acting in was political, and therefore excluded the institutions of the EC.

EPC was increasingly appreciated as "a central element in the foreign policies of member states."¹¹¹ The attractiveness of EPC stemmed largely from its intergovernmental character, which gave participating governments the final say, based on the consensus of all. EPC was not designed to absorb national diplomacy; it allowed for the pursuit of collective and individual foreign policies. (Regelsberger, 1997: 68)

A major change in the status of EPC came in the 1986 Single European Act, when it became formally recognised in a European Community treaty, albeit remaining an intergovernmental institution outside the scrutiny of the European Parliament or the European Court of Justice (ECJ). One thing that did change was the full inclusion of the European Commission in the workings of EPC. Article 30.3(b) of the SEA states that the 'Commission shall be fully associated with the proceedings of Political Cooperation', something that had been taking place incrementally for a number of years due to the realisation by the foreign ministers that the European Community had two very useful foreign policy tools at its disposal. The first and most powerful was the control over the external tariff to the Community Single Market and the extension of preferential access to it ('carrots'), or the suspension of either access to it ('sticks'). The second tool was the control of access to development aid given by the Community. Although this tool was less universally applicable it still remained useful when seeking to influence developing states.¹¹² The SEA also gave the Commission (together with the Presidency) responsibility for ensuring consistency in the external policies of the Community. The Commission's external delegations were also drawn into the European Political Cooperation (EPC)

¹¹¹ Affirmed in 1981 in the "London Report" of the foreign ministers. (13 October 1981)

¹¹² These two tools of foreign policy are also the primary credentials of the EU as a civilian power, using non-military coercive force to achieve its aims. (Smith, 1998a)

framework by the commitment to intensify cooperation between member states, diplomatic missions to third countries, and international organisations.’ (Cameron, 1997: 99)

In 1992 the Maastricht Treaty was agreed by the 12 Member States of the European Community and formally created the European Union in November 1993, after the final Member State ratified the treaty. The institutional design of the Union consisted of three pillars, the European Community (I), the CFSP (II) and Justice and Home Affairs (JHA – III).¹¹³ EPC was replaced by CFSP and although changes were made to its institutional structure, ‘the future CFSP, to all intents and purposes, lay firmly within the intergovernmental tradition from which it had arisen. ... EPC was designed to coordinate national foreign policies; the Union, as its tenets announce, is expected to have a common foreign and security policy. This is difficult to achieve by the intergovernmental method.’ (Nuttall, 1997: 19) Christopher Hill summed up the difficulty the CFSP had in achieving what was expected of it as the ‘capabilities and expectations gap’. (Hill, 1998)

The institutional framework of the CFSP set out in the Maastricht treaty continued the evolutionary process of greater Commission involvement. The Commission gained the co-right of initiation with the aim of making the EU into a more coherent actor. The intention was to allow closer coordination of the ‘political’ foreign policy handled through the CFSP and ‘economic’ external relations handled by the Commission. In a move that consolidated the strength of the European Council and its secretariat, the separate

¹¹³ JHA included the areas of (1) Asylum, (2) The crossing of external borders, (3) Immigration, (4) Combating drug addiction, (5) Combating fraud on an international scale, (6) Judicial co-operation in civil matters, (7) Judicial co-operation in criminal matters, (8) Customs cooperation and (9) Police cooperation. Critics regarded the third pillar as deeply flawed because of the strong claim for incorporating the first three areas in the EC pillar due to their relevance to the movement of labour in the single market. (Dinan, 1999: 439-451) The structure of the third pillar soon proved to be unworkable, and was subsequently reformed at the Treaty of Amsterdam when points 1-6 were moved into the Community pillar.

diplomatic bureaucracy that supported EPC was brought under the direction of COREPER. The decision-making process in the CFSP is limited to the Council and the Commission, since 'provisions on the competence of the European Court of Justice are not applicable; [and] the European Parliament (EP)'s involvement is confined to a mere right to be consulted and informed.' (Grunert, 1997: 109)

David Allen sums up the evolution of foreign policy coordination since the 1970s as the

emergence of two "cultures" competing for control of the policy-making process, institutionally-based in the Council and Commission. After making steady gains since the early 1970s, the culture of Commission control has been set back by the Amsterdam Treaty, which fortifies the pre-eminence of the Council over EU foreign policy. (Allen, 1998: 43)

The pre-eminence of the Council after the 1997 Amsterdam Treaty came principally as a result of changes made to make the CFSP more effective. The most important procedural change was the new job description handed to the Secretary-General of the Council – to become the High Representative for the CFSP and act on behalf of the Council in international affairs.¹¹⁴ Decision-making in the CFSP is based on the use of four instruments, which were defined in the Treaty on European Union (TEU).

- *Principles and Guidelines:* 'The European Council shall define the principles of and general guidelines for the common foreign and security policy, including for matters with defence implications.' *Article 13§1*

¹¹⁴ Other changes included the reform of the Troika system, in which its composition went from the Past, Present and Future EU Presidencies and the Commission, to being comprised of the Present and Future EU Presidencies, the Council Secretary General and the Commission. Changes were also made to the decision-making process with a limited extension of qualified majority voting (QMV) and the creation of a 'constructive abstention' in areas that require unanimity, and the setting up of a Policy Planning and Early Warning Unit (PPEWU) that would allow the EU to react more quickly to crisis situations.

- *Common Strategies:* 'The European Council shall decide upon common strategies to be implemented by the Union in areas where the Member States have important interests in common.' *Article 13§2*
- *Joint Actions:* 'The Council shall adopt joint actions. Joint actions shall address specific situations where operational action by the Union is deemed to be required. They shall lay down their objectives, scope, the means to be made available to the Union, if necessary their duration, and the conditions for their implementation.' *Article 14*
- *Common Positions:* 'The Council shall adopt common positions. Common positions shall define the approach of the Union to a particular matter of geographical or thematic nature. Member States shall ensure that their national policies conform to the common positions.' *Article 15*

Principles and Guidelines and Common Strategies provide overall guidance to the CFSP, while Joint Actions and Common Positions are designed to help it operate in its daily functioning. However, the instruments at its disposal are limited, and the majority of practical responses require the use of foreign policy tools from the first pillar, such as controlling development aid and access to the EU's Single Market. (Smith, 1998a; Ginsberg, 2001; Smith, 2002) The EU therefore remains heavily reliant on economic power as the diplomatic arsenal at its disposal, which was what originally led to the inclusion of the Commission into the EPC framework and later into the CFSP.

The cordoning and sanitization of 'foreign policy' as a pillar II intergovernmental competence under the Common Foreign and Security Policy (CFSP) has excessively narrowed the domain for EU foreign policy action. Almost in every instance, Pillar I *communautaire* competences are required to implement CFSP in practice. (Holland, 2002: 7)

The critique made of the foreign policy of the EU is that its decision-making apparatus and its instruments are disconnected, spread between the CFSP pillar and the Community pillar, and thus leading to the increasing role of the Commission to improve efficiency. 'The pillar structure of the EU...is in contrast to the nature of international problems and the Union's ability to manage them.' (Regelsberger et al., 1997b: 9)

During the late 1990s the focus of the CFSP was on increasing the military capabilities of the EU, including the development of the European Security and Defence Policy (ESDP). In December 2003 Javier Solana, the High Representative for the CFSP, attempted to set out in a single document a coherent foreign policy direction for the EU, known as the European Union's Security Strategy and titled 'A Secure Europe in a Better World'. (Solana, 2003) In it is a section dedicated to the relationship between the EU and international institutions, including the United Nations. Solana states that

our security and prosperity increasingly depend on an effective multilateral system. The development of a stronger international society, well functioning international institutions and a rule-based international order is our objective. We are committed to upholding and developing International Law. ... Strengthening the United Nations, equipping it to fulfil its responsibilities and to act effectively, is a European priority. (Solana, 2003: 9)

This statement is an assertion that the EU Member States are committed to orchestrating the continued transformation of the international system away from one based on power and towards one based on international law. International law is the basis of the management of relations between European states, and the promotion of effective multilateralism through the UN system is an attempt to fashion the world in its own likeness.¹¹⁵ This is in line with Richard Whitman's argument that the legislative nature of the intra-EU politics is being replicated in its external relations with third parties through

¹¹⁵ Robert Cooper, 'Can Europe run the 21st Century?'; speech as the London School of Economics 6 October 2005.

trade, aid and humanitarian agreements. The 'operations of the European Union that are explicitly directed outwards can be characterised as the 'international identity' of the Union' and that identity is 'conceived in terms of those instruments that are available to the Union to give expression to policy.' (Whitman, 1998: 234) Europe's role as a supporter of multilateral institutions is endorsed by Stephan Keukeleire, who argues that the EU should pursue a 'structural foreign policy' that is 'based on the various strategies and partnerships the EU has with other regions in the world, and is aimed at promoting structural long-term changes in these regions'. (Keukeleire, 2003: 32) 'Structural power' is a phrase used by Mario Telò to describe a long-term strategic objective to transform the structure of the international system into one based on the rule of law rather than the 'law of the jungle', as realism maintains. Telò refers to the European approach to international and inter-regional agreements as 'pactomania'. (Telò, 2001: 265)

2. EU Member States' political coordination in the United Nations

For over thirty years the Member States of the European Union (EU) have declared their intention to coordinate their national positions in the institutions of the United Nations system. Luif traces the first public declaration of coordination in this area to the 'Document on the European Identity', issues by the foreign ministers of the Nine EC members in December 1973. (Luif, 2003) Point 21 states

The Nine will participate in international negotiations in an outward looking spirit, while preserving the fundamental elements of their unity and their basic aims. They are also resolved to contribute to international progress, both through their relations with third countries and by adopting common positions wherever possible in international organizations, notably the United Nations and the Specialized Agencies. (Hill and Smith, 2000: 96)

The rhetoric has remained effectively the same ever since, despite the evolution of European Political Cooperation into the Common Foreign and Security Policy (CFSP). In

Title V of the Treaty of the European Union (TEU) there are a number of articles relating to coordination of Member States in international organisations. Article 11 states that one of the objectives of the CFSP is 'to promote international cooperation', and continues by spelling out the procedures that should be followed in order to bring this about:

The Presidency shall represent the Union in matters coming within the common foreign and security policy.

The Presidency shall be responsible for the implementation of decisions taken under this title; in that capacity it shall in principle express the position of the Union in international organisations and international conferences. (Article 18 §1-2)

Member States shall coordinate their action in international organisations and at international conferences. They shall uphold the common positions in such forums.

In international organisations and at international conferences where not all the Member States participate, those which do take part shall uphold the common positions. (Article 19 §1)

The diplomatic and consular missions of the Member States and the Commission delegations in third countries and international conferences, and their representations to international organisations, shall cooperate in ensuring that the common positions and joint actions adopted by the Council are complied with and implemented.

They shall step up cooperation by exchanging information, carrying out joint assessments and contributing to the implementation of the provisions referred to in Article 20 of the Treaty establishing the European Community. (Article 20)

Empirical investigations into the coordination of Member States of the EEC/EU in the United Nations have taken place sporadically within the literature, although as Simon Nuttall points out efforts had been underway since the early 1970's to improve the coordination through European Political Cooperation. The CONUN Working Group was part of the EPC framework and its main function was 'to exchange information, and on the basis of that shared information to arrive at common analysis'. (Nuttall, 1992: 17) Nuttall continues by explaining that the

activity of the Twelve in the United Nations in New York and in the specialised agencies in Geneva is somewhat different from that in third countries. The object here is not so much to achieve a uniform presentation of policy to the host organisation as to work out common positions on questions on which the central authorities of EPC do not provide sufficiently detailed guidance. The rhythm of work of the Member States' missions and the Commission delegation is intense. (Nuttall, 1992: 27)

Despite knowledge of the EPC workings and the proclamations in the Treaties and Council reports, scepticism of the success of the mechanisms and ideals has always been close to the surface. Practitioners have claimed that the 'EEC states vote together on unimportant questions and apart on important ones' (Foot, 1979: 351 fn5), while academics query whether the 'differentiated bipolar agendas among the Six, Nine, Ten and Twelve, in the UN context, would not allow the effective coordination of their foreign policy views'. (Johansson-Nogues, 2004: 69)

Leon Hurwitz published the first study into voting cohesion between the Member States in the UN system in 1975. (Hurwitz, 1975) He measured the voting records of five of the original six Member States in the United Nations General Assembly (West Germany did not join until 1973) between 1946 and 1973, and over the same period those of Denmark, Ireland and the UK. This approach enabled him to look at the level of cohesion within the groups, but also say which Member States disagree most frequently, and which states found themselves in agreement most often. He compared voting cohesion across eleven issue areas before the establishment of the EEC in 1957 with afterwards. His principal findings were that overall cohesion declined after 1957, (except in the issue areas of Human rights and the Arab-Israeli dispute) and that France was the main dissenting member in the group.

Rosemary Foot surveyed three consecutive General Assembly sessions (30-32) between 1975-1977 and compared the voting record patterns of the Nine in roll-call votes.¹¹⁶ (Foot, 1979) The three sessions were 'indicative of the General Assembly at its best and its worst, at its most acrimonious and at its most business-like' (Foot, 1979: 351). Foot found that the level of voting cohesion was constant at around 60%. She noted a number of trends, such as the willingness of France to vote alone (especially on nuclear issues), a minority group of Denmark, Ireland, the Netherlands and occasionally Italy actively supporting action against apartheid in South Africa, and the emergence of Germany, France and the UK taking common positions against such action. Cohesion was visible in 1975 on a common position against a resolution to equate Zionism with racism, with 8 voting against and France, while initially voting for, 'later changed her vote to an abstention, presumably through Community pressure.' (Foot, 1979: 353)

Beate Lindemann's 1978 monograph on EU Member State coordination in the United Nations was summarised in a 1982 book chapter. (Lindemann, 1978; Lindemann, 1982) Lindemann made an important distinction between internal and external pressure to coordinate and raised the more fundamental question, which was what is the purpose of EU Member State coordination? Lindemann answered the question as follows:

Declarations of the Nine may help the internal development of European unity, but they are not really effective or politically convincing contributions to the debate in the General Assembly. (Lindemann, 1982: 120)

This is a recurrent issue that is still at the centre of the debate on EU effectiveness. (Smith, 2006c) The Lindemann article also provided some very useful quantitative data on five

¹¹⁶ Resolutions before the GA can be adopted by consensus, by show of hands, by a roll-call or a record vote. The majority of votes are passed in the former two methods, when there is unanimity among all states. A publication by the European Commission claimed that the EU member states achieve cohesive positions 95% of the time. However, these statistics count all votes including those adopted by consensus. By their nature, roll-call votes are about contentious issues and therefore all the surveys of European cohesion focus on these votes. (EC, 2003: 4)

sessions (28-32) of the General Assembly between 1973 and 1977. Data is given for overall voting cohesion in the record votes, as well as being divided by issue area. Lindemann pointed to four key issues of contention between the EU Member States at this time, which were the Middle East (including Palestine), decolonisation (including Southern Africa), disarmament and economics. (Lindemann, 1982: 122)

The first two of these issues are of most significant to this thesis because they concern major political issues dominating the agenda of the ILC in the 1970s and 1980s. From 1973 to 1976 Denmark and the Netherlands were identified as being in the minority of EU Member States that did not support the Arab position on resolutions concerning the Middle East. (Lindemann, 1982: 123) After 1977 a common position of abstention was agreed between all EU Member States on situation in the Middle East, which is attributed to 'the Middle East declaration of the European Council of 29 June 1977 which formed the basis of the Nine's consensus.' (Lindemann, 1982: 125) In the UN, the 'question of apartheid has also been linked to that of decolonisation despite attempts by the West to keep the two issues separate.' (Lindemann, 1982: 125) For this reason the finding by Lindemann that decolonisation was an issue of division for the EU Member States is also significant. In the UN General Assembly Denmark, Ireland, the Netherlands and Italy have all been critical of the apartheid regime, while France, Germany and the UK were cited in a 1977 GA resolution 'as countries who had supplied weapons to South Africa that were used for both internal repression and external aggression'.¹¹⁷ As will be seen later, these divisions manifested themselves over the issue of apartheid in the ILO too.

¹¹⁷ Resolution 31/6D 9 November 1976 quoted in (Lindemann, 1982: 125)

The voting behaviour of the EU Member States in the General Assembly were ignored for much of the 1980s and 1990s, and revival in interest came after 2000, with a string of publications by Jurgen Dedring, Paul Luif, Elisabeth Johansson-Nogues and Katie Verlin Laatikainen. (Dedring, 2002; Luif, 2003; Johansson-Nogues, 2004; Verlin Laatikainen, 2004)

Juergen Dedring's 2002 conference paper presented his reflections on observing the EU Presidency and Member States at the United Nations General Assembly in New York between 1999 and 2001 (Sessions 54-56). Dedring is interested in the study of coordination meetings between EU Member States in the UN, and reports the startling fact that during the first six months of 2001 'more than a thousand EU consultations were held to achieve a common position on the full range of UN agenda items'. (Dedring, 2002: 15) In considering the impact of these meetings, the author cited the widely circulated statistic that the EU Member States achieved 'a common position on almost 95% of General Assembly votes' (Dedring, 2002: 3) which has been contested by other authors cited below. Dedring's contention is that it 'would be much more interesting to get hold of the cases where disunity and the EU group had to abandon the struggle for a consensus position' (Dedring, 2002: 4) Although this is not possible, Dedring presents an alternative methodology, which is 'the very careful study of joint declarations and the individual country statements [which] opens up a few leads that might be significant in terms of fissures and cracks in the consensus front.' (Dedring, 2002: 5) The paper therefore takes a different approach to the earlier work (including Foot, who also looked at three sessions) by focusing on the speeches given to the Assembly rather than the voting patterns. Dedring shows that by reading the speeches of each EU Member State closely, one can identify which issues they agree and disagree on. Dedring concludes that the fact that the 55th Session was dedicated to the Millennium Summit, and the 56th fell in the wake of the

September 11 attacks, meant that these exceptional circumstances dictated the content of plenary addresses to the extent that more detailed work is necessary.

Katie Verlin Laatikainen begins her study by contesting the data published by the Commission on EU coherence, that includes all votes, not just roll-call and record votes, which 'includes the consensus decisions taken by the UN General Assembly (roughly 2/3 of all decisions) where in fact all UN member states, not just the Europeans, have a common position.' (Verlin Laatikainen, 2004: 4) Verlin Laatikainen follows the methodology of Hurwitz, Foot, Luif and Johansson-Nogues by looking at the roll-call votes taken in the GA, 'where there exists the possibility for voting dissension, a more stringent test of cohesion can be applied.' (Verlin Laatikainen, 2004: 4) She calculates an EU cohesion rate based on roll-call votes at 52.7% in 1991-2, rising to 78.2% in 1999-2000. While there is a trend in increased cooperation, there is far more dissent between Member States than the Commission's optimistic appraisal suggests, and this reinforces the conclusion that the CFSP has little impact on national interests of the Member States.

Elisabeth Johansson-Nogues' study looks at record votes in the General Assembly between 1970 and 2000. (Johansson-Nogues, 2004 p.71) She identifies four periods of time during which particular patterns of convergence are visible between the current EU Member States of the time. The first period is from 1970-1978, when she notes that convergence increased to a value of 63% unanimity in the final year. During the next period (1979-1984) there was divergence between the Member States, with unanimity dipping to 'one-third' in 1983, and that they were 'increasingly divided over issues related to the Middle East, decolonization and nuclear arms'. (Johansson-Nogues, 2004: 71) The third period from 1985-1990 saw the level of unanimity in votes rise to around 50%, attributable to a 'joint EC stance on South Africa and the convergence of opinions on the

nature and scope of the UN organisation.’ (Johansson-Nogues, 2004: 71) The fourth period is from 1990 to the present, and has seen an increase in unanimity as high as 85.2% in 1998-1999, although Johansson-Nogues argues that the agenda of the General Assembly has shifted ‘toward less controversial issues’ and that this ‘indirectly favoured a greater coherence among EU Member States.’ (Johansson-Nogues, 2004: 73) However, she identifies a set of core issues that continue to split the voting of the Member States, ‘including nuclear arms, disarmament and decolonisation, as well as declaring nuclear-free zones, human rights, the law of the sea, economic and social issues regarding North-South relations and, until recently, the repeated UN condemnation of the situation in the former Yugoslavia.

Paul Luif’s survey of the voting records in the same period produces similar results, although he also looks at the pattern of convergence and divergence between Europe, the USA and the USSR/Russia. Luif notes that post Cold War the level of consensus between Europe and the USA has declined, while the gap between the USSR and the West of the Cold War period has gradually lessened as the EU and Russia voting patterns have converged. (Luif, 2003: 52) Thematically, Luif’s findings support the initial work of Hurwitz that human rights and the Arab-Israeli dispute are the issue areas of greatest cohesion, while also concurring with Johansson-Nogues’ appraisal of the remaining areas of contention. Luif also notes the ‘voting behaviour of France and the UK is different from the EU ‘mainstream’; this divergence from the other EU countries is especially visible in security matters’, which he attributes partly to the two states’ permanent membership of the Security Council. (Luif, 2003: 51) Luif concludes with a commentary on the EU coordination process, which is ‘very cumbersome and time-consuming’, and he questions whether ‘reaching a consensus is more highly valued than proactively influencing the General Assembly’. (Luif, 2003: 52) The supporting evidence for this is that the hard-won

collective position is so rigid that negotiations 'with third countries often become impossible'.

Scholarly investigations into the coordination of the EU Member States in other parts of the UN system have pointed to similar findings. In a study on the EU Member States in the Human Rights Commission, Karen Smith noted that the efforts to coordinate common positions between the Member States was very often the highest priority. However, 'the colossal amount of time spent in EU coordination takes its toll: as a result, the EU has little time for "outreach" ... the problem is that some Member States have only the goal of EU unity in mind and not the EU's effectiveness within the UN.' (Smith, 2006c: 132) The leadership of the Presidency is another important variable, since a 'strong (committed, efficient, effective) Presidency can project a strong position, a weak one can be ignored.' (Smith, 2006c: 132) More members could potentially make the EU even more cumbersome, suggesting that the outputs of the CFSP are limited by the intergovernmental process through which they were produced.

The relevance of Smith's work (Smith, 2006c) is that it is one of the first attempts to look at the work of the EU in Geneva, rather than New York, and is focused on the coordination of EU Member states in one UN body. Paul Taylor's recent contribution to the literature has also studied EU Member State coordination in Geneva from a wider perspective across a number of UN bodies. (Taylor, 2006) He argues that there are two currents running through the coordination process. The first is a logic of synthesis headed by the Commission and working to improve the operating effectiveness of the 25 Member States. The second is a logic of diversity which comes from the Member States remaining the primary actors in the UN system in Geneva. More specifically, Orbie *et al* have discussed the use of ILO core labour standards in EU bilateral relations, principally as

conditionality for its preferential trade arrangements and development assistance. (Orbie et al., 2005) The following chapters complement these works and the rest of the literature mentioned. In the first instance this is an investigation into the political agenda of the ILO since 1973, and notes where it overlaps with the General Assembly (Chapter 8). Chapter 9 explores the political coordination process in Geneva in detail, and the resulting statements with which the EU Presidency explains the EU position on core labour standards.

3. Applying the competing theories to political coordination

i. Neofunctional theory

Neofunctional theory is frequently used in the analysis of the supranational Community pillar of the EU rather than the intergovernmental EPC/CFSP. Early neofunctional theory regarded economic integration as the pathway leading to political integration too, and the resolute nature of the division between the European Communities and EPC led to serious doubts over the applicability of the theory. (Haas, 1975) However, as has been shown in this review of the development of EPC and CFSP institutions, it is clear that the European Commission has become more involved in the EU foreign policy making apparatus of the Member States. It is important to note that the European Commission staff working in Geneva and liaising with EU Member States in the ILO report to DG External Relations, and are responsible for ensuring consistency between EU policies and ILO policies (such making the Council aware of states breaking labour standards upon which trade preferences or development assistance are dependent).¹¹⁸ Thus while the intergovernmental basis of decision making in EPC and

¹¹⁸ Interview: Geneva, 22 June 2005

CFSP limits the usefulness of neofunctional theory, a lessening of the distance between the economic and political dimensions of the EU is observable over time.

ii. Intergovernmental theory

Once again, the logic of diversity is at the heart of explaining EU Member State behaviour. While in technical issues there was a higher chance that national interests might converge in key areas and allow the EU Member States to be commonly represented, this is less likely in political issue areas. National interests will prevail over the efforts to speak with one voice, since the EU Member States ultimately pursue their own interests first. Added to this is the fact that the EU Member States are the actual members of the ILO, they hold the voting rights and made contributions to the budget. The EU Member States have a right to expect something from the dues that they pay, and there is no reason why they should forego such benefits for the sake of EU cohesion. In terms of change over time, intergovernmental theory predicts no long-term trends. Any variation in the level of common representation and voting cohesion over time is most likely attributed to the ILC agenda and the issues being discussed. During periods when a number of divisive issues arise, such as those identified in the literature (South Africa and the Middle East), the EU Member States behave in a fragmented manner because their first priority is to pursue national interests. However, the impact of the changes described above in the evolution of the EPC and the CFSP will have no effect on the actual behaviour of Member States, because (a) the decision-making procedure remains intergovernmental, and (b) national interests are determined independently of EU coordination meetings.

iii. Liberal Intergovernmental theory

Moravcsik's theoretical model for liberal intergovernmental theory is based in the Community pillar of the EU and the supranational institutions created are explained as 'locking-in' mechanisms for the complex intergovernmental bargains. Wagner applied the intergovernmental logic to the CFSP and concluded that because decisions need to be made faster, more qualified majority voting would streamline the CFSP. However, because the decisions reached bind Member States for far less time, no supranational institutions are needed. The type of foreign policy statements made in the ILO (and also in many of the situations elsewhere in the UN system) are deliberated over and do not need the type of rapid decision-making that Wagner envisages. While negotiation time is finite and criticism has been made of the tendency of the EU to become so preoccupied with internal agreement that no time is left to work with non-EU states (Smith, 2006c), there is sufficient time to produce common EU representation through the intergovernmental method.

The main insight from LI that is useful here is whether the big three Member States (France, Germany and the UK) are able to influence intergovernmental negotiations to the extent that all outcomes are based around bargains primarily acceptable to those three. If this is the case, do the smaller EU Member States accept the primacy of the big three or do they challenge it? Finding out the answer to this will help answer the second, related insight from the LI, which is how are intergovernmental bargains kept without the oversight of supranational institutions? In the Community pillar it is the acceptance by all EU Member States of the rule of law inside the Community (a norm of behaviour), coupled with a rational-choice explanation about credibility in future negotiations.

iv. Consociational theory

The application of consociational theory to political issues has been attempted by Wolfgang Wessels and Joseph Weiler. They attempted to apply the theory to explain EPC coordination but concluded that it gave little real insight into the intergovernmental Pillar. (Wessels and Weiler, 1988) The main difference between applying it to political issues is that there is a weaker Community element of integration pulling the Member States together and stronger divergent tendency between the Member States based on distinct national identities. The central purpose of consociational theory is to explain how the two seemingly opposing tendencies can be reconciled. The theory argues that the integration process in Europe is constant over time by balancing the drive for closer union with the need to maintain the autonomy of the parts, or 'segments' (the Member States). Therefore consociational theory predicts little change over time because it is concerned with the long-term stability of the European political system, and this is achieved through balancing the drive for integration by some EU Member States with the desire to preserve national identities by others. In the short term either side might be in the ascendancy, but over the long term there will be an equilibrium position that does not fundamentally alter. While intergovernmental theory predicts no overall change because of the character of the international system, consociational theory predicts long-term equilibrium around a position acceptable to elites in all Member States.

