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# A House Divided: Employers and the Challenge to Pattern Bargaining in a United Germany

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Abstract

Recently, increasing numbers of new German firms have begun to break from tradition and refuse to join employers' associations. Simultaneously, an unprecedented portion of affiliates have begun to reconsider employers' association membership. The spectre of declining membership in German employers' associations—century-old pillars of organized capitalism—is particularly noteworthy because of the importance of these institutions to the German economy as a whole. Some observers have attributed this trend to the impact of German unification, yet a careful analysis reveals that its principal causes arose in the decade preceding it. The economic strain of unification, however, has accelerated "association flight" and has provided dissidents with an unprecedented opportunity to challenge the hegemony of employers' associations over the regulation of wages and working conditions in the Federal Republic.

## INTRODUCTION

The terms "*Verbandsvermeidung*" (association avoidance) and "*Verbandsflucht*" (association flight) have appeared with increasing frequency in analyses of the German economy over the past few years.[1] These two words vividly encapsulate the observation that fewer new firms are joining employers' associations as did a decade ago and that members are both threatening to leave and actually leaving employers' associations at an unprecedented rate. "No one knows the exact numbers," notes Michael Fuchs, president of the Federal Association of Wholesale and Export Trade, "yet every insider currently feels a trend: ... employers' associations have to battle a phenomenon that was virtually unknown through the 1980s. It is the matter of [firm] resignations."[2]

The specter of declining membership in German employers' associations -- century-old pillars of organized German capitalism -- is particularly noteworthy because of the importance of these institutions to the German economy as a whole. A broad spectrum of scholars and practitioners agree that Germany's

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1. For example: *Handelsblatt*, 9 March 1993 and 6 April 1993; *Welt*, 5 Aug. 1992; Gottlieb Förster, "Flucht aus Tarifverträgen. Eine aktuelle Gefahr," *Umschau* 46, no. 2 (March 1994), p. 13; Axel Langer, "Arbeitgeberverbandsaustritte -- Motive, Abläufe und Konsequenten," *Industrielle Beziehungen* 1, no. 2 (1994); Wolfgang Schroeder, "Auch die Bindefähigkeit der Arbeitgeberverbände lässt nach," *Frankfurter Rundschau*, 30 March 1993; and Henning von Vieregge, "Von einer Tarifpolitik à la carte bis zur Auslösung der Tarifautonomie," *Frankfurter Rundschau*, 11 February 1993.

2. Michael Fuchs, "Der Mensch im Mittelpunkt -- Individualisierung statt Vermassung," in Michael Fuchs and Horst-Udo Niedenhoff, eds., *Sozialpartnerschaft. Meinungen, Visionen, Vorschläge* (Cologne: Deutscher Instituts-Verlag, 1993), p. 170.

industrial relations system, which relies heavily on powerful employers' associations, has been a key component helping to generate Germany's postwar economic success.[3] Why then, if employers' associations are so important, are companies fleeing them?

Opinions diverge over why firms are leaving employers' associations. Declining membership across a vast assortment of organizations throughout the world's most affluent countries is undoubtedly a hallmark of the post-modern age. Some attribute association flight, at least in part, to this general social trend.[4] Others blame the onset of association flight on German unification. Whereas scholars within this latter camp disagree over the possibilities for preserving the old western constellation of social and economic forces while extending it to the five

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3. For example, Tyll Necker, "Sozialpartnerschaft und Standortqualität," in Michael Fuchs and Horst-Udo Niedenhoff, eds., *Sozialpartnerschaft. Meinungen, Visionen, Vorschläge* (Cologne: Deutscher-Instituts Verlag, 1993), p. 196; Mancur Olson, *The Rise and Decline of Nations: Economic Growth, Stagflation, and Social Rigidities* (New Haven, Connecticut: Yale University Press, 1982), p. 76; Lowell Turner, *Democracy at Work: Changing World Markets and the Future of Labor Unions* (Ithaca, New York: Cornell University Press, 1991), pp. 235-36; and Klaus Zwickel, "Lean Production und Tarifreform 2000," in Hans-Böckler-Stiftung and Industriegewerkschaft Metall, eds., *Lean Production. Kern einer neuen Unternehmenskultur und einer innovativen und sozialen Arbeiterorganisation?* (Baden-Baden: Nomos, 1992), p. 222.

4. For example: Franz Traxler, "Gewerkschaften und Arbeitgeberverbände. Probleme der Verbandsbildung und Interessenvereinheitlichungen," in Walther Müller-Jentsch, ed., *Konfliktpartnerschaft. Akteure und Institutionen der industriellen Beziehungen*, second edition (Munich: Rainer Hampp, 1993), p. 141-167; and Jürgen Husmann, "Schlusswort," in Hermann Linke, Horst-Udo Niedenhoff and Wilfried Vetter, eds., *Unternehmertum -- Wirtschaftlicher Aufschwung und sozialer Fortschritt in einem vereinigten Deutschland* (Cologne: Deutscher Instituts-Verlag, 1991), pp. 159-168.

new German *Länder*, they share the conviction that the immense economic, political and social transformations triggered by the absorption of the German Democratic Republic and the implosion of the Soviet Union were *external* shocks that disrupted an otherwise smoothly functioning western German economic order.[5]

This article argues, in contrast, that German unification alone did not cause association flight. Association flight is instead the product of contradictions that arose over the course of the 1980s (i.e., well before German unification had become likely) out of the interplay of Germany's system of comprehensive pattern bargaining, generous collective agreements (including weekly working time reduction), rapid technological change and intensified competition among multinational enterprises.

