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**Organizing by covenant.
The organization of transitional labor markets**

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1 Bridging and governance: the function and potential of the covenant

1.1 Introduction

Covenants¹ are agreements between two or more parties². They are becoming rather popular as a policy instrument in the Netherlands for two reasons. First, Dutch governance has obtained a policy model which replaces one-sided steering by participation of involved institutions (consensus model). This ‘withdrawal’ of public governance went hand in hand with the emergence of many public-private partnerships and forms of privatisation. Covenants stimulate self regulation. A second reason is that covenants do not demand judicial frameworks which facilitates their instalment. In fact, covenants often fill the gaps of inadequate laws. It makes policy more effective and less dependent from (European) legislation.

1.2 Function and potential of covenants

A covenant is an agreement between two or more parties. Covenants are no legal obligations, they are voluntary agreements. Most covenants are made between the government as a public organ and one or more private and public-private organs. The main features of covenants are the following:

- Despite the different interests participating parties may have, they share a common final goal.
- Parties cooperate in order to reach better results, through commonly agreed activities, that they cannot achieve if they act independently. They formulate superordinate goals, goals that have a compelling appeal for members of each party, but that neither party can achieve without participation of the other(s) (Sherif & Sherif, 1948 [1e], 1969 [3e]: 256).
- Covenants are contradictory in several ways. Parties make binding agreements, although from a legal perspective the covenant is unretainable (‘vormvrij’). Covenants shape voluntary acts that are not noncommittal. On the other hand, parties are kept to the agreement to which they have morally committed themselves. Yet, formal sanctions are absent. Parties nevertheless have the opportunity to go to court in case of another party’s default. To prevent legal actions like these, covenants provide for agreed procedures how to act in such cases. Covenants are modes of self regulation which voluntarily limit the freedom of individual party’s actions.³
- Covenants are alternatives for steering and management methods. Covenants either have a policy content nature, aiming at policy goal like reduction of environmental pollution, or procedural-institutional nature (Tweede Kamer der

¹ This Section is mainly based on (Louwers, januari 2004; Ministerie van Sociale Zaken en Werkgelegenheid, April 2004; Tweede Kamer der Staten-Generaal, 1995; Veerman, Moleenaar, Burg, & Hoffius, maart 2004).

² A covenant can be defined as an undersigned written agreement, or a system of agreements, between one or more other parties or partners, at least meant to also effectuate governmental policy (Tweede Kamer der Staten-Generaal, 1995: 8).

³ Reducing one’s freedom of choice (self-binding) is usually taken as a major precondition in bargaining situations. See Schelling 1963

Staten-Generaal, 1995: 16). The last one offers a framework for cooperation by setting the conditions how parties will work together.

Covenants have various advantages and disadvantages. Among the advantages we mention that the parties involved have substantial influence on the agreements that are being made. It is obvious this enhances their commitment. Their somewhat contradictory legal status makes covenants far more flexible than the issuing of rules. The threshold for parties to participate therefore is low and so is the 'time to market' of necessary activities to be undertaken without restraint. Covenants shape win-win options for those who participate. The major disadvantage is also its vague legal status. Partners can terminate their participation at any time and one-sidedly, without any serious sanctions. Besides, covenants are not always able to bind all of those who should be bound, because participation is voluntarily. Agreements and decisions made through covenants are not as secure as public decisions by the issuing of rules and laws.

Making and executing covenants is a time-consuming activity and involves a number of different steps. The first step to achieve is to formulate a declaration of intent as a pre-covenant. Such a declaration implies commitment of selected parties to cooperate and to enlist possible obstacles which must be overcome in order to be able to finally reach the common goals that unite everyone's wishes. The declaration of intent reflects the ambition of parties to agree on goal setting tasks and terms. The next step is to make a project plan which is the concept covenant. The concept covenant includes aspects such as parties, the preamble, quantitative and / or qualitative goals, conditions concerning content, and some practical aspects, like duration, termination, and conflict resolution. Subscribing by parties results in the definitive covenant. The third step concerns the implementation and execution of the project plan activities and the evaluation of the covenant. Evaluation takes place by monitoring results and drawing conclusions from these results.

1.3 Variations on a theme

Covenants are a growing phenomenon in the Netherlands. No such agreements were made before the seventies. In the eighties governments initiated this instrument. At the end of the eighties about 100 covenants were negotiated. Today there are several hundreds of them and almost every ministry has concluded one or more covenants with other parties. Examples of topics on which negotiations are taken into effect through covenants are environmental issues, energy saving, educational matters, health care, traffic and transport, housing, and working conditions and labour market issues. Other countries, like the U.S. and Japan also work with covenant-like agreements, but they differ in voluntariness and legal status. Anyhow, covenants get more attention nowadays.

2 Covenants on working conditions as an example

2.1 Why covenants on working conditions?

Since 1989 legislation on working conditions has been effectuated in the Netherlands to improve workplaces and to reduce sick leave, disability risks, work stress and other work related 'well-being' issues. This legislation, of which the crown jewel was the Working Conditions Act⁴, was not as successful as hoped for. The Netherlands, i.e., its social security and unemployment insurance institutions, were confronted with substantive costs for curing and caring for workers suffering from stress, musculoskeletal disorders, physical burdens and so on due to work related causes. The ineffectiveness of legislation was a combined effect of the complexity of the law in its enforcement and monitoring, and of employer's and worker's unsuccessful and unmotivated behaviour to prevent working condition risks and to reintegrate dropped out employees. The responsibility for sound working conditions was decentralised to the social partners, the employer organisations and worker unions, leaving a facilitating role to governmental bodies. In spite of institutional rearrangements and privatisation within the service industry of 'well-being at work' cost were still too high. In 1995 the costs for sickness leave, disability and medical consumption related to working conditions were estimated about €5.4 billion (1.9% of the gross national product) (Koningsveld, May 1997: 14).

One of the new policy insights, the use of covenants, was to apply this approach to the improvement of working conditions. If acts do not work, let's try covenants to make social partners more responsible for working condition situations, must have been the idea (Iping, maart 2003: 13). To this subject of covenants on working conditions we now turn. A general description and outcomes will be presented.

2.2 Covenants on working conditions: practice and effects

Covenants on working conditions are agreements between the Ministry for Employment and Social Affairs and social partners in each sector: tripartite agreements. Covenants are meant to help employers and workers to structurally improve working conditions. Individual employers often lack the capital, the know how and capacity to set up such policies despite the (financial) sense of urgency. They cannot do it on their own. Companies, especially SMEs, simply lack the scale to organize a thorough working conditions policy as individual companies. Covenants offer opportunities for cooperation by groups of organisations with necessary facilities to support them (Korver, 2002: 13). Agreements at the sector level are a godsend. From the side of the Ministry making measurable, quantitative agreements with testable goals is a firm condition (Peters, maart 2001: 14). This makes covenants more committal.

Covenants fit very well in the consensus model that characterized the Dutch system of industrial relations for so many decades. It makes covenants made to measure for every single sector. Yet, the coordinating role of the Ministry ensures homogeneity. Covenants seem to be the cooperation instrument par excellence (Speetjens, May 2002). as they are the extreme consequences of the Dutch consensus model ('polder-model') (Korver, 2002: 13). The Ministry effectuates the Working Conditions Act. Employers at sector level have the financial means to develop and implement meas-

⁴ Enforced in 1989 and renewed in 1998.

ures, without too many juridical restrictions and obligations. And employees gain by lowering risks that might endanger their health on a short and longer term during their working life.

The central aim of covenants is to reduce risks for workers and costs for employers and society as a whole. Risks to be reduced are mainly related to absence due to illness, work pressure physical work load and repetitive strain injuries. Covenants contain agreements on how to combat these risks. The execution of activities agreed in covenants are supervised by a tripartite commission.

