Chapter 2

Flashpoints in Local Industrial Relations in the 1990s

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The Context

In 1990, the Maltese Government submitted its formal application to become an EU member. In the same year, an incomes policy – under the auspices of a tripartite forum (the Malta Council for Economic Development) – was set up to direct industrial relations towards a more consensual ethic. These two events occurred at a time when the liberalisation of the market, initiated in 1987 following the victory of the Nationalist Party (NP) at the polls, was gathering momentum. Concurrently, the intensification of international trade was obliging many governments to restructure their economies in line with the demands of a globalised market. The year 1990 thus seems to mark a watershed in the Maltese socio-economic scenario. This paper reviews the flashpoints of a decade when the Maltese labour market, either by default or by design, seemed to orient itself more towards European standards.

The recent intensification of international trade has meant that many economic sectors hitherto protected by national legislation have had to face international market competition. In order to keep its competitive edge with U.S.A. and Japan in this expanded world market, the European Union has tried to seek a higher level of integration between its member states. The creation of a single currency, as well as of a single internal market, and the privatisation of such services as telecommunications, electricity and utilities, were all based on this general rationale. Naturally, such policies

ushered in new social and economic problems in the field of industrial relations.

During the 1990's, many European Governments had to grapple with acute and chronic high unemployment levels and the inflationary effects of the deregulation of the market. In their efforts to restore and maintain competitiveness, they tried to adopt a policy of wage restraint. To reach the targets set in the Maastricht Treaty and qualify for European Monetary Union membership, some European Governments took unilateral decisions such as wage freeze and tight pay guidelines for negotiations in the public sector. Governments regarded wage moderation as the main instrument for controlling inflation since wages tend to represent a major component of production costs.

The responses by trade unions to these new developments were both reactive and proactive. In their efforts to maintain the purchasing power of workers' wages, unions consistently sought to ensure adequate compensation for the deflationary measures taken by governments. At the same time, they tried to ensure job security through an active involvement in national employment policy. As an economic strategy of lowering the unemployment rate, they sought to reduce working time. For a number of sectors and groups, particularly in France, Germany and the Netherlands, this demand for a reduction in working time was pursued with much vigour and formed an important item on the negotiation agenda (Fajertag, 1994, p. 291). Employers, on their part, seemed more willing to engage in this debate because they saw it as a means of obtaining more flexible patterns of work. Thus, a law was passed in France stating that working time could be extended up to forty eight hours a week without payment of overtime as long as the weekly average would not exceed 37 hours over a period of one year. This law made provisions for cuts in contributions by employers who reduce working time and recruit new workers (Fajertag, 1997, p. 26).

It should also be noted that wage restraint was, notably in Ireland,

Italy and Finland, the result of a tripartite pact or incomes policy agreement (Fajertag, 1996, p. 30). To legitimate their actions, Governments preferred to adopt a policy of consensus through social dialogue rather than coercion. Lang *et al.* (1995) dismiss as mere speculation the belief that corporatism was weakened due to the pressures of globalisation and deregulation. Their empirical study on six corporatist countries (Austria, Germany, Denmark, Finland, Norway and Sweden) indicates that macro corporatism in these countries was still considered to be a viable alternative to a less static system even though they noted that, especially in Denmark and Sweden, "bargaining clearly became more decentralized" (*ibid.*, p. 96). In their review of industrial relations in 17 European states (the EU 15 plus Switzerland and Norway), Ferner & Hyman (1998, p. xx) note that there was a "persistence and indeed revival of central coordination and concertation in Europe in the 1990's". By and large, all governments preferred to pursue change through agreement with social partners. "Efforts by governments to exclude the social partners - in particular the unions - from their reform plans have tended to be unsuccessful: witness the failure of the Berlusconi initiative in Italy, or the outbreak of mass protests in France in December 1995" (*ibid.*, p. xxi).

Summing up here, the organization and ideology of trade unions, the strategies adopted by employers and the role played by the state are to be understood as only part of the wider context of industrial relations. Deflationary measures taken by policy makers, levels of unemployment, shifts in the occupational structure, changes in international market trends and their impact on national competitiveness all impinge on industrial relations systems.

The Maltese Scenario

This new economic scenario of the 1990's has had its impact on Maltese society. For a while, the belief may have prevailed that the Maltese economy was immune from the effect of this heightened

market competitiveness and could therefore continue to pursue a policy peculiar to the flexible exigencies of a micro, sovereign island state. However the logic of internationalism made us soon realize that insularity and size could not act as permanent shock absorbers to the vagaries of an intensified global and competitive regime. In the 1990's in Malta, as elsewhere in Europe, there was a broad acknowledgement of the need for restructuring the economy in accordance with the imperatives of the new economic scenario.

For the 20 years before that, Maltese economic policy was dominated by the view that the state should participate directly in economic activity, especially where the private sector failed to take the initiative. The end result was a sustained policy of nationalization. This process targeted a number of existent enterprises (including the banks) and led to the creation of new public enterprises (such as Air Malta, Sea Malta, EneMalta and TeleMalta in the early 1970s). A policy of import substitution was also introduced in order to boost Maltese production and reduce the negative trade balance. The liberalization and internationalisation of the Maltese economy thus required the total restructuring of the Maltese economy that was embarked upon by the Nationalist Government, newly elected in 1987. This restructuring became more urgent in view of Malta Government's formal application, submitted in July 1990, to become a full member of the European Union.

This decade is characterized by a government-driven initiative to liberalize and internationalise the economy and place it within the ambit of the free market economies. This plan entailed the removal of some protective barriers that sheltered local industry from open competition in the world market, the end of state aid for 'lame duck' industries propped up in order to avoid redundancies, the sale of a substantial percentage of Government shares in the banks to private investors and the setting up of a stock exchange to facilitate the circulation of stocks, shares and bonds. Even during the Malta Labour Party's brief tenure of office

from October 1996 to September 1998, this process was continued. Indeed, during these two years, the telecommunication sector was partially privatised and serious attempts were made to increase accountability in state subsidized enterprises for instance at Malta Drydocks.