A working hypothesis set out in Chapter 2 was that dual movements of integration and differentiation in consociational theory corresponded to technical coordination through the Community pillar of the EU and political differentiation through the intergovernmental EPC/CFSP. However, in Chapter 6 the appraisal of the consociational theory concluded that the duality of integration and difference was contained *within* the

technical issues on the agenda. It was argued that technical issues were not homogeneous and while some were commonly represented and voted on (in accordance to the Community logic of integration), others were not and the reason given was that some EU Member States maintained their national identities by voting along ideological lines (market liberalisation verses social protection). The application of consociational theory (i.e. the identification of integration and the preservation of difference) took place within the technical issue area. This raises the question of whether all political issues are used to maintain the national identities of the EU Member States, or whether some political issues serve to integrate the Member States, (i.e. build a closer union)? We should consider the possibility that both elements of integration and diversity could also take place simultaneously in political issues.

v. Institutional theory

The framework set out in Chapter 2 for the study of political coordination in the ILO using institutional approaches was based on Featherstone's second minimalist interpretation of Europeanization: adaptation of policies and policy processes. March and Olsen's 'logic of appropriateness' was used to understand how the institutions of EPC and CFSP have developed norms and rules of acceptable behaviour, and socialised EU Member States into accepting them. In order to make this research approach operational, the practices of the actors involved in the institutions need to be considered, as they constitute the contact point between institution and state. The institutional environment affects the behaviour of the diplomats and bureaucrats working in it. 'Actors are socialised into new norms and rules of appropriateness through processes of arguing, persuasion, and social learning and to redefine their interests and identities accordingly.' (Boerzel and Risse, 2003: 66)

In order to test this theory we need to have a clear idea of when coordination takes place, who is involved and what is being discussed. As set out in the methodology section of Chapter 1, it is not possible to collect empirical evidence of *all* EU Member State coordination meetings in the ILO, and instead representation is used as a benchmark for coordination leading to the agreement of a common EU position. The more established an institution is, the better it will be at shaping the expectations, identity and interests of the states working in it. The transmission belt from institution to state are the diplomats and officials working there, and in the institutions of political coordination the number of staff involved is smaller than in technical issue areas (where national delegates to the ILC are experts in a specific issue area) and they meet more frequently. According to the logic of appropriateness, common representation and cohesive voting should become easier in political issues over time because the diplomats involved in the coordination mechanisms become more familiar with each other and with the system. This is because political issues such as apartheid in South Africa recur over time (it was on the ILC agenda from 1978 to 1993), or the coordination work in the standing Committee on the Application of Standards (CAS) that meets every year.¹¹⁹ In contrast, a technical issue is on the agenda for one or two years and then a new one is considered. As was shown in Chapter 4, the highest level of EU representation (in frequency and intensity) in a technical issue was occupational health and safety, which was also one of the most frequently occurring issues on the ILC agenda. The greater frequency coincided with more coordination between national experts, but the annual meeting of EPC/CFSP diplomats offers the opportunity for a higher level of group socialisation.

¹¹⁹ The issue of apartheid in South Africa is discussed in detail in Chapter 8 and the CAS in Chapter 9.

4. Summary

This chapter set out the framework for investigating the common representation and voting records of the EU Member States in political issues, specifically from the issuing of common statements and the record votes held in plenary sessions of the ILC. This was recognised as being outside the Community pillar and instead the business of EPC and CFSP. The purpose of framework was to identify and measure a change in Member State behaviour, quantified by representation (through common statements) and voting patterns. The chapter gave a brief review of the historical development of EPC and CFSP institutions, as well as reviewing the literature on EU Member State cohesion in the UN General Assembly (UNGA). It was noted that the Middle East and decolonisation and apartheid in South Africa were two of the recurrent issues that most frequently divided the EU Member States in the UNGA. The chapter ended with an overview of the five theories being tested and their relevance to EU foreign policy coordination.

POLITICAL COORDINATION IN ILC PLENARY SESSIONS

This chapter is similar to Chapter 5, which began with a statistical analysis of the EU Member States' voting cohesion and common representation in technical instruments. Here we will be looking at political voting cohesion and EU common statements made through the EPC and CFSP coordination mechanisms between 1973 and 2005. Building on the methodology introduced in Chapter 1 and utilised in Chapter 5, once again empirical data will be presented gathered from the Provisional Records of the ILC, and listed in detail in Appendix 2. The chapter is structured around the following three questions:

- Is there a relationship between EU representation and EU Member State voting cohesion?
- What additional insight do we gain on the coordination process by looking at the content and context of EU representation?
- How complete is the picture of EU coordination presented by the relationship between EU Member State representation and voting cohesion?

Appendix 2 provides the source material for the statistical analysis presented below in Section 1. It should be noted that the survey sample of 15 plenary votes (14 record votes and 1 secret ballot) is considerably smaller than the 102 record votes on technical issues. The main reason for this is that at the annual conference many more technical record votes take place than political votes. Within the broad definition of political issues set out in Chapter 7 approximately five political votes take place annually, including the decision to admit new members (rare), granting permission to vote to members that have failed to pay their dues (frequent), as well as the biennial budget. However, these are not subject to

common representation through statements. The political issues about which EU common statements have been made are:

- The conditions of Arab workers in the Occupied Territories (1973-2003)
- Concern for human rights and trade union rights in Chile (1974-1978)
- The participation of the PLO at the ILO (1975)
- The Committee on the Application of Standards report (1977)
- The Committee on the Structure of the ILO (1977)
- The apartheid regime of the South African Government (1978-1993)
- The recognition of ILC delegates from Serbia and Montenegro (1992)
- The widespread use of forced labour in Myanmar (1999)

The analysis of these issues will be carried out in the following way. In the first section the degree of association between the issuing of common EU statements (representation) and cohesive voting in the related record vote will be measured. Sections 2 and 3 address the second guiding question in the two most frequent and recurrent issues on the ILC agenda over the course of the survey, the Arab-Israeli dispute and apartheid in South Africa. The final section concludes with a summary of the answers generated in the chapter.

1. EU Member State Representation and Voting Cohesion

In contrast to the empirical data gathered on technical record votes, the quantity of data provided on political record votes is much less; 15 record votes (one of which was a secret ballot) as opposed to 102. There are a number of reasons for this, the most important of which is that the preferred procedure for adopting a resolution is by a show of hands. This signifies that the decision has been reached by consensus and therefore the show of hands is sufficient to record the will of the conference delegates. Record votes are called when the subject of the resolution is contentious and one of the tripartite constituents (most frequently either workers' or employers' delegates) wants government positions to be made transparent.¹²⁰ In terms of testing the hypothesis that EU representation and voting cohesion are associated and that an increase in representation leads to higher levels of voting cohesion, this is both a good and a bad thing. On the negative side it provides a small sample of data that is less likely to provide reliable statistical information. This is because the 14 votes over 33 years roughly averages one vote every 2.3 years. However, the votes are not spread out evenly and 11 out of the 14 useable record votes were held between 1973 and 1980 (Period 1). On the positive side the votes have occurred over contentious issues and therefore provide an opportunity to seriously test the cohesion of the EU Member States. On balance, the results of the statistical analyse will be insightful because of the nature of the cases studied, but must be judged carefully because of the small sample size.

Another difference between political record votes and technical record votes is the assumed common voting position of the EU Member States. In the previous analysis of

¹²⁰ Interview: London, 5 July 2004

technical coordination the assumption was that all EU Member States would vote for the adoption of the instrument, and abstentions and votes against were degrees of deviating away from the common position. Political votes are different because the resolution or proposal being voted on may or may not be in the interests of the EU Member States. For example, in the 1977 plenary record vote to adopt the report on labour standards by the CEACR (Committee of Experts on the Application of Conventions and Recommendations) the Nine voted for the motion. The motion was not passed because the 135 votes cast to accept the report were below the conference quorum due to 197 abstentions.¹²¹ By contrast, in the 1973 resolution concerning the Arab workers¹²² the Nine all abstained from voting and the resolution failed to be passed, which was their intended outcome.¹²³ The following year, the same voting strategy failed as an identical resolution was adopted by the conference. From these three examples it is clear that the way the EU Member States cast their votes depends on the content of the resolution, and because of this voting data is classified into two categories; cohesive and non-cohesive. No value judgement is made on what sort of vote is cast, only that the EU Member States do so cohesively.

This section uses the same working hypothesis as Chapter 5, which is that the EU Member States are more likely to vote cohesively in a record vote on a political issue if they have been commonly represented by the Presidency giving a statement concerning that issue. Relating this back to the issue of coordination, when the Presidency speaks for the EU Member States on a political issue, coordination will have taken place through the

¹²¹ The report contained criticism of Soviet Union employment practices and the vote was divided between Western governments, employers and trade unions and Communist and non-aligned states' tripartite participants. This is an example of an ideological division between ILO delegates that transcends the tripartite divisions in a state.

¹²² Resolution concerning the policy of discrimination, racism and violence of trade union freedoms and rights practices by the Israeli authorities in Palestine and the Occupied Territories.

¹²³ See Section 2 for full details including the statement from the Belgian spokesman for the Presidency.

EPC/CFSP mechanisms in the drafting of the statement. When the EU Member States agree on a common representation, are they more likely also to vote cohesively? The difference between political and technical coordination is in the frequency and effectiveness of coordination leading to common representation and cohesive voting. According to intergovernmental theory the nature of the EPC and CFSP means that national interests will prevail over common EU interests, and that coordination will have a negligible impact on the behaviour of sovereign Member States. Consociational theory predicts a similar outcome, albeit for different reasons. The logic of European integration is a dualistic one that requires synthesis and diversity at the same time. Maintaining the identities of the segments (the EU Member States) is easier in political issue areas because of the centrality of foreign policy in defining national identity.¹²⁴ By contrast, institutional theory predicts that socialisation through coordination meetings intended to draft common statements leads to a process of defining common interests based on understanding of national positions, and the importance of agreeing European ones. This approach predicts both an association between representation and voting cohesion, and an increasing level of EU collective action over time.

Table 8.1 shows the aggregated data gathered from the 14 record votes on political issues listed in Appendix 2. The results of the votes are sorted by two separate criteria. The first is whether the EU Member States were represented during the drafting of the instrument, as shown in the column titled 'Statement Given'. No distinction is made between whether a statement was made in a plenary session or a committee meetings, since

¹²⁴ There are many examples of this within the EU. Among them include France and Britain that both regard their special status as permanent members of the UN Security Council as part of their national identity. Germany, by contrast, for many years orientated its foreign policy along civilian power lines (although this changed during Chancellor Schroeder's period in office when Joschka Fischer re-orientated its direction from 'never again war' to 'never again Auschwitz' (*nie weiter Krieg, nie weiter Auschwitz*). Spain has links to Latin America, Denmark to the Nordic countries, Ireland and Austria to their position of neutrality.

the purpose of noting common representation is to establish whether coordination took place. As in Chapter 5, this is the independent (or explanatory) variable. The second sorting criterion is whether the EU Member States voted cohesively or not, and this is the dependent (or response) variable. If the hypothesis set out above is correct, we would expect to find high levels of voting cohesion after common representation.

The data presented in Table 8.1 supports this hypothesis, shown by the level of voting cohesion after common EU representation, which is measured as 85.7%, while the level of voting cohesion in record votes with no preceding common representation drops to 14.3%. On average, over all cases the level of cohesive voting is 50%, meaning that there is a drastic rise in cohesiveness after coordination, and a sharp drop without it. This information appears to support the hypothesis set out by demonstrating the trends that were predicted. As was done in Chapter 5, statistical analysis can be used to calculate the level of association between the two variables and whether the appearance of a correlation between EU Member State representation and voting cohesion is statistically significant. By repeating the chi-square method used earlier, (and set out in Appendix 6) we find that we can confidently rule out the possibility that the appearance of an association between representation and voting cohesion is coincidental (i.e. we can reject the null hypothesis).¹²⁵

This finding is surprising for two reasons. Firstly, we have found that representation and voting cohesion are associated, and that coordinating makes EU Member States much more likely to vote cohesively in the record vote. This supports the sociological approach to institutional theory, through the mechanism of the socialisation of

¹²⁵ The Chi-Square value calculated was 7.143 (to 1 df), lying between the p values 0.01 (6.635) and 0.001 (10.827). Since the null hypothesis is rejected if the result lies beyond the 95th percentile on the distribution curve (a p value of 0.05) this result comfortably exceeds this standard. The value in fact lies beyond the 99th percentile.

actors through increased contact with an institution. The second reason this is surprising is when it is compared to the results from Chapter 5, in which technical coordination was shown *not* to lead to a statistically significant association between representation and voting cohesion. This is counter intuitive to the assumptions commonly made about low and high politics equating technical issues to low politics and political issues to high politics. This follows the logic of EU integration through the division of labour between the Community and EPC/CFSP, the former responsible for technical coordination and the latter political coordination.

There are at least three possible explanations for this; firstly, and most obviously, the data set of 14 cases is too small to draw reliable conclusions. Secondly, the causality in the table could be reversed, and voting cohesion is the independent variable. In this case, the EU Member States make common statements (representation) *because* national interests converge (as seen by the subsequent voting cohesion). The data is divided in a 2x2 matrix and is symmetrical, calculating the Chi Square value in the reverse direction would yield the same result. The third possible answer is that what has thus far been assumed to constitute 'low politics', i.e. technical issues, are in fact more controversial than they appear. Two lines of argument can be used to substantiate this claim. The first is in Christopher Hill's assertion that 'the once popular distinction between "high" and "low" politics is no longer much help.' (Hill, 2002: 4) The second comes from the results of study on technical issues, which suggested that national interests and ideology play an important role in determining how EU Member States vote.

The remainder of this chapter will focus on exploring in more detail the two largest political issues on the ILC agendas during the course of the survey, the conditions of Arab workers in the Occupied Territories and the efforts of the ILO to put pressure on its

members to put pressure on the South African government to end the apartheid regime. These issues are significant, because as Simon Nuttall explains, the political differences between the Member States were 'concentrated in a few areas, but ones of particular significance, such as disarmament, South Africa, or the Middle East.' (Nuttall, 1992: 28) As Table 8.2 shows, there were 16 statements presented on the former issue, and 25 on the latter issue. However, between them only five record votes were held.¹²⁶ The extent of EU Member State coordination in political matters goes much further than the 15 record votes (14 of which we have data from) and without a closer examination of these issues the picture provided by the empirical data will be inadequate. By looking at these cases in more detail it will also be possible to gain a clearer answer on whether the statistical findings are accurate or not, and whether common representation is a result of pre-existing common interests, or whether coordination leads to the identification of common positions.

2. EU Member State representation on the issue of Arab workers

The first evidence of European Political Cooperation (EPC) coordination in the ILO came in 1973, at the 58th Session of the ILC. The Resolutions Committee of the conference drew up a *Resolution concerning the policy of Discrimination, Racism and Violation of Trade Union Freedom practised by the Israeli Authorities in Palestine and the Occupied Territories*. The

¹²⁶ The third most common item on the agenda, Chile is not included because of lack of space. Record votes were held on two separate issues; (1) resolutions concerning trade union and human rights were brought before the conference in 1974 and 1975 and (2) proposals to invalidate the credentials of the workers delegates (on the grounds that they were considered government imposers) in 1975-1978. On the issue of human rights the Member States issued a common statement in 1974 in the form of two amendments to the text of the resolution. These amendments were not accepted by the committee, and as a result the Nine did not get to vote on the resolution as they preferred it, and consequently did not vote cohesively.

The Government member of Italy stated that his Government had been happy to join in sponsoring amendments D.17 and D.18 because it was convinced that a spirit of solidarity should inspire the action of the countries of the European Economic Community within the ILO.' (ILO, 1974c: 486 §24)

From 1975 to 1978 there were also votes on whether to reject the credentials of the Chilean Workers' representatives, which eight Member States abstained on consistently while Denmark repeatedly voted for the motion (which failed every time).

resolution was supported by a majority of workers' representatives and government members predominantly from the developing world and Communist bloc countries. A Belgian diplomat spoke in the drafting committee meeting on behalf of the EU Member States to say that they had abstained from voting for the resolution because they believed the issue fell outside the technical remit of the ILO. (ILO, 1973b: 651 §77) The vote was passed in the resolution drafting committee and then put before the conference plenary to be voted on. Later on in the plenary discussion before voting to adopt the resolution Mr Van Bellinghen spoke in his capacity as a representative of Belgium and on behalf of the Nine to reiterate their belief that the issue of the Occupied Territories belonged in the United Nations General Assembly and Security Council and not in the ILO. (ILO, 1973b: 737) The resolution failed to be adopted because of the different voting weights in committee meetings and conference plenary.¹²⁷

The issue was returned to the following year in 1974, and another *Resolution concerning the policy of discrimination, racism and violence of trade union freedoms and rights practices by the Israeli authorities in Palestine and the Occupied Territories* went before the Resolutions Committee. The resolution invited the 'Governing Body of the International Labour Organisation and the Director General to use all the means at the disposal of the ILO to put an immediate end to these violations and discriminatory practices' in Israel. (ILO, 1974c: 6 §3) The Federal Republic of Germany held the rotating Presidency and on behalf of the Nine 'indicated that the members representing those Nine Governments would abstain in any vote on the resolution.' (ILO, 1974c: 349) This time the resolution was adopted by the Conference in the plenary vote, which passed the issue to the Governing

¹²⁷ The result was 64 for, 0 against and 128 abstentions. The large number of abstentions resulted in the record vote failing to reach quorum. In the committee vote workers, employers and government representatives hold one-third of the votes respectively, while in the plenary the proportions are one-quarter, one-quarter and one-half. The extra government votes blocked the resolution in the plenary.

Body that in turn mandated the Director General to act. In 1977 the Director General 'announced his intention of utilising all available ILO methods and procedures, including visits, to help ensure that the conditions of the workers concerned was in keeping with the principles and objectives of the ILO.' (ILO, 1977e: 42) In 1978 the first annual report of the Director General was submitted to the conference for consideration as a separate annex to his report, a procedure continued until the present day. (ILO, 1978f: 24-32)

The issue of the Arab-Israeli dispute caused only one split vote, which occurred in 1975 concerning granting observer status to the Palestine Liberation Organisation (PLO). The issue was raised in the Standing Orders Committee and actual decision to admit the PLO was taken by a show of hands. However, the division of the Member States was shown in a record vote concerning the adoption of a clause to the report of the committee that stated:

provided that the body considering the invitation assured that the liberation movement in question fully recognises the principles of the ILO and its constitution and the right of all member States to continue in existence and participate in the work of the organisation. (ILO, 1975d: 257)

The motion to accept the PLO followed a similar move in the UN General Assembly the previous year, and the reference to 'continue in existence' was made to highlight the section in the PLO constitution referring to the destruction of Israel, which had featured prominently in the plenary discussion. If the clause was accepted, the right of the PLO to participate could be disputed and therefore the clause was an anti-PLO device. In the record vote to accept this, Denmark, Germany and the Netherlands voted to adopt it (aligning themselves with Israel and the US among others) while Belgium, France, Ireland, Italy, Luxembourg and the UK abstained. In one of the few contributions to the literature to look at the ILO at this time, Mark Imber claims that the inclusion of the Arab-Israeli

dispute on the ILC agenda was instrumental in causing the US to leave the ILO for two years. Imber's analysis of the US withdrawal from the ILO between 1977 and 1980 cites 'a resolution adopted by the Conference in 1974 condemning Israeli labour practices in the occupied territories, and the admission of the PLO to observer status in 1975' as two of the main reasons for US action. (Imber, 1989: 53)

At the 1978 conference there was a *Resolution concerning the policy of discrimination, racism and violence of trade union freedoms and rights practices by the Israeli authorities in Palestine and the Occupied Territories*. The EU Nine voted cohesively again, and once more set out their common position towards attempts to involve the ILO in what they considered to be a 'political issue' that should be discussed in the UN General Assembly. The resolution was narrowly defeated through a strategic use of abstentions that totalled 139, five more than the 134 needed to invalidate the vote by failing to make quorum. However, two years later in 1980 the same strategy failed to block the *Resolution concerning the implications of Israeli settlements in Palestine and other Occupied Territories, in connection with the situation of Arab workers*. The common statement repeated the EPC position that the content of the resolution went beyond the remit of the ILO's competencies and that the Member States had no choice but to abstain from voting. (ILO, 1980e: §17) However, the vote was held as a secret ballot and despite the policy of abstention by the EU Nine the strategy failed and the resolution was passed. Without a record of the votes cast it is not possible to know if the EU Member States voted cohesively or not although their statement suggests they did.

No further EPC statements were given until 1988, when a resolution concerning 'the protection of workers' and employers' rights and freedoms in Palestine and other Occupied Territories' was put before the resolutions committee. The West German delegate spoke on behalf of the Twelve and stated that the:

Foreign ministers of the European Community had discussed the situation in the occupied territories on a number of occasions and had expressed their profound concern at the deteriorating conditions in these territories. However, they had also consistently stressed that certain issues belonged to other United Nations forums and not within the Specialized Agencies. (ILO, 1988f: §18)

Thus the EU Member States reiterated their previous position which was that the ILO should remain concerned with technical issues and not become a vehicle for discussing the Arab-Israeli conflict.

The Arab-Israeli issue became the subject of a special sitting of the plenary in 1990, when a session was dedicated to discussing the report on the *Situation of Workers in the Occupied Arab Territories* as an annex to the Director General's report. In every year since then the employment conditions of Arab workers has been discussed in plenary and not moved into the resolutions committee as it was during the 1970s and 1980s. In 1990, the Irish Labour Minister said that the 'Twelve agree with the Director General's statement in his report that the political aspects of the occupation, the intifada, are not as such within the competence of this Specialized Agency of the United Nations family.' (ILO, 1990b: 3) The speech went on to focus on the aid given to the region by the EC, as well as expressing the hope for a peaceful settlement. The Presidency of the EU contributed to the special sitting again in 1991 and every year until 1996, when the Italian Presidency did not speak, and in 1997 the Dutch Presidency did not speak either, and no explanation was given for their absence. (ILO, 1991c: 24; ILO, 1992b: 2; ILO, 1993c: 2; ILO, 1994f: 2; ILO, 1995b: 2) The practice resumed again in 1998 and 1999 with the UK and German Presidencies, and again in 2001 (Sweden) and 2003 (Greece). (ILO, 1998c: 13; ILO, 1999: 3; ILO, 2001b: 3; ILO, 2003b: 4) In the other years no statement was made, and again, no reason for this was given. The most recent statement in 2003 was similar to previous ones,

recalling recent EU initiatives and aid programmes as well as urging political progress to be made.¹²⁸

Over the duration of the survey the EU Member States have been very consistent in their common positions with regard to the attempts to draw the ILO into the Arab-Israeli dispute by passing resolutions on the treatment of Arab workers in the Occupied Territories. For the early period of the study, from 1973 to 1980 (coincidentally matching the Period 1 set out in Chapter 4, but in this case 1980 is the last year a resolution was put before the ILC) the Nine agreed that General Assembly was the appropriate place to discuss the issue. This was reflected in statements and voting cohesion, and is somewhat ironic because in it has been noted elsewhere in the literature that in the General Assembly the Nine *were* divided over the issue. (op cit. Foot, 1979; Johansson-Nogues, 2004) What the Nine could agree on was that the ILO should not become politicised. However, the cracks in unity could not be plastered over on the issue of PLO involvement in the ILO, where Denmark, the Netherlands and Germany sided with the US and Israel in attempting to insert a clause that would directly challenge the legitimacy of the PLO's claim to participation. The remaining Member States abstained and were closer to the Arab position.

From 1990 onwards the plenary statements soon began to resemble the previous year's statement, with the addition of more relevant information concerning the Arab-Israeli peace process, European Community overseas development aid (or sometimes the actual content of the report). These statements demonstrate the evolution of an *acquis politique* over time, with their formulaic style and references to the work of the European

¹²⁸ The Greek Presidency's address was also on behalf of the 10 accession states of the time, the associated states of Romania, Bulgaria and Turkey, as well as the EEA states of Norway, Switzerland and Iceland. (ILO, 2003b: 4)

institutions. These statements illustrate a different dimension to political coordination and representation by the EU Member States that is based on an expectation to contribute to the plenary, rather than the combative stance taken in the voting for and against resolutions. This also reflects the management of the issue by the ILO through addressing it in the less-confrontational environment of the annual special sitting of the plenary.

On balance, this case study has shown EPC worked well in the Arab-Israeli dispute during the 1970s and early 1980s. Inside the ILO the Nine were commonly represented and voted cohesively on the issue of whether the Arab-Israeli dispute should be the concern of the ILO. Can we answer the question about whether shared national interests made a common position possible, or if a common position was achieved through coordination? If we consider the fractions between the Nine in the General Assembly on this issue, it is clear that the nine national positions were not congruent. In the ILO they did agree on a common position and maintained it throughout the period. Where they did not agree (PLO observer status) they did not make a common statement and voted non-cohesively. This demonstrates that the Nine were divided, yet in the ILO through EPC they were cohesive.

3. EU Member State representation on the issue of apartheid in South Africa

The second case study under review is the ILO response to the apartheid regime in South Africa. The rising membership of African states in the ILO led to a 'situation after 1963, when African delegates moved successfully to condemn South Africa and force it out of the ILO.' (Cox and Jacobson, 1974: 107) In 1964 a *Declaration concerning the Policy of Apartheid of the Republic of South Africa* required the ILO Director General to submit annual reports to conference concerning the situation of labour rights in South Africa. The first

year in survey in which the report was discussed in plenary was in 1978, and again in 1979 and 1980. (ILO, 1978d: 10; ILO, 1979c: 9; ILO, 1980c: 5) On each occasion joint statements in the name of the Nine were presented. In 1981 the tenth item on the agenda was *Apartheid in South Africa, including the updating of the 1964 Declaration concerning the Policy of Apartheid of the Republic of South Africa*. The update under consideration was a resolution, which

explicitly invite[d] the Director General of the International Labour Organisation, in accordance with the spirit of the ILO Declaration concerning apartheid, to request the governments and employers and workers organisations of the Member States annually to provide information in the activity they have undertaken in respect of the conclusion adopted by the ILC in 1980. (ILO, 1981g: §2)

In keeping with existing practices, the Netherlands spoke on behalf of the Ten in the plenary discussion before the adoption by vote of the declaration.

The Ten member countries of the European Community together, and individually, have taken measures to bring pressure to bear on the South African Government. However, in our opinion a total isolation of South Africa would run the risk of strong counterproductive effects ... instead of contributing to the desired objective of a multiracial society. ... [T]he Ten remain convinced that full implementation of the measures contained in the Code of Conduct they adopted some years ago ... will continue to be useful in furthering change. (ILO, 1981d: 17)

The declaration had implications for the Ten because they had already developed a Code of Conduct in 1976 setting out guidelines for firms with subsidiaries, branches or representation in South Africa, and the code constituted a coordinated political response through EPC mechanisms. However, Simon Nuttall describes it as being ‘on British lines’ and ‘intended by Member States with important economic interests in South Africa to ward off the need for more drastic action.’ (Nuttall, 1992: 7) The impact of the ILC declaration in 1981 proved to be significant because it tested the EPC. Workers’ delegates on the committee repeatedly challenged the individual EU Member States to report

separately, informed by information from national trade unions from inside the EU claiming that the EPC response was masking a lack of action.¹²⁹ In response, the Member States reiterated their decision to respond collectively.

The 1982 conference included on the agenda a committee composed of tripartite delegates dedicated to scrutinising the responses from members' questionnaires concerning their *Action taken in the Declaration concerning the policy of Apartheid in South Africa* and reporting back to the plenary.¹³⁰ The workers' delegates in the committee drew attention to the fact that the EU Member States had submitted a joint reply, but that Denmark had also replied individually.¹³¹ Denmark's actions should not have come as a surprise, since 'when the question of an arms embargo against South Africa came up at the General Assembly in autumn 1976, the Danes broke ranks and voted with their Nordic partners against the rest of the Nine'. (Nuttall, 1992: 132) Denmark had a clearly identifiable national interest based on actively seeking to end apartheid in South Africa. However, despite criticism of the EPC common response by workers' representatives, a representative of the Belgian Presidency spoke in defence of the EU position:

The Member States of the Community had submitted a joint reply on action against apartheid by governments to the questionnaire from the Director General because of the joint policy on apartheid which they had developed. ... The Member States of the European Community had adopted the Code of Conduct in 1977 and continued to place substantial confidence in the contribution it could make towards reform in the labour and social fields in South Africa. (ILO, 1982a: §8)

¹²⁹ The UK Trade Union Congress (TUC) criticised the UK government on this point, as is demonstrated below.