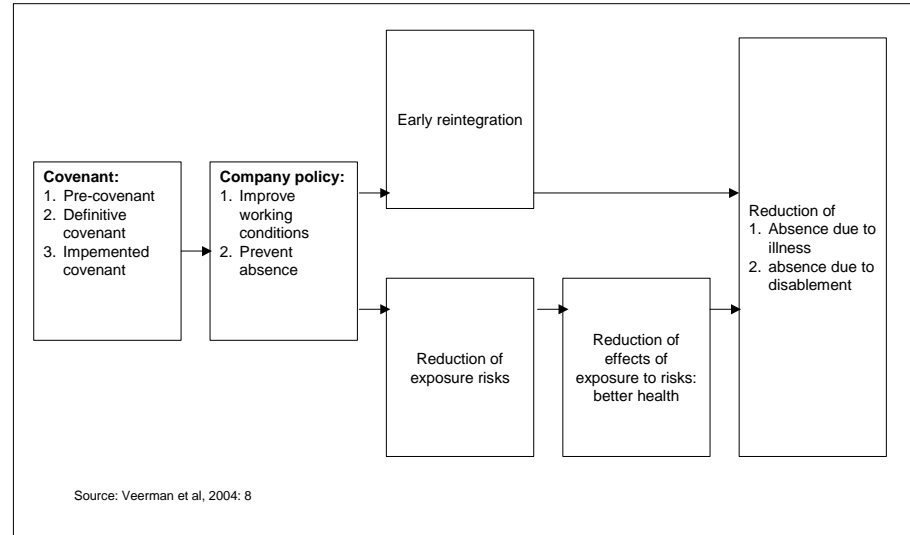
Since 1999 until the beginning of 2004 51 covenants⁵ have been taken out of the possible about 70 sectors (Ministerie van Sociale Zaken en Werkgelegenheid, April 2004; Tweede Kamer der Staten-Generaal, 1999). All covenants feature agreements on early reintegration to the company after sick leave, reduction of work pressure, physical work load and repetitive strain injuries (RSI, musculoskeletal disorders), among a number of other subjects concerning poisonous substances, climate, quartz, allergens, and so on. The undersigned covenants apply to 46% of the Dutch working population (3.3 million workers). About half of the covenants agreements are carried over to collective labour agreements in the same sector. This indicates the growing influence of covenants: started as voluntary agreements their contents extent to more fixed arrangements in collective labour agreements which also have a larger scope of action.

Recently, the covenants have been evaluated from the viewpoint whether the desired effects were becoming visible or not (Veerman et al., March 2004). The desired effect can be described by a following policy chain. The intention of the covenant is to stimulate employers to develop company policies to improve working conditions that prevent absence due to illness or disablement (Figure 1). A comparison was made between sectors with and without a covenant on working conditions. Evidently, sectors without a covenant are not inactive in the realm of working conditions policies. They also have to reduce risks and costs. Sectors that have concluded covenants probably are a selective sample of sectors that already have recognized their problems in this field. They probably are doing worse than some of the non-covenant sectors. Some, but not all. Organizations that have pursued their own policies may indeed be in the vanguard; yet we also find sectors where the degree of self-organization is too low to permit any collective action, in the shape of covenants or otherwise. A third remark is that differences between sectors with and without a covenant cannot be exclusively

⁵ From a policy perspective there are two types of covenants, namely 'old style' (until 1998) and 'new style' (since 1998) covenants. The main difference between the two is that new style covenants are less voluntary - they have set measurable goals, better guaranteed outcomes - while 'old style' covenants agreed on efforts to inform and to develop instruments (Ministerie van Sociale Zaken en Werkgelegenheid, 2002). Working Conditions covenants are of the second type in most cases. From an administrative perspective there are two periods since 1999: 1999-2002 and 2003-2007. So-called 'first phase covenants' refer to the earlier period and 'second phase covenants' (also named 'plus covenants') to the latter period. Both stress the self regulation of employers and employees to jointly formulate working conditions policies. The main difference between both periods is that in the first phase generally improving working conditions was the main goal, whereas in the second phase more attention is paid to absence prevention and reintegration policy and a strive for more ambitious goals. This was felt necessary since rising absence and disability figures had not been curbed until then. A general brochure in English about *Covenants on health and safety at work for improved working conditions in the Netherlands* (Ministry for Social Affairs, 2000) can be downloaded from http://www.arbo.nl/content/network/szw/docs/covenants_on_health.pdf.

accounted for by covenants alone. Other factors may have contributed to certain effects.

Figure 1: Policy chain of covenants



The evaluation study investigated 44 covenants that were agreed between 1999 and 2003 and focused on four major themes: early reintegration, work pressure, physical workload and RSI (repetitive strain injuries). As was expected due to the selectiveness of the sample, sectors with a covenant in the period under study, were performing worse than sectors without a covenant before 1999 on issues such as absence due to illness, feeling healthy, physical work load, work pressure and burnout complaints. This also meant that those sectors who did worse, had more to gain, which proved to be the case (Veerman et al., maart 2004: 35-37). Employers in sectors with a covenant were more active, because they had more often set up absence prevention policies, made risk evaluations, acknowledged work pressure and RSI risks once they were identified, and undertook measures once risks concerning work pressure, physical work load and RSI were identified. Comparing sectors with and without a covenant, the first group showed a stronger drop in absence due to illness (with 8.4%), a stronger decrease of the number of workers becoming disabled⁶, a lower increase of burn out complaints, a stabilization of physical work load and to this physical load related health complaints, while in the second group there was a deterioration of workers experienced health. Besides these developments, in which sectors with a covenant favourably distinguished themselves from the non covenant sectors, a general development was that work pressure showed a reduction and RSI complaints an increase in all sectors. Although it cannot be concluded that covenants have a causal relation with these working condition improvements, we may state that it is plausible they do have positive effect on these matters.

The estimated yearly financial savings for employers are substantial (Ministerie van Sociale Zaken en Werkgelegenheid, April 2004: 28). The Ministry for Social Affairs and the social partners have made a once-only investment of €275 million, not taking into account the costs companies make for implementing measures. The estimated

⁶ They become recipients of disablement insurance benefits according to the Disablement Insurance Act.

yearly savings (on costs for sickness leave and disablement insurance benefits) will be more than € 650 million. Total yield cannot be assessed yet, because a number of covenants is still in the making.

2.3 Why covenants work

2.3.1 *Some reasons for success and failure*

There are a number of reasons that explain why covenants in general work or why they do not (Louwers, January 2004). Factors for success are as follows:

- Participants must regard the goal of the covenant as a win-option.
- The covenant must be provided with the possibility to sanction those who do not fulfil their obligations.
- It must be absolutely clear who are the participants and the target group members.
- The covenant should be a careful balance of needs and wants, of rights and duties, in order to supply partners with the decision latitude and motivation to reach the goals that are set.
- Tough but honest negotiations at the beginning ensure parties to be open about their own interests, which eventually helps to clarify the desired common outcomes and helps to create shared goals, shared values and trust.
- Practical facilities like a good functioning project organisation, not managed by (one of) the covenant-parties but by an external, third party on behalf of the covenant partners. A third party is focused on the execution of the covenant, even when parties quarrel. A third party may even be helpful in resolving and mediating conflicts between parties. A third party can point out to parties their responsibilities and obligations.

For working conditions covenants to be successful a number of elements is of importance, namely formulating specific and measurable goals, commitment to achieve agreements from all covenant partners, and safeguarding actual implementation of agreements at the level of individual organisations (Tweede Kamer der Staten-Generaal, 1999: 16).

Factors for failure can be the following (Louwers, January 2004):

- The goals in the covenant are not clearly defined.
- The goals are not being monitored during the project.
- Parties are insufficiently committed.
- Tasks and responsibilities for participants are not made explicit.
- Communication, interaction, knowledge sharing and exchange among partners are inadequate.

To this we add:

- The chances for free rider behaviour are substantial.
- Cooperation between partners is hindered by external factors.
- Rewards for individual parties to continue cooperation fail to materialize.
- Situational change.