The restructuring necessary to ensure that all sectors of the Maltese economy are competing equally within the parameters of a free market economy was far from complete by the end of the nineties. This restructuring as elsewhere in Europe has had, and is likely to have, negative impact on certain industries, leading to closures and contractions. During this shift in the economy, the Maltese trade union movement maintained its central position and continued to register increases in membership. The industrial relations climate in the 1990's can be defined as relatively mild with the number of industrial disputes or person days lost being some of the lowest on record. The largest number of person days lost per annum due to industrial action during this epoch was just 16,000 in 1996.

In general, there was an "atmosphere of relative stability" which "can be attributed to the readiness of the social partners to work together in a highly competitive international market and to Government's eagerness to solve industrial relations issues as soon as they emerge" (UNDP, 1996, p. 37). Yet, in spite of these efforts, there were confrontations between the social partners that threatened this apparent stability. What follows is an account of the major disputes between the social partners – hence flashpoints - which may have made the 1990's less stable than the statistics may suggest. Indeed, the ominous signs at the beginning of the decade did not augur for stability in industrial relations.

Social Dialogue: Unintended Consequence of an Industrial Dispute

At the beginning of the 1990s, the Malta Council for Economic Development (MCED) was set up to serve as a forum for discussion between the main social partners (Government, trade unions and the constituted bodies, including employers) by means of which they would try to find convergent lines rather than adopt a win/lose approach. However the conciliatory tone that this initiative tried to set in motion was not very much in evidence in the first part of the year. The Confederation of Malta Trade Unions (CMTU) in its new year message emphasized the big and deep rooted divisions within the trade union movement while the General Workers' Union (GWU) expressed concern with Government's confrontational stance.

The cause of this confrontation was the Lm3 wage increase announced in the Budget that the Government embodied in a National Standard Order - Legal Notice 169 of 1989. This "standard order' obliged employers to pay only the increase agreed in the collective agreement and the difference if any to make a total of Lm3 per week as from January 1990. The CMTU and the GWU expressed their disapproval about this decision. They maintained that the Lm3 wage increase should be considered as a cost of living increase mandatory on all employers, irrespective of whether they had signed a collective agreement with a trade union.

Confrontation

The GWU insisted that employers should endorse the Lm3 weekly wage increase announced in the Budget for 1990, over and above any other increases included in any valid collective agreement. In the first weeks of January, the union registered a trade dispute with those enterprises that refused to accept this request. These were Simonds Farsons Cisk (SFC), Flour Mills, Corinthia Group (Hotel and Catering Services) and the Hotel Phoenicia that forms

part of Trusthouse Forte Chain. By January 5th, an agreement was clinched with the Flour Mills and the Corinthia Group, where the workers were given a Lm3 weekly wage increase over and above the increases announced in the budget speech. In the case of Simonds Farsons Cisk, the GWU ordered an indefinite strike by the fork lifters, a work-to-rule directive to other workers and a directive to port workers not to handle merchandise connected with the company. The dispute dragged on for several weeks. The industrial actions were called off when discussions between the union and SFC management started, but only to be resumed when these discussions reached a deadlock. The company presented its case to the industrial tribunal and filed a lawsuit against the Cargo Handling Company for failing to release its merchandise sitting idle in the port. The GWU did not present its case before the tribunal, claiming that it had no confidence in its members. In its award, the tribunal declared that the industrial actions of the GWU were in violation of the extant collective agreement. The GWU, however, disputed this award, claiming that the clause in the collective agreement stipulated that any increase issued for the cost of living should be given over and above any wage increase agreed upon. The union maintained its defiant stand and accused the SFC management of lack of goodwill. On February 9th, six days after the announcement of the tribunal's award, discussions were resumed, and finally concluded. As a result, employees received a Lm1 weekly increase as from January 1st 1990, a Lm 26 bonus in June 1990 and a Lm 2 weekly increase as from January 1991. The collective agreement would be extended by another year and workers would receive two additional Lm20 bonuses each in 1992. A long and protracted confrontation was thus brought to a close.

Meanwhile, the GWU had also ordered partial industrial action at the Hotel Phoenicia. A sit-in by kitchen staff and work to rule was imposed in the first week of January. This case took a unique twist, however, when Trusthouse Forte decided to close down the

hotel and dismissed all employees.

In this dispute, neither side seemed willing to budge and both adopted a win/lose approach. Hotel management maintained that, by adhering to the clauses of the collective agreement, it was honouring its commitments. Its legal adviser was quoted as saying that the collective agreement specifically provided that any wage increase agreed upon was not to be taken as additional to any other increase (The Times, 5.1.90). The Phoenicia management decided to give the Lm2 per week increase as stipulated in the collective agreement and another Lm1 per week to make up the difference for the Lm3 increase announced in the Budget.

The private section organizations expressed their solidarity with the management of the Phoenicia Hotel. The employers' view was that they were in line with the collective agreement clause when they were providing for the award of the better of the two benefits (Lm3) and not their combination (Lm5). The stand taken by the Phoenicia management was reinforced by the award of the Industrial Tribunal whose decision was that the GWU actions against Phoenicia were in violation of the agreement.

The GWU – once again - did not present its submissions to the tribunal. It declared its lack of confidence in both the chairperson and employers' side representative who had been a member of the National Labour Board that had issued the National Standard Order. The union also expressed its surprise at the unanimous decision of this tribunal since one member, forming part of this tribunal, was an official of the CMTU. The latter had agreed with the GWU that the Lm3 wage increase should be considered as a cost of living increase and was therefore mandatory on all employers. The GWU also accused Government of playing about with words for "whilst *de facto* admitting the justification for such an increase, the Government resorted to legislative terminology in an attempt to confuse the issue. Indeed all trade unions agreed that the Lm3 increase is a cost of living increase" (The Times, 29.1.90). The union requested direct talks with a representative

of the parent company of Phoenicia Hotel, stating that it was prepared to suspend its actions while talks were being held with the overseas representatives. This request was turned down.