¹³⁰ 'Report on the Committee on Apartheid' was the shorthand abbreviation used by the ILO, and in the thesis too.

¹³¹ 'The workers' group was concerned that the 10 Member States of the European Community had supplied a joint reply; among them, only Denmark had also replied individually.' (ILO, 1982a: §6)

The committee preparing a resolution to put before the conference was not willing to accept this defence of a common reply submitted by the Ten Member States, and included in Point 4 of their resolution that 'the Committee recommends that governments must in future provide individual replies to the ILO'. (ILO, 1982a: Conclusions Point 4) There is no doubt that this was a reference to the EU Member States, since the Belgian official commented that 'he could not commit his Government or other Community members to abandoning their collective reporting procedures, as implied in Point 4.' (ILO, 1982a: §52) In the plenary sitting discussing the resolution, the Belgian delegate reiterated the points made in the committee as follows:

However, I could draw the attention of the Conference to the specific nature of the Code of Practice adopted by the member countries of the European Community. The bringing into force of the Code was the fruit of a decision which was taken jointly. Supervision of the effect given to the Code is carried out by the Ten, as is the assessment of the Code. (ILO, 1982c: §15)

In 1983 the EU Member States continued to resist pressure to all report individually and instead submitted a collective reply again, while the other tripartite delegates in the standing committee responsible for assessing the reports became increasingly blunt in their condemnation of the EU states. The workers' representatives in the committee condemned the European Code of Conduct for being too weak, and the conclusions of the committee included an explicit reference to the EU Member States' continued practice of joint replies, as well as singling out France, Germany, the UK and the US as the biggest supporters of the Pretoria government. (ILO, 1983e: §8, 18) The Federal Republic of Germany spoke for the Ten in the plenary, once again defending the reporting procedure. (ILO, 1983f: 2)

The following year in 1984, individual reports were submitted by Denmark and the Netherlands, along with the joint reply. A Workers' delegate commented that during the

previous year the Prime Minister of South Africa, Mr Botha, had visited Belgium, France, Germany, Italy and the UK on a European tour. (ILO, 1984a: §6) Once again the committee conclusions were put to the plenary in the form of a resolution, which made explicit that 'the ten EC governments [had] again submitted a joint reply', while the Presidency robustly defended the practice: 'The Government member of France ... insisted that the ten countries of the European Communities should not be denied the right to have a common reply.' (ILO, 1984a: §41, 48)

The 1985 conference produced more evidence in support of the influential role of power and national interests. Township riots broke out in 1984 and although this had raised the profile of European trading links with South Africa, the UK was still reluctant to consider applying sanctions. (Nuttall, 1992: 231) Ireland joined the Netherlands and Denmark in submitting separate national reports, a strategy used by the smaller states unhappy with the EPC common position but in no position to change it. The *Report of the Committee on Apartheid* conclusions went further than any previous year to explicitly demand an alternative course of action from the EU. The committee members sought:

The adoption by the Member States of the European Economic Community of stringent divestment and disinvestment measures in line with the ILO's Programme of Action, as a replacement for the European Code of conduct or a parallel to a radically reformed Code of Conduct. The monitoring of implementation of these measures should be coordinated at the level of the Commission of the European Communities.

All countries should respond to the ILO's annual questionnaire on an individual basis. (ILO, 1985a: §4)

The Italian Presidency spoke on behalf of the Ten and explicitly rejected the possibility that the Commission of the EC should be involved in the monitoring or reporting process. 'The monitoring of the Code of Conduct was carried out at the national

level and neither the Commission of the European Communities nor the Community itself were competent to take measures in this respect.' (ILO, 1985a: §53) Later, in the plenary debate the Presidency reemphasised the division of competencies with regard to reporting, stating that 'the Ten accord the same value and the same significance to their collective reply as though this were the reply of each one of the them taken separately.' (ILO, 1985d: 10) Once again, the division of national interests was exposed by the submission of separate replies by Denmark, Ireland and the Netherlands, as well as strongly reaffirming the centrality of the EPC instruments and the exclusion of the Commission and Community from the reporting process. The EPC process was driven by the stronger EU states, but it is also interesting to note the solidarity among all the Member States in their continued coordination in the drafting of common statements through EPC. The disillusioned Member States broke ranks over the submission of reports but did not disassociate themselves from the EPC common statement.

South Africa remained on the agenda in 1986, and the concern for action was greater than ever due to the declaration of a State of Emergency on 22 July 1985. The Dutch Presidency was responsible for promoting the common position of the Twelve through EPC while also undermining it in its own actions (once again submitting an individual report to the Conference). The committee conclusions singled out Denmark for praise for passing legislation 'prohibiting trade with South Africa' (ILO, 1986a: §5) while the Presidency statement tamely stated that all 'governments within the EC were striving to bring about an early end to the apartheid system.' (ILO, 1986a: §19)

The following year (1987) during the committee discussion a British workers' representative from the Trade Union Congress (TUC) accused the UK government of holding back the EC from making a stronger common position, and claimed that it 'chose

to hide behind the anonymity of a general EEC position.’ (ILO, 1987a: §11) This interpretation of the UK position is substantiated by the results of the record vote on the adoption of the committee report in the plenary. The workers’ representatives requested a record vote in order to highlight the lack of consensus within the Committee examining the replies, and was a political move to isolate the government members that refused to cooperate. The report was passed by 331 votes for, 8 against and 26 abstentions. Each government delegation has two votes and the eight votes cast against the report were from Germany, the UK, the US and Switzerland. Denmark, Greece and Ireland voted for the adoption, while the remaining seven EU states (Belgium, France, Italy, Luxembourg, the Netherlands, Portugal and Spain) abstained. The evidence shows that the UK and Germany were deeply out of touch with both the interests of the other EU Member States, and with the vast majority of ILO members in general. The prognosis of the TUC representative cited above was that through refusing to allow the EU to adopt a stronger position (something made apparent by the disillusionment of Denmark, the Netherlands and Ireland, as well as Greece in the vote), the UK furthered its national interests by using the Code of Conduct as a veil for continued involvement with South Africa. It was able to do this since it was also in the national interest of Germany, and had been for a number of years previously also in the French national interest (although France abstained from voting in the record vote).

Apartheid remained on the conference agenda until 1993, when democratic South Africa was welcomed back into the ILO. The workers’ representatives continued to criticise the actions of the Twelve. In 1989 they sought to shame Germany by highlighting its growing trade with South Africa, (ILO, 1989a: §7) while in 1990 the Committee objected to the collective reply, saying it allowed the Member States ‘to conceal the differences which existed among the 12 members of the Community with respect to

individual measures against apartheid.’ (ILO, 1990a: §7) In 1991 a Danish workers representative asked the Twelve to respond to the complaint on their reporting process, and (predictably) the Presidency reiterated a defence of the position. (ILO, 1991a: §44, 45)

During the last five years of the reporting system, no change of great substance occurred regarding the continued stalemate between the EU’s common reply and calls for greater transparency by ILO delegates. In plenary sessions the Presidencies continued to defend the use of a common reply, while in committee meetings the Member States’ unified front began to fragment, with Ireland, Denmark and Italy (speaking in a national capacity) intervened in 1990 (ILO, 1990a), and Luxembourg (explicitly in a national capacity and not on behalf of the Twelve), the Netherlands and Denmark in 1991. (ILO, 1991a) By 1993 the imminent demise of the apartheid regime conveniently coincided with the Danish Presidency, which was spared the embarrassment of defending EU policy to the Conference.

The EU Member States demonstrated at first glance what appeared to be commitment to the Code of Conduct and to EPC. However, closer scrutiny of the evidence suggests polarisation of opinion between the Member States concerning their support for South Africa, with Germany, France, Italy, Belgium and the UK on one side, as illustrated by the explicit reference in the annual committee report in 1983 and the visit of Mr Botha to the following year. On the other hand Denmark and the Netherlands demonstrated their opposition to the South African regime, as noted by Lindemann. (Lindemann, 1982) Nuttall confirms that although the UK held many of the other states back, the UK was not able to unilaterally determine the content of the Code, and for this reason it was not the lowest common denominator policy intergovernmental theory predicts. The EPC Code of Conduct ‘was less advanced than the Dutch, for example,

would have wished, but more so that the British or the Germans ever intended.’ (Nuttall, 1992: 237) On reflection, we learn five things from the ILO example that insistence of reporting collectively under the pretence of the EPC Code of Conduct.

Firstly, the need for collective reporting was not universally accepted by all Member States. Secondly, the Member States that disagreed most strongly were all small or medium sized: Denmark, the Netherlands, Ireland and Greece (although not *all* small and medium states disagreed). Thirdly, until 1985 all the large Member States supported South Africa to some extent (shown by President Botha’s state visits) but this declined until only Germany and the UK remained supportive. Fourthly, the collective replies were widely believed to favour EU Member States with continued trading relations with South Africa and the nature of the replies were not changed over the 11 year period surveyed. Thus finally, by putting these points together we conclude that EPC and the Code of Conduct was a tool used by the larger Member States to serve their own economic national interests by hiding their continued involvement in South Africa from the ILO monitoring procedure. The voting cohesion measured (one cohesive vote in 1981 and one non-cohesive vote in 1987) does not accurately reflect the power dynamics within EPC during this time. European Union Member States were divided on the issue, but the EPC common reply was upheld in accordance to the interests of the UK and Germany.

4. Summary

This chapter began by testing the assumption that EU Member States are more likely to vote cohesively in political votes in the ILO after producing a common statement presented by the Presidency. Although the sample survey was small, a strong correlation was found to exist between the two variables. However, to further substantiate the

relationship, a detailed study of two significant political issues in the ILO during the survey was carried out, on the Arab-Israeli conflict and the apartheid regime in South Africa.

The first case study on the resolutions concerning the rights of Arab workers showed EPC working and successful. The cohesive voting and common statements were in stark contrast to the fragmentation in the General Assembly during the same period. While the EU Member States could not agree on the right course of action in the GA, they could agree that the ILO was not a suitable place to discuss the matter. The split vote on PLO delegates observing the conference actually confirms the success of the EPC because it shows that there *were* genuine differences in national positions. The second case study on South Africa also showed EPC as successful, albeit in a different way, and to a limited degree. The continued support for the Code of Conduct was a policy preference of the large Member States, and eventually only Germany and the UK. The EU Member States that were staunchly opposed to the South African government, led by Denmark and including the Netherlands and Ireland, protested by submitting additional reports and also voting for the 1987 Report in the plenary.¹³² However, the Code of Conduct and the Presidency's defence of the EU Member States' right to report collectively was not broken and the practice was maintained. In this case EPC worked as a foreign policy tool of the major Member States and the smaller states did not jeopardise the working of the common statements.

Two further conclusions emerge from the empirical case study. The first is that common representation and voting cohesion are positively associated, with an increase in one leading to an increase in another. The evidence from both cases shows that EPC

¹³² Greece voted for the report in the plenary vote and the Netherlands abstained.

coordination led to representation when the Member States were clearly in disagreement with each other. This refutes the claim that interests limit the common representation, and instead the Member States operate within a set of parameters that are below the most enthusiastic Member State, but above the most sceptical. The second is that we can refute the possibility that political issues have fallen from the status of 'high politics' and that the effect of coordination and representation on voting cohesion derived from the low salience of the issue. The importance attributed to the issues by the Member States as demonstrated allows us to reject the possibility that we had inadvertently inverted the significance of technical and political issues (as was considered in the beginning of the chapter, as a possible explanation for the observed data).

What do these cases tell us about the five theories being tested here? Neofunctionalism is less suited to explaining political integration, and the association between common statements and voting cohesion supports the conclusion that EU Member States are strongly committed to representing the EU in 'high' politics. However, the heavy bias of the data in Period 1 brings into question whether any progress has been made over the course of the survey, and undermines the neofunctional assumption of a closer union over time.

Intergovernmental theory assumes that national interests will be prioritised, and as was noted in the first section, the association between the absence of a common statement and non-cohesive voting could also support the argument that the EU Member States only work together when they have *a priori* shared interests, and that coordination does not mould consensus. Furthermore, the occasions of non-coherent voting in the 1987 vote on South Africa, and the independent report submissions by Denmark, Ireland and the

Netherlands brings into question the extent to which Member States are bound by common positions.

Liberal intergovernmental theory is not purposefully designed to be applied outside the Community pillar, but does seem to have some explanatory insight in this case. The most important one was the continued use of the Code of Conduct and the statements made in its defence in the face of growing opposition by workers' representatives in the ILO. Its principal supporters were the large EU Member States (in particular Germany and the UK) and the Member States most active against it were small ones (Denmark and Ireland, with the Netherlands more of a middle-power). This fits Moravcsik's assertion that intergovernmental bargains must satisfy the national interests of France, Germany and the UK in order to be successful. The Code of Conduct was agreed in the Council and was used because it was in the interests of the 'big three'. However, the agreement to uphold the Code was selectively applied as seen in the actions of those states submitting their own replies too. What reasons are there for the selective application, and how did the eventual level of adherence come about?

Institutional theory is useful here, since we know that there was no supranational institution to enforce the intergovernmental bargain, and yet despite divergent national interests a considerable amount of common representation took place. Socialisation into institutions leads to agreement between actors on what counts as acceptable and legitimate action. The significance of EPC institutions is that they achieved a high degree of cohesion between the EU Member State diplomats despite the clear differences in national positions. From an institutional perspective, this is explained by the logic of appropriateness.

In Chapter 7 the review of the applicability of consociational theory to political coordination questioned whether the dualistic pressures of integration and preservation of difference could be found in political issue areas. From this case it seems that they can be, with both the Arab-Israeli case study and the South African case study demonstrating examples of cohesion and segmentation simultaneously. In the former example the EU Member States were split over the question of the representation of the PLO in ILO, and this followed their national policies elsewhere in the UN system, in particular in the General Assembly. Cohesion was maintained on the issue of preventing the ILO becoming politicised. In the case of South Africa the upholding of the Code of Conduct while some Member States submitted additional reports, as well as the 1987 split vote exemplify the two movements. The pattern of data fits a consociational model of EU politics, although it is open to the criticism that the examples of cohesive policies (non-politicisation of the ILO and maintenance of the Code of Conduct) are lowest common denominator positions, and the issues of divergence are more significant markers of national interests and the limits of foreign policy coordination. However, despite this the EU Member States did retain a framework for common representation that was maintained throughout, so clearly placed value on the EU single voice.

Table 8.1: EU Member State voting in record votes on political issues in the ILC: 1973-2005.

Statement Given:	Cohesive MS voting	Non-cohesive voting	Total
EU Representation	6 (85.7%)	1 (14.3%)	7 (100.0%)
No EU representation	1 (14.3%)	6 (85.7%)	7 (100.0%)
All record votes	7 (50.0%)	7 (50.0%)	14 (100.0%)

Table 8.2: EU Member State common statements and voting in record votes on political issues in the ILC.; divided by subject area:1973-2005.

Political issue area	Statements	Cohesive votes	Non-cohesive votes
Arab workers in the Occupied Territories	16	3	0
Human rights and trade union rights in Chile	1	1	5
The participation of the PLO at the ILO	0	0	1
Committee on the Application of Standards report	1	1	0
Committee on the Structure of the ILO	1	0	0
Apartheid regime in South African	25	1	1
Recognition of Serbia and Montenegro	1	0	0
Forced labour in Myanmar	1	1	0
Total	46	7	7

Chapter 9

POLITICAL COORDINATION IN THE COMMITTEE ON THE APPLICATION OF STANDARDS

This chapter presents the empirical data on EU Member State statements in the *Committee on the Application of Standards* (CAS), a standing committee at the annual Conference that considers serious violations of labour standards by ILO members.¹³³ The empirical data used is found in Appendix 3, which lists all the statements made by EU Member States since 1973, which country they were addressed to and which convention they concerned. The appendix also details similar information for the Nordic group of countries,¹³⁴ which will be looked at in the final section of this chapter. The first EU common statement made by the Presidency was in 2000, and there have been common statements every year since then. The chapter begins with a brief explanation of the work of the CAS, followed by a survey of which states spoke and when. In order to frame the discussion of the data, three guiding questions are used, which form Sections 3, 4 and 5. The questions are:

- Which countries have been the subject of EU common statements and why?
- How do the Member States coordinate the drafting of common statements?
- Why do the Member States coordinate the drafting of common statements?

¹³³ This is the same committee as the one in which the UK government was threatened with a 'special paragraph' in 1996 over the violations in the rights of freedom of association in GCHQ, discussed in Chapter 6.

¹³⁴ Denmark, Finland, Norway and Sweden between 1973 and 1979, and from 1980 onwards Iceland has also been represented by Nordic statements in the CAS.

1. ILO mechanisms for monitoring the application of standards

The purpose of ILO standards was originally to solve the ‘problem’ of how to avoid a ‘race to the bottom’ in an international economic system. Since creating minimum standards of employment implies imposing costs (for example by requiring safety standards to be implemented, paid periods of rest to be given, etc.), any state that implemented standards was voluntarily placing itself at a comparative disadvantage. The only way to escape this is for states to cooperate, and the ILO provides an institutional setting where states can agree on standards and then monitor adherence to these standards. The ILO assists in the monitoring of standards in two ways. The first is to provide expert scrutiny of domestic laws and practices that uphold the standards, and in this capacity resembles a judicial review in an impartial manner.¹³⁵ The second is to publish the results of the scrutiny process for all members of the ILO in order to promote transparency. The members (both government and non-government) of the CAS then decide what further action should be taken, including referring the issue to the Governing Body of the ILO. However, the impartial information on serious violations can be used by NGOs and governments to legitimate economic sanctions or product boycott. EU Common Positions have made reference to the practice of forced labour in Myanmar since March 1997 (see below for further details).

When a state becomes a member of the ILO, it agrees to provide ILO officials with information to ensure labour standards are being respected. When evidence of failings comes to light, the ILO makes all tripartite members aware of this. States may make complaints against other members that fail to uphold conventions in their domestic law,

¹³⁵ ILO instruments are ratified and then national law is drafted that incorporates the legal requirements of the instrument.

provided that the state making the complaint has ratified the convention in question itself, (and workers' and employers' representatives can too). The role of the ILO is to facilitate cooperation between states and it does this through its impartial adjudication, but the ILO cannot enforce the application of standards because it has no sovereign authority over its members. When evidence of a violation arises, it is left to conference to decide what course of action to take by making a recommendation to its members or to the Governing Body.

The process of scrutiny is carried out by two separate committees. The first is the *Committee of Experts on the Application of Conventions and Recommendations* (CEACR) and the second is the *Committee on the Application of Standards* (CAS). The CEACR was set up in 1926 to monitor national law and ensure that the principles committed to in the instruments were not subsequently reneged upon. The committee is composed of 20 eminent judges appointed by the ILO Governing Body for a term of three years. Governments are obliged to submit reports on the implementation of all ratified conventions every 5 years, except for core labour standards, for which reports must be submitted every two years. The committee examines the reports and if it decides that the evidence provided is insufficient or inaccurate, it responds in one of two ways. The first is to make a 'direct request' to the national government, usually relating to technical issues and considered to be the less severe response. The other course of action is to make an 'observation' on the government and its compliance with a particular instrument. According to the ILO, observations 'contain comments on fundamental questions raised by the application of a particular convention by a state' and are published in the CEACR annual report.¹³⁶ The report is submitted to the annual conference (ILC) the following June, which is invited to examine it and adopt it.

¹³⁶ <http://www.ilo.org/public/english/standards/norm/applying/committee.htm> accessed 21-07-2005

Although the Committee on the Application of Standards is tripartite in nature, the workers' and employers' representatives are responsible for selecting a number of cases from the CEACR report and inviting government officials from the states charged with violating standards to respond to the contents of the report in front of the CAS. The absence of governments from the selection process is regarded by a number of EU Member States' diplomats working in Geneva as important, because the decision over which cases are discussed cannot be labelled as politically motivated.¹³⁷ According to the diplomats interviewed, 'politicisation' occurs when an investigation of violations of international law is regarded by the state singled out as breaking the principle of non-intervention granted by sovereignty. Politicisation is detrimental because it provides an excuse for states violating international law to disregard peer scrutiny through the United Nations system by labelling it as ideologically motivated and construed as neo-colonialism. The second reason is that it can provide an excuse for preventing UN monitors from continuing their observation exercise and potentially worsening the domestic situation. In the ILO workers' and employers' representatives choose which cases are examined and this helps to preserve the credibility of the CAS because they represent non-governmental *and* trans-national constituencies.

2. EU Member State statements in the CAS: 1973-2005

In keeping with the rest of the analysis, the survey is divided into five periods, (Tables 9.1a to 9.1e) each one showing which Member States have been represented in the CAS in each period (only those listed spoke). Table 9.2 shows from which region of the world the countries that the EU Member State making statements about came (and a full

¹³⁷ Interview: Geneva, 24 June 2005

list is given in Appendix 3). There are a number of interesting points to be considered from the data provided, and they shall be discussed below. These points include which EU Member States have spoken most often, why the practice of making joint statements was seen in 1977 and then not again until 1997, the emergence of the EU common statement and the regional focus of EU Member State statements.

German government officials have spoken most often in the CAS between 1973 and 2005,¹³⁸ with a total of 31 statements and have been included in another six made by fellow EU Member States.¹³⁹ German contributions have been fairly evenly distributed throughout the survey, with the exception of Period 2, (1981-1986) where Germany was absent. Appendix 3 also shows that Germany has made 31 statements about violations in 22 countries, more than any other EU Member State.

The UK has made 24 statements in the CAS, although its contributions have been far less consistent over time, with 16 during the period 1973 to 1980, and participating very little thereafter. The UK did not make any statements in Period 2, only one in Period 3, five in Period 4 and two in Period 5. It will be recalled that in Chapter 6 the long-running dispute between the UK government and the CAS was discussed in relation to the voting behaviour of the UK between 1994 and 1996. We can see the same dispute from the other side in Appendix 3 and Table 9.2. Between 1989 and 1995 nine statements were made by other EU Member States *about* the UK and whether it was violating conventions 87 and 98 (concerning freedom of association and the right to organise and concerning the right to

¹³⁸ In the discussion on how often Member States have spoken, the state holding the Presidency has not been included in the survey as national statement, e.g. the six EU statements by Luxembourg in 2005 are counted as EU Presidency statements and not as part of Luxembourg's contribution over 32 years.

¹³⁹ The survey of Member States does not include Nordic states, that made separate statements until 1997, when for the first time the UK made a statement on behalf of Germany, Austria and Belgium, as well as the Nordic States, Canada and Switzerland (Myanmar C87).

organise and collective bargaining). This plays an important role in accounting for the dramatic rise in statements concerning Western states in Periods 3 and 4. In 1997 the UK attitude radically changed, as government officials made three statements on behalf of EU Member States and other Western governments (Nordic, Swiss, Canadian and US) about Sudan, Myanmar and Nigeria. The government made another statement alone about Swaziland and was represented in another concerning Indonesia by the Nordic States. In 1999 the UK spoke on behalf of nine other EU states (Austria, Belgium, Germany, the Netherlands, Portugal and Spain, as well as the Nordic bloc including Denmark, Finland and Sweden) on Myanmar's violation of the forced labour convention (C29), which the following year became the subject of the first EU common statement.¹⁴⁰ The drastic change in behaviour of the UK government in the CAS after 1997 can be attributed to the arrival of New Labour into government on 1 May 1997, ending 18 years of Conservative Party rule.¹⁴¹ This is an example of domestic politics affecting CFSP decision-making and the continued importance of intergovernmental theories of European political cooperation.

The third EU Member State that has been active in the CAS is the Netherlands, having made 13 statements and been represented in a further three. Provisional Records from the CAS meetings do not show any statements made by Dutch officials between the

¹⁴⁰ Geneva based diplomats responsible for drafting common statements in the CAS note that UK is one of the strongest supporters of EU political action in the CAS, along with Germany, the Netherlands and the Nordic Member States. Interviews: Geneva, 21 & 22 June 2005.

¹⁴¹ The hostility of the outgoing government in the CAS has been shown in the repeated complaints brought against the government in the CAS prior to 1997, however when New Labour were elected to office they made improving relations with the ILO a high priority.

¹⁴² The Government has honoured its pledge to restore the right which was denied in 1984, for staff at the Government Communications Headquarters in Cheltenham (GCHQ) to join a trade union of their choice. The conditions of service at GCHQ have been amended, with immediate effect, to remove all restrictions on union membership.

¹⁴³ In addition, a Government representative stated that the United Kingdom Minister of State for Employment had already announced formally the restoration of trade union rights at the Government Communications Headquarters in Cheltenham (GCHQ) in his speech to the plenary session of the conference. He had emphasised the Government's full support for the ILO, the importance that it attached to restoring the United Kingdom's reputation for fulfilling its obligations in the ILO, and its full respect of the application of the ILO's core labour standards. (...) This was one of the very first acts of the new Government, after it was elected on 1 May 1997.' (ILO, 1997a: 100)

start of the survey in 1973 and 1980, but thereafter have been prominent in successive periods, and like the UK, Germany and Nordic States actively coordinated in the production of common statements prior to the drafting of the first EU statement in 2000. The Netherlands continues to be associated with the statements made by the Nordic States group concerning violations in countries that the EU Member States do not speak about, such as Colombia, Belarus, and Ethiopia.¹⁴²

Six other EU Member States have spoken in the CAS during the survey: France six times (and been included in one joint statement); Belgium and Austria have both spoken twice and been included in three joint statements; Italy and Portugal have spoken once and been included in two joint statements; and Spain has been included in one joint statement. Of these six, one might have expected France to have spoken more often in the CAS than it has, given the fact that it is one of the big three Member States, considers itself to have an important role to play in international politics and is a supporter of the ILO and is one of the ten states of industrial importance in the Governing Body. The other five (including Italy, which has never projected itself internationally to the same extent as the similarly sized France and UK) are medium or small states that are not expected to have an extensive range of foreign policy interests, and for this reason gain from becoming part of the CFSP.¹⁴³ The Nordic states and the Netherlands, despite not being large states, have a well-established history of support for multilateral institutions and a commitment to international development issues, including human rights.¹⁴⁴

¹⁴² As will be discussed in Section 5, the Nordic States, the Netherlands, Germany (and to a lesser extent the UK) exhibit some behaviour that characterises them as norm entrepreneurs.

¹⁴³ This is an argument made by Tonra among others, that CFSP participation expands the foreign policy horizons of small states that traditionally do not have sufficient resources. (Tonra, 2001)

¹⁴⁴ The World Summit on Social Development (WSSD) in Copenhagen 1995 reaffirmed the 0.7% GDP target for ODA by developed states. At the moment Denmark, the Netherlands, Luxembourg and Sweden are the only EU states to spend 0.7% of their GDP, although six other Member States (Belgium, France, Finland, Ireland, Spain and the United Kingdom) have fixed timetables to achieve this target by to 2015. Source: European Commission Press Memo 05/124

Looking at all EU Member State statements aggregated together over the five periods, there is a noticeable decline after Period 1 from 27 statements to 10 in Period 2, and then a gradual rise thereafter over Periods 3 to 5, with 15 between 1987 and 1992, and then 22 in both periods between 1993 and 1997, and 1998 and 2005. The regional division over the periods (as shown in Table 9.2) shows where the EU Member States chose to focus on violations in labour standards, and we notice that the first period was dominated by complaints against communist bloc states (59%). In the following period the number of complaints against communist states declined, but remained the most frequently targeted region (40%), while the third period (1987-1992) captures the end of the Cold War and correspondingly the number of complaints against communist states fell further. From this discussion it is clear that the current standing of the CAS as an un-politicised institution has not always been the case. During the Cold War the committee was divided along ideological lines between East and West, with the ILO serving as a Cold War substitute. 'In ILO conferences the ideological polemic of the Cold War took the form of a confrontation between the principles of tripartism and universalism.' (Cox and Jacobson, 1974: 105) As Robert Cox says, in the 'context of the Cold War, stress on human rights was an instrument of political warfare that the Western powers could use to attack Stalinist labour camps and the Soviet concept of trade unionism.' (Cox and Jacobson, 1974: 135) A workers' representative with many years experience of working in the ILO concurred with this analysis, arguing that western democracies accepted that labour standards, while communist countries supported labour standards without any intention of implementing them.¹⁴⁵ The East regarded them as an impediment to capitalism through the need to provide welfare provisions, while the West supported the ILO in its scrutiny of labour

12 April 2005: <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/05/124&format=HTML&aged=0&language=EN&guiLanguage=en> Accessed 20 June 2006

¹⁴⁵ Interview: London, 5 July 2004

practices behind the Iron Curtain. The US government was a vocal participant in the CAS during the Cold War, and the UK and Germany also strongly criticised communist countries during Period 1.