2.3.2 *Social-psychological motivation to cooperate*

A main feature of successful covenants thus is a behavioural aspect, namely cooperation. How does cooperation come about? Basic ingredient of cooperation is common ground which can be achieved through the collective definition of goals: superordinate goals. Superordinate goals are shared goals that can be attained only if parties work together (Sherif & Sherif, 1948 [1e], 1969 [3e]: 256; Smith & Mackie, 1999 [1e], 2000

[2e]: 542). It is said that cooperation between parties works under certain conditions, which are the following (Smith & Mackie, 1999: 543):

- cooperation should be for a valued common goal which eliminates competition;
- cooperation should provide repeated opportunities to disconfirm out-group stereotypes (competition);
- cooperation should produce successful results;
- cooperation should take place between equals (in capability, power, etc.);
- cooperation should be supported and promoted by social norms (i.c. official institutional facilitation).

These social-psychological research based findings refer to individual or (small) group behaviour. Superordinate goals help to reduce or prevent negative effects from social dilemma's. A social dilemma is a form of interdependence in which the most rewarding action for each (individual or party) will, if chosen by all (individuals or parties), produce a negative outcome for the entire group (Smith & Mackie, 1999: 484-485, 566-570). Social dilemma's are related to the free rider issue (selfish behaviour). In many cases, being selfish is the best option in social dilemma situations. At least, for the short term. But in some situations individuals tend to act for the good of the group rather than for their self interest, and thus solve social dilemma's. This is the case when individuals identify with the group as an important aspect of the individual's social identity. Group belonging then, motivated by social identification, promotes the desire to benefit the group as a whole regardless of outcomes for the self. Research shows that group cohesiveness, which is related to social identification, has a positive effect on cooperation, on social control, and on attracting and keeping valued members. Socials identification and group cohesiveness can be encouraged by several factors (Smith & Mackie, 1999: 571-572):

- communication among group members (e.g. about how to solve a problem);
- equality of opportunities and outcomes among group members;
- accessibility of group norms directs behaviour;
- linking individual efforts to the group good through feedback.

Group identification then is a crucial factor for boundary-crossing cooperation and cooperation is stimulated by superordinate goal setting. These are precisely the ingredients that can help make covenants successful: a shared goal only to be achieved by cooperation motivated by a sense of belonging.

2.3.3 *Opportunities and threats*

Having discussed covenants in general, the example of covenants on working conditions, and success factors for the functioning of covenants, we now turn to the question whether covenants can be useful for the functioning of transitional labour markets. We do so by taking a closer look at possible opportunities and threats.

3 Opportunities

3.1 Introduction

Above, we identified a number of conducive and a number of inhibiting factors for covenants to flourish. The conducive factors can be grouped under two main headings:

- The first is that the participants must recognize the advantage to cooperate to achieve commonly valued targets that cannot be met in other ways and act upon that recognition
- The second is that the participants shouldn't count their chickens before they're hatched

The inhibiting factors (dealt with in the next paragraph) can be grouped under two headings as well:

- Free riding behaviour, with parties sticking to their own vested interests
- Exits easily available and unfettered by obligations of voice

The conducive factors delineate the opportunities for covenants, the subject matter of this paragraph. Now, the obvious question is of course why we need covenants where collective bargaining processes and outcomes already have proven their value and are, in fact, the best example of what in systemic language is called a 'structural coupling': the operations of system A (say: industrial relations and collective bargaining) are a condition for the operations of system B (say: the company) and *vice versa*. The question is pertinent, especially in the Netherlands where collective bargaining agreements cover most of the employees, and are relatively inclusive as they often deal with long-term issues (like early retirement and training). The question is pertinent as well since we observed above that many results of the covenants on working conditions, health and safety are fed back into collective bargaining agreements.

In our view covenants are needed where issues are at stake in which it is not, or not yet, clear what exactly is required of the participants to achieve commonly set and shared values and targets.⁷ And since this is unknown the regular processes and procedures of bargaining, and thus of distributing the net advantages of the cooperative effort, cannot work.. In fact, what are net advantages, how they can be achieved, and how they are to be distributed can only be clarified along the way. This defies the regular bargaining situation and calls for 'learning by monitoring', of which the covenant is a major example.

Transitional labor markets are instances of such desired but at the same time unknown and uncertain stakes. Such markets spell several new challenges to existing labor markets and systems of social security. First, transitional labor markets involve, by definition, more movements to and from the labor markets into other activities (care, learning) and the other way around. This we may call the mobility challenge. Second, transitional labor markets can only thrive to the extent that transitions are not just allowed but are actually promoted ('making transitions pay' and necessitating a shift from unemployment to employment insurance in the spirit of Schmid, 2001). This is the risk management challenge. And third, transitional labor markets as an employment strat-

⁷ 'When the world is unpredictable ... it is important to hold one's meanings lightly and to update one's sense of what is happening' (Karl Weick, 2002: 8-9)

egy have to fit in with the EU-emphasis on the knowledge economy. This is, if nothing else, the training challenge.

All of these challenges can be seen as so many opportunities. However, to be able to use them one has to first identify the bottlenecks which are sure to occur once we consider embarking on the road to the transitional labor market. Likely candidates for bottlenecks are:

- Recruitment and selection problems for companies, given the emphasis on more labor mobility
- The employment relationship as a gatekeeper to social security, given the emphasis on transitions
- The hold up-problem in training, given the emphasis on employability as distinct from employment.

In previous publications (2003a, b) we emphasized that the major bottleneck is the employment relationship in its present form, and including its tight relation with access to and drawing rights on social security. We made a plea for a more loosely coupled relation between employment and social security, thereby following the suggestions of Schmid (2001). More in particular, we suggested that the relevant unit for social security should be the transition (and not the employment relationship) and, for a comprehensive social and labour market policy, the relevant unit should be life-time employability (and not the job). To tie these strands together we suggested the form of the covenant. The question is therefore: is the covenant up to the task? Can it bridge social needs (more and inclusive and durable participation), company constraints (company times and working hours, for one) and employee needs (time to combine the demands at home with the demands of the job and the career) ? If so, the covenant should be able to suggest a way forward to the opportunities of TLM's, and a way out of the likely bottlenecks.

3.2 Learning by monitoring

'The dilemma of economic development is that learning undermines the stability of relations normally required for monitoring'.⁸ Learning means acquiring the knowledge to make and do the things that (labor) markets value (and therewith *unlearning* the things not so valued). Monitoring means the assessment of the partners-in-learning whether the gains from learning are distributed acceptably.⁹ It is easy to see that combining learning with monitoring may lead to blockades. For, learning leads to winners and losers. Learning may - and probably will - disrupt existing relations of distribution. On a micro-scale new processes will lead to an upgrading of some, and a downgrading of other positions, functions, and career options. Moreover, in order to guarantee the progress of learning one may have to enlist the endeavours of both, winners as well as losers. And again, it is rather likely that we do not know *beforehand* where gains are going to accrue and losses must be incurred. The same holds for the macro level. On a macro-scale, the present prediction is that the advancing knowledge economy will exacerbate the inequality of incomes, therewith further strengthening the trend of the past two decades. Yet, if uncorrected, this development might very well end in jeopardizing the societal attempt to enhance rates of participation and, through participation, of social inclusion.

⁸ C.F. Sabel, 1994: 231

⁹ *ibid.*

If uncorrected, therefore, decision traps are likely to emerge. Where outcomes are uncertain and where the odds are that some will lose and others will win, with the distribution of the odds unknown, conservatism is more likely than innovation. Conservatism, here, means that parties revert to their already established identities ('I am a manager', 'I am a craft worker' and so on) and to the interests associated with the identities, including social hierarchies and rank, and ideas of equity. When monitoring is steered by already established identities and vested interests, learning is sure to be hampered, if not immobilized, for learning entails a redefinition of both identity and interest.¹⁰ In our case: decision traps could endanger the search for new modes of recruitment and selection (at stake: the identity and interests of HRM), the search for a new employment relationship (at stake: the identity and interests of the system of industrial relations), and the search for employability (at stake: the identity and interests of crafts and professions).

One is reminded here of the debate on development planning and the failure of the idea of balanced growth. In a scenario of balanced development, it was argued, bottlenecks are predictable and do not, if identified and placed in a proper perspective of resolving them, have to lead to decision traps and deadlocks. Indeed, such was the mood of post second world war development planning: given the adequate pinpointing of bottlenecks a strategy of simultaneous investments could remove them and guarantee planned growth. Soon, however, it turned out that the world was not that predictable after all. Development planning arose often out of considerations of underemployment. In order to avoid the danger of an underdevelopment trap, a series of simultaneous investments in a variety of activities was deemed the only way out. The task, accordingly, was to find the optimal combinations for given resources and factors of production.¹¹ Development projects under this banner typically assumed that economies moved from one point of (underemployment) equilibrium to the next point of equilibrium with factors better utilized, the economy growing, and so on.