Despite the upsurge in association flight, not all classes of firms are interested in leaving their associations. For the most part, Germany's largest and most prominent employers have not yearned for a union-free environment (BMW's and Mercedes Benz's planned investments in the southern United States are the exceptions that prove the rule), nor do they want a "Japanization" of German industrial relations (i.e., company unions). They are instead simply interested in operating their plants with a little more flexibility (e.g., in setting the hours for running their

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5. For example, Michel Albert, *Capitalisme contre capitalisme* (Paris: Seuil, 1991); Philip Glouchevitch, *Juggernaut: The German Way of Business and Why it is Transforming the World* (New York: Simon and Schuster, 1992); Birgit Mahnkopf, "The Impact of Unification on the German System of Industrial Relations," Discussion Paper FS I 93-102, Wissenschaftszentrum Berlin für Sozialforschung, 1993.

capital equipment) and on drawing out the creative potential of their employees within the confines of the existing system of industrial relations without disturbing the labor peace or economic stability that employers' associations provide through pattern bargaining. Nonetheless, a vocal group of smaller firms have been interested in breaking out of the current tight system of pattern bargaining in Germany because it has treated this class of enterprises with particular harshness. These are the firms that are both preaching and practicing the gospel of association flight and thereby posing an unprecedented challenge to the traditional postwar industrial relations order.

Specifically, increasing numbers of small supplier-firms found the cost of the industry-wide set of pattern collective agreements negotiated by employers' associations had become too much for them. Since respecting collective agreements as a floor for wages and benefits is mandatory in most German employers' associations, firms have increasingly considered leaving or failing to join associations in order to escape burdensome contracts. Hence, the matter of contention for disgruntled firms is not employers' association membership in general, but collective bargaining results in particular. That is why Klaus Murmann, president of the *Bundesvereinigung der Deutschen Arbeitgeberverbände* (BDA, Federal Organization of German Employers' Associations) prefers the less commonly used but more precise term "collective bargaining flight" (*Tarifflucht*) to association flight.[6]

6. Interview with Klaus Murmann, Washington, D.C., 19 April 1994.

Thus, rather than cause, German unification has acted as a catalyst that has precipitated association flight out of an already strained collective bargaining system. Unification intensified the costs of the old system and, more important, added to Germany a region where operating "association free" is, at least for the short-run, a viable "exit option" for firms under cost pressures.[7]

This article explores the causes and implications of association flight in Germany. It has four parts. It first explains how the postwar model of German industrial relations worked to enhance growth, productivity, incomes and equity in the first three decades of the Federal Republic. Second, this study details the series of developments that unfolded during the 1980s that made it increasingly difficult to maintain the traditional tradeoffs that satisfied all classes of firms in German employers' associations. Third, the article analyzes the impact of German unification on employers' associations. Finally, this work concludes with a discussion of the implications of *Verbandsflucht* for the German economy and society.

## GERMAN EMPLOYERS' ASSOCIATIONS FROM THE 1950s TO THE 1970s: SUCCESSFUL RECONCILIATION OF DIVERGENT INTERESTS

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7. Fred Henneberger, "Transferstart: Organisationsdynamik und strukturkonservismus westdeutscher Unternehmerverbände -- aktuelle Entwicklungen unter besonderer Berücksichtigung des Aufbauprozesses in Sachsen und Thüringen," *Politische Vierteljahresschrift* 34, no. 4 (December 1993), pp. 647-48; and Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations and States* (Cambridge, Massachusetts: Havard University Press, 1970).

A German firm has three options for determining employee compensation. It can set wages and benefits unilaterally (and thereby risk a strike if it pays substandard rates), negotiate a "house contract" directly with a union, or join an employers' association and rely on the association's experts to negotiate a standard set of collective accords that set a minimum pattern for all of the association's members. Most firms choose the third option.

German employers' associations are organized along sectoral lines. There are roughly fifty separate sectoral employers' associations. Individual sectoral associations are typically comprised of ten to twenty regional affiliates.[8] Employers' associations primary tasks are to aggregate internally the divergent and often contradictory interests of its members into a coherent and widely acceptable set of positions, to bargain collectively with trade unions, and to lobby government at all levels regarding social and labor-market policies.[9]

The vast majority of employers' associations are affiliated to the sole national employers' confederation, the *Bundesvereinigung der Deutschen Arbeitgeberverbände*. The BDA has no authority over collective bargaining or any strike-insurance funds. Thus, it is less powerful than its affiliates, which maintain mastery over

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8. Gerard Braunthal, *The Federation of German Industry in Politics* (Ithaca, New York: Cornell University Press, 1965), pp. 23-35.

9. Wolfgang Schroeder, "Politik und Programmatik der Unternehmerverbände," in Michael Kittner, ed., *Gewerkschaftsjahrbuch 1993* (Cologne: Bund, 1993), p. 695.

finances and collective bargaining. The BDA's principal task is to serve as the public voice of German employers in the media and in politics at the federal and European levels.[10]

By far the largest, richest and most influential of the BDA affiliates is the *Gesamtverband der metallindustriellen Arbeitgeberverbände* (Gesamtmetall, General Association of Metal-industry Employers' Associations). Its members have consistently accounted for roughly forty percent of the entire membership of the BDA, a share that is approximately fifty percent larger than the portion of metalworking employees in the private sector.[11]

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10. The BDA also has a set of pansectoral regional affiliates with boundaries that are virtually identical to those of Germany's *Länder*. They are of little import for the purposes of this analysis, however, because firms do not belong to them directly (Ronald F. Bunn, "Employers' Associations in the Federal Republic of Germany," in Alan Gladstone and John P. Windmuller, eds. *Employers Associations and Industrial Relations: A Comparative Study* [Oxford: Oxford University Press, 1984], p. 175).