These exchanges became even more bitter when it was announced that the company was about to embark on a Lm3 million refurbishment project for the hotel. The union was accused of intransigence because, by its actions, it was stalling the implementation of this project. The union replied that it had never been informed about this project and added that a company which could afford a multi-million investment programme could spare a few thousand *liri* to its employees who were demanding a just cost of living increase. When the news was received that Trusthouse Forte had decided to close down the hotel and dismiss all employees, the GWU accused the company that it had been orchestrating this move all along in order to release itself from the obligation of offering any compensation to the employees while the refurbishment project was in progress. However the decision by Trusthouse Forte to close down might not have come as complete surprise to the union. The Secretary General of the GWU on more than one occasion had stated that the union would not give up its claim even if the hotel were to close down. When the decision to close down the hotel was made known, the union asked the Government to use its legal means to appropriate the buildings - a plea that went unheeded.

Anti-Union Lobby

In this conflict the union seemed to have had very few allies. As is to be expected its actions were denounced by various employers' associations. Neither did it receive any sympathy from Government. The Prime Minister was quoted as saying that unions requesting increases larger than those established by Government in a National Standard Order had to shoulder the responsibility of their actions (The Times, 8.1.90) while the Minister for Social

Policy accused the union of obstructionism. The MCED was not utilised as a forum to discuss this issue even though its chairman acted as a mediator. After the closing down of the Phoenicia the media (especially the English language papers) had very scathing remarks about the GWU policy. According to the editorial of *The Times*, the GWU had "emerged badly bruised from this conflict" and it recommended that the union should review its methods in view of "its present very low standing in the barometer of sober public opinion" (The Times, 22.2.90).

This seemed to be the propitious time for the anti-union lobby to voice its concern about trade union power. The same editorial of 'The Times' advocated new positions on issues like sympathy strikes, secret ballots, check off dues, resignation mechanism and cooling off periods. The Federation of Industry (FOI) had already issued a statement arguing for an urgent tripartite review of industrial relations structures by all parties with a view to reach consensus on necessary amendments to legislation, including legislative measures to ensure trade union liability for damages arising to employers out of non compliance by trade unions with legislation and/or rulings of a competent court or tribunal.

In this issue the GWU, sought to challenge the policy of Government by not allowing it to define the framework within which it could bargain with employers (Grixti, 1994, p. 549). From the outcome of this dispute, it was evident that the union had not achieved its objective for it now "meant that at the micro level any employer wanting to reject the GWU's claim could do so while remaining within the agreed and accepted framework"(*ibid.*).

Towards Social Dialogue

However the Industrial Relations system is not a game where winners take all the spoils and losers lick their wounds. Though in this dispute the party that had greater weight in the locus of power

seemed to have prevailed, the union's strength and perseverance to sustain its cause and pursue its aims were equally acknowledged. So the feeling that emerged from this dispute was that a more rational approach was needed to solve issues in industrial relations. The FOI, CMTU and GWU made a formal agreement that wage levels in future were to be determined by an incomes policy that will take into consideration the cost of living index. The role of MCED was recognized as being crucial in this new approach. This council drafted the original document that was submitted to employers and owners indicating the broad lines of an incomes policy to be fashioned by all the social partners. A special tripartite unit was created to determine changes in the cost of living, and reach consensus on an Incomes Policy, under the auspices of the Council. When such an Incomes Policy came into effect, the cost of living increase was taken out of the area of contention. Measures involving inflationary compensations in wages were no longer to be surprises springing out in annual budgets but discussed months ahead and with limited Government's intervention in this matter.

The spirit of compromise epitomized in the Incomes Accord (1990-93) was far from superfluous. This agreement by and large "succeeded in avoiding major labour unrest throughout the 1990's. Although the agreement was not renewed upon its termination, the cooperation which existed in arriving at an annual cost of living compensation prevailed" (Human Development Report, 1996, p. 42).

Hence, one unintended consequence of this dispute was the initiation of a social dialogue that was supposed to bring about a more conciliatory style of Industrial Relations. Low strike statistics for this period can be used as tangible evidence of the positive side effects of this social dialogue. However, this relative stability was severely threatened by another dispute in 1994 that had some characteristics similar to the Phoenicia case. This was the industrial conflict surrounding the collective agreement at Air Malta.

Less Consensual Collective Bargaining:The Conflict related to the Collective Agreement at Air Malta 1994-95

Air Malta was established in 1973 as a result of the Labour Government's intention to set up a national airline. Government is the major shareholder with 96.4% of the total share. The profit it has consistently registered has made it one of the success stories in the history of state owned enterprises in Malta.

Air Malta employees were then represented by four unions: two are smaller house unions that cater for the airline pilots and cabin crew respectively; while the General Workers' Union caters for the industrial and non industrial staff, and the UHM (Union of United Workers) has members in various sections of the company. It is the GWU that represents the majority of the ground employees and over 50% of the total workforce and therefore negotiates with management on behalf of all industrial and non-industrial staff demands.

With such a unionised workforce, amicable relations between management and labour are essential. For the first twenty years of the company's existence, they were so with only minor incidents of industrial unrest. This situation was aided by the fact that in 1978 the GWU entered into a statutory fusion with the Malta Labour Party that was at that time in government and remained so till 1987. The Government's encouragement of the philosophy of worker participation and the introduction of a worker director in all public utilities and government owned companies contributed to an Indian summer in the field of industrial relations at Air Malta.