What is conspicuously lacking in the balanced growth perspective is any serious consideration of *time*.¹² Going from one equilibrium to the next presupposes that sequential moves and effects in between the equilibria do not really matter. They may of course lead to delays and they may complicate the project, but they cannot get the project off-track, defined as it is by its points of equilibrium. Yet, quite often the strategy of balanced growth failed. One simple reason was, of course, that the strategy assumed that all relevant actors could identify the same roads, trajectories, and stations, and, also, that the actors could and would identify *with* them. Moreover, *how* an economy could move from one state of equilibrium to the next was left remarkably unspecified.

¹⁰ *ibid.*: 267-268, 272-273. See also Hirschman's discussion on 'trait-taking' (with identities and interests given) and 'trait-making' (with identities and interests changing in the course of development). The latter is within the realm of learning by monitoring, the former is not. See Hirschman 1967: 128-139; Hirschman 1995: 130-131. Also, Toye 1995: 28

¹¹ Hirschman 1958: 5; Hirschman 1986: 13, 56

¹² Much has changed in development planning and its theory since the 1940's and 1950's. But there are continuities as well. Four continuities are, in the present context, of special importance. (1) the emphasis on 'mono-economics' has remained strong, be it that its focus is on micro-economics and no longer on macro-economics (in line with the demise of Keynesian economics, especially since the eighties of last century); (2) blue-prints still define the field; (3) the emphasis on equilibria is unabashed; (4) sequencing and time are still residual at best. See Toye, o.c.: 4-8, 34-35, 71

Usually, the path taken was just to embark on a journey towards a completely new ('modern') economy, superimposed on an already existing but stagnant 'old' economy. Or rather, the latter was taken as the reservoir of an 'unlimited supply of labor'¹³, and then to be left, for all the rest, to its own devices. The product, dual and segmented economies, was later to become the target of radical critiques in the vein of André Gunder Frank's 'development of underdevelopment' –thesis and a vast literature on dependencia.¹⁴

In Hirschman's concept of development it was not simultaneity but *sequence* which assumed centre stage. In other words, instead of a master plan pre-empting all further decisions, the emphasis was shifted to *induced* decision-making, in which one action leads to the next problem (or 'bottleneck'), and where learning-by-doing is prominent and is continuously fed back into the decisions and planning of new moves and actions.¹⁵ Unbalanced growth, now, is the same as the maximization of such induced decision making.¹⁶ Induced decision making, in its turn, refers to learning from bottlenecks, with bottlenecks being shorthand for backward and forward *linkages* of a variety of sorts. And, to close the circle, a linkage is defined as a 'characteristic, more or less compelling sequence of investment decisions occurring in the course of industrialization and, more generally, of economic development'.¹⁷

Instead of given resources and optimal allocation, induced decision making focuses on 'calling forth and enlisting (...) resources that are hidden, scattered, or badly utilized'¹⁸ and on the *process* of combining them.¹⁹ Tapping such resources depends on the presence or construction of 'pressure mechanisms' or 'pacing devices'.²⁰ Resources, then, are not the final constraint. Nor is optimal allocation known beforehand. What is optimal and which combinations work is a matter of finding out in a process of 'muddling

¹³ Lewis, 1955

¹⁴ Hirschman 1958: 50-61; Hirschman 1986: 23, 70-71. Today, the distinction modern/old reads formal/informal *and* tradable/non-tradable (Toye, op. cit.: 44-45). The key issue here is the degree of overlap between formal and tradable on the one, informal and non-tradable on the other hand. For obvious reasons, this issue is of great relevance for developed economies as well.

¹⁵ A good example is the Japanese company strategy of 'no supplies' and the sequence of events (just-in-time, single-minute exchange of dies, and so on) in its wake. See Sabel, o.c., and Sabel 1995. See also Hirschman 1995: 129, where the example of Japan ('just-in-time') is explicitly mentioned. Bovens (1990: 158-159) uses in a related vein the image of 'backward policing'. That is, the person accepting some work in progress from some-one before her must check the quality of that piece of work, because once accepted she is responsible for it. In checking, however, she may detect errors made before ('backwards' that is) she starts working on it. These errors, therefore, are identified immediately and will lead to corrective measures, also and even in particular when the errors reflect a true 'bottleneck'. Hirschman's 'preference' for backward linkages can readily be translated as 'backward policing'.

¹⁶ Hirschman 1995: 86. Hirschman 1958: 24

¹⁷ Hirschman 1986: 56.

¹⁸ Hirschman 1958: 5

¹⁹ *ibid.*: 25

²⁰ *ibid.*: 26

through'.²¹ Instead of planning we get exploring, and the need for an adequate pacing device. Learning by monitoring is exactly such a device.²²

3.3 Back to labor

Now, it should be kept in mind that these emphases do not add up to a policy of 'anything goes'. In fact, the process is guided by what Hirschman calls a small 'latitude in performance standards'.²³ Safety prescriptions for the design and use of machinery are an obvious example, as are standards for working conditions generally. The 1989 European Framework Directive on working conditions is an exemplary case. It stipulates that:

- regulations on working conditions should cover all employees in all sectors
- employers are not just responsible to safeguard but to proactively take care of the well-being of the employee
- health and safety are to be understood comprehensively, to include ergonomics and the humanization of work
- working conditions include the working environment: work organization and working time, training, information and participation of employees and their representatives
- a risk-approach is mandatory and it should focus on prevention
- absolute safety requirements are in order, regardless of technological possibilities and restrictions²⁴

What the Directive invokes is, indeed, a very small latitude in performance standards (absolute standards). Also, the Directive attends to all the elements and participants needed to institute such standards. What it lacks, however, is precisely the 'pressure mechanism' or 'pacing device' to gather the momentum to really achieve its laudable goals. Yet, these mechanisms do not arise automatically. They are not simply 'out there'. There is no grand scheme from which they can be deduced and which accords each mechanism its proper place and function. Rather, these mechanisms and devices are, *pace* the anachronistic language, 'reflexive'. They do not assume that there is one best way of observing, discussing, and planning the future of developments. Instead, they are bent on identifying the relevant partners in, the themes of, and the levels of aggregation appropriate for the issues at stake.²⁵ They do not fix procedures exhaus-

²¹ Hirschman 1971: 63-84; Lindblom 1959: 79-88

²² In developing the concept Sabel explicitly refers to Hirschman's idea of unbalanced growth. Sabel 1974: 265. We prefer the concept of learning by monitoring to the concept of 'policy learning' as developed by Visser and Hemerijck, 1998, if only because it implies not just that policy may 'learn' but also that policy as such is a product of a process of learning by monitoring.

²³ Hirschman 1958: 143-149; Hirschman 1967: 86-128; Hirschman 1986: 18-22

²⁴ Eichener 1995; O'Reilly, Reissert and Eichener 1996

²⁵ From this it follows that it hardly commendable to divide society into three tiers (macro: the public, represented in the government; meso: the collectivities, social partners included; micro: companies, employees, individuals) and subsequently to apportion responsibilities to these tiers. The recent debate about a renewed system of social insurance in the Netherlands (Leijnse et al 2002) does precisely that. Yet, problems do not respect spheres or tiers. Problems, *as a rule*, have both micro-, meso- and macro-*aspects* and the trick is not to reify these into separate units or levels. Focusing on problem-solving (for example: the setting

tively and on a once-for-all base. Procedures are devised, construed, implemented along the way; they embody learning-by-doing and are reiterative and recursive. The critical issue, Hirschman emphasizes, is one of organization, and one should focus on ‘the decision-making process’ and its imperfections.²⁶ Such imperfections often result from choosing the wrong scale of organizing, from not enlisting relevant parties (‘stakeholders’), and from not soliciting their cooperation. What one should keep in mind is:

- there is no one best way of achieving a goal: do not, therefore, specify the process any more than is needed, but rely on multiple and parallel approaches (‘minimum critical specification’)
- choose loose couplings between the different constituent elements in a program, especially in the early phases where the number of ‘unknowns’ may easily outpace the number of ‘knowns’. Rely therefore on flexible goal-setting and coordination (‘loose coupling’)
- do not determine the design of the program in advance. Instead: frequently review and modify means and ends in the light of newly acquired information (‘requisite variety’).²⁷

These suggestions, in effect, constitute the gist of induced decision-making and learning by monitoring.²⁸ The establishment and maintenance of strict and measurable performance standards or targets - in our case: standards or targets concerning training *on* the job for employability also *beyond* the job; concerning *employee* mobility opportunities and *employer* discretion in recruitment and selection; and concerning the promo-

and maintaining of absolute standards) requires that the problem defines the procedure, the participants and the leverage and timing of the action of ‘levels’.