Two other types of enterprise organizations exist: Business associations (*Wirtschaftsverbände*) and chambers of industry and commerce (*Industrie- und Handelskammer*). Business associations help to coordinate the exportation, marketing and research-and-development activities of firms as well as the lobbying of local, state and federal governments regarding tax policy, environmental issues and other matters directly related to operating a business. German law mandates membership in the third type of business association, the chambers of industry and commerce. Chambers of industry and commerce coordinate apprenticeships, set minimum business requirements and fulfill many of the tasks of an American better business bureau (William D. Coleman, "State Traditions and Comprehensive Business Associations: A Comparative Analysis," *Political Studies* 38, no. 2 [June 1990]: 231-52).

This study focuses exclusively on employers' associations because association flight has been most pronounced in these organizations.

11. Bundesvereinigung der Deutschen Arbeitgeberverbände, *Jahresbericht* (Cologne: BDA, various years); and Robert J. Flanagan, David W. Soskice and Lloyd Ulman, *Unionism, Economic Stabilization, and Incomes Policies: European Experiences* (Washington, D.C.: Brookings, 1983), p. 237.

Since the foundation of the Federal Republic in 1949 until German unification, approximately two-thirds of all eligible western German firms, employing eighty percent of all employees in the private sector, have belonged to employers' associations.[12] Hence, ironic though it may seem, German business has been far more thoroughly organized than German employees, of whom at most roughly four out of ten have ever been union members.

German collective bargaining is far more centralized than it appears at first glance. Although collective bargaining within most sectors takes place at the regional level, one region typically serves as a pilot district in each sector and the national office of most employers' associations are heavily involved -- and often the decisive player -- in the talks. Once the collective bargaining parties reach a settlement in the pilot district, the remaining regions copy the pattern virtually identically. Similarly, individual sectors formally bargain independently of one another. In practice, however, the contract results in the metalworking industry -- and occasionally, public service -- set the pace. Most other sectors simply adhere closely to the pattern of the lead sector.[13]

A substantial majority of German businesses have supported the centralized system of collective bargaining practiced by employers' associations for three reasons. First, employers' associations maintain a staff of full-time experts skilled and

12. Bunn, p. 174.

13. Necker, p. 205.

experienced in the art of collective bargaining to negotiate on behalf of the member firms. This specialization reduces personnel costs while improving the collective-bargaining results for individual firms.

Second, employers' associations provide for the collective defense of their members against trade unions. Members have access to a central strike-fund and receive immediate solidaristic support from other firms. This prevents unions from "whipsawing" employers one by one and raises the level at which collective negotiations occur to the region, or in some instances, to the nation. The collective approach also removes most industrial conflicts from the work place, facilitating smooth, cooperative relationships between individual employers and their employees and the timely completion of orders.[14]

Third, employers' associations use the "convoy principle" of collective bargaining. This allows all members to contain labor costs and dampen inter-firm competition for workers by linking wage and benefit increases to the performance of the average firm, rather than to that of a handful of the most highly profitable individual firms. The convoy principle also provides an incentive for employers to invest in the latest technologies because this allows them to raise their firm's individual productivity without fear of a union extracting extra wage increases at the firm level in response.[15]

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14. American Chamber of Commerce in Germany, *The Federal Republic of Germany as an Investment Location ("Standort" FRG): An American Perspective* (Frankfurt/Main: American Chamber of Commerce in Germany, 1991).

15. Hans-Joachim Gottschol, "Abschiedsrede," in Gesamtmetall,

The large membership of most German employers' associations consists typically of both smaller parts-supplier firms and larger assemblers within a given sector. Reconciling interests within this heterogeneous group is a formidable challenge, particularly when it comes to labor costs, because the suppliers usually sell their wares to the assemblers in the same association. Germany's employers' associations traditionally achieve this reconciliation by concluding regional pattern bargaining contracts (*flächendeckende Tarifverträge*) that set a standard minimum for the members of the employers' association. Employers' associations also rely on a number of legal provisions to make it extremely difficult (at least until German unification) for *non-member* firms to undercut an association's collective accords.

German labor law permits the labor minister to issue a "General declaration of applicability" (*Allgemeinverbindlichkeitserklärung*) requiring all firms to respect an existing sectoral collective bargaining agreement as a legally binding minimum covering *all* employers, so long as firms employing a majority of the employees in that sector and district have already agreed to those conditions. On average over the past twenty years, anywhere between 500 and 600 of these declarations have been in force at any given time. Although this number is low in com-

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ed., *Aktiv aus der Krise. Der Beitrag der Tarifpolitik*, Dokumentation des Forums vom 7. Oktober 1993 in Köln (Kevealer: Becker, 1993), p. 173.

parison to the typical number of collective agreements in the Federal Republic (i.e., between 35,000 and 40,000), a declaration of general applicability still serves as an effective deterrent to any firms contemplating leaving an employers' association in order to cut labor costs.[16]

German labor law also protects collective agreements from potential free-riders by stating that any firm that leaves an employers' association remains bound by the contracts concluded while it was still a member for as long as they remain in force. For wage agreements this is not so burdensome; their length is typically one year. Yet for contracts regulating matters such as vacations, working time and wage scales, he duration can be considerably longer.[17]

Preserving a "leakproof" floor regarding labor costs has been beneficial for the German economy, particularly for the larger firms and their employees, because it has driven out of business marginal firms that otherwise would drag down average wages and benefits by trying to survive on the basis of providing minimal compensation (cf., the United States). Although the German system may, *ceterus paribus*, marginally reduce employment, the high wage-rates encourage businesses to train workers thoroughly and to specialize in high-end product markets in order to remain profitable, thereby enhancing the productivity and the competi-

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16. Reinhard Bispinck, "Daten und Fakten zum bundesdeutschen Tarifsystem," *WSI-Mitteilungen* 46, no. 8 (August 1993), pp. 529-30; and Bundesvereinigung der Deutschen Arbeitgeberverbände, *Jahresbericht 1993* (Cologne: edition aggripa, 1993), p. 58.