The situation changed somewhat in the late eighties and early nineties. The end of the statutory fusion between the GWU and the Labour Party in 1992, the election of a more right wing Christian Democratic Government in 1987 and again (with a larger majority) in 1992; and the changes in the economy which it tried to generate all formed part of a process that slowly shifted the pattern of industrial relations in Malta in a less consensual direction.

The 1994 Air Malta industrial conflict centred around the new collective agreement that was up for renewal. The main actors were the company represented by the chairman, the industrial and non-industrial staff represented by the GWU and on occasion the Government minister responsible for the company. The bone of contention fell into four different categories: the duration of negotiations, wages, allowances and work flexibility.

The collective agreement was due for revision on 1st April 1994. In October 1993, the company invited the union to submit its proposals for the revision of the agreement so that negotiations could start and finish by the time the existing agreement expired (i.e. 31st March 1994). In November 1994, the union submitted its proposals. Due to a number of disagreements over demands made by the union, the company informed the latter that they could not submit their counter proposals before mid-March 1995. The union in turn demanded that its original deadline of 3rd March 1995 for the submission of counter-proposals had to be kept. When this was not adhered to, industrial action followed in the form of a three-hour strike.

The second disagreement was over wage increases. The GWU was demanding an increase of salaries that would raise wage scales by 22% per annum, arguing that, with the large profits Air Malta had made in the preceding year, it could shoulder the burden. The company retorted that this demand was totally unreasonable and would increase the company payroll by 65%. It also pointed out that wage increases should be linked to worker performance. The inability to find a compromise led to a seven-hour strike that the company tried to stop by referring the conflict to the industrial tribunal. However the GWU was not to be deterred and went ahead with industrial action nevertheless. The situation was resolved with the acceptance of a 7% pay rise.

The wage disagreements were also linked closely to those concerning allowances. Initially, the company refused to increase allowances, stating that the increase in salaries had been enough

of a burden. Consequently the union declared a 'work-to-rule' directive that was countered by an overtime ban, a freeze on annual leave, and a freeze on rebates for air travel facilities enjoyed by all Air Malta staff. The union's actions continued for three days. At this point, the Minister distanced himself from the conflict and several social partners made a plea for compromise largely directed at the GWU. Agreement was reached with the company committing a sum of Lm40,000 over three years in allowances to be distributed by the GWU.

The final dimension to the drawn-out conflict involved the wording of a clause (A10) in the collective agreement with regard to flexibility. The GWU claimed that this clause was not in accordance with the version agreed during the meeting. The Air Malta Chairperson claimed that some union members had a vested interest in the issue and were trying to sabotage the agreement. He was referring to the employees of the ramp section of the company, perceived as the most militant (Bonnici, 1996:60). In a signed affidavit, the Chairperson and top management declared that they had not changed the text of the contested flexibility clause from the version agreed with the GWU. On its part, the union argued that it was not in a position to sign the agreement, since it had been rejected by its members.

There were several attempts at mediation, but they were all unsuccessful. Matters came to a head on November 3rd when an employee of the Cargo Department was transferred to another section (Bonnici, 1996, p. 64). On November 9th, the GWU ordered an indefinite strike in the Cargo Department. This lasted until November 14th when, following discussions, the GWU accepted the transfer. During these discussions, some slight changes were also agreed to Article A10. The collective agreement was officially signed by the GWU and the Air Malta Chairperson on 21st November 1995.

Some parallelism can be noticed between this Air Malta case and the Phoenicia dispute of 1990, even though the outcome was

different. The disputes over time tabling and the flexibility clause seem to have been largely an outcome of the GWU's wish to show its teeth and reaffirm its position in the capital-labour paradigm, asserting its role and indicating that the new liberal neo-capitalist environment had not reduced its ability either to act or to affect its potential to decide on the outcome of the negotiations.

The company's stand on the other hand clearly indicates that it was determined to push through its agenda against all odds. It refused to alter drastically its standard demands and at same time insisted on introducing new concepts and expectations from the workers by updating the flexibility clause and demanding that wage increases and bonuses be linked to work performance.

As negotiations reached a point where neither showed any willingness to budge, the Minister distanced himself from the negotiation table. The hidden message was that the final decision lay with management. The Minister's decision and Company Chairman's threat to close down the airline if a reasonable solution was not found are indicative of the aggressive non-compromising approach adopted by the management. The pattern set in the Phoenicia case of 1990 seemed to have been followed. The outcome was however different because in this case the company was a parastatal rather than a transnational one.

Nevertheless, the damage inflicted on the firm by their own staff in both the Phoenicia and Air Malta disputes are a reminder that real gains can only be made when industrial relations is epitomised by a philosophy of compromise and consensus that recognises the importance and contribution of both partners.

Still, any such 'social dialogue' did not prove effective in solving the conflict that arose between Government and trade unions over the austere measures announced for the 1998 budget.

Defining a Trade Dispute

In the Parliamentary sitting of 5th November 1997, the Minister

of Finance announced that various measures had to be taken in order to stabilise the precarious situation of public finance. The measure included a hefty rise in water and electricity rates and an increase in the price of petrol. There was a general reaction to these measures. Naturally the trade union movement voiced its concern.

The General Workers' Union (GWU) adopted a policy of marking time by appointing a commission to study and draw a report on the likely impact of these measures on various categories of workers. The Union of United Workers (UHM) issued a press release on 6th November, stating that the proposed measures would put a heavy financial burden on all workers, especially those of the middle and lower income bracket. It asked for a meeting with the Minister of Finance in order to find a solution to the problems which the implementation of these budget measures were likely to cause. On its part the Government said that these measures were taken in order to rein in the national debt.

A meeting was held between the Minister of Finance and the UHM on 14th November 1997 during which the union reaffirmed its position that the burden of the financial deficit should be shouldered by high-income earners. Another meeting was held on 9th December. A press release issued by the Department of Information stated that the Government could not accept the UHM proposal of Lm2 weekly increase in addition to Lm1.50 announced in the budget to compensate for the cost of living increases or to stagger the new water and electricity rate over a period of five years. The Minister of Finance said that, if Government were to accept any one of these proposals, the stabilization of the precarious financial situation would not materialise.