²⁶ Hirschman 1958: 26. When discussing organizations we are reminded of the fact that organization is a matter of taking decisions; *ibid.*: 25. The suggestion of Hemerijck (2002: 44-45) that Hirschman neglects organizations and focuses on individuals instead, is misdirected. We readily grant that Hirschman’s theory of social learning is ‘elusive’ (Schön 1994), and that he does not discuss how ‘organizations’, as distinct from its members, learn. On the other hand, in particular in his development studies Hirschman discusses learning almost exclusively in terms of the learning of agents in one or another organizational set-up. That, in fact, is the main thrust of his study of development. Organization agents then, and not only ‘consumers, clients, patients, members, and citizens’ (Hemerijck, *ibid.*: 45), abound in the writings of Hirschman. See also Bovens, *op. cit.*: 308-310.

²⁷ Hirschman 1967: 77-78; Marseille 1994: 161; Schön 1994: 84-85. The – bracketed – concepts of ‘minimum critical specification’, ‘loose coupling’ and ‘requisite variety’ are, of course, references to some essential tenets of modern sociotechnical systems theory. See De Sitter 1994. See, in a related vein, Perrow 1984.

²⁸ It is not hard to see that these suggestions later led to Hirschman’s (1970) famous triad of exit, voice, and loyalty. On the one hand, strict standards cannot be upheld without the active participation and ‘voice’ of all partners. On the other hand, all partners should have the option of leaving one track and signing on for another (‘exit’). And finally, the loyalty to the endeavor of learning by monitoring can, indeed, only be expected if voice is appreciated and exit is possible. Loyalty without voice is mute; without exit it is blind. See Korver and Wilthagen 2002; Korver 2003. For the relevance of exit, voice, and loyalty in the experience of developmental learning, see Hirschman 1986: 18-22. The point stressed is that instead of attitudes and mentalities being a prerequisite of development, they are its product. One becomes modern through action, not by virtue of attitude, mentality, or even ‘culture’. See Hirschman 1958: 204 and also: Schön 1994: 76-78. Trait-making, again, is the name of the game.

tion of employee *transition capacities* in conjunction with an adequate *supply of labor* - should not pre-empt the modes of getting there. We do not need a model, nor a grand design. What we need is a loose 'bootstrapping' format in which continuous 'discussion of efforts to reach those targets then becomes simultaneously the means of revising the goals and monitoring the partners' performances and capacities; because learning and monitoring are inextricably connected in this relation, I refer to it as learning by monitoring'.²⁹ *We believe that the covenant is precisely the loose format that is called for.*

3.4 The covenant

Covenants are markets (contracts) nor hierarchies (organizations). They are a form of 'regulating self-regulation'.³⁰ Covenants are an attempt to adjust markets and organizations in a new ordering in which the parties – the government, the social partners, employers and employees – participate in defining and achieving mutually acceptable goals. Scale (participants) and scope (ambitions) of these goals are, in the recent Dutch experiences with covenants on working conditions, usually established in the first and still preliminary phase of the covenant: the pre-covenant, in which the parties agree on a declaration of intent. The actual covenant, then, specifies the targets explicitly in terms of performance standards and a time-table for achievement.³¹

Covenants, thus, are no substitute for self-regulation. Although the problems tackled are of general interest, the parties actually participating all will have passed some threshold of self-organization. Only those parties, that is, that who have 'in effect declared their strategic intentions but not so far as to have assured their own success',³² fall within the ambit of the public effort 'of convening and moderating groups of firms

²⁹ Sabel 1995: 36. The simultaneity, thus, is not in the playing of all cards in a fixed order, but in the dissolution of the boundaries between learning and monitoring.

³⁰ In the newly emerging tradition of reflexive labor law, the regulation of self-regulation is sometimes equated with such law. See Rogowski and Wilthagen 1994. In not being a contract, nor in ending in it or even striving after it, the covenant differs from the collective bargaining agreement. In the legal literature it is recognized that there many sorts and types of covenants. Van Ommeren (1993: 40-41) for one, distinguishes five categories, the difference each time residing in their relevance for the law and the public authorities. When we are referring to covenants we focus on the last two categories Van Ommeren refers to: the 'complementary/ executive' covenant bent on making law-making superfluous, and the 'independent' covenant, also bent on making law-making superfluous but not originating from 'higher order' documents. As the author indicates, the boundary between the two are hard to pin down. See also Eijlander 1993: 181-183. The critical issue in this connection is not, however, the *presence* of public authorities and the law. The critical issue is their *identity*. Reflexive (labor) law is the recognition that the law and government cannot effectively 'steer' systems like the economy, the society or, for that matter, politics itself. The capacity to intervene, then, is limited. The concepts of *intervention* and *direction* prove inadequate in complex modern societies and must be replaced by the concepts of *interaction* and *communication*. See Eijlander, op. cit.: 189-195. See for the more or less classic statement of the issues involved Teubner 1989.

³¹ Especially since 1998/1999 when a 'new style' covenant was announced. See Popma 1999: 178-182, and Popma 2003: 96-98

³² Sabel 1995: 14

<and other parties, T.K, P.O.> that want to cooperate'.³³ The scale of the covenant is therefore limited and such is recognized also in the Dutch practice where covenants have flourished in sectors that were already organized, and not in sectors that lacked self-organization (Korver 2002). Scale, by this token, does not signal the urgency of the problem, but the readiness of the partners to tackle them, even though they cannot resolve the problem by themselves. If, however, the problem is such that the government feels (or is pressured to feel³⁴) that the public interest is at stake as well (for example, the viability of the welfare state, the boosting of participation, the preparation for the knowledge economy) it may move into action to, indeed, convene for a covenant.

One important aspect in induced decision making, and learning by monitoring, is that the economic actors involved are in, and *know* they are in, 'the kind of high-risk situation where public action can matter most'.³⁵ This, of course, defines the *scope* of the eventual covenant. The nature of these risks, however, is of decisive importance for the issues at hand. For, risks can be of two kinds, depending on the situation they are to characterize. Many labor risks refer to *danger*: the danger of involuntary unemployment, the danger of work accidents, and dangers for health and disability. As a matter of fact, the covenants we discussed so far are bent on solving these risks and for fairly distributing the associated responsibilities, costs and savings. Essential as coverage for these risks is, these are not the risks we want to emphasize in the present context. We do not emphasize risks we want to avoid, i.e. risks we *run* (risks we would not normally *choose*). In the context of transitional labor markets one needs to discuss risks that we³⁶ *take*, for instance when moving from one job to the next, from one employer to the next, from one combination of activities in work, care and education to the next and so forth. Here the contrast of risk is not danger but *trust*. We do not want to insure for accidents, ill-health, unavoidable old age or other undesired mishaps, we want to insure for moves we want to make during our career and, indeed, in our *chosen* life course trajectories. And as we make such moves in the expectation that they conform to the general goals of more mobility, more transitions and more training we want to be able to cash in on our insurance when these expectations are disappointed.³⁷ The *opportunities* for covenants in the framework of transitional labor markets are in the

³³ Ibid.: 16

³⁴ As in Hirschman, 1958 and 1967. That is, the *initiative* for a covenant may be private or public. In the Netherlands, the covenants signalled a new presence of the central government in industrial relations, after its partial retreat from them during the eighties of last century. Whatever its start, however, once the covenant has proven its value, and the parties have learned to appreciate and use its potential, a new initiative no longer depends on the action of the party that originally took the lead. What is important however is whether the government will be able to observe its renewed presence in terms of a new identity of government: as one important player in the field, instead of as its referee (government as governance; Schmid 2001). We will return to this subject in the paragraph below on 'Threats'.