If the communist states have become less important in the EU Member States' concerns for the upholding of international labour standards, where have they turned their attention? In the third and fourth periods, (and to a lesser extent in the fifth period), they have devoted considerable resources to making statements about other Western states. The majority of these statements concerned the UK, but Australia and New Zealand have also been the subject of CAS scrutiny. EU Member State statements in these cases were always in defence of Western states. In Period 4 and 5 EU Member States have made statements about labour violations in many states, the majority of which have been from Asia, but also Africa, South America and former communist states. It is also only during these periods that the Member States have coordinated common statements (either as the EU or as smaller groups), with the exception of the single statement made by Germany on behalf of Belgium, France, Italy and the Netherlands in 1977 concerning freedom of association in Ethiopia. Thus we find limited evidence to support Karen Smith's statement that during 'the Cold War, the European Community maintained a 'neutral' stance vis-à-vis the human rights and democracy records in third countries'. (Smith, 2006b: 155)

3. EU Member States' common statements

In this section we answer the following questions: which countries have been the subject of EU common statements and why? It will be argued that only serious violations of core labour standards are the subject of EU common statements. The eight core

standards are based on the four fundamental principles agreed in the 1998 ILO Declaration on fundamental principles and rights at work, which are:

- freedom of association and the effective recognition of the right to collective bargaining;
- the elimination of all forms of forced or compulsory labour;
- the effective abolition of child labour; and
- the elimination of discrimination in respect of employment and occupation.¹⁴⁶

Severity is measured by the frequency with which the violating country is subject to CAS scrutiny in the preceding years to the EU statement. Further evidence of severity can be found in any extraordinary measures recommended by the ILC to the Governing Body, such as the case of forced labour in Myanmar, Colombia and Belarus, which will be described below. Finally, we will consider whether it is important that a violating country is the subject of an existing EU Common Position agreed by the Council. All of these factors point in the direction of a high threshold for agreement between all EU Member States, reiterating the intergovernmental nature of the CFSP pillar. However, despite the intergovernmental design, the number of EU statements made has grown between 2000 and 2005, as shown in Table 9.3. From one statement in 2000, six were produced in 2005, despite the enlargement of the EU from 15 to 25 members during this time. If the process is truly intergovernmental, this must be explained.

¹⁴⁶ Declaration: ILC 86 (1998) see web:

http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=DECLARATIONTEXT accessed 20 June 2006

i. Myanmar

The first core labour standard violation to be the subject of an EU common statement in the CAS was forced labour in Myanmar, contravening C29.¹⁴⁷ In 1995 and 1996 the issue of forced labour in Myanmar was noted in two 'special paragraphs' in CAS reports. On the 20 June 1996 25 Workers' delegates presented the Director General with a letter presenting a complaint against the government of Myanmar for failing to observe the Forced Labour Convention (No. 29), which it had ratified in 1955. (ILO, 2000f) The complaint was filed in accordance with Article 26 of the ILO Constitution, which included the option of setting up a Committee of Inquiry to investigate the allegations of violations. The Myanmar government was asked to clarify the situation in a letter sent by the ILO Director General on 23 December 1996. The Governing Body considered the report received in response to that letter in March 1997, and concluded that 'contradictions exist between the facts presented in the allegations and those set out in the observations of the Government of Myanmar'. (ILO, 1997c) The decision was then taken to set up a Commission of Inquiry, and its first report was submitted in July 1998.¹⁴⁸ The situation did not improve despite the work of the Committee and in June 2000 the ILC adopted a resolution to implement measures set out under Article 33 of the ILO Constitution, which states that:

In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.

¹⁴⁷ The issue of forced labour in Myanmar is the subject of a special session of the CAS, convened annually since 2000 to review the situation.

¹⁴⁸ The Committee of Inquiry held sessions to receive evidence in June and November 1997, (at the same time as the meetings of the Governing Body) and visited the region in January-February 1998.

The course of action undertaken was to request that ILO members consider economic sanctions against Myanmar, as well as taking the issue to the UN Economic and Social Council (ECOSOC). This was the first time in 81 years that the ILO had recourse to use this measure, and illustrated the severity of the situation in Myanmar.

The situation in Myanmar did not come out of the blue to the EU. As Karen Smith has documented, the Council 'first imposed limited sanctions on Burma in 1990, following the refusal of the military regime to honour the results of elections in 1990'. (Smith, 2006b: 158) An arms embargo followed, and 'defence cooperation was suspended in 1991, and all bilateral aid (except for humanitarian aid) was suspended the same year.' (Smith, 2006b: 158) The EU has a CFSP common position on Myanmar since 1996, which strengthen the previous sanctions.¹⁴⁹ In March 1997 the 'Council suspended the Generalised System of Preferences (GSP) for Burma, because of forced labour there.' (Smith, 2006b: 158) The EU therefore had a well-defined common position on Myanmar before its Member States began to coordinate in the ILO. In 1999 the UK gave a statement on Myanmar in the CAS on behalf of Austria, Belgium, Denmark, Finland, Germany, Netherlands, Portugal, Spain, Sweden and the UK, (Canada, Iceland and Norway were also aligned with the statement). The following year, the EU Member States voted cohesively in the plenary for the adoption of a resolution against Myanmar, and the Portuguese Presidency spoke on behalf of the Union in a special sitting of the CAS dedicated to the situation in Myanmar.

¹⁴⁹ The first Council Common Positions on Myanmar imposed a visa ban on government and military staff, expelled all military people attached to diplomatic missions and suspended all non-humanitarian development programmes. (EC-Bulletin, 1996a 1.4.2) This was based on an 'absence of progress' but did not mention the infringement of Convention 29 directly. However, the review of the position six months later did mention the violation of core labour standards. The European Parliament was also concerned about the issue, first mentioning forced labour in Myanmar in a resolution in 1996. (EC-Bulletin, 1996b 1.2.5)

The Presidency has prepared a common statement for the CAS on forced labour in Myanmar in every CAS meeting since then.¹⁵⁰

The threshold for collective action in the case of Myanmar was high, in part because it was also the first such action and needed to set the precedent. The appointment of a Special Representative and the recommendations to the ECOSOC under Article 33 were unprecedented in the history of the ILO, and thus illustrate the severity of this case. Given these special circumstances one could legitimately ask if no collective EU action took place after this, then when would it? The reaction from the EU was slow, given that the Council agreed the need for collective action against Myanmar's forced labour practices in 1997. Myanmar has also been in violation of C87, which the Netherlands first gave a statement on in 1994. No EU statement was made until 2005, 11 years later.

ii. Colombia

Like Myanmar, the volume of complaints against Colombia led the Director General of the ILO to appoint a special representative to the country and report back to the Governing Body on its findings. The process began with a complaint by delegates at the 1998 ILC that Colombia had been failing to observe conventions 87 and 98 concerning freedom of association. As was the case with Myanmar, the complaint was filed under Article 26 of the ILO Constitution. (ILO, 2000d) The resulting complaint led the Committee on Freedom of Association to consider a number of cases giving evidence of

¹⁵⁰ The Luxembourg Presidency made a statement on behalf of the EU on Myanmar in the March 2005 Governing Body meeting. However, this was quite exceptional practice and the Union is not generally represented in the Governing Body because the Member State holding the Presidency is not always present among the 56 government members of the ILO Governing Body.

violations against the rights of trade unionists in Colombia. (ILO, 2000e) At the Governing Body meeting (GB278) in Geneva in June 2000 the following decision was taken:

The Governing Body requested the Director-General to appoint a Special Representative of the Director-General for cooperation with Colombia in order to assist in and verify the actions taken by the Government and the Employers' and Workers' organizations to implement the conclusions of the direct contacts mission and the recommendations of the Committee on Freedom of Association in the pending cases concerning Colombia. (ILO, 2000d)

The Special Representative was requested to report to the Governing Body via the Office of the Director General at the November 2000 and March 2001 meetings. (ILO, 2001c) The failure to make progress by June 2001 resulted in the issue coming before the CAS, and at the time Sweden, holding the rotating EU Presidency gave a statement on behalf of the EU Member States condemning the lack of progress. Since 2002 a special technical cooperation programme has been in operation working with the Colombian government, but the violations have continued to be registered and discussed in the CAS in the following years.

However, unlike the previous case of Myanmar there was no history of CFSP Common Positions concerning Colombia. Another difference with the Myanmar case is that the EU did not make a statement on Colombia in 2002 or 2003, while Myanmar has been raised every year since it was first the subject of a common statement. There was an interval of two years between the 2001 Swedish Presidency and the 2004 Irish Presidency that drafted a second statement on Colombia. The explanation given by Geneva diplomats why no statement was made in 2002 was because the Spanish government held the EU Presidency and the right-wing Popular Party resisted the pressure to produce a second

statement while holding the Council Presidency in 2002.¹⁵¹ The government vetoed a statement on Colombia again in 2003, and a second EU statement on Colombia was only possible after the left-wing Socialist Party came into office in March 2004. The explanation for this given by diplomats working in Geneva was the change of government in Madrid, which was influenced by workers organisations lobbying the socialist government to change their foreign policy on this issue.¹⁵² Evidence of the change in policy to Colombia elsewhere in EU foreign policy following the March elections in Spain can be seen in the two statements issued by the Presidency in on the domestic situation in Colombia. In June 2004 the Presidency issued a statement saying that the 'European Union remains deeply concerned at the grave human rights and international humanitarian law situation in Colombia', (EC-Bulletin, 2004b) while in December 2004 the Council conclusions 'voiced its grave concern at the human rights situation and the lack of respect for international humanitarian law'. (EC-Bulletin, 2004d) The threshold for collective action was high here, with the instigation of a Special Representative taking place before the first EU common statement. Thereafter, Spanish national interests prevented further action until 2004, when the Irish Presidency made a statement (and one was also made in 2005).

iii. Zimbabwe

In 2004 Zimbabwe became the third country subject to an EU common statement in the CAS, concerning the right to organise and collective bargaining (C98). Unlike Myanmar and Colombia there was no Article 26 procedure underway to send a Special Representative of the Director General to oversee an inquiry into violations of labour

¹⁵¹ Interview: Geneva, 24 June 2005. No explanation was given as to why the Spanish government acquiesced to a statement being made in 2001.

¹⁵² Interview: Geneva, 24 June 2005

standards. Since 2002 the Zimbabwean violations of C98 had been reported in CAS, although no EU position had been forthcoming. This is not to say that the EU was not concerned with the worsening human rights situation there in general. As Karen Smith notes, 'Zimbabwe's slide into autocratic rule became an issue for the EU only from the late 1990s'. (Smith, 2006b: 161) A common position was established in 2002 (2002/145/CFSP) because of the 'deterioration of the human rights situation in Zimbabwe', and which had two purposes.

One purpose of the measures is to prohibit the supply to Zimbabwe of weapons and related supplies, training, technical assistance or equipment that could be used for internal repression. Another is to impose a travel ban on persons on the updated list, who are guilty of serious violations of human rights and the freedoms of speech and association. (EC-Bulletin, 2004b)

The common position has been renewed every year since then, although there has been at least one high-profile inconsistency when President Mugabe attended a Franco-African summit in Paris in 2003. The yearly review of the sanctions was due the day before the conference, 'and France threaten to veto their renewal if the other member states did not allow Mugabe into France.' (Smith, 2006b: 162) In comparison to the other cases, we note that the level of ILO action against Zimbabwe is less than either of the previous cases, but that the common statement concerning labour law violations came considerably later than the first Council Common Position. There is also evidence that one state (France) had interests that it put before agreement on collective action by the EU against Zimbabwe. Overall, the threshold for collective action was lower here than in the previous cases.

iv. Sudan

Sudan's violation of Convention 29 concerning forced labour led to an EU Presidency statement in 2005. In keeping with the first Myanmar example, this was a case of a violation of an individual human right (forced labour) rather than the collective rights

of trade unionists embodied in C87 and C98. There was a precedent of action by the EU in response to forced labour allegations, although unlike the Myanmar case no actions had been initiated under Article 26 of the constitution in 2005, the year of the EU common statement. Furthermore, the delay between the issue arising in the CAS and the first EU statement was only one year. As in the Myanmar and Zimbabwe cases, there was a long history of EU Common Positions concerning the Sudan, and therefore a long-held consensus among the EU Member States that actions against Sudan were acceptable to all EU Member States. Sudan had been the subject of a CFSP common position since 1994, when an arms embargo was imposed by the Council (94/165/CFSP). In 2004 the Council repealed this decision to allow certain de-mining equipment to be exported (EC-Bulletin, 2004a), but a Security Council resolution led the Council to adopt the following common position (2005/411/CFSP) on the 30 May 2005:

The Council adopts a common position introducing restrictive measures (restrictions on movement and freezing of assets) against individuals who impede the peace process in Sudan, in application of UN Security Council Resolution 1591 (2005). ... The Council also imposes measures to prevent the entry into or transit through the territory of the Member States of persons who commit serious violations of human rights or humanitarian law, violate the ceasefire or obstruct the peace process. (EC-Bulletin, 2005b)

The EU statement concerning the violation of C29 is commensurable with the language used at the end of the common position refers to 'serious violations of human rights'. In comparison to the previous examples, the threshold for action fell in Sudanese case. There are three contributing factors, two of which are the result of EU policy-making, and the third is an external variable. The first is the fact that this statement concerned forced labour and there was a precedent for EU action in the Myanmar case. Secondly, there is a long-established consensus in the Council on Common Positions against Sudan that enabled agreement. Finally, there was the added legitimacy given by the Security Council resolution against the human rights violations in the Darfur region.

v. Belarus

In 2005 the Luxembourg Presidency also presented an EU common statement concerning the violation of C87, the freedom of association of trade unions. The first time evidence of the situation in Belarus arose was in the 2001 meeting of the CAS. The failure of the Belarus government to adequately address the situation resulted in a complaint filed under Article 26 of the ILO constitution by workers' delegates at the 2003 ILC. This resulted in the establishment of another Special Representative that reported in November 2003 and November 2004 to the Governing Body. (ILO, 2003d; ILO, 2004b) The EU has a history of poor relations with Belarus that dates back to 1994 and the election to office of President Lukashenko, and the subsequent move towards authoritarian rule.¹⁵³ In 1995 the European Parliament drew attention to 'infringements of trade union rights' in a resolution. (EC-Bulletin, 1995) In February 2003 the Parliament drafted another resolution, that called for political reform in Belarus, as well as calling on 'the Commission to initiate an official investigation into *freedom of association* in Belarus on the basis of which it would implement, if necessary, the procedures for temporary withdrawal of GSP trade preferences provided for in Regulation (EEC) No 2820/98.' (EC-Bulletin, 2003) (Emphasis added) However, the focus of common positions has been on democratic freedoms, iterated strongly in the conclusions of the November 2004 Council meeting where it was stated that there was

great concern that the 17 October 2004 parliamentary elections and referendum in Belarus were not conducted in a free and fair manner. ... The Council strongly condemns the attacks on

¹⁵³ http://europa.eu.int/comm/external_relations/belarus/intro/#nov Accessed 15 February 2006

peaceful demonstrators, individual opposition leaders and journalists that took place after 17 October. (EC-Council, 2004) ¹⁵⁴

In June 2005, after the submission of a report by the ILO Special representative to Belarus, the European Commission considered withholding GSP tariff preferences to Belarus.¹⁵⁵ However, by November 2005 no such action had been taken and the 'Council stated that it would closely monitor the situation in Belarus and was ready to take appropriate restrictive measures such as freezing assets or visa restrictions against members of the government responsible for failure to meet international commitments.' (EC-Bulletin, 2005c) The threshold of action in this case seems, once again, to be high. Once again the severity of the situation in Belarus is comparable to the one in Colombia, where a Special Representative was appointed. In addition, there was a long history of EU Common Positions concerning Belarus (implying consensus among the Member States), as well as European Parliament scrutiny of domestic practices there for a decade prior to the EU CAS statement. On balance, many of these criteria match previous cases where EU statements have been made, and while the action is therefore explainable, it appears to have come late even by the slow standards of the EU.

4. Drafting CAS EU common statements: Geneva coordination mechanisms

This section asks the question: how do the Member States coordinate the drafting of CAS common statements? The staff involved in the drafting are from the Geneva Permanent Missions of the EU Member States, the Geneva mission of the Council

¹⁵⁴ A visa ban on a group of named government officials that were 'all implicated in the disappearance of four people in Belarus or obstruction of justice' was imposed in September 2004, and renewed subsequently in 2004: Common Position 2004/661/CFSP (EC-Bulletin, 2004c); 2005 Common Position 2005/666/CFSP (EC-Bulletin, 2005a)

¹⁵⁵ Interviews: Geneva, 21 & 22 June 2005.

Secretariat and the European Commission's Geneva Office (reporting back to DG External Relations). Table 9.3 shows an interesting phenomenon: as the EU enlarged from 15 to 25 Member States, the number of statements made in the CAS rose from one to three in 2004, and then in 2005 from three to six. According to all expectations based on intergovernmental theories, as the number of parties negotiating increases, *ceteris paribus* we expect to see a decrease in the number of agreements being made. One way in which to change the circumstantial conditions of the negotiation and produce a different outcome is to increase the time spent negotiating. By doing this, the intergovernmental predictions are still applicable if we take into account any additional time spent in coordination meetings. From the Daily Bulletin of the ILC we know that in 2004 there was a one-hour EU coordination meeting for the CAS statements scheduled by the Irish Presidency, and nine-and-a-half hours of coordination meetings scheduled by the Luxembourg Presidency in 2005. (ILO, 2004a; ILO, 2005a)¹⁵⁶ Without knowing how many hours were scheduled in 2003 or earlier we cannot be certain that there is not a proportional relationship between the number of Member States, the number of CAS statements and the length of time spent in coordination meetings. Interviews with diplomats working in Geneva reveal that these coordination meetings are not the only forums in which the CAS statements are discussed; before the physical meetings there is a system of email (virtual) coordination that takes place to prepare the early drafts.

Interviews with Geneva diplomats all confirm that the preparation of common statements in the CAS is greatly facilitated by the use of email. EU diplomats use the

¹⁵⁶ The Daily Bulletin in 2003 does not give any information concerning scheduled EU coordination meetings specifically for the CAS. This is explained by the move in 2004 from the EU Council Offices close to the Palais de Nations to new premises about 1.5km further away. The extra distance made it impractical to commute between the ILC and the office, and as a result the EU coordination meetings were moved into the Palais and required booking through the ILO Secretariat. All EU coordination meetings appear on the 2004 and 2005 Daily Bulletins (which give the times and locations of all coordination meetings taking place that day in the ILC) whereas previously only a few were listed.

procedure in other cities and in Geneva it has been used in other UN organisations, including the UN Commission on Human Rights. Emails are sent on a distribution list that includes all diplomats holding the same dossier (e.g. ILO) and allows for the exchange of ideas and information across a horizontal, local network of Geneva staff. An important character of the local email network is that it is below that of the COREU telex service of capital-to-capital contact. COREU is used for the circulation of information and 'concrete issues' while the nature of the email network is less formal and more discursive.¹⁵⁷ Each diplomat in the Geneva network makes direct contact with their national capital (in Foreign Ministries) if issues arise in the email correspondence that requires instruction from their superiors. It is clear that the Geneva email correspondence network and the COREU are separate and distinct inter-member communication networks and that diplomatic staff in each mission are responsible for their own contributions within the email system.

In the specific case of the CAS common statements, the Presidency prepares a first draft and sends it out to all members of the email correspondence network. Recipients then consider the draft and use the 'reply to all' function to post responses and suggestions. One of the advantages of this system is that it taps into the strengths of the different Member States, and allows additional local knowledge from embassies to be incorporated, alongside the national reports gathered by the Presidency (part of the responsibilities of the six-month post).¹⁵⁸ The Presidency mission staff are then responsible for drafting a second version of the statement that synthesises the various comments into a statement that will be acceptable to all. The email correspondence network was often referred to by diplomats as 'a tool' for the Presidency that simplified its task of coordinating common statements.

¹⁵⁷ Interviews: Geneva, 22 & 24 June 2005

¹⁵⁸ Interviews: Geneva, 22 & 24 June 2005

The reason for this was that it did not require all 25 Member States and the Council Secretariat and the Commission to be present in the drafting phase and allowed each one to contact their colleagues and gain approval of the draft statements.

During the Irish Presidency email was used as much as possible and it only convened a meeting once all of the statements had been agreed in principle in order to gain final acceptance. In contrast in 2005, the Luxembourg Presidency chose to meet to discuss the second draft of each statement and during interviews revealed that the discussion of the Myanmar (C87) and Zimbabwe statements required a day each to finalise.¹⁵⁹ Once finalised, the statements are then circulated to the associated states, other European states (Norway, Switzerland, etc.) and they are invited to align themselves with the statement. These findings illustrate how the amount of time spent in coordination meetings can be reduced by dedicating more resources to electronic communication in the preliminary stages.

All interviewees agreed that the use of the email correspondence network saves time and is more efficient. The process was described as 'clinical' because contributions are succinct and purposeful, and as a result participants focus on key issues and are disciplined in addressing only them. The reason email correspondence was often preferred to face-to-face meetings is because diplomats are able to 'talk up to the bell' when sat in a room with a statement in front of them, and a discussion mediated through email did not suffer from the same drawbacks.¹⁶⁰ In order to assist the Presidency in their job of coordinating and

¹⁵⁹ Interviews: Geneva, 21 & 22 June 2005. Some diplomats involved in the negotiation of the CAS statements in 2005 voiced the opinion that more time should have been spent fine-tuning the statements before the meeting, and that CAS coordination meetings were poorly chaired, inviting general discussion of the statements, rather than focusing on their acceptability or not.

¹⁶⁰ All points raised were from interviews conducted in Geneva with diplomatic staff from various permanent missions.

synthesising the emails exchanged, and also to help give them sufficient time to compile a completed statement, a 'silent procedure' is often used near the end of the coordination. The silent procedure is stated along with a time (e.g. 11a.m.) after which no more comments should be submitted to the network, and remaining silent (i.e. *not* emailing) is regarded as a sign of acquiescence. Member States do their utmost to observe this rule out of respect for the Presidency diplomatic staff, and also so as to retain credibility among the other members of the correspondence network.¹⁶¹ The rule is not foolproof and it is broken, on estimate, 10% of the time but only when it is based on instructions received from superiors on an important issue relating to national interests. Thus while much effort goes into producing common statements through extensive coordination, the Member States remain the central actors and each diplomat in the Geneva staff of the permanent missions is responsible for ensuring that national interests are not threatened by the process.

How well does the system work? In order to answer this we must first decide upon the criteria we wish to measure it by. There appears to be an inverse correlation between increasing the amount of time spent using the email correspondence network and the amount of time spent in face-to-face meetings. By increasing the former one can decrease the latter, and a number of diplomats regarded it as more efficient and a better use of resources. However, part of the success of the system is the *esprit de corps* between the members of the network (as illustrated in the observance of the silent procedure rule) that is fostered through personal contact. Therefore we cannot assume that all coordination could become electronic and made more efficient. A balance must be struck between using

¹⁶¹ Both of these points were raised in interviews and lend evidence to theories of socialisation between diplomatic staff, because they illustrate how inter-personal relations (and their potential deterioration) can be important factors in determining how Member States negotiate together.

local email correspondence to save time and personal contact to retain the social network between colleagues. Central to all of these points is the resourcefulness and experience of the Presidency. The Presidency must decide on the balance between electronic and personal interaction, as well as mediate between Member States in both the virtual and real discussion forums. The evidence suggests that with more time (9.5 hours) more statements (six) were produced by Luxembourg than by Ireland the previous year (1 hour, three statements).¹⁶² Yet the relationship is not linear, and the Irish Presidency agreed each statement in an average time of 20 minutes, while the Luxembourg Presidency took on average over 90 minutes to agree each statement. For this reason, the claims that the Irish Presidency was more efficient appear valid.

5. Why EU Member States coordinate common statements in the CAS

This final section pulls together a number of strands of argument from the previous sections and adds some extra information on the role of the Nordic group of states to offer one explanation for why the EU Member States began the practice of speaking with one voice in the CAS. The information presented will focus on empirical data and in the next chapter the significance of the data in terms of substantiating or refuting different theories explaining the behaviour of the Member States will be considered. However, the purpose of the data presented is to show that evidence of norm entrepreneurship can be seen in some diplomats' behaviour, as well as the emergence of a core group of EU Member States that began speaking together in common statements and later came to speak for all EU Member States.

¹⁶² As will be shown in Chapter 10, most coordination for CFSP related issues is done in Geneva and not in Brussels, although Brussels is seen as the ideal location. (EC-Council, 2003b) In contrast, some preparatory work for technical coordination is done in the Social Questions Working Group. Interview: Brussels, 18 November 2005

Section 2 identified Germany, the UK and the Netherlands as the most actively involved EU Member States in the CAS since 1973. However, the government members of the Nordic Bloc have met prior to ILC meetings since the middle of the 1950s in order to coordinate their positions in both technical and political ILC committees.¹⁶³ The Committee on the Application of Standards (CAS) meets in two parts (and three since 2000 with a special sitting dedicated to forced labour in Myanmar). The first is a review of the annual report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), the report by the independent judges that scrutinise the submissions by national governments on their domestic laws, and from where CAS issues are selected. The second is the hearing panel where violating states are called to present evidence and where all of the preceding data has been taken. The Nordic bloc has a long history of speaking together in the review of the CEACR report, as detailed in Appendix 3. Table 9.4 shows the number of statements made by the Nordic group in the Part 1 CAS during the five periods of the study.¹⁶⁴ Over the five periods of the study there is a gradual increase in the level of participation by the Nordic group, rising from an average of one statement per year in Period 1 to 4.5 statements per year between 1987 and 1992, and from 1998 to 2005.

With the exception of four statements on the violation of Convention 87 (one on Algeria and one on Liberia in 1977, and two on the UK in 1989 and 1991), the Nordic group did not make statements in the Part 2 CAS meetings until the mid-1990s. However, from 1994 onwards the Nordic bloc spoke on violations to core standards in a wide range of countries. From 1997 onwards the Nordic bloc spoke on behalf of an increasingly broad

¹⁶³ Interview: Copenhagen, 3 March 2005

¹⁶⁴ Since these periods were chosen on the basis of their relevance to the EU it is only for comparative purposes (and for methodological consistency) that the periods are used again here. However, the Nordic group has remained strong despite the gradual encroaching of EU membership on its own membership.

group of states, all of which came from the IMEC group, (with the exception of Turkey, which nonetheless frequently coordinates with the group).¹⁶⁵ When looking at the countries the Nordic group has coordinated statements for one notices that they are both broader in their range than EU common statements, but that when the EU does make a statement it is a year or more behind the Nordic group (for example the Nordic group made statements on Belarus in 2001 and 2003 before an EU statement in 2005) and that with a few exceptions, when an EU statement is made a Nordic one is not. The Nordic group is therefore a trendsetter, leading on issues that the EU follows on, and there is very little duplication of statements, with the EU statements taking precedent. Table 9.5 gives a list of all Nordic statements between 2000 and 2005 (to match the corresponding period in which EU statements were drafted). As can be seen, the Nordic bloc is prolific and attracted like-minded EU states such as the Netherlands and the UK in six of its 23 statements made since 2000 (while in the opposite direction Norway has been aligned with all 14 EU statements since 2000 and Iceland with six of them).