No other meetings were held. In a letter sent to the Parliamentary Secretary at the office of the Prime Minister, the UHM registered an industrial dispute with Government about the 1998 budget. The Government was officially informed by this letter that the UHM was free to take industrial action in the public service sector

as well as in companies or corporations where the state had a majority or minority shareholding.

On 6th January 1998, the UHM issued the first directives to all civil servants and employees in parastatal organizations, instructing them to refrain from answering telephones and from making use of fax machines and e-mails. They were also instructed to 'work to rule'. The union stated that it had drawn up a plan of action that would be implemented if the Government failed to revise the water and electricity rates announced in the budget.

The partial industrial action was stepped up on 12th January 1998. Employees at the Customs Department were instructed not to process any import or export documents and the workers at the Freeport Terminal were directed not to do any work related to containers that were either Malta bound or leaving the island. These directives had an immediate effect on the industrial and commercial sector. The employers expressed their grave concern stating that the private sector, which was not involved in a trade dispute, was being hit hard by these industrial actions. The UHM replied that as a trade union it was bound to give precedence to workers' and pensioners' rights over all other issues.

On 15th January, access to Malta Freeport was blocked with containers. The UHM stated that the action was taken to retaliate to the initiative taken by the police. The union alleged that, in order to allow imports into the country, the police had forced open the gates to the quays at the Grand Harbour and groupage terminal at Hal Far. The government accused the union that by taking this action, it was going beyond the provisions laid down in the industrial law that safeguard the rights of workers and citizens. The Prime Minister said that the union's action had overstepped the limits allowed by the law and called on the union to stop acting macho. The police commissioner was also quoted as saying that the action of the strikers at the Freeport did not amount to fair picketing but intimidation (The Times, 20.1.98). On its part, the UHM claimed that the police action was illegal. It further

stated that its industrial actions were about to be stepped up and would only stop when there was a positive reaction from the Government side. However on 20th January the UHM suspended its actions. In its statement the union said that this decision was taken because it feared that the police actions might lead to serious incidents.

In the meantime, the Freeport Terminal p.l.c. sued the UHM for the damages caused by the industrial action and it requested the court to hear this case with urgency. The company contended that since no trade dispute existed with the trade union and the collective agreement had been honoured, the industrial actions taken by UHM at the Freeport were illegal and abusive. It therefore claimed that the UHM was responsible for all the damages caused to the company and for any others that the company might suffer as a result.

In its reply, the UHM maintained that in its dealings with Government it had offered two options: staggering increases of electricity tariffs over five years or granting a Lm2 weekly wage increase over and above the Lm1.50 announced in the budget as a cost of living increase. Since these offers were both rejected, it deemed that it had a right, according to the Industrial Relations Act, to take industrial action targeted at public enterprises. The UHM secretary general made an appeal to the judge not to restrict trade union action by his sentence (Nazzjon Taghna, 21.1.98).

In a landmark sentence, the judge said that the UHM did not succeed in proving that its dispute with Government over measures announced in the budget was 'in furtherance of a trade dispute'. He claimed that there is no provision at law that would render the matter as a trade dispute. Furthermore, Government had the right to govern and making taxes was a natural and legitimate exercise of this right. In its ruling, the court therefore upheld the plaintiff's request and declared the industrial action ordered by the UHM at the Freeport Terminal as illegal and abusive. The case was postponed to quantify damages caused to the company.

In the meantime, the GWU published the report that it had commissioned to study the impact of the budgetary measures. According to this report these measures were likely to raise the cost of living by 2.4%. It suggested that rebates be given on water and electricity bills and recommended that an income supplement be given to two-member households made up of pensioners who depend on social security benefits for their living.

The ruling of this court set a demarcation line in trade union action beyond which the immunity established in Section 17 of the Industrial Relations Act (IRA) does not apply. In such circumstances a trade union can be sued for torts and damages resulting from its actions. In other words industrial actions to make pressure on Government to change its budgetary measures are not protected by the law because, according to the Judge, "they are political rather than trade disputes". The union did not agree about this demarcation and lodged an appeal.

In its ruling on May 30th 2001, after three anxious years of anticipation, the Court of Appeal revoked this decision of the civil court. In its sentence, it stated that since the budget measures were likely to have a negative impact on the unions members' salaries, it was bound to affect conditions of employment. Therefore, according to the Court of Appeal, the dispute between UHM and Government was connected with terms and conditions of employment. The Industrial Relations Act (IRA) does not specify, as the 1982 amendment to the English Law does, that for a trade dispute to exist it has to be related wholly and mainly to conditions of employment. Due to the absence of such a specific restriction in the IRA, the UHM/Government dispute can be defined as a trade dispute and the Appeals Court granted the immunity for damages as provided in the law. However, the Court also stated that the blockade of the Freeport was abusive and illegal, as this did not constitute peaceful picketing.

Bickering

The bickering between Government and trade unions about the austere measures in the budget continued until the snap general elections of September 1998 when the Nationalist Party (NP) was returned to power. By the end of 1998, an agreement was reached between the trade unions and the Government about a reduction in the water and electricity tariffs. However towards the end of this particular year, there was another bout of bickering between the trade union and employers.

In October of 1998, the Federation of Industries (FOI) published the results of a Benchmarking Exercise that consisted of a comparative analysis between Malta and EU countries, USA and Japan based on statistics drawn mainly from OECD, the European Commission and other national and international institutions. This report became a source of bickering between the Trade Union Movement and the Federation of Industries (FOI).