³⁵ Sabel 1995: 14

³⁶ We describe these risks from the vantage point of the employee. It is not difficult, however, to describe them as well from the vantage point of the employer or the government.

³⁷ On risk, danger, and trust, see Luhmann 1988. Applying the risk-trust combination to social security in the context of transitional labor markets see Korver and Oeij 2003b, and Korver 2003, where we attempt to bring together the threads on respectively transitional labor markets (Schmid 2001) and modern forms of social insurance (modelled after the path-breaking work of Dworkin 2000).

transformation of risks: from danger to trust. For it is this transformation that needs to be made in order to tackle the opportunities of mobility, transitions, and training, and the problems (bottlenecks, linkages) these give rise to. The problems, by this token, are definitely not the equivalent of 'threats'. Of course, covenants may fail, for example because the problems have been underestimated. Indeed, the chances thereof must not be slighted, in particular where the transformation we advocate will have to cover and discover a lot of new land. At the same time, the chances are *also* that the parties may underestimate their ability to overcome these problems if and when they appear. Learning by monitoring is learning by doing: by doing we meet problems and we can test our abilities to overcome them. The two underestimations combined lead to what Hirschman calls the principle of the 'hiding hand'.³⁸ But the only way of finding out whether we underestimated the magnitude of the problem more than our ability to solve it is by *tackling* the problem.³⁹ And the only *threat* that lurks in the corner is that we prefer to stick to our known identities and interests. The opportunities presuppose trait-making. The threats presuppose trait-taking.

³⁸ Hirschman 1967: 9-34. The principle is a play on words as it refers to, and invalidates at the same time, both the 'invisible hand' of the market and the 'visible hand' of the corporate hierarchy.

³⁹ As in the Nike ad: just do it!

4 Threats

4.1 Introduction

Like in learning (as distinct from socialization), in covenants the emphasis is on change rather than on the continuity of a pre-established identity. Change implies putting oneself at risk. It is at odds with free-riding (profiting but not contributing) and with unwarranted opting-out (defecting and therewith undermining the cooperative effort). These, then, are the major threats. Let us try and illustrate them for the case of covenants in the Netherlands.

4.2 The wrong example: a focus on identity and interest

What socialization is to individuals, institutionalization is to groups and practices.⁴⁰ When looking at groups and practices as merely self-serving mechanisms, the corollary will be that individuals are merely more of the same. This is the present mood in the Netherlands. Elderly people are perceived as a group with, indeed, a self-serving identity and interests which they are ready to defend against younger people. The generations are in conflict, at least according to the Dutch government and some economic advisers.⁴¹ The elderly defend their state and occupational pensions, the young - faced with rising premiums and uncertain drawing rights - voice their discontent. Moreover, the elderly defend their claims on early retirement as well, thereby further exacerbating the problem and further blocking a solution acceptable to all generations. No wonder the government stepped in to balance the interests, even when such meant a break with the trade unions, representative for the interests of early retirement and occupational pensions for their - aging - members. The government will use taxing to discourage early retirement and it will intervene in collective bargaining agreements if need be. The freedom of the market, apparently, stops at the threshold of the labor market. With the support of the largest employer organization, the hesitating consent of the organizations of SME's, and with the unanimous disapproval of the employee federations.

The more remarkable features in this quarrel all concern the terms, the concepts, used by the government to characterize the groups, their practices, and their constituent unit: the individual. As is usual in at the same time oversocialized and undersocialized conceptions of man, the group is nothing but an aggregate of individuals and the individual is nothing but the self-seeking and maximizing device concocted in textbook economics.⁴² Here, identities define interests, and interests serve to strengthen identities-as-they-are. Also, groups add nothing to individual identity. Groups function at most as an instrumental summation of individuals and are there to promote their identical

⁴⁰ Selznick 1992: 232

⁴¹ Bovenberg, prominent economist and prominent member and adviser of the largest party in government, the CDA (Christian-democrats), among them. See Bovenberg 2003: 10-11. Typically, intergenerational solidarity is perceived as a 'contract', to which the younger generation can no longer be bound. Contracts fit neatly into the liberal image of society; they do not fit so easily in the Christian image of society in which, indeed, the 'covenant' is a more likely candidate. Apart from this, it is somewhat difficult to imagine a 'generation' to be a contracting partner. As the present discussion makes clear, reifying generations into contractors will produce not one society but as many societies as there are generations.

⁴² Granovetter 1985

interests. Whether it makes sense at all to classify age cohorts or age categories as 'groups' - and of course it does not make sense - is a moot question in the oversocialized conception. So is the institutionalization of groups for this is merely more of the same. And again, that individuals carry the imprint of their history and heritage, of their relations and their ideas and ideals of the good life, and cannot be conceived apart from these, is irrelevant for the undersocialized conception of man. S/he can put the imprint to her/his own advantage and that is the end of the story.⁴³ In these conceptions the relations between the generations and their members cannot be but narrow economic ones. It presupposes that people somehow get socialized into this mould, but how that occurs - which relations that implies between parents and children - can only be inferred from the uncanny result. And the inference is, inevitably, that the relations between parents and children, and for that matter: between parents and between children as well, are essentially economic also. Parents and grand-parents, children and grand-children: they are the stuff the 'generations' in the 'conflict between the generations' are made of.

From an ideological point of view one wonders how a christian-democratic party (the major governmental party today) can both defend the near-sanctity of the family and the family as just one more economic unit. From a sociological point of view, the question is whether the havocs, brought on the family in the past few decades (marriage defined by exit for example⁴⁴, one-parent families, children who have gone through one or more divorces of their parents and so on) are proving to be a prime mover in the debate on the conflict between generations. From a political point of view, finally, the question is with what identity and with what interests the government itself is partaking in the thorny issue of distributing the burdens of large and growing numbers of elderly citizens over a shrinking number of younger citizens. It is the last question that concerns us here. As the recent quarrel has demonstrated, the present government conceives of its citizens as economically motivated individuals.⁴⁵ What it, faced with the growing majority of the elderly, has done is to create a level-playing field in which collective interest positions - mainly old but in principle touching on the new as well - are disbanded and individualized choices can come to the fore. The new framework in which employees must choose how to decide on the distribution between work and time, and between income now and deferred income, is resolutely individualistic. Again, with the support of the largest employer organization, the hesitant consent of the organizations of SME's, and the hearty disapproval of the union federations. Indeed, as this issue is of direct relevance for the *raison d'être* of the unions it is much harder to swallow for them than the timing and phasing of early retirement. The latter was, though important, not foundational; the former is.

The perspective of the government, in conclusion, is traditional and new at the same time. It is traditional in that it posits itself above the often conflicting interests of society and acts on behalf of society 'as a whole'. Its function here is to guarantee the integ-

⁴³ Korver 2004

⁴⁴ One message recently conveyed by the official 'mail box' of the government ('Postbus 51') is: 'how do I apply for a divorce?'

⁴⁵ The tedious call for 'values-and-norms' by this government is, from this perspective, a fruitless attempt to restore in society what its own conception of citizens - and the practices accompanying it - has taken away. One wonders what the power of values and norms is in a governmentally approved if not construed society of 'incentives'. If only for this reason, the call for 'values-and norms' functions mainly as a warning to ethnic minorities and their presumed defective integration.

urity of the game, in particular when the players tend to impinge upon such integrity. In this it acts like any good referee would. Yet, assuming this function cannot co-exist with the writing, or as the case may be: the re-writing, of the rules of the game. This, however, is exactly what the Dutch government is doing. In its already manifold infringements on the terrain of industrial relations the government is re-designing the rules of the game. Now, there is nothing against redesigning the rules. In fact, they are in for a major renewal. But the rules can only be re-written with the participation and the expertise of all parties involved. Here, then, the government is amiss. Pursuing on its present path may lead to more conflict; it will not, however, lead to any covenant worthy of the name.