Interviews with diplomats from outside the Nordic states show that outside observers note that the number of Nordic statements decreases when the number of EU statements increases.¹⁶⁶ In support of this impression, a diplomat from a Nordic and EU state confirmed that their government placed greater significance on EU common statements than Nordic group statements.¹⁶⁷ The relationship between the two was characterised as zero-sum, implying that increased cooperation between EU states meant fewer common statements prepared by the Nordic bloc, which were described as being ‘up

¹⁶⁵ The 1998 statement on Indonesia (C98) was on behalf of the Nordic bloc and Austria, Belgium, Germany, Italy, the Netherlands, Portugal, the UK, Canada, Japan, the US and Turkey.

¹⁶⁶ Interview: Geneva, 21 & 22 June 2005

¹⁶⁷ Interview: Geneva, 24 June 2005

the sleeve', in case the EU did not produce one.¹⁶⁸ Coupled with this we have the other evidence gathered above, pointing to a group of predominantly Northern- and Western-European states within the EU leading the way in producing common statements in the CAS. The process began in 1997, when non-Nordic EU Member States began speaking on behalf of the Nordic group, and vice versa. In 1998 the Nordic statement on Indonesia (C98) represents ten of the fifteen EU Member States, while in 1999 the UK statement on Myanmar (C29) did the same. From this base the first EU statement was drafted in 2000, and through the processes set out in Section 4, this practice became entrenched.

6. Summary

This chapter has presented the empirical evidence gathered from a survey of the participation of EU Member States in the Committee on the Application of Standards (CAS) between 1973 and 2005. The chapter has shown that the emergence of EU common statements since 2000 was an evolutionary process borne out of an increased tendency to produce common statements by a group of predominantly Northern European states. The trendsetting nature of these states was reiterated by the broad pattern of statements on particular countries originating from this group (either Nordic States or individual EU Member States such as Germany and the Netherlands) that a year or more later became the subject of an EU common statement. The Geneva-based coordination network of diplomats that drafts these instruments has been shown to have a set of norms of procedure that socialise members into the working of the network, and through this system the diplomats from the Member States that strongly support CAS involvement have been able to build support for EU-level statements.

¹⁶⁸ Interview: Geneva, 24 June 2005

Yet the findings also point in the direction of intergovernmental explanations of behaviour. The case of Colombia showed that a Member State still had veto power over the drafting of a common statement and used it successfully. As this chapter has shown, every EU common statement has had an extremely high threshold for acceptance. The most stringent was the first case, that of forced labour in Myanmar, when the ILO took action never taken before in terms of actively seeking economic sanctions against a member (Article 33). The severity of rights violations in Colombia and Belarus was also extremely high, while Sudan was simultaneously the subject of a UN Security Council resolution. Arguably Zimbabwe had the lowest threshold of severity for action, although Zimbabwe (like Sudan, Belarus and Myanmar) was subject to EU Common Positions. The second statement against Myanmar's continued violation of C87 came in 2005, 11 years after the Netherlands first made a statement on the subject in the CAS. While on the one hand these statements can be argued to represent an emerging *acquis politique* in the CAS, on the other (more sceptical) hand they could be regarded as the bare minimum any actor that proclaims itself to be concerned with human rights would act on. From this perspective the achievement remains modest in comparison to the expectations of the trend-setting EU Member States.

Table 9.1a: EU Member State statements made in the Committee on the Application of Standards, independently and on behalf of other states: 1973-1980

EU Member State	Independent Statements	Statements made on behalf of other states	Total:
France	3	0	3
Germany	6	1*	7
Italy	1	0	1
UK	16	0	16
Total:	26	1	27

* 1977: Belgium, France, Italy and the Netherlands; statement on Ethiopia, C87

Table 9.1b: EU Member State statements made in the Committee on the Application of Standards, independently and on behalf of other states: 1981-1986

EU Member State	Independent Statements	Statements made on behalf of other states	Total:
Belgium	3	0	3
France	1	0	1
Netherlands	6	0	6
Total:	10	0	10

Table 9.1c: EU Member State statements made in the Committee on the Application of Standards, independently and on behalf of other states: 1987-1992

EU Member State	Independent Statements	Statements made on behalf of other states	Total:
France	2	0	2
Germany	9	0	9
Netherlands	2	0	2
Portugal	1	0	1
UK	1	0	1
Total:	15	0	15

Table 9.1d: EU Member State statements made in the Committee on the Application of Standards, independently and on behalf of other states: 1993-1997

EU Member State	Independent Statements	Statements made on behalf of other states	Total:
Austria	2	0	2
France	1	0	1
Germany	10	0	10
Netherlands	4	0	4
UK	2	3*	5
Total:	19	3	22

* UK on behalf of Germany, Nordic countries, Canada and US: Sudan C29 (1997)

UK on behalf of Austria, Belgium, Germany, Nordic countries, Canada and Switzerland: Myanmar C87 (1997)

UK on behalf of Germany and Netherlands: Nigeria C87 (1997)

Table 9.1e: EU Member State statements made in the Committee on the Application of Standards, independently and on behalf of other states: 1998-2005

EU Member State	Independent Statements	Statements made on behalf of other states	Total:
Germany	5	0	5
Netherlands	0	1*	1
UK	0	2*	2
EU Presidency	14**	-	14
Total:	19	3	22

* UK on behalf of Austria, Germany, Italy, Portugal, Nordic countries and Canada: Myanmar C87 (1998)

UK on behalf of Austria, Belgium, Germany, Netherlands, Portugal, Spain, Nordic countries and Canada: Myanmar C29 (1999)

Netherlands on behalf of Germany, Swaziland C87 (2000)

** Various candidate, associated, EFTA and SAP states were aligned to these statements at various times. See Appendix 3.

Table 9.2: Countries about which EU Member States made statements, divided by regions and across the five periods: 1973-2005

Region	Period 1 1973-80	Period 2 1981-86	Period 3 1987-92	Period 4 1993-97	Period 5 '98-2005	Total
Africa	7	0	2	4	4	17
Asia	2	3	1	8	9	23
Central America	1	2	3	1	0	7
South America	1	1	0	2	4	8
Soviet Bloc / Former*	16	4	3	0	3	26
Western States	0	0	6	7	2	15
Total	27	10	15	22	22	96

* Former Soviet Bloc includes Belarus, from 2001 onwards

Table 9.3: EU Presidency statements in the CAS (Country and Convention) 2000-2005

2000 Portugal	2001 Sweden	2002 Spain	2003 Greece	2004 Ireland	2005 Luxembourg
Myanmar C29	Colombia C87 Myanmar C29	Myanmar C29	Myanmar C29	Colombia C87 Myanmar C29 Zimbabwe C98	Belarus C87 Colombia C87 Myanmar C29 Myanmar C87 Sudan C29 Zimbabwe C98

Table 9.4: Nordic Group statements in the CAS Part 1 Committee 1973-2005

	Period 1 1973-1980	Period 2 1981-1986	Period 3 1987-1992	Period 4 1993-1997	Period 5 1998-2005
No. Of Statements	8	15	27	19	36
Conferences	8	6	6	5	8
Average per year	1	2.5	4.5	3.8	4.5

Table 9.5: Nordic Group statements in the CAS (Country and Convention) 2000-2005

2000	2001	2002	2003	2004	2005
Colombia C87*	Belarus C87 Colombia C87	Colombia C87 Ethiopia C87	Belarus C87** Colombia C87 Ethiopia C87 India C29	Colombia C87 Guatemala 87	Guatemala 87 Mauritania 29
	Myanmar C87	Sudan C29 Venezuela C87 Zimbabwe C98	Myanmar C87 Venezuela C87 Zimbabwe C98	Myanmar C87 Sudan C29 Venezuela C87 Zimbabwe C98	

* Nordic Group plus Netherlands

** Nordic Group plus Netherlands and United Kingdom.

POLITICAL COORDINATION: SYNOPSIS AND DISCUSSION

This chapter provides a summary of Chapters 7 to 9 and serves to tie together the analysis of political coordination in the annual labour conferences. The guiding questions for this chapter are: has a change in behaviour in the EU Member States taken place in the political issues surveyed? Has there been a change in the level of common representation, and how does that relate to the level of cohesive voting in record votes? If so, what can be said about the effectiveness of EU Member State coordination in the ILO? The statistical analysis of the data on representation and voting cohesion indicated that there was a positive association between the two variables. The next question to tackle in this chapter is which theory or theories best explain the observed behaviour?

This chapter is divided into three sections. The first examines the evidence that a change in EU Member State behaviour took place, and defines what the change was. The second section explores the most recent example of change, the development of EU common statements in the Committee on the Application of Standards (CAS) by considering to what extent it is an example of norm-entrepreneurship in action. The final section reviews the evidence that supports and refutes the five different theories considered in this section and evaluates their usefulness.

1. Changing behaviour of EU Member States

The literature on EU Member State voting cohesion in the UN General Assembly that was reviewed in Chapter 7 contains a number of works that conclude that there has always been some degree of voting cohesion between the EU Member States. (Hurwitz, 1975; Foot, 1979; Lindemann, 1982; Luif, 2003; Johansson-Nogues, 2004) The authors all identify issue areas where the EU Member States do not agree, *inter alia* the Middle East and the apartheid regime in South Africa. Added to this, Luif notes that the France and the UK are the ‘outliers’ that most often break cohesion by being the EU Member States most likely to vote differently from the majority. These states act in accordance to their national interests if they are not shared with the majority of EU Member States. The picture that this builds of EU Member State cohesion in the UN General Assembly is one where particular issues are divisive, and particular Member States are most likely to be divided from the EU majority. In relation to the specific case of the ILO, this points towards one key issue. The agenda of the ILC is an important exogenous variable in determining whether there will be voting cohesion or not.¹⁶⁹ The tabling of resolutions concerned with the situation of Arab Workers in the Occupied Territories in the 1970s was driven by sympathetic tripartite members of the ILO putting them on the conference agenda. Similarly, the scrutiny of action taken against the South African government was undertaken by a Committee sympathetic to black workers (as demonstrated by the repeated criticism of the common EU reply that was suspected of masking pro-South Africa governments’ actions).

¹⁶⁹ The same point was raised in relation to technical coordination, and the agenda-setting power of the Governing Body.

Chapter 8 focused on the empirical data gathered from record votes and Presidency statements in plenary and committee meetings between 1973 and 2005. There was too little data to disaggregate into the five periods used elsewhere in the thesis because most of the voting data fell between 1973 and 1981. The small number of record votes also meant that the appearance of a causal relationship between common representation and voting cohesion (i.e. that after coordination to produce a common statement there was a much higher chance of cohesive voting) needed secondary verification. The method chosen to do this was to look at the two political issues that dominated the EPC coordination of the Member States in the 1970s and the 1980s, the situation of Arab workers and apartheid in South Africa. The two cases provided a comparison between the early and middle period of the survey, as well as testing the alternative explanations suggested for the observed behaviour, such as an inversion of high and low politics or a reversal of the causal relationship (that EU Member States only spoke as one when they knew they could agree to).

i. Arab workers

The first case study of the situation concerning Arab workers in the Occupied Territories spanned an early period between 1973 and 1980, and then a second period between 1988 and 2005. All of the voting took place in the early period and more time was spent looking at it. Within this period there were two issues under discussion; the first was whether the PLO should be allowed to participate as an observer in the ILO, and the second was whether the consequences of the Arab-Israeli dispute on Arab workers was a justifiable concern of the ILO. We know from other work done on UN General Assembly voting cohesion that the EU Member States were deeply divided over this issue during the 1970s. Only on one occasion were they divided in the ILO however, and that was in

relation to the participation of the PLO. No statement was prepared and the EU Member States voted in two separate groups. This appears to confirm the intergovernmental logic of diversity, and also lends weight to the argument that EU Member States only speak together when they are going to vote together (and this is an example of the reverse causality where common statements *only* come about if all the Member States are in agreement prior to the start of coordination).

The other issue concerning the Arab-Israeli dispute performed better under the EPC mechanism. While it is clear both from the PLO vote and the research on the General Assembly that there were considerable differences in national policy to this issue, on the question of whether the ILO was the right place to discuss it, they unanimously agreed that it was not. In all record votes they were cohesive, and spoke frequently through the Presidency expressing the view that it was a subject to be discussed in the General Assembly and the UN Security Council. This constitutes a success for the EPC, since the position was agreed in 1973 and maintained until the last record vote on the issue in 1980. It also took place early in the life of EPC and so should be considered as the benchmark from which change over the length of the survey will be measured. If the level of voting cohesion and common representation differs from this initial level we will be able to say that a change has taken place.

ii. Apartheid in South Africa

The second case study was apartheid in South Africa, which was on the agenda of the ILC from 1978 to 1993. Once again, the literature on EU Member State coordination in the General Assembly tells us that South Africa was a divisive issue, on which Denmark, the Netherlands and Ireland took the strongest line on using UN institutions to put

pressure on the Pretoria government to end the regime. This became apparent in the ILO too when looking at the annual national submissions to the conference on the measures taken to economically isolate South Africa. Denmark, followed by the Netherlands and eventually Ireland sent individual submissions, while the remainder of the EU Member States maintained a common line on submitting a single report in keeping with the 1977 Council Code of Conduct. Despite their additional reports, the three gave their names to Presidency statements reiterating the right of the Twelve to submit a joint reply in the face of growing frustration from the ILC standing committee.

The most significant point to note is that the single report to the ILC through the European Code of Conduct reporting procedure was believed by trade unionists to be used by EU Member States still dealing with South Africa to hide their actions from the ILO. In the 1987 record vote on the adoption of the report, only four governments voted against the report; Germany, Switzerland, the UK and the US. This vote pointed to the continued financial and commercial ties between the South Africa and the Germany¹⁷⁰ and the UK, and assuming the claims by trade unionists were true, it meant that the policy of submitting a single report was in the interest of two of the three large Member States. Simon Nuttall's analysis agreed with this appraisal, noting that the UK was 'the country known to have been principally responsible for the failure to adopt sanctions' (Nuttall, 1992: 235) in general and therefore it follows that the ILO the UK was the least willing of the Twelve to report on the extent of economic ties with South Africa.

What does this case study say about EPC in the 1980s? The fact that the EU Member States continued to submit their common report and that the Presidency

¹⁷⁰ One-third of South Africa's coal production was exported to West Germany. (Nuttall, 1992: 236)

continued to defend their right submit one shows that there was a high level of cohesion despite the very clear signs that three EU Member States (Denmark, and the Netherlands) undermined this strategy through their own unilateral actions (submitting reports). Interpreting the 1987 vote is more difficult, because it was split three-ways, with Denmark, Greece and Ireland voting for the adoption of the report, Germany and the UK against, and the remaining seven states abstained. From this vote it is clear that the national positions of the Member States were deeply divided, but nonetheless they upheld their obligations to the common reporting system. This points to a situation in EPC very similar to Moravcsik's theory of liberal intergovernmental bargaining, where the three large states use their power to get what they want. This was not a purely intergovernmental situation, because if it were Denmark, the Netherlands or Ireland would have withdrawn from the common statements. Commenting on EPC in general Simon Nuttall says that the

difficulties the Ten, later Twelve, experienced in reaching agreements on sanctions detracted from the considerable achievement of their South Africa policy. The positions of the Member States were wide apart, and yet EPC provided a mechanism which resulted in a substantial European position. The position was less advanced than the Dutch, for example, would have wished, but more so than the British or the Germans ever intended. (Nuttall, 1992: 237)

iii. Committee on the Application of Standards

Chapter 9 looked at the EU Member States' statements in the Committee on the Application of Standards (CAS), both individually and collectively, between 1973 and 2005. The distribution of statements was sufficiently even so as to be able to return to the five periods used in the earlier chapters.¹⁷¹ The EU Member States began to speak on behalf of

¹⁷¹ The periods were determined with reference to the changing Treaties of the European Community. If one considers that the London report of 1981 roughly corresponds to the beginning of Period 2, then the other key dates are significant for political coordination too (SEA in 1986, Maastricht Treaty in 1992, and the Amsterdam Treaty in 1997).

each other from 1997. The development of these common statements was traced from the early trend-setting by a group of north-west EU states comprising of Germany, the Netherlands, the UK and Denmark, Finland and Sweden (as three of the five states in the Nordic bloc). This group was joined by Austria, Belgium, Italy, Portugal and Spain, none of which had a long history of speaking in the CAS, when the trend-setting country spoke for them. However, it was argued that there was a very high threshold on EU common action in the CAS. The threshold was measured by the severity of the violation, the reporting of a complaint under Article 26 of the ILO Constitution, the referral from the Governing Body to the Director General, and the frequency with which a violating state is called to speak before the CAS. It was argued that the high threshold for EU action made the EU more reactive than proactive, and also points to the intergovernmental decision-making procedure for agreeing to speak collectively.

In order to substantiate these claims, the first common statement was on forced labour in Myanmar in 2000. The case has been the subject of a dedicated sitting of the CAS for six years (2000-2005) and was referred to ECOSOC under Article 33 of the ILO Constitution, something that had never happened before or since. The cases of Colombia (C87) and Belarus (C87) were the subject of Article 26 complaints and were referred to the Governing Body and both had appointed a Special Representative of the Director General to oversee the situation. In the cases of Zimbabwe and Sudan the EU moved more quickly and did not require the impetus from an ILO Special Representative to act, although both were the subject of existing EU common positions on the basis of concerns for human rights violations taking place in them, of which violations of core labour standards form part of the ILO's contribution to the global human rights regime.

A high threshold of action is set by the EU Member States. The cases listed above represent situations in which it would be difficult to justify *not* acting, especially in the first case concerning forced labour in Myanmar. However, national interests have prevented statements being made, as happened with Colombia in 2002 and 2003, when the Spanish government vetoed the presentation of a Presidency statement. In this respect the Colombian case is an exception among those studied. In all other cases a statement has been reissued the following year, pointing to the development of an *acquis politique* in the CAS. The first statement on Colombia was prepared by the Swedish Presidency in 2001, but it was only after the return of a left-wing government in the Spanish elections in March 2004 that another statement was issued in 2004.¹⁷² It would appear that a strong case could be made for the influence of the intergovernmental decision-making process over the drafting of CAS statements.

There is one glaring flaw in the case study that prevents the intergovernmental explanation from holding water. When the membership of the EU increased from 15 to 25 Member States, the number of common statements increased from 1 in 2003, to 3 in 2004, and 6 in 2005. These figures challenge the basic assumption that as the number of states increases, the likelihood of making a decision decreases when all participants wield a veto. The discussion in Chapter 9 on the virtual coordination network explained exactly how the growing size of the EU from 15 to 25 was not only accommodated without producing gridlock in the CAS decision-making process, but may have even made it easier to reach agreement. The argument will be presented in full in Section 2 below, but put simply it is that the pressure on one Member State to 'unblock' a common statement by removing their veto increases as the size of the EU increases. Rather than making decision-making

¹⁷² This is based on interview material. See Chapter 9 for full discussion. Interview: Geneva, 24 June 2005.

more cumbersome, enlargement has the opposite effect of making the blocking of a decision more costly because of the greater pressure exerted by the group consensus.

In summary, the overview of political coordination in the ILC from 1973 to 2005 has been presented in three phases. In the first and second EPC was tested, and found to be effective even in issues where there was a clear division between the EU Member States. Its effectiveness was tempered by removing problematic issues from the EPC coordination mechanism, (e.g. PLO vote), or by the actions of small and medium states that did not agree with the EPC position and pursued a separate national strategy in a discrete manner in parallel (e.g. Denmark in the South Africa reports). In the example of the CAS from 2000, common action has grown although the EU has been slow to react and required a high threshold of severity to engage into gear. Evidence from both cases rejects the intergovernmental explanation, although elements of its explanatory power still have some purchase. The CAS example shows that an alternative explanation for the pressure on Member States to conform to a consensus view is worth exploring, and this is presented in Section 2.

2. Socialisation of diplomats and opportunities for norm entrepreneurship

How can we explain an increase in the number of common statements at the same time as an increase in the number of EU members? In 2004, six weeks after enlargement, three common statements were agreed, (while in previous years only one had been), and in 2005 the number doubled to six statements. The enlargement from 15 to 25 Member States did not seem to have an adverse effect on the outputs of the EU in the CAS, on the contrary they increased. In this section the empirical evidence from Chapter 9 on the virtual coordination network in Geneva will be expanded upon, and two ideas presented;

firstly, that diplomats are socialised into the Geneva system, and secondly that and norm entrepreneurship by existing members of the network takes place. In order to do this I will divide the section into three parts, each addressing a particular question. They are:

- Who is involved in the socialisation process?
- What is the mechanism and how does socialisation work?
- Why is Geneva special and how does it facilitate norm entrepreneurship?

i. Who is involved?

The coordination meetings in preparation for the CAS are comprised of the Geneva-based diplomats responsible for ILO affairs. The staff at the meetings represent the same parties as one would find in a Council meeting in Brussels (Commission, Council, Presidency, Member States' missions), but the Presidency of the Union has a certain amount of flexibility to determine how much of a role the Council Secretariat and the Commission have in the coordination process. Their role is to 'feed in' to the system relevant information from the Council or Commission, such as common positions and Community laws, but neither the Commission nor the Council staff in Geneva have any greater resources than the Member States' missions. For this reason they are on an equivalent level to those of the other Member States in the correspondence network and are effectively the 26th and 27th members of the network. The fact that the institutional actors are smaller than they would be in Brussels means that the diplomats in the network have a high degree of personal influence on the outcome of the coordination process.

The Presidency plays an important role in producing CAS statements, because it determines to what extent the Commission and the Council Secretariat will be involved in the negotiations, as well as the amount of time that will be spent on coordination. As mentioned at the end of Chapter 9, there is a compromise to be struck between email

coordination and a physical meeting. The Presidency is responsible for preparing draft statements that will accommodate the full spectrum of Member States' concerns, and requires skill and diplomacy. On the one hand the credibility of the Presidency as a neutral arbitrator is important for reaching agreements, but on the other hand an assertive Presidency can take the initiative and set the agenda.¹⁷³ Sweden, Ireland and Luxembourg all used their Presidencies to increase the number of statements made, but relied too on like-minded states to support them in their actions.¹⁷⁴

The final part of the answer to the question of who is involved in the group that is socialised into a coherent identity lies with states outside the EU. Prior to the May 2004 enlargement, the ten accession states were admitted to the coordination network, albeit at a later stage when the preliminary draft of the statement was agreed. Through this the new Member States became familiar with the procedures and practices, and the diplomats got to know each other. Through this the diplomats learnt about the national interests of other EU states and discovered the permissible limits of cooperation, facilitating a smooth transition from 15 to 25 states in the Union. The model was described as concentric circles around the EU, with Romania and Bulgaria one step outside, the Balkan states in the stabilisation and association process (SAP) beyond them, following a hierarchical order based on degrees away from membership.¹⁷⁵ One issue that was not clear from interviews is when non-applicant like-minded states such as Norway, Switzerland, Iceland and Canada are informed about the EU statement. This point is interesting because it highlights the

¹⁷³ Interviews: Geneva, 21, 22 and 24 June 2005

¹⁷⁴ The Swedish Presidency took the initiative to promote CAS cases that were of concern to the Nordic group to the EU group, and had Colombia included. Ms Jacqueline Ancel worked in the ILO department responsible for monitoring standards (NORMES) for a number of years before becoming First Secretary for the Luxembourg mission in Geneva. A number of diplomats from other EU Member States were aware of her previous job and questioned whether it influenced the decision of the Luxembourg Presidency to coordinate six statements. Interviews: Geneva, 21, 22 and 24 June 2005

¹⁷⁵ Interviews: Geneva, 21 June 2005. The diplomat interviewed semi-joked that Romania and Bulgaria had no choice but to agree to the statement.

fact that the concentric circle model is about socialisation into the network, while other important states that are not interested in joining are contacted at some point by the Presidency. Networks beyond the EU (such as IMEC) are important in shaping the wider-consensus building function of EU statements.¹⁷⁶

ii. How does socialisation work?

Socialisation into the Geneva coordination network is based on two pillars. The first is a set of shared aims and objectives, and the second is a unique method of achieving their objectives based on local (Geneva) autonomy. The aim of the work of the diplomats in Geneva has been clearly defined in Brussels, during the July 2003 General Affairs and External Affairs Council meeting:

The EU should promote, within the ILO, the reinforcement of the effectiveness of ILO supervision, including better publicity, more effective follow-up and more widespread use of the findings of the ILO supervisory mechanism throughout the international system. The EU itself should take the findings of the supervisory mechanism into account more systematically in its international relations.

The EU should promote, *inter alia* within the ILO, the existing implementation and incentive mechanisms and look for ways to strengthen these mechanisms, promoting respect for core labour standards and social policy at the country level. (EC-Council, 2003c: IX §5-6)

While oversight from Brussels, the European Commission liaison office in Geneva and the Council Secretariat in Geneva can ensure better lines of communication from the ILO into EU policy, these vertical lines of communication between Brussels and Geneva do not help create an effective EU policy between UN agencies in Geneva.

¹⁷⁶ This is a point raised by Smith in the UN CHR and Lindemann in the UN GA that too much time is spent coordinating and more effective networking outside the EU might better promote EU interests. (Lindemann, 1982; Smith, 2006c)

Promoting coordination across UN agencies is where the Geneva coordination network demonstrates its unique strengths. The diplomats from the EU Member State missions in Geneva have a variety of portfolios that place the ILO in the same dossier as a variety of other UN bodies, some stressing the human rights dimension (UN CHR), some the social welfare dimension (World Health Organisation) and some with closer links to trade (WTO). As more states join the EU, the wider the range of knowledge becomes, including the smaller states that have fewer diplomats who cover more UN bodies. Therefore every exchange in the coordination network incorporates a broad knowledge of the UN system agenda. There is a horizontal network across Geneva that the local diplomatic staff are uniquely able to provide.

The structure of the diplomatic staff in Geneva is important in shaping the socialisation in another way. Each of the members of the network is directly accountable to their superiors in their national capital. In the case of the European Commission liaison office it is to DG External Relations in Brussels, and the Council Secretariat to their superiors in Brussels too. The network is not as formal as the COREU telex network between national capitals, but its strength is that each local diplomat is responsible for his or her own contribution, allowing for a considerable amount of individual initiative on the ground by the diplomat. In contrast to the layers of diplomatic coordination between the permanent mission staff in Brussels, Geneva is much more compact and individual diplomats have a lot of room for manoeuvre. The codes of conduct in the email system mentioned in Chapter 9 (e.g. the silent procedure and when it is broken) are significant because the diplomats appreciate that each one has personal responsibility for ensuring their governments are happy about the content. The common situation that all network members find themselves in establishes why the normative rules are binding on members, because each benefits from them being upheld.

iii. What is special about Geneva?

Another way of asking this question is how is Geneva different from Brussels? It is my contention that norm entrepreneurship takes place in the ILO CAS because the environment in Geneva permits it, based on the fact that there is more room for individual initiatives to be undertaken in Geneva than in Brussels. In May 2003 the European Commission produced a communication entitled 'The EU and the UN: the choice of multilateralism' (COM, 2003) and in November 2003 the European Council produced a response, based on inputs from the Council's UN Coordination group (CONUN) in Brussels and a number of contributions from staff in Geneva and New York. (EC-Council, 2003b) The most important part of the report in relation to norm entrepreneurship is its explanation of what sort of coordination takes place in Geneva. The report states that 'when time does not permit to arrive at a common position in Brussels, such positions are elaborated in Geneva.' (EC-Council, 2003b: 22) This statement tells us that Geneva is the second-choice location for decision-making, and that in an ideal situation a common position would be agreed in Brussels first. In 'Brussels there is usually no preparation of EU positions to be taken at ILO meetings but on political issues, common positions are elaborated on the basis of Brussels positions.' (EC-Council, 2003b: 33) If this is the case, it means that the amount of coordination taking place in Geneva is determined by the amount of coordination that has (not) taken place in Brussels. However, the argument I am making here is opposed to this, which is that some decisions are *better* made in Geneva than they would be in Brussels, and that the amount of coordination taking place in Geneva should be determined independently of what has happened in Brussels.