In this Benchmarking Exercise the FOI focussed on the gap between public spending over the past decade and state revenue. The study showed that Malta "registered a deficit four times higher than the Maastricht criteria". A comparative statistical data revealed that Malta is among the big debtors when compared to EU member states. The main contributory factor to this huge deficit, according to the FOI, is the excessive number of public sector employees that, in percentage terms, is higher than the EU average, USA and Japan.

Complementary to this Benchmarking exercise, the FOI published a set of recommendations for the Government Budget. These recommendations urged Government to commit itself to a programme of privatisation, streamline the social service system; introduce an incentive scheme to promote private pension schemes that would supplement basic public pensions and to engage in a systematic downsizing of public sector. The statutory wage increase based on the indexation of the Retail Price Index better known as COLA (Cost of Living Adjustment) was, in the opinion of the

FOI, proving too much of a burden for industry and should therefore be suspended. Any wage increase in the manufacturing sector was to be given only on the basis of productivity. Moreover to enhance productivity it was also suggested to reduce five days from the number of the workers' annual entitlement of vacation leave.

The Benchmarking exercise together with these recommendations raised the ire of the trade union movement. Indeed the 'us and them' dichotomy, which seemed to have been dropped from the discourse of most workers' representatives, became once more the rallying cry of trade unions. The FOI was depicted as an organization that was attempting to shift undue burdens onto workers while asking for no sacrifices from its members. The GWU Secretary General was quoted as saying: "why should employees have to suffer while those who are comfortable continue to have it easy" (The Times, 27.10.98). The UHM used a similar tone, condemning what it called an attempt at "passing the buck" to workers. The trade unions opined that curbing tax evasion might prove to be better solution to solve Malta's budgetary deficit, adding that the ones who evade paying taxes tend to be FOI members rather than workers. The press was swamped with such statements during October and November 1998. The GWU even accused the FOI of having a hidden agenda and of acting as the Government spokesperson. The confrontation reached such fever pitch that a particular newspaper reported that "at one point, physical violence was being threatened" at MCED meeting (The Malta Independent, 20.11.98).

The FOI responded to this criticism by appealing to "those who took up the cudgels against it to focus a bit on the message instead of the messenger" and rebutted the accusation that it was acting on behalf of Government (The Times, 15.11.98). It reaffirmed that the objective of the Benchmarking Exercise was to provide a graphic and realistic view of the Maltese economy. The FOI president stated that, in its Benchmarking Exercise, the Federation

was simply sounding an alarm bell and it was not its intention to take the country into a "doom syndrome" or open confrontation with the trade unions (The Times, 20.11.98).

Various pleas were made, especially in newspapers editorials (The Malta Independent, 20.11.1998; The Times, 18.11.98) to let the MCED act as the platform for discussion where agreement or consensus can be reached. The trade unions and the FOI tacitly accepted these proposals. Once more, as in 1990, this tripartite institution took centre stage as a forum for amicable settlement of controversial issues. However this benchmarking exercise seemed to have been a propitious time for the trade union movement to convey its message in very clear terms that its participation in the new corporatist policy of the 1990's did not mean total acquiescence to the forces and vagaries of the market.

Thus, the year 1998 started with a serious conflict between trade unions and Government and ended with this bickering between employers and workers' representatives. The collaborative spirit of tripartism gave way to a less consensual ethic. The events that unfolded in 1999 were to jeopardise further this consensus.

Trade Union Recognition and Inter-Union Conflict

In December 1999, 17 top officials of the General Workers' Union (GWU) including the union's secretary general, president and legal advisor were arraigned in court charged with having violently resisted police officials, obstructing the police in their duties and threatening police officials. These incidences were alleged to have happened as a number of employees of the Malta International Airport (MIA) were being taken on a bus to the police depot to be questioned about damages caused to MIA property and equipment during a strike action ordered by the GWU at the airport.

The GWU claimed that these employees were arrested while they were obeying legitimate directives issued by their union in an industrial dispute. It further stated that the mass arrest were

illegal, an abuse of power and in violation of both the Constitution and the European Convention of Human Rights.

These incidents sparked a heated and highly confrontational debate between the GWU and the Government. The latter claimed that the criminal proceedings instituted against the members and officials of the GWU did not constitute any breach of constitutional and human rights. Once these people overstepped the limits of the law, they no longer enjoyed immunity from criminal proceedings as contemplated by the Industrial Relations Act (1976). In a democratic country, continued arguing the Government, the police had every right to take action in pursuance of their duty to preserve law and order.

The GWU retorted by accusing Government and the police authorities that the court actions were nothing but thinly veiled, concerted efforts to undermine the GWU and the whole trade union movement. In its stand, it sought and obtained the support of several trade unions from overseas which sent letters to the Maltese Prime Minister condemning the police action at the airport during the GWU strike. The International Transport Federation (ITF) was the most vociferous in its support and some of its members who happened to be in Malta for an international conference extended their stay to accompany the GWU members who were being arraigned in court on November 30th. In front of the court buildings they displayed a banner with the words "Trade Unionists are not Criminals". The International Confederation of Free Trade Unions (ICFTU) was equally strong in its support and it lodged a formal complaint with the ILO accusing the Maltese Government of ignoring international conventions on labour rights. Its General Secretary, Bill Jordan, was quoted as saying that its executive board and the ITF "would monitor any court proceedings carefully and stand ready to take appropriate action in case of violation of internationally established trade union rights" (The Times, 8.1.2000). On the other hand, the Maltese Government insisted that the trade unions abroad were being misinformed by

the GWU. The Deputy Prime Minister commented that "a judicial system exists in a democracy to see whether there was a breach of law or not" (The Times, 22.1.2000).

The Source of this Inter Union Conflict

What sparked this conflict was an issue over trade union recognition at the Malta International Airport (MIA) between the GWU and the Union of United Workers (UHM). Following is an account of the events as reported in the Maltese press that led to this impasse.