4.3 The right context: the European Union and the Euro

The quest for an adequate format for transitional labor markets evolved in the context of the European Union. Schmid (1998) introduced the concept as a building block for a new European employment strategy. Formally, the Union adopted its own employment strategy in 1997, with four defining ‘pillars’:

- employability (boosting the rate of participation, in particular of vulnerable groups or categories in the labor market)
- adaptability and mobility (enhancing the flexibility of organizations and workers, and combining this with a renewed form of social security)
- entrepreneurship (promoting self-employment and diminishing administrative and other impediments)
- equal opportunity (dissolving all forms of discrimination in the labor market)

Each year the member countries report, by means of National Action Plans, on their progress on these issues and the actions they plan to take. The reports are, also yearly, consolidated into a Joint Employment Report by the European Commission. That report usually leads to more or less specific recommendations to the member countries, specified in Guidelines. The whole procedure is taken as an example of an ‘open method of coordination’. And although the official strategy differs in many respects from the concept of transitional labor markets, it is definitely not incompatible with it. In one respect, in particular, they meet. That is in the shared emphasis on ‘employability’, ever higher on the agenda since the Lisbon Summit of the Union in 2000. The dictum is: employment follows employability. So, by improving employability, employment is sure to follow.⁴⁶

The impact of the European Union does not stop at the influence of its employment strategy, however.⁴⁷ In fact, the introduction of the Euro and the concomitant acceptance of the Stabilization and Growth Pact has been far more important in its consequences. The Euro shifted the monetary discretion to the European Central Bank, and thus away from the national central banks. The effects of this shift for the Netherlands (and for Austria) were not that important, as these countries had already for a considerable period pegged their monetary policy to the movements of the German mark. Of far greater importance is the Pact, for that took away most of the financial discretion of the national governments. The Euro, then, did not just curtail national monetary discretion, it curtailed the possibility of an independent national financial policy, also in mat-

⁴⁶ Korver 2000

⁴⁷ A quite limited influence actually as the EU evaluation of the first five years of the strategy proved. For the Dutch contribution to this evaluation see: Zijl et al, 2002

ters of employment and social security. In this set-up labor markets and social security systems have not just to adapt to the economic tides, they have to adapt as well to the dictate of the Pact.

With the benefit of hindsight two things strike us. The first is the well-nigh total silence in the Netherlands on the Euro and its implications for the labor market and social security. The second is that even today these implications are not at all related to the effects of the Euro but, rather, to the competitive position of Europe in a globalizing world economy. The influence of the Pact is simply not discussed, it be then to remind us and the rest of Europe that an agreement made is an agreement made.⁴⁸ That there is tension even in the name of the Pact (stabilization and growth) is simply washed away. It is stabilization before growth, stupid!

In the present cold economic climate, stabilization means cuts in employment programs and in social security. Where the European Commission advocates flexible and low-threshold access to social security as a prop for accepting jobs⁴⁹ the Dutch government is doing the reverse. Access to social security is made more difficult and restrictive. Moreover, social security is tied ever stricter to one's employment relationship. Loose couplings are not even contemplated, tight couplings carry the day. Enhancing employability, promoting mobility, and enabling transitions are radically postponed, or are declared one's 'own responsibility'. Individualism indeed. The 'sour', the government proclaims, precedes the 'sweet'. Where the rule of creating more options should reign (Schmid 2001) the rule of curbing options and forcing on one mould only - the employment relationship - actually does. It is the disjunction between actual policy (cuts) and policy objectives (enhanced employability for one), between the short and the long term, that is the more worrisome aspect of today's politics. The government has gotten the context (Europe) right, but its text (cuts) is patently wrong. It is quite possible that the covenants on working conditions will survive, also in the near future. It is highly unlikely, on the other hand, that covenants on transitional labor markets will see the light of day.

4.4 The premise of the covenant

Trust is a two-way street. One needs to trust one's partner and the partner has to trust us. In bargaining, trust may be had by binding oneself. Trust is a device for coping with the freedom of others, and for others to cope with our freedom. If our partner believes our 'credible commitment' then s/he may accept own commitments also. Reputation (and the damage it may suffer) is an instance of commitments, as is a collateral, a confession, and a promise. A contractual commitment, of course, is also possible but private contracts have the disadvantage that keeping them depends on a cost/benefit calculation. In other words, in order for contracts to be trusted they depend in their turn on one of the other kinds of commitment.⁵⁰ In that respect, public contracts, or mixes of private/public contracts (like in $\frac{3}{4}$ public law, $\frac{1}{2}$ public law and so on) will perform better. On the other hand and for the very same reason it will prove harder to muster the commitment of parties to enter into such contracts.

⁴⁸ Such is the mantra of the Dutch minister of Finance, Zalm.

⁴⁹ In its communication on the Stockholm meeting of the European Council in 2001.

⁵⁰ Schelling 1963: 22-28; Frank 1988.

What we lack is a theory of the genesis of trust.⁵¹ In the learning-by-monitoring example trust is sort of a ‘by-product’ of cooperating, but that begs the question of the original trust rather than answering it.⁵² On the other hand, we may rephrase the quest after genesis as a question about the conditions for trust in cooperating. The question then becomes: under what conditions do we need trust in order to achieve and maintain cooperation? Trusting someone means ‘believing that when offered the chance he or she is not likely to behave in a way that is damaging to us, and trust will be typically relevant when at least one party is free to disappoint the other, free enough to avoid a risky relationship, and constrained enough to consider that relationship an attractive option.’⁵³ That is, trust presupposes exit (avoiding a risky relationship is viable only if functional equivalents for that relationship are available), and it requires for its growth and maintenance both voice (demanding safeguards - monitoring devices for example - against disappointment, otherwise the relationship will not be upheld), and loyalty (combining attractions and constraints). Exit requires competing possibilities, voice requires modes of communication, and loyalty requires binding oneself. In the case of allowing for no latitude in performance standards, Japanese style, exit reads the possibility of shifting the supplier relationship, voice reads quality circles, and loyalty reads long-term employment and supplier relationships.⁵⁴ It is from examples such as these that Hirschman and Sabel derived their optimism about trust being generated along the way. Moreover, trust is like knowledge. It grows when used, and depletes when unused.

The covenants on working conditions match the requirements of trusting cooperation. The agreements are not legally binding, the voice of the parties concerned is enlisted, and the performance standards and supporting timetables are included. However, in the scarce covenants on labor market issues things have not advanced that far. Again, the agreements are not legally binding, but comparatively the voice of the parties enlisted is much more restricted, and standards resemble intentions rather than criteria. Nevertheless, in one evaluation of some of these covenants (on improving the opportunities for ethnic minorities in the labor market) gains are reported in (1) improved relationships between the government and the participating companies; (2) improved cooperation between the enlisted parties; (3) in organizations learning from one another; (4) and in the emergence of networks of organizations.⁵⁵

This improved record in cooperation may in time lead to the production of enough trust for stronger performance standards and the enlistment of more partners, needed to effect the performance goals (trade unions, for one, works councils and shop representatives, for another). However, our case, concerning the build-up of transitional labor markets, is more complex than the examples so far. Exacting performance standards

⁵¹ Gambetta 1988: 231

⁵² The word ‘by-product’ is actually suggested by Elster and Moene, 1989: 4-5. Axelrod’s (1984) idea about the evolution of cooperation is also in this train of thought. See also Gambetta, o.c.

⁵³ Gambetta, *ibid.*: 219

⁵⁴ Including, to be sure, the action in ‘shifting involvements’: going from private to public action or the other way around. See Hirschman 1982

⁵⁵ Ministry of Social Affairs and Employment, April 24, 2003 (ABG/DB/03/27296): 2, 5. TNO Work and Employment is also active with ‘learning networks’. Its results are promising; once the participating companies have identified a common interest (for example: continuing deployment of the elderly worker) they learn from one another’s bottlenecks and they learn how to cope with them.