17. Schroeder, p. 501.

tiveness of the economy as a whole. So long as this "leakproof" system only drives a small number of marginal firms out of business each year, its impact on the labor market remains manageable.[18]

Similarly, ample evidence indicates that German employers' associations also police a labor-cost ceiling through a series of informal but effective measures. They do this for two reasons. First, whenever there is a tight labor market or a shortage of specific classes of skilled workers, the employers' associations act to stop their members from engaging in bidding wars for new personnel thereby preventing an acceleration of wage costs. The employers' associations also maintain a wage ceiling in order to prevent more affluent firms from solving any labor or skills shortages by poaching workers from the less affluent by offering large wage and benefit increases. This aspect of the employers' associations' wage and benefit policy typically protects the smaller and less-well-off firms from losing employees to the larger and more affluent ones, but all firms benefit to some degree through lower labor costs and reduced employee turnover.

Efforts to enforce a wage ceiling are much less readily apparent than the floor set in a collective bargaining contract. Nonetheless, evidence of this policy has surfaced, such as the famous employer "taboo catalog" of the late 1970s, which proscribed certain forms of compensation, and anecdotal stories of

18. Wolfgang Streeck, "On the Institutional Conditions of Diversified Quality Production," in Egon Matzner and Wolfgang Streeck, eds., *Beyond Keynesianism: The Socio-Economics of Production and Employment* (London: Edward Elgar, 1991), pp. 25-31.

confrontations between officials from employer associations and large German firms in which the association officials threaten to recommend to the government that it no longer buy the large firm's product unless it moderates its wage rates.[19]

The macro-economic effect of this complex process of interest intermediation and aggregation has been impressive, particularly during its heyday. Pattern bargaining helped to produce greater economic equity among Germans, promote productivity growth and dampen personnel poaching and other destructive forms of labor-market competition. Some observers have dubbed this the "high everything" system of industrial relations because its high wage-rates induced firms to train their workers highly, which in turn generated higher productivity and enabled German companies to dominate the high end of a wide range of markets and earn high profits.[20]

Large assembler-firms were able to pay wages and benefits somewhat above the going collective bargaining rate (i.e., approximately twenty percent) to attract better workers and small suppliers were able to charge prices for their parts on which they could survive. As a result, the Federal Republic has had the smallest labor-cost differential between suppliers and assemblers in the industrialized world, that is, approximately ten to

19. *Zeit*, 26 January 1979.

20. Kirsten S. Wever and Christopher S. Allen, "Is Germany a Model for Managers?" *Harvard Business Review* 70, no. 5 (September - October 1992), pp. 36-43.

fifteen percent, which has promoted a high degree of social equity.[21]

Scholars at the time attributed the success of the "high everything" system to the "sensible" nature of unionists and employers in light of the traumatic experiences of the Weimar Republic and Nazi rule.[22] As the analysis above demonstrates, however, the *actual* secret of the success of the German system of labor-market regulation was the ability of employers' associations to find a single range for wages and benefits that was mutually acceptable to supplier and assembler firms alike. Rapid growth and the relatively sheltered German and European market of the 1960s and 1970s provided sufficient profits to support a mutually acceptable compromise. All this, however, began to change in the 1980s.

## GERMAN EMPLOYERS' ASSOCIATIONS IN THE 1980s: THE VICISSITUDES OF RECONCILING INCREASINGLY DIVERGENT INTERESTS

Over the course of the 1980s, a series of six changes in the German and the international economies altered the impact of the German system of industrial relations during the 1980s, restricting its ability to produce outcomes acceptable to the vast majority of firms. This sparked increasing numbers of employers -- in particular, entrepreneurs from smaller supplier-companies -- to

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21. Sigurt Vitols, "German Banks and the Modernization of the Small Firm Sector: Long-Term Finance in Comparative Perspective," Paper presented at the Ninth International Conference of Europeanists, Chicago, Illinois, 31 March - 2 April 1994.

22. Flanagan et al., pp. 682-87.

complain about the system's rigidities and to begin to demand changes.

First, foreign competition, principally from Japan, made substantial inroads into several sectors traditionally dominated by Germany in domestic and European as well as overseas markets, such as autos, optics and machine tools. German firms have also had little success in entering the cutting edge sectors of today's economy -- especially microelectronics, software development and biotechnology -- that American and Japanese firms dominate. This has restricted the profit margins of German firms and forced many of them to cut costs, including labor costs.[23]

Second, West German productivity growth markedly decelerated during the 1980s. From 1970 to 1980 labor productivity rose at a yearly pace of 3.3 percent, but from 1980 to 1990, the average annual increase slipped to 1.5 percent. This deceleration dropped Germany from second to second-last place in productivity growth among the seven major industrial powers. Moreover, since productivity slipped during these years much faster at smaller enterprises than at larger ones, it became increasingly difficult to find a pattern agreement that was mutually acceptable to the two main classes of German enterprises: small suppliers and large assemblers.[24]

23. Konrad Seitz, *Die japanisch-amerikanische Herausforderung. Deutschlands Hochtechnologie-Industrien kämpfen ums Überleben* (Stuttgart: Verlag Bonn Aktuell, 1990).

24. Gottschol, p. 173; and Statistisches Bundesamt, *Statistisches Jahrbuch für die Bundesrepublik Deutschland* (Wiesbaden, various years).