In 1995 a secret ballot was held among the 250 workers at the MIA to decide which trade union was to represent them. The result gave the UHM a majority of 17. Subsequently negotiation started between MIA management and the UHM and a collective agreement was signed covering the period 1995 - 1997. In May 1998, 500 employees from the Department of Civil Aviation (DCA) were transferred to the MIA but given the option to revert to their department if they wished to do so. On May 8th 1998, the GWU wrote to the MIA informing it that as a trade union it now represented an absolute majority of workers in the company and should therefore be given sole recognition. The MIA chairperson and Director of Labour acceded to the GWU's request; however, the UHM contested these decisions. It maintained that the DCA employees who had been transferred had not yet renounced their rights to go back to their previous employment; hence they could not be considered to be MIA workers. The UHM referred the case to the Industrial Tribunal.

In its award on July 21st 1999, the Tribunal stated that, unless employees renounce to their rights to be transferred to the original place of work, they could not be considered as employees of MIA. This award was interpreted by the UHM that it still had sole recognition at the MIA. The GWU replied that this was not the interpretation of the Tribunal. In the meantime a number of workers in the fire fighting division, all members of the GWU,

renounced to their right to revert to DCA. The GWU requested the MIA to take this renunciation into consideration when assessing its claim as representative of the majority of company employees. Furthermore, it warned the MIA not to conduct any negotiations with the UHM as otherwise it would give notice of industrial action. Eventually it gave a deadline date (August 13th) to the MIA for it to start negotiations with the GWU with a view to endorsing a new collective agreement. The MIA referred the case to the Industrial Tribunal. The GWU accused the MIA management of resorting to delaying tactics

On the expiry of the deadline (13th August), partial industrial action was announced by the GWU and employees were instructed not to use telephones and other means of communication. Later it directed workers not to do any work connected with trolleys, bulky luggage, the x-ray machine and vehicles. The GWU claimed that its industrial action was causing lack of security at the airport. The UHM advised its members to ignore the GWU directives. The GWU insisted on holding a secret ballot among workers to decide which of the two trade unions had the majority. In its statements, the GWU accused the company of intransigence because nothing was being done to solve the issue. On 18th August 1999, the GWU stepped up its actions by issuing directives to the 98 members of the Fire Section to strike from 10.20 am to 5 pm. The Minister for Economic Services defined this action as irresponsible, arguing that the GWU should have waited for the decision of the tribunal which was due to meet in two days' time.

When the tribunal was convened on 19th August, the GWU asked whether this sitting was meant to interpret its previous award or to deliberate a new decision. This question was raised since in the meantime a number of workers in the fire division, all members of the GWU, had renounced their right to revert to the DCA. The union contested that one member of the tribunal, who was occupying the post of president of the Confederation of Malta Trade Unions (CMTU) to which the UHM is affiliated, had already

expressed an opinion about this matter before the tribunal. As such it requested his abstention. It further stated that the position of the other member on the Tribunal was also untenable since he was an official of the Malta Employers' Association, which had publicly criticised the GWU for its industrial action. When the chairperson of the Industrial Tribunal informed the Unions that its two requests had been turned down the union filed a case to contend this ruling before the civil court. This forced the tribunal to adjourn *sine die*.

On August 21st, the GWU ordered a six and a half hour stoppage at the airport from 10.00 am to 4.30 pm. Disputes arose between fire section workers who were on strike and others who were not. The police intervened to resume operations. The airport authorities filed an application for a warrant of prohibitory injunction against trade union action at the airport. The Civil Court ruled that the GWU and the UHM could not call industrial action at the airport over the issue of recognition as they had no dispute with the MIA that falls under the terms defined at law. It therefore concluded that actions taken in pursuit of directives issued by unions against MIA could not qualify for immunity in terms of Industrial Relations Act.

In the meantime, MIA employees, members of the GWU, were arrested by the police following reports that damage had been caused to MIA equipment. GWU officials stopped the police bus that was taking these employees to police headquarters by blocking a major road. The Prime Minister accused the GWU of creating unnecessary hardships and problems by its irresponsible actions. The GWU held a press conference during which its general secretary stated that the union officials were denied permission by the authorities and the police to speak to the workers. He also alleged that the police had manhandled and wounded workers on strike. These kinds of exchanges between government and union became highly confrontational and became harsher in language when the GWU members and officials were summoned to court.

The GWU even refused to take part in the official ceremonies organised by the Government in connection with the celebrations of the new millennium. The UHM kept on insisting that the decision of the Industrial Tribunal had granted it sole recognition.

Epilogue

Amid these controversies, discussions between the two trade unions were being held under the chairmanship of the Deputy Prime Minister who acted as a mediator. An agreement was finally reached and signed on March 27th 2000, which stipulated that the two trade unions would start negotiating a joint collective agreement, which would expire in December 2000. Two months after the signing of this agreement, the DCA workers transferred on loan to the MIA would be asked to take a final decision about their employment with the MIA. Once this decision is taken, a secret ballot would be held by means of which the workers would decide which union they would like to represent them.

After the signing of this agreement, a presidential pardon was issued to the GWU members and officials who were being arraigned in court in connection with the industrial action at the airport and the incidents that ensued. The Prime Minister was quoted as saying that he had signed the recommendation because he believed it would be in the best interest of the nation. In view of this presidential pardon, the magistrates in charge of the cases against the GWU members and officials stopped the proceedings. On its part, the GWU stated that it had never asked for a pardon and during a press conference displayed the various faxes it had received from foreign trade unions expressing their support to the union. It also stated that it intended to proceed with its case in front of the ILO.

The case instituted by the International Confederation of Free Trade Unions (ICFTU) to the International Labour Organisation (ILO) against the Maltese Government in the MIA dispute was

heard during ILO Session 278, held in Geneva on 17th June 2000.