(for example in the shape of benchmarks) do not as yet exist. What cooperation is needed, with what partners, in which timeframe, and for what performances is a series of tangled and simultaneous questions. Learning by doing, and developing accurate and acceptable standards along the way, is the only way to proceed here, in particular if, as we have hypothesized, the development of standards will also produce the trust needed to continue cooperating. We emphasize at this point that cooperation does not and should not exclude competition. The possibility of not-joining is important for covenants to work, as is the possibility of opting-out after joining. Competition, so to speak, is its own method of learning and monitoring and it may contribute to better standards.⁵⁶ For example, covenants targeted at older workers are more than welcome.⁵⁷ But they should not exclude or discourage other initiatives and, thus, opportunities to learn. As it stands, the policies of Microsoft for an active and productive deployment of older workers may well lead to new standards that can be rejected, adopted, or improved by companies, alone or together, looking for viable policies for older workers as well.⁵⁸

Critical is some common ground, as has already been stipulated in Section 2. We believe that participation in paid employment does constitute such a common ground. To work that ground, however, governments, employers, employees and citizens face new conditions. We named three: transitions, employability, and mobility. And we named the bottlenecks (the present employment relationship, the hold-up problem, organizational discretion in recruitment and selection) that need to be mastered in order for the conditions to become opportunities. None of the opportunities and bottlenecks can be mobilized if the parties have to go at them in isolation. In such a situation the 'task of convening and moderating' falls to the public authorities 'by default'.⁵⁹ This is not because the government has the better knowledge, it is because it is the task of government to offer an organizational form for taking the issue further, if the social partners (trade unions, SME's and possibly also the larger companies) and the citizens recognize the utility of cooperation but do not have the muscle bring it about, and if the cooperation concerns issues of general interest or 'common ground'. At the same time, there are limits to the public authorities as well.⁶⁰ Government today is governance rather than directorship. And governmental interventions are reflexive, rather than prescriptive. Again, the format of the covenant expresses this quite clearly, for it is based on voluntary consent and participation on the one, on equal terms on the other hand. It is a form of democracy, in which democracy is the equivalent of 'reflexive authority': the exercise of authority by those who are subject to it. The covenant concerns the partners, not, however those who did not sign on or who decline further membership under the covenant.⁶¹ It is not a democracy of all, but only of all those who will. And provided access is not denied to those not or not yet participating, this formula has the advantage of both flexibility and adaptability.

There is one strong assumption involved though. For however needed and useful exits are, exits are not to be used carelessly. The minimal requirement is that exits are communicated in writing and with the reasons for exit stated (as, in fact, they must be un-

⁵⁶ See Baecker, 1988

⁵⁷ Despite the writing on the wall: the recently disbanded Dutch 'taskforce' on the elderly and employment did not even propose a covenant.

⁵⁸ On Microsoft see Mosner et al 2003, and Microsoft Press© 2002. See also De Vos 2004

⁵⁹ Sabel 1995: 16

⁶⁰ Selznick, *ibid.*: 477, 505

⁶¹ McMahan 1994: 12-13

der the known Dutch covenants). Since all reasons are valid, at least in the Dutch case, it is clear that the value of having exits is not underrated. This puts a huge premium on the quality of the covenant itself: it will have to prove its worth as it proceeds. A shared common ground, therefore, is a necessary condition for a covenant, but it is not in itself also an adequate condition. The latter will have to be generated by the covenant in process. The chances for the process depend on the parties partaking in it. Since the covenant implies many unknowns the covenant can succeed only if the parties do not stick to their pre-established identities and interests. If something new has to be produced, it stands to reason that identities are of limited value only. They are the base-line, like socialization is the baseline for the take-off of education.⁶² But the success of learning and of educating is in a changed identity at the end of the road. Learning-by-monitoring is akin to learning-to-learn. It is learning by conquering bottlenecks and guided by commonly developed standards of achievement. It is threatened, however, by parties reverting to outworn modes of behaviour. Above, we saw that today the government is back on the old track of directing and prescribing. As a result, the social partners are returning to their baseline identities as well. These are direct dangers for even the possibility of covenants. Possibly, one way out of the present stalemate is a new shift in involvement; from the public authorities to the social partners. If these could manage, for example beginning in the Labour Foundation, to rekindle the debate on life course arrangements much would be won.⁶³ Of course, the government might retaliate as it has promised to do in the very recent past. On the other hand, the government as an employer is a different matter. Possibly, and fuelled by the Labour Foundation, the government-employer can learn from the social partners. It cannot even be excluded that the government-legislator will then learn from the government-employer. The premise of the covenant is that no one has the final say, and that all are willing to learn.

⁶² Luhmann 2002

⁶³ Korver/Huiskamp 2004: 9

5 Summary and discussion

5.1 Summary

Covenants are a relatively new phenomenon in Dutch industrial relations. They create a new role for the government and they allow for flexibility where contracts are too constraining and laws are ineffective. Covenants are a form of self-regulation. In the Netherlands most covenants are in the field of working conditions, health, and safety. They have proven their value, in that the parties under these covenants have indeed achieved a better record, in particular in reducing sickness absence and disability, and in improving efforts at reintegrating (partially) disabled workers. On matters of the labor market, however, covenants are both more rare and less targeted. Yet, the thesis of this paper is that the covenant may develop into a valuable mechanisms for coordinating the attempts to establish transitional labor markets. That is, we perceive opportunities in that direction, although we do not forget the threats on the road ahead.

The opportunities are that in situations where there is a felt and shared need for discovering, exploring and working new ground, with none of the parties concerned able to cover such ground by themselves, the parties may join forces in defining goals, in stating targets and standards, and in distributing the advantages thus won. In terms of process and procedure this is practically identical to what Charles Sabel once called 'learning by monitoring'. The threats, on the other hand, are that parties stick to what they already know and possess and derive their interests from that. Such is tantamount to joining a covenant for strategic reasons only, and it can lead to defection at the first convenient moment or to non-contributing and free-riding. These threats are real, in the Netherlands especially in the very recent past and with the government as the main actor. It is hoped, but not conjectured, that the social partners will continue where the government is letting things crumble.

5.2 Discussion

We have distinguished three challenges for transitional labor markets: training (and the knowledge economy), mobility (and the combination of work, care, development and leisure over the life course), and the management of social security risks (and 'making transitions pay'). Connecting these three challenges is the pivotal employment relationship. It is central to participation, but hardly hospitable to forms of participation, other than the job you happen to have.

In previous publications (Korver and Oeij 2003a,b) we have, in the footsteps of Günther Schmid (1998, 2001), indicated a number of requirements for transitional labor markets. In particular, we pinpointed the necessities of, on the one hand, making the transition the prime unit of social security (and not the employment relationship) and, on the other hand, of focusing on life-time employability as the prime unit for a comprehensive labor market and social policy (and not the job). We suggested the covenant as the coordinating form for bringing transitions and employability together.

Is this no more than begging the question? For, requirements are not to be mistaken for the design of transitional labor markets as such. And if our design recommendation amounts to no more than a plea for mutual consultation and consensus-formation be-

fore embarking on the journey, what does that tell us, apart from the obvious? In a sense, this is correct. In another sense, it is not. We have emphasized throughout that understanding design as the drawing of blueprints or the writing of a master-plan did not just fail on earlier occasions (with development planning as an example) but also that such designs were in fact inimical to learning and, by the same token, to learning by monitoring. Also, we are convinced that the admittedly old formula of ‘cooperation plus competition’⁶⁴ defeats all forms of overzealous planning, and at the same time aptly describes the limits and the promises of the covenant. New ventures cannot be planned; they must be undertaken.

Even granted all this, our analytical description of the concept and the practice of covenants is incomplete nonetheless. For those who borrow from the vocabulary of ‘threats and opportunities’ should also pay tribute to ‘weaknesses and strengths’. Omitting the latter twosome might be read as an implicit acknowledgment that the internal structure of the system of Dutch industrial relations is viable enough to clear the job. Such an inference would be wrong though. Discovering the strengths and weaknesses of Dutch industrial relations in the light of the new challenges and threats is a task that remains to be done.

⁶⁴ J.S. Mill 1848 (2004)

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