Third, wage compression along job-categories accelerated *within* individual sectors. Since the 1970s, the collective bargaining agreements concluded in Stuttgart between the North Württemberg/North Baden district of Germany's largest and most powerful union, *Industriegewerkschaft Metall* (IG Metall, Metal-workers' Industrial Union), and the *Verband der Metallindustrie Baden-Württemberg* (VMI, Employers' Association of the Metal Industry, Baden Württemberg), which is the local branch of Gesamtmetall, typically established the strict pattern for the rest of the metalworking sector. In the latter half of the 1980s and early 1990s, larger, more prosperous assemblers in Baden-Württemberg such as Daimler Benz successfully pressed the VMI and Gesamtmetall to accept generous contracts that frequently also reduced weekly working time to preclude labor strife from interrupting production during the global economic boom. Weekly working time reduction squeezed small employers particularly hard. Larger firms have both the personnel and the resources to adjust relatively easily to weekly working time reduction at a minimal cost. Smaller firms, in contrast, could only absorb this form of working time reduction at a substantially higher cost.[25]

Corporate downsizing and reorganization has also served to intensify the tensions between large and small firms. For example, "lean production" has been a hot management fad even before the German translation of the book by James P. Womack, Daniel T.

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25. Stephen J. Silvia, "The West German Labor Law Controversy: A Struggle for the Factory of the Future," *Comparative Politics* 22, no. 2 (April 1988).

Jones and Daniel Roos, *The Machine that Changed the World,* hit the German market in 1991.[26] As the Japanese economy clearly demonstrates, lean production makes supplier firms extremely dependent on assemblers because it requires small firms open themselves up to their customers for it to function. Lean production particularly undermines the autonomous capacity of small firms to innovate independently because the assembler uses the method of "continuous improvement" of parts and processes to determine the investment patterns of the supplier. More important, it allows the larger assemblers to transfer a significant portion of their research-and-development and warehousing costs to suppliers. Within Gesamtmetall, small employers increasingly complained that the large German manufacturers that dominate Gesamtmetall were buying labor peace for themselves at a price that small firms could not afford.[27] Still, neither Gesamtmetall nor IG Metall showed any mercy to marginal and maverick firms that tried to undercut the generous collective bargaining standards set in the metalworking sector.

Fourth, wage stratification accelerated *across* sectors in the German economy during the 1980s for the first time in several decades. For example, between 1950 and 1978, the ratio of average hourly wage of an apparel worker in terms of the average

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26. Its German title is: "*The Second Revolution in the Automobile Industry*" (*Die zweite Revolution in der Automobilindustrie* [Frankfurt/Main: Campus, 1991]).

27. Hans-Joachim Gottschol, "Die Zukunft der Metall- und Elektro-Industrie in Deutschland," *Forum* 43, no. 27 (6 July 1993).

manufacturing wage remained relatively constant, fluctuating around 75 percent. Yet by 1990, apparel workers earned only 68.5 percent of the average manufacturing wage.[28] The disparity among sectors also broadened during the 1980s as a result of the drive to attain working time reduction. Thus far, only IG Metall and media workers' union have been able to secure the 35-hour week in collective accords. Other sectors show no real promise of reaching this target in the foreseeable future. In 1994 labor and management in the chemical industry agreed to allow individual firms experiencing economic hardship to reintroduce the forty-hour workweek.

Increased intersectoral stratification has shaken the German industrial relations order because it has for the first time given firms on the margin of a sectoral demarcation an incentive to "shop" for the union that will provide the most favorable contract. The most (in)famous instance of this has been IBM-Deutschland. The strict limitations on factory hours set in recent metalworking collective bargaining agreements helped prompt IBM-Deutschland in January 1992 after several years of preparation to break the company into nine independent units that would be owned by a holding company. Eight of the nine units, employing 18,000 of IBM's total 25,000 German work force, have left Gesamtmetall to join several other employers' associations that had concluded contracts with their unions containing far fewer restrictions on factory hours. The *Deutsche Angestellten-*

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28. Gewerkschaft Textil-Bekleidung, "Tarifbericht '94," Düsseldorf, 1994.

*Gewerkschaft* (DAG, German White Collar Employees' Union), which is not a DGB affiliate, already has negotiated a "house" collective-bargaining agreement with IBM for many of the new holding companies.[29] IG Metall has protested this move and has managed to block it temporarily owing to a legal provision mentioned earlier -- according to German law, IBM can only switch after the existing VMI-IG Metall collective agreement expires in April 1994 -- but IBM's step is symbolic of the unprecedented pressure that the "high everything" German system of industrial relations has generated.

Fifth, as most of the other union movements of Europe have weakened and have failed to keep pace with German collective bargaining gains during the 1980s, international competitive constraints have become an increasingly real problem for German trade unions. Even before unification, German employers launched a protracted campaign arguing that high labor costs and severe working time restrictions are undermining the attractiveness of Germany as an "industrial location" (*Standort*). The single best indicator of the price of employees to firms is unit labor cost because this also controls for productivity differences across nations. Researchers sympathetic to the German labor movement have challenged the employers' mantra that Germany has the highest labor costs in the world by pointing out that, although Germany indeed does have the world's highest compensation rates,

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29. *Handelsblatt*, 7 April 1993; Deutsche Angestellten-Gewerkschaft and IBM-Deutschland, *Haustarifverträge IBM/DAG* (Stuttgart: IBM, 1993).

the Federal Republic ranks squarely in the middle of the European Union in terms of unit labor costs: below low and medium wage countries such as Great Britain, Greece, Portugal and Spain.[30]

Employers also complain that German unit labor costs have accelerated faster in Germany than in any other European Union nation since 1980. Unionists respond by conceding that, but then pointing out that a rising deutschmark is responsible for the majority of that relative increase. Indeed, between 1980 and 1993, German unit labor costs grew at a slower pace than in France, Italy and even the United Kingdom when calculated in terms of the national currency.[31] Nonetheless, the real world does not factor out currency appreciation. Employers' have no control over currency movements, but they can attempt to relieve these cost pressures by altering their labor costs.