The report contains opinions from the CONUN in Brussels, but also contributions from the field, including Council staff working on EU Member State coordination in the

ILO in Geneva. The report notes two reasons why coordination in Geneva has advantages over Brussels based coordination. The first is that the EU needs to reach out to states outside the EU in order to build consensus more widely. Despite the claim that 'there is a long tradition of regular contacts at Heads of Mission an expert level, between the EU and third countries/regional groups' (EC-Council, 2003b: 21), the 'EU is still too often criticised by third parties for being too rigid in its positions and for not sufficiently taking into account the views expressed by its partners.' (EC-Council, 2003b: 24) This can only be alleviated by work in Geneva rather than work in Brussels. The second is that the UN system is increasingly multidisciplinary and that cooperation takes place between UN bodies. CONUN acknowledges that 'Geneva-based activities are of an increasingly crosscutting, interrelating and interdependent nature' (EC-Council, 2003b: 19) and the multi-agency portfolios of the Geneva diplomats makes them best-suited to coordinating EU positions that take these linkages into account.

The view from Geneva on EU Member State coordination in the UN system is rosier than the one presented in Brussels. Rather than being a back-up plan for dealing with failures to coordinate common positions in Brussels, the Geneva staff are positioned to carry out important roles. However, the report paints the picture that these roles have come about more through adaptation than through conscious design.

EU activity in Geneva has developed in a pragmatic and ad hoc way out of the need to exchange information (only 4 Member States are GB (permanent) members and 3 are deputy members) and to co-ordinate on labour issues on which there is an internal EU *acquis*, and on political issues that form part of the CFSP (Myanmar, Middle East, Colombia). (EC-Council, 2003b: 32)

The origins of the coordination system in Geneva might be 'pragmatic and *ad hoc*', but the way in which it is being used, according to the interviews undertaken and the substantiated by the data collected, is purposeful and planned. The coordination network of diplomatic

staff are uniquely positioned to perform two jobs that cannot be done in Brussels, which are cross-agency policy integration and extra-EU coordination and networking. These two jobs, and the small circle of socialised diplomats performing them, have allowed norm-entrepreneurship to take place through agenda-setting and demonstrating linkages (e.g. UN CHR and ILO CAS). The fact that this happened in a political issue area means that socialisation in the network is a more important factor than the policy issue. Turning this around, the lack of a network between technical experts noted in Chapter 6 is a reason for the frequent failure of technical coordination. This shows that the actors (diplomats or experts) involved in coordination are more important for determining the outcome than the issue area.

3. Five theories considered

In this section the five theories considered as relevant to explaining the behaviour of EU Member States in the ILO are considered in order. Evidence that supports or refutes the validity of each one is taken from the empirical data and arguments presented in this chapter and the previous three.

i. Neofunctional theory

In Chapter 7 a framework for assessing the usefulness of neofunctional theory was set out. One of its primary assumptions of neofunctionalism is that integration is a dynamic process of closer union over time. The first question posed at the beginning of this chapter asked whether there has been any change in the behaviour of the EU Member States over the course of the survey. Since 2000 there has been an increase in the representation of the EU in the Committee on the Application of Standards (CAS), but in

the plenary and committee meetings surveyed there has been very little change in behaviour. There are two ways of interpreting this; the first is that the development of EPC and later CFSP coordination has been very ineffective, with no progress made over 30 years. The second way is that EPC coordination in the ILO was far more effective during the 1970s than is widely assumed (for example compared to the UN General Assembly), and that the level of effectiveness has been consistently high. The other theoretical perspectives also address this point. Either way, the expectation of progress over time has not been met. The usefulness of neofunctionalism is therefore limited in the area of political coordination.

ii. Intergovernmental theory

The intergovernmental decision-making procedures in both the EPC and CFSP have traditionally meant that this is the 'default' theory for explaining political cooperation between the Member States, or the lack thereof. Its limited use in relation to technical issues was to be expected, but its limited use in relation to political issues is a surprise. This statement requires substantiating, because there are a number of issue areas that are political (especially in the 'negative' definition of *not* technical) that have not been looked at in this thesis. The most important of these is the area of the budget, where one of the three large Member States (the UK) advocates zero nominal growth while the majority of EU Member States takes a position supporting zero real growth.¹⁷⁷ This is an example of different national interests precluding the possibility of an EU common position being taken. The other cases excluded such as the admission of new members or the granting of

¹⁷⁷ Zero nominal growth means that each ILO member pays an identical sum of money each year, with the cumulative effect on the ILO of a budget reduction by the rate of inflation. Zero real growth means that the biennial dues to the organisation increase by the rate of inflation. The interviewee was not sure what position the 10 new Member States would take on the issue. This is a difference between the EU Member States that cuts across all UN bodies since it is part of a UK Foreign Office position on UN funding. Interviews: London, 21 September 2004; Geneva, 22 June 2005.

voting rights to delegations that have not paid are adopted by 90% or more of the vote and there is no split voting between EU Member States. There are also no common EU Presidency statements and therefore no evidence of coordination, and inclusion of these into the survey would not yield any insight into the coordination mechanism and its outputs. In the political issue areas studied, which it has been argued were salient and considered across the UN system, there is in all three cases evidence that EU Member States altered their behaviour due to EPC or CFSP coordination.

The 1970s coordination over situation concerning Arab workers worked very well, keeping the clear differences between Member States outside the ILO, through the common agreement that the UN General Assembly was the appropriate discussion forum. The participation of the PLO is a case of divided national interests preventing a common position being sought, which is the return of the logic of diversity. As I argued above, this record vote demonstrated that the Arab-Israeli issue was highly divisive (as the literature on EU Member State coordination in the UN in the 1970s concurs) and emphasises the impact of EPC on the other five statements and three cohesive votes between 1973 and 1980.

The 1980s coordination through the EPC and the annual report to the committee on Apartheid in South Africa was another case where the behaviour predicted by intergovernmental theory does not match the observed behaviour. The practice of submitting a joint report, and the Presidency statements defending them were maintained throughout the lifetime of the reporting process, from 1981 to 1992. This was despite the fact that the Member States were deeply divided among themselves, as seen in the national reports submitted by Denmark, the Netherlands and Ireland, the 1987 record vote and the increased tendency of Member States to speak in committee alongside the Presidency. In

the face of such extreme differences, intergovernmental theory would predict the disintegration of EPC coordination. The fact that it did not, as noted by Nuttall, leads us to reject the intergovernmental assumption that EPC policies were lowest common denominator and survived only as long as the Member States did not walk away.

The final case of EU statements in the CAS did have a couple of pieces of evidence in support of this approach. The Spanish blocking of a common statement on Colombia showed the defence of a national interest, and the generally high thresholds for action is also a sign that there was resistance to expanding the *acquis politique* too rapidly. However, the evidence also showed how as the number of Member States grew, so too did the number of outputs, something that cannot be explained easily within the intergovernmental framework. In all three periods we have found evidence of political coordination having an effect on EU Member State behaviour, and the detailed case studies supported the original statistical evidence of an association between common representation and voting cohesion.

iii. Liberal Intergovernmental theory

To what extent are the intergovernmental agreements on common representation and voting cohesion in political issues in the ILO based on mutually acceptable outcomes for the big three states? Has this always been the case? If so, how do states agree to adhere to the agreements without an institutional lock-in? Turning first to the question of the influence of the big three, it was shown most clearly in the case study on apartheid in South Africa where Germany and the UK remained strongly committed to the common representation through the Code of Conduct, even after French support lessened. In the CAS Germany and the UK were also very influential in shaping common representation

for three reasons. Firstly, Germany and the UK were the first and the second most active EU Member States in the CAS over the course of the survey respectively. Secondly, the two Member States were instrumental in starting the practice of issuing joint statements in the 1997 ILC and thereafter. Finally, the UK's change of government in May 1997 led to an immediate change in UK policy in the CAS to one of active engagement, which swung the balance of power within the big three behind Anglo-German support for strong participation in CAS. Finding evidence from the 1970s to support the argument is more difficult. The 1975 vote concerning the admittance of the PLO into the annual conference as an observer divided Germany (against admittance) from France and the UK (for admittance, pursued by abstaining and thus preventing the blocking motion from gaining quorum). However, no statement was made and thus the issue was not subject to a common position.

The major difficulty in applying the LI approach is to note the impact made by the treaties. Although the SEA, Maastricht, Amsterdam and Nice treaties all contained changes to the decision-making processes in EPC and CFSP, there is insufficient data to pinpoint change in relation to these treaties, to show either their positive impact or their lack of impact. Furthermore, as noted in Chapter 7, LI is not able to explain adherence to an intergovernmental agreement without impartial regulatory mechanisms. This was where the institutional logic of appropriateness filled in the gaps left by following a rational choice logic of consequences.

iv. Consociational theory

Consociational theory is based on a duality between integration into the Community and the national identities of the Member States, and their continuous

development in parallel while seemingly antagonistic to the other. In Chapter 2 the prediction was made that technical issues would constitute the Community element of integration and political issues would reiterate the differences in national identity of the EU Member States. In this way, consociational theory would span both halves of the thesis, however it became apparent that the logics of integration and diversity coincide in technical issues and that the consociational theory was able to explain this very well. The following question therefore arises: can consociational theory explain political coordination as well, and if so, does it also contain elements of integration and diversity?

The answer is 'yes', if one accepts that intergovernmental theory explains some areas where there is no political coordination but not others, and where it falls down the institutional explanation of a common identity forged by diplomats working together helps to fill in the blanks. Groups holding the majority position inside the Union refrain from acting against the basic interests of the minority groups, knowing that in the long-run positions will be reversed. The socialisation of diplomats is part of the larger picture of a European elite needed to maintain the overall equilibrium in the system.

In many ways this is similar to the answer given in Chapter 6, where national identities are bolstered through occasional voting deviation based on national interests or ideological concerns. One of the strengths of consociational theory previously raised was that it identified the Presidency as an important actor in the EU, and situated it between the two poles of European Community and Member States. Once again, in the political coordination the Presidency plays an important role in preparing draft statements and chairing coordination meetings between the Member States. Overall, through the lens of consociational theory what we see is that technical and political issues are similar, insofar as there is EU Member State coordination leading to representation and voting cohesion, and

there are also times when the Member States act independently. This reflects the conclusion delivered by consociational theory, which is that European integration is not a zero-sum equation that takes sovereignty away from the Member States, but pools it in new ways. This means that despite 50 years of integration they retain their national identities and sometimes decide to pursue their national interests alone.

v. Institutional theory

The work of Finnemore and Sikkink on norm entrepreneurship has been shown to be very useful when explaining the common statements issued by the EU Presidency in the CAS, both how it originated and how it continued to work after the enlargement of the EU. As was discussed earlier, the model is based on following the logic of appropriateness, where actors learn the norms of acceptable behaviour in a social group, and evidence discovered in the empirical research of this thesis provides a clear case study of norm entrepreneurship in operation, and of Europeanization according to the logic of appropriateness taking place. Chapter 9 presented data showing which CAS cases were selected, what measures had been taken in the ILO and what CFSP Common Positions already existed. The virtual (email) coordination network was explained and the norms of operation described. In this chapter the explanation went one stage further, exploring the processes of socialisation and how they led to norm entrepreneurship in the unique policy-making environment of Geneva. How these statements started being made, how they have grown in number and how the enlargement of the EU has not effected their production can be explained by looking at the norms of the coordination institution in Geneva.

To what extent are the socialised networks in Geneva a new phenomenon, or have diplomats worked closely on CFSP and EPC coordination in the past? The two cases

studies on the Arab-Israeli dispute and apartheid in South Africa presented empirical evidence supporting the existence of a socialised group of EPC officials in the 1970s and 1980s. Secondary literature by Simon Nuttall and Philippe de Schoutheete, both of who worked in EPC and give an insider's view on the process. (de Schoutheete, 1987; Nuttall, 1992) Simon Nuttall focuses on the role of individuals making policy and how socialisation works in practice during the informal years of EPC (1970-1986), describing political co-operation as 'a private club, operated by diplomats, for diplomats'. (Nuttall, 1992: 11) In contrast to the assumption that intergovernmental meetings inevitably leads to lowest common denominator outcomes, 'median lines' were the policy outputs. Philippe de Schoutheete agrees saying that 'the embarrassment of being singled out' was too great for states to derail decisions. (de Schoutheete, 1987 p.65)

Michael E. Smith's detailed investigation into EPC institutionalisation devised a four-stage process of socialisation, from (1) informal customs, to (2) explicit norms, to (3) rules (found in EPC reports), and finally (4) formal laws. (Smith, 2004: 117) The earliest example of a fourth stage formal law was the 'treaty status' EPC was given in 1986 with the SEA. (Smith, 2004: 120) Thus prior to 1986 the customs, norms and rules of EPC were being developed, in the same time period as the survey. This evidence fits the final part of the puzzle, which is how did the EU Member States uphold the intergovernmental agreements of foreign policy coordination. A logic of appropriate action was in development, fitting Tonra's description cited in Chapter 2, where a transformation took place 'in the way in which national foreign policies are constructed, in the ways in which professional roles are defined and pursued and in the consequent internalisation of norms and expectations arising from a complex system of collective European policy-making.' (Tonra, 2000: 229)

4. Summary

The objective of the last four chapters has been to look for evidence of a change in behaviour of the EU Member States in the ILO in political coordination, and whether that change in behaviour amounts to closer coordination between the Member States being forged on other grounds, such as *inter alia* a common foreign policy or a common European identity. The answer is that there has been a change in behaviour, but it is more significant for its change in direction of coordinated policy, rather than its frequency or intensity. There is evidence of foreign policy coordination in the conference plenary and from the mid 1970s onwards, and the research has found that the EU Member States are doing more political coordination in the Committee on the Application of Standards. The exogenous influence of the ILC agenda must also be taken into account, which during the 1980s held annual committee meetings to discuss the actions of ILO members in their relations with the government of South Africa. No comparable meetings were held for other issues, and the EU Member States' common representation there cannot be compared to other cases. Furthermore, the scope of issues being discussed has not changed significantly and most notably the ILO budget and finance remains beyond the scope of an EU common position. The list of non-technical issues that nonetheless are *not* the subject of political coordination has remained the same, with the exception of the CAS statements.

Considering the evidence leads to the conclusion that there has been little change over the survey in the level of political coordination. The question is whether the level of coordination was high to begin with and remained significant, or whether the level was initially low and has remained low. The theoretical frameworks used to assess the performance of the EU Member States influence the answer one gives. Intergovernmental

theory stresses that the EU Member States will not be bound by EPC or CFSP common positions when they are opposed to their national interests, and this is corroborated by the data on common representation and cohesive voting. The strong association between the two can be interpreted as meaning where no common interests existed, no attempt at producing common statements was made.¹⁷⁸

Consociational theory stresses the need for equilibrium between the Community and the Member States, and thus finding areas of coordination and non-coordination existing simultaneously is consistent with the theory, as is the relative stability over time of the equilibrium position. However, the successful application of the theory requires a European elite to agree on the importance of maintaining the EU over the long term.

One crucial question needing answering is why do EU Member States adhere to the intergovernmental bargains struck in the absence of a regulatory authority? We turned to institutional theory, and in particular the application of sociological institutionalism (the logic of appropriateness) to explain EU Member State behaviour. With a combination of new research and secondary literature the institutional explanation for coordination appears to be applicable to all the case studies. The close network of diplomats working together, as was the case in the EPC and is the case in Geneva today, and their personal loyalty to the group, effects their actions so as to strike a balance between national interests and group interests. The institutional answer to the question of effectiveness is that the system worked well from the beginning, and continued to do so as the size of the EU increased, most significantly in 2004. It should be reiterated, however, that the level of action

¹⁷⁸ This is an example of the logic of diversity in action, although Karen E. Smith found evidence of common statements being substitutes for voting cohesion in her study of EU Member States in the UNCHR, where the statement serves as an explanation. (Smith, 2006a: 157)

achieved in the CAS is still low, and the example of forced labour in Myanmar that triggered the first EU common statement was the most severe case ever considered in the ILO. There remains a high threshold for common statements, testimony to the different national interests within the 25 Member States.

CONCLUSION

In this final chapter we return to the four questions set out at the beginning of the thesis. They were:

- Have the European Union Member States changed their behaviour over the period of study (1973-2005) in order to have a common representation of the EU in the ILO?
- Can evidence be found of closer coordination between the Member States being forged in the Community pillar, despite the absence of European Community membership of the ILO?
- Can evidence be found of closer coordination between the Member States being forged on other grounds, such as *inter alia* a common foreign policy or a common European identity?
- Based on this, which theory tells us most about the behaviour of EU Member States and the role of EU institutions within the ILO?

In order to do this we will summarise the findings of the eight empirical chapters using the framework set out in Chapter 2, which identified four primary ‘threads’ running through the work. They were: (1) the Member States and the Community; (2) the institutions; (3) technical and political issues; (4) elites and diplomats.

1. The Member States and the Community

i. Change in behaviour of Member States

There are three main conclusions that can be drawn from the evidence gathered concerning the coordination of EU Member States and the representation of the European Community in the ILO. The first conclusion is that there has been a change in the behaviour of Member States during the course of the survey observed in both technical and political issues. However it has not been linear in its direction or consistent over time. EU Member State representation in technical committees rose during the first three periods of the survey (1973-1992 inclusive) and then fell afterwards. The nature of the decline depends on whether we look at the frequency or intensity of representation, as was measured in Chapter 4. However, both indices show that the level of EU representation in the ILC between 1998 and 2005 was very similar to the levels between 1973 and 1980. Voting cohesion on technical issues tells the same story, with Period 1 (1973-1980) and Period 5 (1998-2005) being very similar and the level of cohesion fluctuated during the years in between. In political issues there was little change in behaviour during the EPC period (1973-1992), where both the Arab-Israeli and South African case studies showed that the process of coordination worked to produce a common position. The case study in Chapter 9 looking at the Committee on the Application of Standards (CAS) did show an increase over time in the level of EU representation, measured in common statements. However, the common representation in the CAS took place instead of major coordination in other political items on the agenda.

Observing whether any change in EU Member State behaviour takes place over time and noting its direction tells us which of the theories being tested are supported by

the evidence. Intergovernmental theory predicts that EU membership will not change behaviour over time because the Member States remain bound by the logic of diversity and the pursuit of national interests. Alternatively, neofunctional theory predicts integration over time leading to an ever closer union, in which we would expect to see more common representation and more cohesive voting. Neither prediction matches the observed behaviour during the survey, although both consociational theory and liberal intergovernmental theory can incorporate the patterns of behaviour identified most easily. Consociational theory's concern for an equilibrium position between integration and diversity is supported by the variation in the level of representation and voting cohesion that appears to oscillate around a constant level. The observation that the levels of representation and voting cohesion changes in relation to alterations to the treaties of the Community supports a liberal intergovernmental explanation of EU integration. The development of an EU position in the CAS is predicted by institutional approaches that focus on the role of diplomats and bureaucrats being socialised into the EPC and CFSP decision-making apparatus.

ii. Large and small Member States

The second conclusion is that large Member States behave differently to small Member States, and therefore general statements about behaviour need to take into account this difference. EU Member States belong in a hierarchical order in which France, Germany and the UK are more assertive than small Member States in their pursuit of national interests when in conflict with European interests. The evidence for this is found in both technical and political issue areas. In the technical issues national interests played an important role in shaping voting preferences, with consequential effects on voting cohesion. The basic point that big and small states behave differently has important

implications for theoretical modelling and for explaining empirical data on technical coordination. On a theoretical level these findings once again cast doubt on both neofunctional and intergovernmental explanations for Member State behaviour. On the one hand, the institutional framework built through European integration does not bind all states into a supranational union as predicted by a logic of integration. On the other hand, not all EU Member States are equally likely to assert their sovereign autonomy, as predicted by the logic of diversity. The hierarchical position of a Member State inside the EU determines how likely it is to pursue its national interests, as well as how capable it is of using EU policies as vehicles for national interests (as the Code of Conduct was for Germany and the UK, and to a lesser extent France too). EU institutions are not equally binding on all Member States, contra both neofunctionalism and intergovernmentalism, and leaves the liberal intergovernmental position as a credible explanation.

Why has neither integration nor enlargement significantly altered the level of representation or voting cohesion? The importance of a hierarchy among EU Member States helps to explain why the empirical evidence shows fairly constant levels of representation and voting cohesion over the length of the survey, which contradicts the logic of integration bringing Member States together, as well as the logic of diversity brought about by an enlargement from 9 to 25 Member States. The major source of voting deviation in technical issues comes from the UK and France, and they have been members of the EU since the beginning of the survey in 1973. Furthermore, of the 16 new Member States to have joined since 1973, only Portugal has deviated in its voting on technical issues (and only once unaccompanied by one of the 'big-three'). In the field of technical coordination voting cohesion has been kept constant because the UK, France, and to a lesser extent Germany have been willing to act in pursuit of their national interests.

In political issues the three large Member States remain important, but act to maintain cohesion rather than reduce it. In the case study on ILO monitoring of economic links with South Africa during the apartheid regime, EPC coordination produced a single report and Presidency statements defending their joint submission. It was shown that Germany and the UK favoured this policy, while small Member States like Denmark, the Netherlands and Ireland challenged the common EPC position through the submission of additional reports, but did not break the cohesion of EPC activities. Strong support for EPC cohesion backed by two of the 'big three' (and France was also a supporter of the South African government in the 1984 state visit by President Botha) ensured that it was maintained. The three loudest dissenting voices from small Member States did not withdraw from the EU common position. One can also see the same effect in the norm entrepreneurship from Germany and the UK in creating EU common positions in the CAS, where the concerted efforts of both countries, along with a group of like-minded small states drafted common statements in 1997, 1998 and 1999 before the 2000 EU Presidency statement. Interviews identified Germany and the UK as important members of the Geneva diplomatic coordination network favouring EU common statements.

iii. European Community membership

Finally, the third conclusion in this section concerns the role of the European Community (EC) in the ILO. There has been no significant change in the legal position of the EC, and it remains an observer although the 1981 Governing Body did grant additional rights to regional organisations in technical committee meetings. There has been no progress on amending the ILO Constitution to allow the EC to accede to the organisation, and the workers' and employers' groups have stressed the importance of national tripartite

coordination in accordance to the convention concerning tripartite consultation. (C144).¹⁷⁹

Workers and employers used their membership of the European Economic and Social Committee (ESC) to criticise the proposals from the Commission to strengthen the role of the Council in coordinating EC positions in the ILO. (ESC, 1995) A further blow to the aspirations of the Commission came in the ECJ Opinion 2/91 that established the need for the Member States to coordinate and represent the Community collectively, while firmly reiterating that the Member States are the members of the ILO. (ECJ, 1993)

What has been the impact of the EC Community on the representation and voting cohesion of the Member States? The level of representation peaked during the 1980s (Periods 2 and 3) and while attributed to the SEA and changes brought about by it, the ILC agenda during these periods was shown to be highly conducive to intense representation. However in other areas (especially those where Council decision-making remains unanimous under Article 137) there has been very little common representation, such as social security reform, or migrant workers. Overall, the Member States have adapted to represent the European Community as they deemed it necessary, and although they speak in many technical committees as one, there is no evidence to show that the levels reached in Periods 2 and 3 will be returned to while relying exclusively on the Presidency to speak for the Member States.

Although the European Community has expanded its competencies over the course of the survey, the assumption that it would supersede the Member States has not

¹⁷⁹ The Commission proposals are set out in *Proposal for a Council decision on the exercise of the Community's external competence at International Labour Conferences in cases falling within the joint competence of the Community and its Member States*. (EC, 1994) C144 sets out to ensure that tripartite consultations on government replies to questionnaires concerning items on the agenda of the International Labour Conference and government comments on proposed texts to be discussed by the Conference' (Article 5, §1a of C144) Council coordination of replies to the ILO Secretariat would be seen as a violation of the national tripartite consultation process.

transpired. The 'closer union' between Member States remains selectively engaged in, limited by external variables and determined by Member States' interests. Community membership of the ILO is no nearer a reality than at the start of the survey.

2. The Institutions

i. The European Commission

The European Commission's role in representing the EU Member States in the ILC has diminished during the course of the survey. Far from being the sole representative of a Community membership in the ILO that was envisaged by the European Parliament in the late 1970s (EP, 1977a), the role of the Commission has been in decline since the early 1990s. The traits of decline are twofold; the first is the number of interventions made in the ILC, and its lack of visibility (only one intervention since 1993).¹⁸⁰ The second is in the way the Commission has become an assistant to the Presidency, and the level of assistance given is at the discretion of the Presidency. The level of Commission assistance varies according to Presidency, and this has led some Member States to regard particular Presidencies as being 'too close' to the Commission, while others have sought to keep the intrusion from the Commission to a minimum.¹⁸¹ In the field of political coordination, the Commission also plays a role, as seen in the virtual coordination network.

¹⁸⁰ Over the last five years the Commission has taken an active role in participating in the ILO's research work on the Social Dimension on Globalisation on behalf of the European Community. The ILO has a Working Party on the Social Dimension on Globalisation attached to its Governing Body that meets twice a year, and the European Commission has participated regularly since it began in November 2000. Interview: Brussels, 21 November 2005 (ILO, 2000). During the consultation period during 2003-2004 when the ILO's *World Commission on the Social Dimension on Globalisation* (WCSDG) gathered material for its report, the Commission held a two-day working group meeting in Brussels for the World Commission members on the *European Model of Society*. (3-4 February 2003)

¹⁸¹ Interviews: Geneva, 21 & 22 June 2005

ii. The Presidency

The Presidency has a very important role to play in representing the EU Member States in the ILO, and is the central component in the customised system of representation that copes with the unique circumstances of devolved competency and no Community membership. The Presidency speaks for the EU Member States in the political areas coordinated through the EPC/CFSP where one would expect it to act, and also in the Community pillar where one would expect to see a Commission official. Consociational theory's concern for balancing the drive for integration with those of diversity result in a synthesis, and the position of the Presidency is also a synthesis between the two poles, on the one hand representing the Community and its institutions while on the other hand remaining a Member State and having its own prerogative on the direction it would like its semester to go.

iii. The European Court of Justice

The ECJ has played a major role since its Opinion in 2/91 established the limits of Commission involvement in the negotiation of EU representation in the ILO. The Opinion reiterated the fact that the Member States were the members of the ILO, and this led to the re-establishment of the Presidency as the sole communicator of EU representation after a number of years of Commission co-representation in the field of occupational health and safety. This can be seen in the sudden demise of the Commission after 1993, although the Commission staff in Geneva continue to provide logistical support for the Presidency staff while working there. The impact of the ECJ Opinion is also highly insightful in terms of explaining the behaviour of the Member States. While the outcome of the Opinion has been strengthening of the Member States' position at the expense of

the Commission, this does not straightforwardly conform to an intergovernmental reading of the situation. Instead, a Community institution has been used to affirm the primacy of the Member States, and this has not been subsequently challenged, even though from the Opinion it is clear that the Member States were divided among themselves over the issue of Community competency. The decision by the ECJ serves as the 'institutional choice' found in the third stage of liberal intergovernmental theory, where the bargain between Member States is guaranteed by an independent supranational agency. Although this did not result out of a treaty negotiation, the consultation of the ECJ and the binding nature of its decision illustrate the willingness of Member States to adhere to supranational authority.

iv. The European Parliament and the Economic and Social Committee

These two institutions have had little direct impact on EU-ILO relations, although over the course of the survey they have been at times supportive of the Community's potential membership of the ILO, and at other times critical of the Commission's attempts to organise Community representation. The support is most obvious during the 1970s and 1980s when the European Parliament published a number of reports favouring EC membership of the ILO and more coordinated action by EU Member States, including the ratification of conventions. However, the Council was not obliged to take note of their concerns and did not permit the Commission to keep up its monitoring of ratifications after 1975. (EC, 1975; EP, 1977a; EP, 1984; EP, 1986) As will be discussed in more detail below, the ESC shares a number of members with the ILO, including its Governing Body. This means that it is both very supportive of the work of the ILO, yet also very concerned about the possibility of national workers' and employers' becoming marginalised in the consultation process.