Regardless of its cause, the disproportionate rise in German unit labor costs since 1980 has had an impact similar to inter-sectoral labor-cost stratification; more German firms are looking to purchase and produce abroad where labor is cheaper and working time is less restricted. The rapid expansion in the net outflow of investment capital from the Federal Republic starting in the mid 1980s demonstrates this trend most succinctly.[32]

30. Arne Heise, "Kosten-Weltmeister? Oder: Ein weiterer Versuch in 'Schwarzer-Peter-Spiel' bei Lohnstuckkosten," *WSI-Mitteilungen* 45, no 8 (August 1992): 521-25.

31. Ulrich Eckelmann, "Lohnstückkosten im internationalen Vergleich. Reine Zweckpropaganda," *Gewerkschafter* 42, no. 7-8 (July-August 1994), p. 47.

32. Jörg Beifuss, "Ausländische Direktinvestionen in Deutschland -- Bestandaufnahme und Ergebnisse einer Unternehmensbefragung," *Beiträge des Instituts der deutschen Wirtschaft zur Wirtschafts- und Sozialpolitik*, no. 204 (1992).

Sixth, rapid acceleration in capital costs per job and the onset of quicker product-cycles meant that employers of all sizes could only make their capital investments pay off by operating their equipment for longer hours. Moreover, even within a single sector, the optimal pattern for operating equipment varied significantly from product to product and season to season. Thus, a common standard for work hours became increasingly a hindrance to profitable production, particularly since the 1980s when the unions were endeavoring to cut the workweek.[33]

The impact of these six factors on the centralized system of German industrial relations first became apparent in the latter half of the 1980s. Groups representing smaller, family-owned firms, such as the *Arbeitsgemeinschaft Selbstständiger Unternehmer* (ASU, Working Group of Independent Business Owners) and their youth wing, the *Bund Jünger Unternehmer* (BJU, The Federation of Young Business Owners) have staged a drive to promote a sweeping deregulation of collective bargaining in order to free firms from limitations imposed by not only legal restrictions and the trade unions, but also employers' associations. Although over forty years old, ASU has recently begun to voice most prominently the values of a new generation of German entrepreneurs that has embraced with fervor the more freewheeling brand of cap-

33. Walther Müller-Jentsch, "Das (Des-)Interesse der Arbeitgeber am Tarifvertragssystem," *WSI-Mitteilungen* 46, no. 8 (August 1993), p. 498.

italism found in Britain and the United States. This generation finds the current highly regulated German market old-fashioned and unattractive.

ASU has drafted an alternative collective bargaining model that includes (1) the creation of collective bargaining "corridors" that would set a "range" instead of a fixed percentage for annual increases in wages and benefits, (2) the adoption of a collective bargaining "menu" rather than a fixed set of benefits, (3) the deletion of the "declaration of general applicability" provision from German labor law, (4) the insertion of an "opening clause" into all sectoral collective bargaining agreements that would permit individual firms experiencing economic hardship to reopen a sectoral agreement in order to negotiate a reduction in compensation *below* the contractual minimum set in the pattern contract, (5) the introduction of a formal ratification procedure for all tentative collective bargaining contracts by every employers' association member through postal ballots, and (6) the participation of all firms in lockouts on a rotating basis so that all firms can at some point become actively involved in collective bargaining disputes and thereby receive strike-insurance payments from employers' associations.[34]

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34. Hans-Joachim Selzer, "Auszüge aus dem Bericht des Vorsitzenden des Arbeitgeberverbandes der hessischen Metallindustrie, Bezirksgruppe Mittelhessen e.V. anlässlich der 40. ordentlichen Mitgliedsversammlung der Bezirksgruppe," 10 March 1990; Thomas Selter, *Gewerkschaften -- Zwischen Fordern und Versagen* (Bonn: Arbeitsgemeinschaft Selbständiger Unternehmer, 1990), pp. 51-61; and Arbeitsgemeinschaft Selbständiger Unternehmer, *Tarifpolitik in der Verantwortung. Ein Pläydoyer für Flexibilität* (Dortmund: Rhein-Ruhr Druck Sander, 1992).

The essence of the ASU model is not simply to enhance the voice of small firms in employers' associations but to undermine the importance of pattern bargaining in setting compensation by granting individual businesses the discretion to undercut the association accords unilaterally. In other words, ASU's proposals represent a bid to transform German collective bargaining to the firm-by-firm approach found in North America and the United Kingdom. This also would make it possible for more German employers to attempt to operate "union free," if they wished.

Regardless of the potential advantages of the ASU reforms for individual companies considered as such, in the 1980s only a small minority of firms were interested in the ASU proposals. Four reasons explain this. First, strong economic growth enabled most companies to earn a profit within the system as it was constituted. Second, the employers' associations were -- not surprisingly -- strongly against these proposals. After all, if ASU's ideas were implemented, it would certainly undermine the authority of employers' organizations and it could even bring about their dissolution. Third, many firms both large and small had benefited from the efforts of the employers' associations to police the market. Fourth and most important, ASU's reforms still did not provide a viable domestic "exit option" to German businesses. Employers' associations and the unions would still be strong enough throughout the Federal Republic to punish maverick firms. The collapse of European Communism and the sudden reunification of Germany would radically change the calculus and opportunities for many employers, however.