3. Technical and Political Issues

i. Technical

The division of the ILC agenda into technical and political areas was intended to sort issues into those which are coordinated through the European Community pillar (including in Brussels the Working party on Social Questions) and those coordinated through the EPC and CFSP (Pillar 2). The working assumption of the thesis was that evidence would be found of a positive correlation between representation and voting cohesion between the EU Member States in technical issues. This was based on the predictions of both neofunctional and liberal intergovernmental theory, which although not sharing the same assumptions about the motor of integration, agree that cooperation can take place in low salience technical issues between nation states. The empirical evidence gathered found the opposite to be the case, and that no statistically significant association exists between common representation and voting cohesion over the aggregation of the 33-year survey.

Two broad reasons for this were identified. The first was a structural reason in the EU, which was that the dynamic processes of spillover, log-rolling and side payments that according to neofunctional theory drive the European integration through the linking of issue areas, does not take place in the ILC. The national experts that arrive in Geneva to represent the Member States are from national governments and often do not have direct experience of EU negotiations. Furthermore, they have narrow negotiating mandates that can make it difficult to agree EU positions, as well as having rival coordination groups such as IMEC, Nordic or linguistic networks (e.g. Spain and Latin America). Thus the model of integration based on an expanding agenda of issue-areas does not match the reality of

compartmentalised coordination in the ILC. It was shown how issues such as occupational health and safety and working conditions that meet regularly achieve higher levels of representation and voting cohesion. These examples were presented as evidence of how established networks of negotiations could become able to agree common EU positions when they were socialised into the culture of EU negotiations.

The second reason why technical coordination does not lead to the high levels of common representation and voting cohesion expected was because EU Member State national interests still play an important role in shaping voting behaviour. Two circumstances were identified when this factor plays an important role. The first was when a Member State wishes to position itself as ideologically opposed to the instrument, most frequently as being in favour of market liberalisation (and against regulation). By voting against the adoption of an instrument onto the ILO statute they do not alter their obligations to the ILO in terms of ratifying the instrument (which remain non-obligatory), but do signal their national position vis-à-vis the content. Given that the over 96% of the votes cast by EU Member States during the survey were for the adoption of technical instruments, the four per-cent of votes cast as either abstentions or against an instrument represent a positioning of the Member State outside of the EU consensus position. Consociational theory was used to explain this behaviour as a Member State seeking to maintain the separate identity of the Member States (the 'segments') from the Community, while institutional theory considered it as evidence of a continued misfit between EU-level and national policy preferences (which may remain unaltered without socialisation) even once adaptation has occurred.

The other way in which national interests influenced voting on technical issues was through using the technical record vote as a protest against an issue elsewhere on the ILC

agenda. Under these circumstances the vote does not reflect on the national interest vis-à-vis the content of the instrument, and technical issue becomes politicised. The registering of political protest through the record vote on a technical instrument has virtually no chance of leading to the instrument failing to be adopted, since the level of consensus is usually high enough to carry all instruments through.¹⁸² Thus the inertia of the organisation adopting technical instruments means they can be used to vent protest against the ILO without actually damaging the effectiveness of the organisation (which would be counter-productive to governments).

ii. Political

In contrast to the results found in the area of technical coordination, political coordination was found to lead to a correlation between representation and voting cohesion. The small size of the data set meant that the findings were possibly inaccurate, so a number of explanations for why the results had turned out the way they had were considered. These were that the causal link between representation and voting cohesion ran in the opposite direction, and that the political issues chosen were uncontroversial. Through two case studies and reference to the existing literature in the field it was argued that the statistically significant association found was valid, despite the small sample of data.

Theories were then applied to explain the phenomenon observed, through which it was found that the institutional approach to understanding EPC and CFSP was most applicable. The area in which the most interesting results came was in the application of

¹⁸² The one exception out of 102 record votes in the survey was the convention concerning the fishing sector (2005) that failed to be adopted.

sociological approach within the institutional theory literature to the Geneva coordination network of EU Member State diplomats in their drafting of statements for the Committee on the Application of Standards (CAS) (described in detail below). Despite this it was shown that an intergovernmental element remained, seen most clearly in the high threshold for collective action.

4. Elites and diplomats

i. Elites

The role of European elites are important in two of the theories tested in the thesis, neofunctionalism and consociational theory, although they make very different predictions about whether pan-European elites support the integration project. According to neofunctional theory national elites, such as those in the workers' and employers' organisations, will re-orientate their focus of influencing decision-making taking place at the European level. This is because they recognise the institutional authority held at the supranational level and seek to have their interests represented there. During this process, a trans-European elite develops interests at the European level. Consociational theory recognises business leaders and trade unionists as members of the European elite, but argues that their position (like all members of the elite) is dependent on them representing national constituencies. Instead of accelerating the process of integration, consociational theory sees the workers' and employers' groups as part of the institutional framework preserving the diversity of the segments.

This research identified two institutions in which the pan-European workers' and employers' elites influence EU-ILO relations. The first is in Economic and Social

Committee (ESC) noted above, and the other is through the tripartite structure of the ILO. What is interesting is that both institutions have a number of individuals serving in both capacities, including Ms Ursula Engelen Kefer and Ms Renate Hornung-Draus, who serve as the respective German workers' and employers' representatives on the ILO Governing Body as well as on the ESC. (ILO, 2005f) A former French workers' representative on the Governing Body, M. Briesch, served as the chairman of the ESC from 2003 to 2005 and was the first chairperson of the ESC to be invited to speak to address the ILC plenary.¹⁸³ The ESC has always been hostile to the idea that the Commission should orchestrate closer cooperation between the EU Member States through the Council (such as the submission of common replies) which it sees as cutting national tripartite consultation out of the circuit. Inside the ILO the repeated concerns of the workers' and employers' delegates in the CEACR on the status of European ratifications was based on a concern for the expansion of European level decision-making at the exclusion of national elites. (ILO, 1983g; ILO, 1984i; ILO, 1993g; ILO, 1994d) To this end, consociational theory appears to be far more applicable in the case study of tripartite support for the EU integration than neofunctionalism.

ii. Diplomats

Diplomats are the other group to be considered in the thesis in relation to the question of what role individuals play in the coordination process. Given the fact that the legal structure of the ILO prevents the EC being a member, the success of the EC in establishing a *de facto* working method requires agents to 'work around the problem'.

¹⁸³ The invitation was made by Lord Brett, who served as President of the ILC in 2003 and is a personal friend of M. Briesch. In return Lord Brett was invited to give evidence to the ESC in their hearing in preparation for an own-initiative report on the ILO's *World Commission on the Social Dimension on Globalisation* and the Commission response, COM (2004) 383 Final *The Social Dimension of Globalisation - the EU's policy contribution on extending the benefits to all*. Interview: London, 5 July 2004.

The evidence presented in Chapters 9 and 10 argued that the development of EU common statements in the CAS was the product a logic of appropriateness by Geneva-based diplomats. It was argued that the environment in which they work, with its local network of ILO dossier holders covering a wide range of other UN bodies in Geneva is a unique decision-making system. The virtual coordination network with its norms of behaviour and rules of conduct socialises diplomats into the system, either newly arrived from outside Geneva on rotation to the post, or accession states joining the EU. Through the application of Finnemore and Sikkink's model, it was argued that the EU Presidency statements in the CAS came about through a process of norm entrepreneurship by a number of diplomats from Germany, the Netherlands, the Nordic states and the UK.

The success of the coordination in political issue areas was attributed to the network of staff, their working relationship and familiarity with each other. This was argued to be the case in Geneva in relation to CAS, where archival evidence and interviews covered the necessary six-year time period. However, this finding is in keeping with the work done on EPC coordination in the 1980s by Simon Nuttall and Philippe de Schoutheete. Michael E. Smith's work has added an extra dimension by showing how the group developed its ideas and changed over time, thus giving it a dynamic quality which critics argued the earlier literature by practitioners lacked. In this thesis, in the case of CAS, I have shown how the process began (through the development of a critical mass of norm-supporting diplomats) and how it cascaded through the EU Geneva coordination network, to the point where it has been internalised as part of the *acquis politique*. Furthermore, contrasting political coordination with technical coordination highlights the lack of socialisation between technical experts on their fortnightly secondment from their national capitals to Geneva.

5. Summary

Have the European Union Member States changed their behaviour over the period of study (1973-2005) in order to have a common representation of the EU in the ILO?

Assessing the change in behaviour must be done both qualitatively and quantitatively. There has been an increase in the number of common representation statements made in both technical and political agenda items in the ILO during the course of the survey, although separate assessments should be made for each. In technical issues the increase in the intensity of EU common representation in some areas (such as OSH) is sporadic across the survey, and there are issue areas where no significant change in behaviour has occurred, principally those set out in the TEC Article 137 as being decided by unanimity in the Council. The frequency with which the EU is represented in technical committees has increased, although this includes occasions when the Presidency only makes opening and closing remarks. Overall, common representation in technical areas remains inconsistent in terms of intensity and frequency, and is dependent on issue area, the ILO agenda, the Presidency, as well as the national interests of the EU Member States.

In political issues there has been a change in behaviour, but it has been a change in direction of coordinated policy, rather than its frequency or intensity. There is evidence of foreign policy coordination in the conference plenary and from the mid 1970s onwards, which has continued since. From the empirical evidence gathered the difference between the EPC and CFSP periods is small, as is the difference over time. I conclude that the EPC was particularly successful during its early years because the EU Member States had plenty of time to agree a common position that was acceptable to all, in this example not to discuss the Arab-Israeli issue in the ILO. The nature of the position did not require

changing over time once agreed. In contrast the CFSP has not substantially built on what EPC achieved, with no EU common positions on the important question of the ILO's budget. The only recent sustained action is in the Committee on the Application of Standards (CAS), but it has been slow and requires a high threshold for collective action. This leads to the conclusion that the CFSP has underperformed when compared to the promising start made by EPC.

The qualitative changes in Member State behaviour are limited in scope; the European Community has not become a member of the ILO, and the increased role of European Commission staff in representing the Member States was stopped for a decade after the ECJ Opinion of 1993. The Presidency continues to speak for the EU Member States, as was the case in 1973, and both the IMEC and Nordic groups continue to feature prominently as alternative coordination forums in the place of the EU.

In Chapter 1 the question was asked whether the EU Member States have incurred costs by coordinating, and possible examples of costs included a diminished influence in networks beyond the EU such as IMEC because of 'navel gazing'. There has been little substantive change in the nature of EU Member State coordination over the course of the survey, and the Member States have not made any considerable sacrifices in the way they operate as a result of EU coordination. This leads to the second related question, of whether the EU Member States adopted a new style of multilateralism. The answer is no, and that in the ILO they continue to operate according to the logic of intergovernmentalism, rather than supranationalism.

Can evidence be found of closer coordination between the Member States being forged in the Community pillar, despite the absence of a European Community membership of the ILO?

The thesis began by making an assumption that technical issues corresponded to Community pillar policies. The traditional label of these policies as 'low politics' proved to be misleading because not all technical issues have equal salience to all EU Member States. Evidence was found of varying degrees of common representation and voting cohesion in different technical issues. Technical issues in which there is a high degree of coordination have been Europeanized through mechanisms described by the logic of appropriateness. Technical issues where there is less coordination and instances of voting deviation have been Europeanized through the mechanisms of the logic of consequences. This logic, based on power and not normative socialisation, leaves some Member States unconvinced of the EU-level policy and they instead seek to upload their preferred national policy into an ILO standard.

Overall, the two most useful theories considered were liberal intergovernmental and consociational theory. In support of the former was the noticeable impact of the Single European Act (SEA) on improving coordination, the continued preservation of national interests and the impact of the ECJ Opinion 2/91. In support of the latter were the fluctuations around an equilibrium level of common representation over the length of the survey and the identification of the important role of the Presidency.

Can evidence be found of closer coordination between the Member States being forged on other grounds, such as inter alia a common foreign policy or a common European identity?

The intergovernmental character of foreign policy coordination between the EU Member States is traditionally assumed to make arriving at a common position difficult.

The evidence provided by this thesis challenges this assumption, instead showing a strong commitment by EU Member States to maintaining a common position on issues of foreign policy. Statistical evidence about the strong association between common representation and voting cohesion was backed up by case studies.

One of the three case studies looked at the Arab-Israeli dispute as it has been addressed in the ILO, and the common position of the EU Member States has been grounded in preserving the functional mandate of the ILO and insisting that discussion of the issue belongs in the General Assembly and the Security Council. This was a minimalist position, an agreement to express their disagreements elsewhere in the UN.

In the case of South Africa the common position repeated asserted the right of the EU Member States to submit a single report based on the Council monitored Code of Conduct. This case exemplifies the intersecting multilateralisms discussed in Chapter 1, where the EU's supranational structure conflicted with the intergovernmental procedures for states in the ILO. The EU upheld its position, although the support of Germany and the UK was critical, and non-supportive Member States (Denmark, Ireland and the Netherlands) submitted supplementary national reports.

Finally, in the Committee on the Application of Standards (CAS) it was shown that a group of EU Member States acted as norm entrepreneurs by instigating a practice of common representation. Geneva-based diplomats work to produce the statements and have established rules and procedures for interacting, which the diplomats of new Member States are socialised into. The development of CAS representation is a shift from 'negative agreements' (such as the agreement *not* to use the ILO to debate the Arab-Israeli dispute)

to 'positive agreements' about raising the profile of labour standard violations and holding states accountable for those violations.

Does the empirical evidence suggest the forging of a common identity? Throughout the analysis of political coordination two recurring issues challenged the dominant logic of diversity. The first was that increased membership of the EU did not have a noticeable adverse impact on coordination, and the second was that in every case study an agreement between the Member States was reached and upheld without a higher sovereign authority compelling them. Institutional theory, and in particular the sociological approach within it, was used to provide an explanation for why EU Member States remained committed to these agreements. The answer is that EPC and CFSP socialised the Member States into the expectation of a collective EU policy.

Based on this, which theory tells us most about the behaviour of EU Member States and the role of EU institutions?

The three theories that are most useful in explaining the behaviour of EU Member States in the ILO are liberal intergovernmental theory, consociational theory and sociological approach in institutional theory.

Liberal intergovernmental theory is the best fit for explaining EU Member State behaviour in technical issues, based on the following points. EU Treaty revisions had a noticeable impact on the level of common representation and voting cohesion, especially in Tsebelis' 'second epoch' between 1987 and 1992, during the preparation of the Single Market. The change in voting procedures in the Council in areas related to ILO technical issues increased the intensity of representation, and saw the nature of representation change too, with the European Commission playing a stronger role. The second point in

support of LI is the abrupt end of the European Commission's involvement in committee meetings following the publication of ECJ Opinion 2/91 in 1993. This was likened to the institutional securing of an intergovernmental bargain, illustrating the intergovernmental basis of common positions but at the same time accepting supranational oversight and regulation. The third point is the continued importance of national interests, with the related issue of Europeanization through the logic of consequences (of which LI is one example) leading to some EU Member States continuing to try and upload their preferred national policies into the ILO (the UK was an example of this).

Consociational theory performed well in both technical and political issue areas. Firstly, the need to balance the identities of the Community and the Member State (segments) accommodates variation over time in one area or the other, but overall there is no long term departure from an equilibrium position. Technical coordination demonstrated this tendency in the cycles of increased and decreased levels of representation over the five periods. In political issues there was also evidence of common representation and separate action at the same time, and this reiterated the dualism between acting to give the EU a presence in the ILO, with the upholding of the national identities. Secondly, the role of the Presidency is also recognised, as it served as an important variable in explaining the changes in the degree of coordination between different years, both in technical and political issues. The role of a supranational elite with homogeneous interests in maintaining the system appeared more credible in the EPC/CFSP, while in technical issues national workers' and employers' were generally hostile to closer EU coordination because they feared marginalisation in the policy-making process.

Institutional theory using the 'logic of appropriateness' was the best fitting explanation for political coordination. The primary reason was that it provided an answer for why evidence was found showing the EU Member States speaking collectively and also voting cohesively, while evidence was found of different underlying national positions. It also explained how the EU moved into a new area of coordination (CAS), and how the enlargement of the EU on successive occasions had not caused grid-lock in the intergovernmental decision-making process. Patterns of socialisation, the norms and rules through which it took place and its impact on EU policy were clearly shown in Chapter 10 on Geneva diplomats, while secondary literature argued it has been taking place since the 1970s in EPC. Thus, the explanation of political coordination is incomplete without the sociological dimension.

Overall, these findings are contrary to what was expected at the beginning. Technical coordination remains influenced by intergovernmentalism, despite the development of the *acquis communautaire*, while political coordination has always been more successful than its intergovernmental character suggests it should be. The EU Member States remain first and foremost members of the ILO, and speaking for Europe remains a secondary concern.

ILO Instruments								EU Voting and Interventions					
YEAR	ILC	Presidency	Instrument	Type of Discussion	Conventi on	Recomm endation	Record Vote: For/Against/Abstain For as % of total	EU States Against	EU States Abstaining	Number of Statements Presidency	Number of Statements Comm'sion	Length of discussions paragraphs	EU Particip-ation level*
1973	58	Belgium	Minimum Age	Second	138	146	328:0:24 (C) 93.2 %	0	UK	2	0	81§	0.025
			Occupational Cancer	First	139	147	329:0:13 (R) 96.2%	0	0	0	0	-	_____**
1974	59	Germany	Occupational Cancer	Second	139	147	376:0:0 (C) 100.0%	0	0	1	0	129§	0.008
			Paid Educational Leave		140	148	370:0:0 (R) 100.0%	0	0				
			Migrant Workers	First	143	151	295:43:38 (C) 78.5%	0	0				
							342:6:25 (R) 91.7%	0	0	0	0	-	_____
1975	60	Ireland	Rural Workers		141	149	359:0:10 (C) 97.3%	0	0				
			Human Resources		142	150	347:0:4 (R) 98.9%	0	0				
			Migrant Workers	Second	143	151	351:0:4 (C) 98.9%	0	0				
			Equal Opportunities	General	-	-	351:0:2 (R) 99.4%	0	0	3	0	159§	0.019
							265:0:81 (C) 76.6%	0	D,F,G,NL,UK				
1976	61	Luxemb'g	Tripartite Consultation		144	152	288:0:62 (R) 82.3%	0	0	0	1	123§	0.008
			Working Environment	First	148	156	305:0:70 (C) 81.3%	0	0				
							354:0:7 (R) 98.1%	0	0	0	0	-	_____
	62 (Maritime)	NL	Seafarers Protection	Single		153	223:0:2 (R) 99.1%	0	0	1	0	68§	0.015
			Employ't Continuity	Single	145	154	213:4:10 (C) 93.4%	0	0	2	0	85§	0.024
			Seafarers' Leave	Single	146		207:0:11 (R) 95.0%	0	0	7	0	132§	0.053
			Merchant Shipping	Single	147	155	183:25:18 (C) 81.0%	0	0	10	0	138§	0.072
							160:0:67 (C) 67.5%	0	0				
							211:0:15 (R) 93.4%	0	0				
1977	63	UK	Working Environment	Second	148	156	405:0:6 (C) 98.5%	0	0	5	0	130§	0.038
			Nursing Personnel		149	157	399:0:3 (R) 99.3%	0	0				
							332:0:64 (C) 83.8%	0	NL,UK				
1978	64	Denmark	Labour Administration		150	158	363:0:36 (R) 91.0%	0	0				
			Labour Relations		151	159	408:0:0 (C) 100.0%	0	0				
			Road Transport	First	153	161	396:0:0 (R) 100.0%	0	0				
							331:0:54 (C) 86.0%	0	0	17	0	253§	0.067
							349:0:33 (R) 91.4%	0	0				

Key:

Bold text indicates EU Representation took place.

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** In cases where there was no EU representation in one of the two years of a technical committee the participation data is recorded as blank. This prevents the skewing of the analysis of participation.

ILO Instruments

EU Voting and Interventions

YEAR	ILC	Presidency	Instrument	Type of Discussion	Convention (C)	Recommendation (R)	Record Vote: For/Against/Abstain For as % of Total	EU States Against	EU States Abstaining	Number of Statements Presidency	Number of Statements Comm'sion	Length of discussions paragraphs	EU Participation level*
1979	65	France	OSH: Dock Work		152	160	387:0:3 (C) 99.2%						
			Road Transport	Second	153	161	378:0:4 (R) 99.0%	0	0	35	0	369\$	0.095
			Older Workers	First		162	276:59:43 (C) 73.0%	0	0	29	0	241\$	0.120
							282:57:26 (R) 77.3%						
1980	66	Italy	Older Workers	Second		162	420:0:2 (R) 99.5%	0	0	22	0	155\$	0.142
			Family Responsibility	First	156	165				1	0	342\$	0.003
1981	67	NL	Collective Bargaining		154	163	332:0:108 (C) 75.5%	0	UK				
			OSH	Single	155	164	417:0:7 (R) 98.3%	0	0				
							408:1:8 (C) 97.8%	0	0	27	0	145\$	0.186
			Family Responsibility	Second	156	165	397:0:5 (R) 98.8%	0	0				
							324:0:92 (C) 77.9%	0	0	7	0	439\$	0.016
			Termination Employ't	First	158	166	346:0:78 (R) 81.6%	0	0	2	0	250\$	0.008
1982	68	Belgium	Social Security Rights		157		404:0:29 (C) 93.9%	0	0				
			Termination Employ'	Second	158	166	356:9:54 (C) 85.0%	0	0	1	0	191\$	0.005
							417:0:3 (R) 99.3%	0	0				
			Disabled Persons	First	159	168				3	0	127\$	0.024
1983	69	Germany	Disabled Persons	Second	159	168	344:0:77 (C) 81.7%	0	0	1	0	192\$	0.005
			Social Security Rights			167	417:0:3 (R) 99.3%	0	0				
							419:0:8 (R) 98.1%	0	0				
			Employment Policy	First		169				8	0	170\$	0.047
1984	70	France	Employment Policy	Second		169	374:1:34 (R) 91.4%	0	UK	17	0	188\$	0.090
			Labour Statistics	First	160	170				0	0		
			Evaluation of PIACT	General						1	0	146\$	0.007

Key:

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ILO Instruments

EU Voting and Interventions

YEAR	ILC	Presidency	Instrument	Type of Discussion	Convention (C)	Recommendation (R)	Record Vote: For/Against/Abstain For as % of Total	EU States Against	EU States Abstaining	Number of Statements Presidency	Number of Statements Commission	Length of discussion paragraphs	EU Participation level*
1985	71	Italy	Health Services	First	161	171				22	0	218§	0.101
			Labour Statistics	Second	160	170	422:0:7 (C) 98.4% 414:0:3 (R) 99.3%	0	0	14	0	139§	0.101
			Health Services	Second	161	171	399:1:12 (C) 96.8% 354:0:55 (R) 86.6%	0	0	30	1	106§	0.292
			Safety in Asbestos	First	162	172		0	0	13	0	163§	0.080
			Equal Opportunities	General						0	1	92§	0.011
1986	72	NL	Safety in Asbestos	Second	162	172	419:0:1 (C) 99.8% 406:0:5 (R) 98.8%	0	0	31	3	299§	0.114
			Youth Employment	General				0	0	15	0	130§	0.115
1986	73	Denmark Maritime	Seafarers' Welfare	Single	163	173	214:0:3 (C) 98.6% 207:0:4 (R) 98.1%	0	UK				
			Sea' Health Protection	Single	164		214:0:0 (C) 100.0%	0	UK	18	0	121§	0.149
			Sea' Social Security	Single	165		198:3:4 (C) 96.6%	0	France	3	0	73§	0.041
			Seafarer Repatriation	Single	166	174	214:0:3 (C) 98.6% 207:0:4 (R) 98.1%	0	0	4	0	117§	0.034
1987	74	Belgium	Safety in Construct'n	First	167	175		0	0	59	2	219§	0.279
			Employ't Promotion	First	168	176				36	0	157§	0.229
1988	75	Germany	Safety in Construct'n	Second	167	175	421:0:1 (C) 99.8% 394:0:0 (R) 100.0%	0	0	31	1	276§	0.116
			Employ't Promotion	Second	168	176	366:0:26 (C) 93.4% 375:0:17 (R) 95.7%	0	0	21	0	219§	0.096
1989	76	Spain	Safety in Chemicals	First	170	177				58	0	236§	0.246
			Night Work	First	171	178				18	0	305§	0.059
			Indigenous Peoples		169		328:1:49 (C) 86.8%	0	France				

Key:

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ILO Instruments								EU Voting and Interventions					
YEAR	ILC	Presidency	Instrument	Type of Discussion	Conventi on (C)	Recomm endation (R)	Record Vote: For/Against/Abstain For as % of Total	EU States Against	EU States Abstaining	Number of Statements Presidency	Number of Statements Comm'sion	Length of discussion paragraphs	EU Partici- pation level*
1990	77	Ireland	Safety in Chemicals	Second	170	181	391:0:1 (C) 99.7%	0	0	20	11	310§	0.100
			Night Work	Second	171	182	389:0:0 (R) 100.0%	0	0	26	0	196§	0.133
			Hotels/ Restaurants	First	172	182	348:24:15 (C) 89.9%	0	UK	44	0	170§	0.259
			Night Work (Women)	Protocol		183	341:22:17 (R) 89.7%	0	UK				
1991	78	Luxembo'g	Hotels/ Restaurants	Second	172		323:7:27 90.5%	0	Portugal				
			Insolvency Protection	First	173		262:0:113 (C) 69.9%	0	NL, UK	24	0	255§	0.094
1992	79	Portugal	Insolvency Protection	Second	173	184	272:0:116 (R) 70.1%	0	Port, UK	36	0	345§	0.104
			Industrial Accidents	First	174	184	293:52:48 (C) 74.6%	0	0	16	0	376§	0.043
1993	80	Denmark	Industrial Accidents	Second	174	177	281:65:42 (R) 72.4%	0	0	18	1	116§	0.164
			Part-time Work	First	175	178	355:5:23 (C) 92.7%	0	0	17	1	150§	0.120
1994	81	Germany	Part-time Work	Second	175	179	351:4:19 (R) 93.9%	0	0	28	0	367§	0.076
			Safety in Mines	First	176		258:88:43 (C) 66.3%	UK	Fra, Port	0	0	270§	—**
1995	82	France	Safety in Mines	Second	176	179	291:35:71 (R) 73.3%	0	Port, UK	27	0	178§	0.152
			Labour Inspection	Protocol		180	378:9:34 (C) 89.8%			25	0	223§	0.112
1996	83	Italy	Home Work	First	177	180	377:6:26 (R) 92.2%			0	0	380§	—
			Home Work	Second	177	181	330:7:62 82.7%	0	Fra, Port	5	0	462§	—
1996	83	Italy	Home Work	Second	177	181	246:14:15 (C) 89.5%	Germ, UK	0	1	0	343§	0.003
			Home Work	Second	177	181	303:4:11 (R) 92.4%	UK	0				

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ILO Instruments

EU Voting and Interventions

YEAR	ILC	Presidency	Instrument	Type of Discussion	Convention (C)	Recommendation (R)	Record Vote: For/Against/Abstain For as % of Total	EU States Against	EU States Abstaining	Number of Statements Presidency	Number of Statements Comm'sion	Length of discussion paragraphs	EU participation level****
1996	84 Maritime	Denmark	Labour Inspection	Single	178	185	205:1:10 (C) 94.9%	0	Fra, UK				
			Recruitment Seafarers	Single	179	186	210:0:9 (R) 95.9%	0	Fra, UK				
			Hours of Work	Single	180	187	197:5:17 (C) 90.0%	UK	0				
							201:4:10 (R) 93.5%	UK	0				
1997	85	NL	Revision of C96	Single	181	188	209:1:13 (C) 93.4%	0	UK				
							197:11:16 (R) 87.9%	UK	0				
			Job Creation	First		189	347:5:30 (C) 90.8%	0	Luxembourg	35	0	543§	0.064
			Contract Labour	First	*	*	314:13:67 (R) 79.7%	0	Luxembourg	11	0	223§	0.049
1998	86	UK	Job Creation	Second		189							
			Contract Labour	Second	*	*							
			Child Labour	First	182	190				3**	0	336§	0.009
1999	87	Germany	Child Labour	Second	182	190	415:0:0 (C) 100.0%	0	0	0**	0	426§	—
			Maternity Protection	First	183	191	382:0:0 (R) 100.0%	0	0		8	466§	0.017
2000	88	Portugal	Maternity Protection	Second	183	191	304:22:116 (C) 68.8%	0	UK	0	0	704§	—***
			Safety in Agriculture	First	184	192	315:16:108 (R) 71.8%	0	UK	68	0	273§	0.249
2001	89	Sweden	Safety in Agriculture	Second	184	192	402:2:41 (C) 90.3%	0	0	73	0	829§	0.088
			Promote Cooperative	First		193	418:0:33 (R) 92.7%	0	0	0	0	328§	—

Key:

* The committee on *Contract Labour* was suspended during the second discussion because of irreconcilable differences between the negotiating parties. A resolution was passed to revisit the issue within 5 year, and was included on the agenda in 2003 in the general discussion on the *Scope of the employment relationship*.

** In the discussions on *Child Labour* the EU participated in a large group of developed states totalling around 40 under Dutch coordination, hence little explicit mention of the EU.

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ILO Instruments

EU Voting and Interventions

YEAR	ILC	Presidency	Instrument	Type of Discussion	Convention	Recommendation	Record Vote: For/Against/Abstain For as % of total	EU States Against	EU States Abstaining	Number of Statements Presidency	Number of Statements Commission	Length of discussions paragraphs	EU Participation level*
2002	90	Spain	Promote Cooperative	Second		193	436:0:3 (R) 99.3%	0	0	1	0	325§	0.003
			Occupational Disease	Single		194	436:0:3 (R) 99.3%	0	0	47	0	627§	0.075
2003	91	Greece	Seafarer Documents	Single	185		392:0:20 (C) 95.1%	0	0	1	1	736§	0.003
			Occupational Safety	General						7	0	197§	0.036
			Employment Relation	General						6	0	143§	0.042
			Human Resources	First		195				1	0	688§	0.001
2004	92	Ireland	Human Resources	Second		195	338:93:14 (R) 76.0%	0	0	1	0	999§	0.001
			Fishing Sector	First	*	*				4	0	789§	0.005
			Migrant Workers	General						10	0	292§	0.034
2005	93	Luxembo'g	Fishing Sector	Second	*	*	288:9:139 (C) 66.1%	0	0	0	0	1002§	-----
			Occupational Health	First	186	196	292:8:135 (R) 67.1%	0	0	52	0	300§	0.173
			Youth Employment	General						20	0	422§	0.047

Key:

Bold text indicates EU Representation took place.

* The *Fishing Sector* convention failed to be accepted onto the ILO statute because quorum was not reached in the record vote. The accompanying recommendation was passed, but has not been added due to the fact it refers to the missing convention.

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ILO Political Resolutions and Record Votes when EU Common Statements Made

EU Member States' Voting

YEAR	ILC	EU Presidency	Agenda Item	Statement Given	Record Vote: For/Against/ Abstain	Outcome	EU States For	EU States Against	EU States Abstaining
1973	58	Belgium	Resolution concerning the policy of discrimination, racism and violence of trade union freedoms and rights practices by the Israeli authorities in Palestine and the Occupied Territories	1: Drafting Committee 2: Plenary	64:0:128* Quorum: 200	Rejected	0	0	Bel, Den, Fra, Ger, Ire, Ita, Lux, NL. UK
1974	59	Germany	Resolution concerning the policy of discrimination, racism and violence of trade union freedoms and rights practices by the Israeli authorities in Palestine and the Occupied Territories	Drafting Committee	224:0:128 Quorum: 208	Passed	0	0	Bel, Den, Fra, Ger, Ire, Ita, NL. UK
1975	60	Ireland	Resolution concerning human and trade union rights in Chile	Drafting Committee	224:1:124 Quorum: 208	Passed	Bel, Den, Ire, Ita, Lux, NL. UK	0	France, Germany
			Clause inserted into Standing Orders Committee referring to the PLO	NONE	74:0:305 Quorum: 216	Rejected	Denmark, NL, Germany	0	Bel, Fra, Ire, Ita, Lux. UK
			Resolution concerning human and trade union rights in Chile	NONE	236:0:106 Quorum: 216	Passed	Bel, Den, Fra, Ger, Ire, Ita, Lux, NL. UK	0	0
			Proposal to invalidate the credentials of the Chilean Workers' delegation	NONE	128:1:164 Quorum: 215	Rejected	Denmark	0	Bel, Fra, Ger, Ire, Ita, Lux, NL. UK
1976	61	Luxemb'g	Proposal to invalidate the credentials of the Chilean Workers' delegation	NONE	136:2:152 Quorum: 231	Rejected	Denmark	0	Bel, Fra, Ger, Ire, Ita, Lux, NL. UK
1977	63	UK	Record vote on whether the objections to the nominations of the Workers' delegation of Chile are receivable	NONE	178:12:110 Quorum: 230	Rejected	Denmark	0	Bel, Fra, Ger, Ire, Ita, Lux, NL. UK
			Record Vote on the adoption of the Report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR)	In Committee on the Application of Standards	135:0:197 Quorum: 227	Rejected	Bel, Den, Fra, Ger, Ire, Ita, Lux, NL. UK	0	0
			Committee on Structure of the ILO	In committee	-	-	-	-	-

Data from the record vote on the Preamble of the *Resolution concerning the policy of discrimination, racism and violence of trade union freedoms and rights practices by the Israeli authorities in Palestine and the Occupied Territories*

ILO Political Agenda Items: Resolutions, Record Votes and Committee Meetings

EU Member States' Voting

YEAR	ILC	EU Presidency	Agenda Item	Statement Given	Record Vote: For/Against/ Abstain	Outcome	EU States For	EU States Against	EU States Abstaining
1978	64	Denmark	Record vote on whether the objections to the nominations of the Workers' delegation of Chile are receivable	NONE	185:0:149 Quorum: 238	Rejected	Demark	0	Bel, Fra, Ger, Ire, Ita, Lux, NL, UK
			Resolution concerning the policy of discrimination, racism and violence of trade union freedoms and rights practices by the Israeli authorities in Palestine and the Occupied Territories	Drafting Committee	211:0:139 Quorum: 238	Rejected	0	0	Bel, Den, Fra, Ger, Ire, Ita, Lux, NL, UK
			Declaration concerning the Policy of Apartheid in the Republic of S. Africa	Plenary					
1979	65	France	Declaration concerning the Policy of Apartheid in the Republic of S. Africa	Plenary					
1980	66	Italy	Secret Ballot in the Resolution concerning the implications of Israeli settlements in Palestine and other Occupied Territories, in connection with the situation of Arab Workers	Drafting Committee	249:15:156 Quorum: 257	Passed	No data	No data	No data
			Declaration concerning the Policy of Apartheid in the Republic of S. Africa	Plenary					
1981	67	NL	Apartheid in South Africa, including the updating of the 1964 Declaration concerning the Policy of Apartheid in the Republic of S. Africa	1. Drafting Committee 2. Plenary	434:0:7 Quorum: 260	Passed	Bel, Den, Fra, Ger, Gre, Ire, Ita, Lux, NL, UK	0	0
1982	68	Belgium	Standing Committee on Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					

ILO Political Agenda Items: Resolutions, Record Votes and Committee Meetings

EU Member States' Voting

YEAR	ILC	EU Presidency	Agenda Item	Statement Given	Record Vote: For/Against/ Abstain	Outcome	EU States For	EU States Against	EU States Abstaining
1983	69	Germany	Plenary adoption of Report on the Committee on Apartheid	Plenary					
1984	70	France	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					
1985	71	Italy	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					
1986	72	NL	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					
1987	74	Belgium	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary	331:27:47 Quorum: 248	Passed	Den, Gre, Ire	Germany, UK	Bel, Fra, Ita, Lux, NL, Port, Spn
1988	75	Germany	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					
			Resolution concerning the protection of Workers and Employers' rights and freedoms in Palestine and other occupied territories	Committee					

ILO Political Agenda Items: Resolutions, Record Votes and Committee Meetings

EU Member States' Voting

YEAR	ILC	EU Presidency	Agenda Item	Statement Given	Record Vote: For/Against/ Abstain	Outcome	EU States For	EU States Against	EU States Abstaining
1989	76	Spain	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					
1990	77	Ireland	Plenary adoption of Report on the Committee on Apartheid	Plenary					
			Situation of Workers in the Occupied Arab Territories	Plenary					
1991	78	Luxemb'g	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					
			Situation of Workers in the Occupied Arab Territories	Plenary					
1992	79	Portugal	Situation of Workers in the Occupied Arab Territories	Plenary					
			Common position concerning delegates of Serbia and Montenegro to the ILC	Plenary					
1993	80	Denmark	Action taken in the Declaration concerning the policy of Apartheid in South Africa	Committee					
			Plenary adoption of Report on the Committee on Apartheid	Plenary					
			Situation of Workers in the Occupied Arab Territories	Plenary					

EU Member State Statements

Nordic Bloc Statements*

YEAR	ILC	Presidency	EU States making statements	EU speaking on behalf of:	About country:	Convention	Part 1: Statements	Part 2: On Behalf	Part 2: Country	Part 2 Convention
1973	58	Belgium	-				0			
1974	59	Germany	France Germany UK		USSR USSR USSR	C29 C29 C29	0			
1975	60	Ireland	-				0			
1976	61	Luxemb'g	Germany UK		USSR USSR Czechoslovakia	C87 C29, C87 C111	1			
1977	63	UK	Germany Germany UK	Belgium, France, Italy, NL	Ethiopia USSR Czechoslovakia Ethiopia USSR	C87 C87 C111 C87 C87	1			
1978	64	Denmark	UK		USSR Uruguay Cuba Uganda	C29 C87 C105 C105	1			
1979	65	France	France Italy UK		Algeria Liberia Czechoslovakia Algeria Liberia Czechoslovakia	C87 C87 C111 C87 C87 C111	2		Algeria Liberia	C87 C87
1980	66	Italy	Germany UK		Indonesia USSR Czechoslovakia Indonesia USSR Czechoslovakia	C29 C29 C111 C29 C29 C111	3			
1981	67	NL	-				1			

Key:

* Nordic Bloc states between 1973-1979 were: Denmark, Finland, Norway and Sweden. Iceland was represented in common statements from 1980.

The Committee on the Application of Standards (CAS) consists of one committee reviewing the report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and a second committee that holds hearing in which governments that have been considered to have violated standards give evidence. In this table all EU statements come from the second part of the committee stage, (there have been no statements made in the first committee) while Nordic statements are divided into Part 1 (review of CEACR report) and Part 2 (hearings).

EU Member State Statements

Nordic Bloc Statements*

YEAR	ILC	Presidency	EU States making statements	EU speaking on behalf of:	About country:	Convention	Part 1: Statements	Part2: On Behalf	Part 2: County	Part 2: Convention
1982	68	Belgium	Belgium Netherlands		Poland Uruguay Czechoslovakia	C87 C87 C111	0			
1983	69	Germany	France Netherlands		Nicaragua Czechoslovakia	C87 C111	3			
1984	70	France	Belgium Netherlands		Philippines Haiti Iran USSR	C87 C105 C111 C111	2			
1985	71	Italy	Netherlands		Iran	C111	5			
1986	72	NL	-		-		4			
1987	74	Belgium	France		Poland	C87	6			
1988	75	Germany	-		-		3			
1989	76	Spain	France Germany Portugal Netherlands		UK Romania UK UK UK	C87 C111 C87 C87 C87	3	UK	C87	
1990	77	Ireland	UK		Czechoslovakia	C111	3			
1991	78	Luxemb'g	Germany Netherlands		Dominican Republic Angola UK	C87 C87 C87	5	UK	UK	
1992	79	Portugal	Germany		Thailand Ethiopia Honduras UK Dominican Republic	C29 C87 C87 C87 C111	7			

Key:

* Nordic Bloc states are: Denmark, Finland, Iceland, Norway and Sweden

The Committee on the Application of Standards (CAS) consists of one committee reviewing the report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and a second committee that holds hearing in which governments that have been considered to have violated standards give evidence. In this table all EU statements come from the second part of the committee stage, (there have been no statements made in the first committee) while Nordic statements are divided into Part 1 (review of CEACR report) and Part 2 (hearings).

EU Member State Statements

Nordic Bloc Statements*

YEAR	ILC	Presidency	EU States making statements	EU speaking on behalf of:	About country:	Convention	Part 1: Statements	Part 2: On Behalf	Part 2: Country	Part 2 Convention
1993	80	Denmark	Germany		Brazil Cuba Japan Turkey	C29 C29 C87 C98	0			
1994	81	Germany	Germany Netherlands UK		India New Zealand Myanmar New Zealand	C29 C100 C87 C100	0		Myanmar	C87
1995	82	France	Austria France Germany Netherlands		Myanmar UK UK India Thailand UK	C29 C87 C87 C29 C29 C87	4		India Thailand Myanmar	C29 C29 C87
1996	83	Italy	Germany Netherlands		Brazil Myanmar Nigeria	C29 C87 C87	8		Myanmar Nigeria	C87 C87
1997	85	NL	Germany <u>UK</u> , Germany <u>UK</u> , Austria, Belgium, Germany <u>UK</u> , Germany, Netherlands UK	Nordic, Canada**, US** Nordic, Canada**, Switz**	Indonesia Sudan Myanmar Nigeria Swaziland	C98 C29 C87 C87 C87	5	NL, UK Switz	Indonesia Nigeria Turkey	C98 C87 C87
1998	86	UK	France, Germany, Port, NL, UK <u>UK</u> , Austria, Germany, Ita, Port	<u>US</u> **, Nordic, Canada** Nordic, Canada**	Sudan Myanmar	C29 C87	6	Aust, Ger, Ire, UK, Can, US Aust,Bel, Ger, Ita, NL, Port, UK, Can, Jap, US, Turkey	Colombia Indonesia	C87 C98

Key:

* Nordic Bloc states are: Denmark, Finland, Iceland, Norway and Sweden

** Canada, Switzerland and the US are included in this table since they were part of the group statements issued by an EU Member State on behalf of other states.

Underlined state denotes Member State giving statement

The Committee on the Application of Standards (CAS) consists of one committee reviewing the report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and a second committee that holds hearing in which governments that have been considered to have violated standards give evidence. In this table all EU statements come from the second part of the committee stage, (there have been no statements made in the first committee) while Nordic statements are divided into Part 1 (review of CEACR report) and Part 2 (hearings).

EU Member State Statements

Nordic Bloc Statements*

YEAR	ILC	Presidency	EU States making statements	EU speaking on behalf of:	About country:	Convention	Part 1: Statements	Part 2: On Behalf	Part 2: Country	Part 2 Convention
1999	87	Germany	<u>UK</u> , Aus, Bel, Ger, NL, Por, Spn Germany	Nordic, Canada	Myanmar Australia	C29 C29	7			
2000	88	Portugal	<u>Portugal</u> : EU (15) Germany Netherlands and Germany	Associated States**	Myanmar UK Swaziland	C29 C29 C87	7	NL	Colombia	C87
2001	89	Sweden	<u>Sweden</u> : EU (15) <u>Sweden</u> : EU (15) Germany	Associated States**, Croatia, Norway Iceland, Norway	Myanmar Colombia Belarus	C29 C87 C87	4	NL	Belarus Myanmar	C87 C87
2002	90	Spain	<u>Spain</u> : EU (15)	Associated States**, Nor, Iceland, Switzerland	Myanmar	C29	6	NL	Colombia Ethiopia Sudan Venezuela Zimbabwe	C87 C87 C29 C87 C98
2003	91	Greece	<u>Greece</u> : EU (15) Germany	Candidate and Associated States, Norway, Iceland	Myanmar Belarus Colombia	C29 C87 C87	2	NL, UK NL NL, Can	India Belarus Colombia Ethiopia Myanmar Venezuela Zimbabwe	C29 C87 C87 C87 C87 C87 C98
2004	92	Ireland	<u>Ireland</u> : EU (25) <u>Ireland</u> : EU (25) <u>Ireland</u> : EU (25)	EFTA States EFTA, SAP, Candidate EFTA, SAP, Candidate	Colombia Myanmar Zimbabwe	C87 C29 C98	3		Colombia Guatemala Myanmar Sudan Venezuela Zimbabwe	C87 C87 C87 C29 C87 C98

Key:

* Nordic Bloc states are: Denmark, Finland, Iceland, Norway and Sweden

** Associated states are: Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, Cyprus, Malta and Turkey.

EFTA States: Iceland, Norway, Switzerland

SAP (Stabilisation and Association Process) States: Albania, Bosnia and Herzegovina, Croatia, The Former Yugoslav Republic of Macedonia, Serbia and Montenegro

Underlined state denotes Member State giving statement

The Committee on the Application of Standards (CAS) consists of one committee reviewing the report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and a second committee that holds hearing in which governments that have been considered to have violated standards give evidence. In this table all EU statements come from the second part of the committee stage, (there have been no statements made in the first committee) while Nordic statements are divided into Part 1 (review of CEACR report) and Part 2 (hearings).

EU Member State Statements

Nordic Bloc Statements*

YEAR	ILC	Presidency	EU States making statements	EU speaking on behalf of:	About country:	Convention	Part 1: Statements	Part 2: On Behalf	Part 2: Country	Part 2 Convention
2005	93	Luxemb'g	<u>Luxembourg</u> : EU (25)	SAP, Accession** states Candidate*** States, Switz, Norway, Ukraine	Belarus	C87	1		Guatemala Mauritania	C87 C29
			<u>Luxembourg</u> : EU (25)	SAP, Accession** states Candidate*** States, Switz, Norway, Ukraine	Colombia	C87				
			<u>Luxembourg</u> : EU (25)	SAP, Accession** states Candidate*** States, Switz, Norway, Liechtenstein	Myanmar	C29				
			<u>Luxembourg</u> : EU (25)	SAP, Accession** states Candidate*** States, Canada, Norway, Ukraine	Myanmar	C87				
			<u>Luxembourg</u> : EU (25)	SAP, Accession** states Candidate*** States, Canada, Norway, Ukraine	Sudan	C29				
			<u>Luxembourg</u> : EU (25)	SAP, Accession** states Candidate*** States, Switz, Norway, Ukraine, US	Zimbabwe	C98				

Key:

* Nordic Bloc states are: Denmark, Finland, Iceland, Norway and Sweden

** Accession States: Bulgaria and Romania

*** Candidate States are: Croatia and Turkey

EFTA States: Iceland, Norway, Switzerland

SAP (Stabilisation and Association Process) States: Albania, Bosnia and Herzegovina, The Former Yugoslav Republic of Macedonia, Serbia and Montenegro

Underlined state denotes Member State giving statement

The Committee on the Application of Standards (CAS) consists of one committee reviewing the report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and a second committee that holds hearing in which governments that have been considered to have violated standards give evidence. In this table all EU statements come from the second part of the committee stage, (there have been no statements made in the first committee) while Nordic statements are divided into Part 1 (review of CEACR report) and Part 2 (hearings).

Year	Instrument	Bel	Den	Fra	Ger	Ire	Ita	Lux	NL	UK	Greece	Port	Spain	Aust	Fin	Sweden
1973	C138: Minimum Age	1988	1997	1990	1976	1978	1981	1977	1976	2000	1986	1998	1977	2000	1976	1990
1974	C139: Occupational Cancer	1996	1978	1994	1976	1995	1981					1999			1977	1975
1975	C143: Migrant Workers		Abst	Abst	Abst		1981		Abst	Abst		1978				
1976	C145: Employ't Continuity			1978			1981		1979			1983	1978		1978	1981
1976	C146: Seafarers' Leave			1978			1981	2005	1980			1984	1979		1990	1978
1976	C147: Merchant Shipping	1982	1980	1978	1980	1992	1981	1991	1979	1980	1979	1985	1978		1978	1978
1977	C148: Working Environment	1994		1985	1993		1985			1979		1981	1980		1979	1978
1979	C153: Road Transport												1985			
1981	C155: Occupational H&S		1995			1995		2001	1991			1985	1985		1985	1982
1981	C156: Family Responsibility			1989					1988		1988	1985	1985		1983	1982
1982	C158: Termination Employ't			1989				2001				1985	1985		1992	1983
1983	C159: Disabled Persons		1985	1989	1989	1986	2000	2001	1988		1985	1999	1985		1985	1984
1985	C161: Occ. Health Services				1994										1987	1986
1986	C162: Safety in Asbestos	1996			1993				1999			1999	1990		1988	1987
1987	C164: Seaf Health Protect			2004	1994		2002						1990		1995	1990
1987	C165: Seaf Social Security			Abst									1991			1991
1987	C166: Seafarer Repatriation			2004				1991					1990			1990
1988	C167: Safety Construction														1990	1990
1988	C168: Employment Protect															1992
1990	C170: Safety in Chemicals						2002									
1990	C171: Night Work	1997								Abst		1995				
1991	C172: Hotels/Restaurants					1998							1993	1992		
1992	C173: Insolvency Protection												1995	1996	1994	
1993	C174: Industrial Accidents	2004							1997							1994
1994	C175: Part time Work			Abst			2000	2001	2001	<u>Aq'st</u>		Abst			1999	2002
1995	C176: Safety in Mines				1998	1998						2002	1997	1999	1997	1997
1996	C177: Home Work				<u>Aq'st</u>	1999			2002	<u>Aq'st</u>					1998	
1997	C181: Private Agencies	2004					2000	Abst	1999			2002	1999		1999	
1999	C182: Child Labour	2002	2000	2001	2002	1999	2000	2001	2002	2000	2001	2000	2001	2001	2000	2001
2000	C183: Maternity Protection						2001			Abst				2004		
2001	C184: Safety in Agriculture														2003	2004
2003	C185: Seafarer Identity Doc			2004												

Key:

Bold Text refers to abstentions or votes against the adoption of the instrument. Only the UK has ratified an instrument it previously did not vote for the adoption of, C138 in 2000.

Year	Instrument	Bel	Den	Fra	Ger	Ire	Ita	Lux	NL	UK	Greece	Port	Spain	Aust	Fin	Sweden
1974	C140: Paid Education Level	1993		1975	1976				1976	1975			1978		1992	1975
1975	C141: Rural Workers	2003	1978	1984	1978		1979		1977	1977	1989		1978	1978	1977	1976
1975	C142: Human Resources		1981	1984	1980	1979	1979	2001	1979	1977	1989	1981	1977	1979	1977	1976
1976	C144: Tripartite Consult	1982	1978	1982	1979	1979	1979		1978	1977	1981	1981	1984	1979	1978	1977
1977	C149: Nursing Personnel	1988	1981	1984			1985				1987	1985			1979	1978
1978	C150: Labour Administrative		1981		1981		1985	2001	1980	1980	1985	1981	1982		1980	1979
1978	C151: Labour Relations	1991	1981				1985	2001	1988	1980	1996	1981	1984		1980	1979
1979	C152: OSH Dock Work		1989	1985	1982		2000		1998				1982		1981	1980
1981	C154: Collective Bargaining	1988							1993		1996		1985		1983	1982
1981	C157: Social Security Right												1985			1984
1986	C163: Seafarers' Welfare		1993	2004												
1989	C169: Indigenous People		1996	Abst												
1996	C178: Labour Inspection			2004		1999		2005		2003					1999	2000
1996	C179: Recruitment Seafarer			2004		1999									1999	
1996	C180: Hours of Work	2003	2003	2004		1999		2005	2003	2001	2002		2004		2002	2000

Key:

Bold Text refers to abstentions or votes against the adoption of the instrument. .

Appendix 5: Chi-square test for the association between EU representation and EU Member State voting cohesion in ILC technical issues 1973-2005.

Observed Frequency:

	Cohesive MS Voting	One or more MS abstaining	One or more MS voting against	Total
EU Representation	53	15	3	71
No EU representation	19	9	3	31
Total	72	24	6	102

Expected Frequency:

	Cohesive MS Voting	One or more MS abstaining	One or more MS voting against	Total
EU Representation	50.1	16.7	4.2	71 (0.696)
No EU representation	21.9	7.3	1.8	31 (0.304)
Total	72	24	6	102 (1.000)

Note:

The expected frequencies of each cell are calculated by multiplying the total number in that column by 0.696 and then by 0.304 (e.g $72 \times 0.696 = 50.1$) This shows the expected frequency of each outcome if there was no association between the independent variable (representation) and the dependent variable (voting cohesion).

f_o Observer	f_e Expected	$f_o - f_e$ Deviation	$(f_o - f_e)^2$ Square Dev.	$(f_o - f_e)^2 / f_e$ SD / expected
53	50.1	2.9	8.41	0.168
19	21.9	-2.9	8.41	0.384
15	16.7	-1.7	2.89	0.173
9	7.3	1.7	2.89	0.396
3	4.2	-1.2	1.44	0.343
3	1.8	1.2	1.44	0.800
Sum:				2.264

The chi-square test tests the null hypothesis, which in this case is that there is no association between EU Member State representation in a technical committee and EU Member State voting cohesion in the record vote to adopt the drafted instrument onto the ILO statute, (i.e. they are independent).

At 2 degrees of freedom (df) calculated by $(r-1) \times (c-1)$ when r =rows (2) and c =columns (3) the test result is 2.264.

The Chi Square value of 2.264 is between the p-value 0.20 (3.219) and 0.30 (2.408).

To refute the null hypothesis we would look for a p value of 0.05 (with a Chi Square value of 9.210), and therefore cannot reject the hypothesis that there is NO association between the two variables.

Appendix 6: Chi-square test for the association between EU representation and EU Member State voting cohesion in ILC political votes 1973-2005.

Observed Frequency:

	Cohesive MS voting	One or more MS abstaining / voting against	Total
EU Representation	6	1	7
No EU representation	1	6	7
Total	7	7	14

Expected Frequency:

	Cohesive MS voting	One or more MS abstaining / voting against	Total
EU Representation	3.5	3.5	7 (0.500)
No EU representation	3.5	3.5	7 (0.500)
Total	7	7	14

Note:

The expected frequencies of each cell are calculated by multiplying the total number in that column by 0.500 and then by 0.500 (e.g $7 \times 0.500 = 3.5$) This shows the expected frequency of each outcome if there was no association between the independent variable (representation) and the dependent variable (voting cohesion).

f_o Observer	f_e Expected	$f_o - f_e$ Deviation	$(f_o - f_e)^2$ Square Dev.	$(f_o - f_e)^2 / f_e$ SD / expected
6	3.5	2.5	6.25	1.786
1	3.5	-2.5	6.25	1.786
6	3.5	2.5	6.25	1.786
1	3.5	-2.5	6.25	1.786
Sum:				7.143

The chi-square test works by testing the null hypothesis, which in this case is that there is no association between EU Member State representation (the Presidency giving a common statement) on a political issue and EU Member State voting cohesion in the record vote to adopt the drafted instrument onto the ILO statute, (they are independent variables)

At 1 degrees of freedom (df) calculated by $(r-1) \times (c-1)$ when r =rows (2) and c =columns (2) the test result is 7.143.

The Chi-Square value of 7.143 lies between the p values 0.01 (6.635) and 0.001 (10.827).

To refute the null hypothesis we would look for a p value of 0.05, and with a result of < 0.01 we can reject the hypothesis that there is NO association between the two variables.

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