**THE CATALYST: THE IMPACT OF GERMAN UNIFICATION AND THE COLLAPSE OF EUROPEAN COMMUNISM**

The onset of German unification and the crumbling of the Iron Curtain not only added a powerful set of new challenges to an already festering situation within western German employers' associations, but also transported eastward a system ill-suited to the task of reintegrating the former German Democratic Republic into a capitalist economy. At virtually every level of German society, the "victorious" westerners, with substantial eastern support (at least at first), decided that the best means to unify Germany while preserving the Federal Republic's postwar success would be simply to transfer eastward western laws, organizations and institutional arrangements -- including the entire industrial relations complex -- without changing them. The legacy of the failed Weimar Republic made most Germans extremely hesitant to tinker with a system that was not broken, but the uncritical and wholesale adoption of the western order risked committing the error of moving from one extreme to another.

The leadership of German employers' associations were particularly zealous in extending industrial relations eastward both *de jure* and *de facto*, because its power rested in its ability to enforce *nationwide* sectoral agreements. *Land*-level agreements would devolve power to the regional affiliates and contracts with a liberal opening clause would shift the focus of industrial relations to the work-place level. Western employers' associations had completed their eastward expansion by the end of 1990, thereby out pacing the unions by several months.[35] The strongest motivation for the quick eastward expansion in many employers' associations was competition among rival regional bodies within single associations with differing structures of governance to cast the eastern association in their image. The employers' organizations moved so fast because they wanted to be sure that they were in place before organized labor and to preclude rival indigenous associations from forming. The absence of a significant indigenous eastern entrepreneurial class meant that westerners initially dominated almost all of the top posts in the eastern employers' associations. It also meant that the employers' associations had difficulties finding members for their newly exported set of institutions.[36]

Ironically, the top-down extension of employers' associations, together with low membership rates, made it far easier for officials in the eastern employers' associations to make decisions than in the west because they were far less hampered by the demands of a rank and file. In contrast, however, the absence of a grass-roots membership has left the eastern employers' association far more vulnerable to pressure from their central federations. Whereas this kind of pressure helps the national employers' bodies in each sector to preserve pattern bargaining, it can dissuade potential member-firms from joining.[37]

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35. Gerhard Kleinheinz, "Tarifpartnerschaft im vereinten Deutschland. Die Bedeutung der Arbeitsmarktorganisationen für die Einheit der Arbeits- und Lebensverhältnisse," *Aus Politik und Zeitgeschichte*, no. B12 (1992), p. 19.

36. Henneberger, p. 640.

37. Henneberger, p. 660; and Gerhard Kleinheinz, "Tarifpart-

No matter what the employers' associations do, their membership east of the Elbe is likely to decline. The *Treuhandanstalt*, the public holding company whose task is to privatize the state firms of the former German Democratic Republic, actively encouraged membership of the firms under its management in their respective employers' associations by paying their dues. This allowed *Treuhandanstalt* not only to promote the "habit" of belonging to these association but also to subsidize them in their crucial first years. Still, as the *Treuhandanstalt* continues to privatize firms over the course of this, its final year of existence, a drop in membership in employers' associations is inevitable as many firms forego membership in order to save on their dues payments, which they would have to make out of their own income for the first time.[38]

In the early days of unification, the employers' association officials pressed forcefully for quick wage parity with the west. For example, during the first rounds of regional wage negotiations in the eastern German metalworking sector in the spring of 1991, the employers' association officials negotiating for Mecklenberg/East Pommerania insisted that the collective bargaining parties adopt a multi-year, "step-plan" that would bring about wage-parity between east and west by April 1994.[39] Once the

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nerschaft im vereinten Deutschland. Die Bedeutung der Arbeitsmarktorganisationen für die Einheit der Arbeits- und Lebensverhältnisse," Aus *Politik und Zeitgeschichte*, B12, 1992.

38. Henneberger, p. 662.

39. Interview, Berthold Huber, IG Metall, 14 July 1993. In 1993, poor economic circumstances led the eastern branches of Gesamtmetall to cancel unilaterally (and by most accounts,

settlement was reached there, the other districts in the eastern German metalworking industry copied it, following the western German practice.

The employers' associations did this for several reasons. First and foremost, they wanted to prevent eastern Germany from becoming a low-wage German *mezzogiorno* that would threaten the western pattern bargains. Second, the associations wished to prevent a mass westward migration of eastern German skilled workers in search of higher wages. Finally, in the heady days immediately after unification, most Germans thought that achieving wage parity by the spring 1994 would be no problem.

As a result, the western system of sectoral pattern bargaining -- which simultaneously kept a lid on personnel poaching and assiduously pressured marginal firms of the old Federal Republic into bankruptcy to the long-term benefit of the vast majority of employers and workers alike -- increasingly applied the same rigorous standards built up over four decades to eastern Germany, as if it were nothing more than a concentrated collection of marginal firms. The industrial relations system has never been sensitive enough to distinguish otherwise healthy firms that have lost their sales markets owing to an exogenous shock (such as the collapse of markets in eastern Europe) from those with insoluble internal difficulties. It is thereby contributing to the "lawn

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illegally) the 1991 metals-industry contract. This provoked a strike and a new round of negotiations that preserved the goal of wage parity, but set the spring of 1996 as the new target date.

mower" effect in eastern Germany, that is, that firms with potential for long-term success are being cut down just as quickly as those without any. This contributed to reducing industrial production to one-third and industrial employment to one-fourth of the pre-unification levels.

The collapse of the East Bloc economies in 1991-92 fundamentally altered the entire business environment in both eastern and western Germany. An economic crisis, which came swiftly on the heels of the unification boom, made many more managers open to considering radical changes in German industrial relations. Moreover, the addition of eastern Germany provided a new frontier where operating without being a member of an employers' association was, at least for the moment, possible.

Many managers in eastern Germany have responded to the lawnmower effect simply; they have not been joining employers' associations. Although the German trade unions have managed, at least at first, to recruit over one-half of the eastern work force[40] (cf. western Germany with a unionization rate of 35 percent), employers' associations have not been nearly as successful in the five eastern states. Most employers' associations have not released eastern membership data, but many of their representatives concede that in several sectors it is far below the western level of eighty percent in terms of employment. Recent membership estimates for the eastern German metalworking industry

40. Michael Fichter, "A House Divided: A View of German Unification as it has Affected Organized Labour," *German Politics* 2, no. 1 (April 1993), p. 35.

in terms of workers employed is approximately one-half; for the printing sector, it is forty percent; and for the wood-working industry, it is one third. It is important to note that the low membership level in employers' associations for these eastern German sectors are below the threshold of eligibility required for a declaration of general applicability that would enforce minimum compensation rates.[41]

In the east, where the official unemployment rate is 15 percent and actual joblessness amounts to forty percent, employers do not need to protect themselves from unions the way they do in western Germany. Thus, the single most important western incentive for firms to join an employers' association has vanished. Wage data also demonstrate the weakness of many employers' associations in eastern Germany. As late as mid 1994, only one-half of the eastern employees in the printing, food processing and wood-working industries were receiving compensation at or above the official collective bargaining rate. Moreover, a large share of the firms paying at or above the contract-rate are those still owned by the *Treuhandanstalt*, most of which were slated to be either privatized or shut down by the end of that year.[42]

In a bid to attract and retain members, some eastern branches of employers' associations have gone so far as to help the member firms to violate both the law and the statutes of their own federation. Furthermore, hundreds of firms in the Saxon metalwork-

41. Henneberger, p. 661; and Müller-Jentsch, p. 501.

42. Frankfurter Rundschau, 13 February 1993.

ing sector alone have tacitly colluded with their employees to reduce compensation below the contractual minimum set in pattern bargaining in exchange for preserving employment.[43] Although this type of illegal arrangement is not unheard of in crisis sectors in western Germany, such as textile and apparel production, it has never has been so widespread as in the east.

Even if it were permissible to resort to declarations of general applicability or tighter enforcement of existing contracts to police the labor market, the political propriety of the employers' associations taking these steps would be ill-advised, since enforcement would cause additional plant closures and unemployment. Thus, the leaders of employers' associations have painted themselves into a corner. This has allowed many marginal firms in eastern Germany to survive by paying wages below the collective bargaining rate without fear of retaliation from either unions or employers' associations. The opening of this gap in the pattern bargain in the eastern *Länder* has also energized the critics of tight pattern bargaining in the western *Länder* to continue their campaign to bring down the entire system of collective bargaining.[44]

*CONCLUSION*

German unification was not the cause of association flight.

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43. Interview, Andreas Winkler, Business Manager, *Verband der Sächsischen Metall- und Elektroindustrie* and *Vereinigung der Arbeitgeberverbände in Sachsen*, 11 May 1994.

44. Interview, Gerd Habermann, director, Unternehmer Institut der ASU, Dallas, Texas, 30 September 1994.

The pressures fueling association flight -- namely, intensifying foreign competition, waning productivity growth, wage compression within sectors, wage stratification across sectors, the decline of union movements in other industrialized nations and the rapid acceleration of comparative unit labor costs -- all began to develop at least a decade ago. German unification rapidly intensified many of these pressures and opened up a new means for firms to escape them (at least temporarily), but it did not produce these phenomenon. Association flight is a product of the increasing untenability of a single sectoral pattern for compensation to take labor costs out of competition within the context of a changing economic environment.

The leadership of employers' associations are feeling tremendous pressure to accommodate their organizations to eastern and western firms' rising demands for more flexibility in order to attract and retain members, but fear doing so because this could undermine pattern bargaining and with it their organizations' traditional role of policing labor costs. This contradiction has forestalled a thoroughgoing organizational reform of employers' associations and has helped to thwart the adjustment of German industrial relations to the unique circumstances of eastern Germany. Ironically, the inability to adjust western Germany's demanding system of industrial relations to eastern conditions has weakened employers' associations east of the Elbe, which in turn has put into question Germany's entire system of pattern bargaining.

The pressure battering the German "high everything" industrial relations order will remain strong and in some sectors even intensify in the years to come. High unemployment will remain an immense economic and social burden, as will the costs and dislocations of unification. The underlying tensions between small suppliers and large assemblers that first surfaced during the 1980s will therefore remain a disruptive force in German industrial relations for years to come. The jury is still out regarding the long-term fate of employers' associations in eastern Germany. Although the organizations remain weak, a strong economic recovery in the coming years could increase their attractiveness to eastern firms, especially if eastern skilled labor-markets tighten and the regional unionization rate remains high.

Simply restoring the *ancien régime économique* within an enlarged Federal Republic, however, would be counterproductive because that would do nothing to alleviate not only the difficulties caused by unification, but also the underlying strains that had begun to develop beforehand. The current task for the leaders of German employers' associations therefore is to revise German pattern bargaining that will allow a limited degree of flexibility for struggling members through providing some relief from temporary economic difficulty, while still significantly dampening wage competition.

During the 1920s and 1930s many small entrepreneurs dissatisfied with employers' associations dominated by big firms turned to radical right-wing politics as an alternative. This is not to argue that history is about to repeat itself, but simply to point out that at various times over the course of German history the structure and policies of employers' associations have helped either to stabilize or to destabilize democracy. Thus, the success with which German employers' associations adjust to the new conditions of the newly enlarged Federal Republic will not only heavily shape the future contours of the industrial relations order and with it the competitive prowess of German firms, but also profoundly affect German politics.

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