The ILO Committee could not conclude that that the government order of evicting strikers or the corresponding police action were in violation of the principles of freedom of association. The Committee further stated that the case "would probably have been dealt with more effectively had the national legislation been clear on recognition disputes, representation and legitimate restrictions on industrial action". It requested the Maltese Government to amend the industrial and labour legislation to clearly define trade union recognition as a legitimate subject for a trade dispute.

The ILO Committee could not condemn the decision taken by MIA to solve the issue through court action since the award of the Industrial Tribunal on trade union recognition at MIA was ambiguous. The company could neither make use of a secret ballot as one of the unions opposed it and it was not clear which employees would have been eligible to vote.

From the evidence provided - film footage and process verbal - the ILO Committee could not conclude that the police had used excessive force in dealing with strikers. It however pointed out that a trade union had a right to discuss occupational issues at the premises. This constitutes one of the principles of freedom of association. The company could be exonerated from infringing this principle because it did not interfere when the GWU found an alternative meeting place.

In its reaction to this report, the GWU secretary general said that the recommendations made by ILO were directed at the government. None were made to the GWU. The ILO ruling would serve as a deterrent to Government in future not to act the way it did in August 1999. According to ILO standards, industrial action over trade union recognition is legal. However the Maltese Government took the GWU to court with a plea to the magistrate to define the GWU industrial action as illegal. The ILO recommended amending the law in order to make the issue of trade union recognition less ambiguous. "In the end, we obtained

what we wanted from the ILO and the Government should now abide by what the ILO governing body said" (GWU Secretary General, reported in The Times, 21.06.2000).

The Deputy Prime Minister stated that "everything the union accused us of was unfounded and has been dismissed by the ILO. The report in fact certifies the seriousness of Government's dealings with the situation. Indeed the report should open the GWU's eyes to the fact that it cannot treat other issues like it treated the one at MIA and that solutions are to be found meeting round a table and not on the street or by waging unnecessary strikes"(The Times, 21.06.2000).

The ICFTU secretary, Ms Hoddle, was quoted as saying: "We are satisfied with the report. When the law lacks clear definitions, the Government can see to that ... We are here to see that trade union rights are upheld and we are satisfied that the issue had been solved locally" (The Times, 21.06.2000).

Conclusion

A dispute over trade union recognition developed into a drama involving various actors. The GWU undertook industrial action at Malta International Airport to drive its point home. A series of events snowballed into a scene: trade union leaders prevented from addressing employees by not being allowed access to prohibitory areas; intervention by the police; alleged damage to MIA property; arrest and removal of employees; blockage of a major public road by GWU officials; the ensuing scuffles between these officials and the police and the arraignment of trade union officials in court. Finally the case was referred to ILO.

Two important conclusions can be drawn from this drama. First it manifests that trade unions have to operate in a society and polity that is truly pluralistic. A society has to strike the right balance between democratic principles and social control. Its mechanism to maintain social order may impinge on trade union

action. Secondly trade unions, like any other active groups, often find themselves operating on the margins of legality and rationality. They may, in such circumstances, decide that stepping over the defined boundary of acceptability and propriety is a worthwhile risk to take, and sometimes impossible to avoid, in order to drive a key message home (Baldacchino *et al.,* 1999). However, in a ruling of a case instituted by MIA, the court confirmed a decision it had taken in January 1998 in the case of the Freeport Terminal p.l.c. against UHM: it set definite limits on the trade union action.

This endgame was happening precisely at the same time while the GWU and Government were locked in another dispute over the contractual obligations of Government towards Kalaxlokk workers. This case will be dealt with in the next section.

Redundancies & Contractual Obligations

In 1986 Kalaxlokk Co. Ltd. was set up to take over the work being carried by two parastatal companies - Kalafrana Construction and Xlokk Construction. These two companies that were engaged in the construction of the Freeport were running into serious financial difficulties. Kalaxlokk took the almost 1,800 employees of both companies on its books.

After its election victory in 1987, the Nationalist Government embarked on a policy of reducing the number of these employees, with a key Minister claiming that "the company had no programme of works that was in any way compatible with the number of employees on its payroll" (Falzon, M. reported in The Times, 19.7.1999). Between 1987 and 1991, there was a decrease of over 800 employees from the labour force of the company. In 1991, the Government introduced a voluntary scheme by means of which it offered a sum of money to those workers who left on their own accord.

In 1994, Novita Construction Ltd., a private consortium, was awarded the contract for the building of Terminal II at the Freeport.

In its contract Novita pledged to take on the workers for 50 years. The GWU that represented the workers did not recognize this agreement. In November 1994 an agreement was signed between the GWU and Government in which it was stated that Kalaxlokk should still be considered as a parastatal company and that its workers would remain in employment. As the Terminal II project was nearing completion, the employment of these workers was under threat since the company had no alternative work orders.

Following industrial action in 1996, Government pledged itself in an agreement signed with the GWU that every effort should be made to find alternative employment to those workers for whom there was no work available at the company. This had to be done in accordance with the agreement of 1994. However the surplus of workers, due to a decrease in workload, was such that this problem proved too difficult to solve. In January 1998 the Labour Government, elected in October 1996, agreed to absorb these workers in parastatal corporations. However, the draft of the legal amendment necessary for this policy to take effect was not yet made by the time (September 1998) that the Nationalist Party was returned to power following a snap election. The new Minister for Economic Services stated in Parliament that forcing parastatal corporations to recruit Kalaxlokk redundant workers would mean that Government would be giving preference to the latter over those who had been registering for work. This was not considered to be fair by the Minister and he pleaded for another solution to the problem. Thus, in January 1999, Government proposed the following scheme:

- Kalaxlokk Employees under 55 years of age will be given Lm400 for every year of service since 1986 as terminal benefits. They will have to renounce the right to notice money but will have a right to register for employment. Those who manage to find alternative employment would still be entitled to benefits.

- Employees aged 55 and over will be given a full pension if they retire.

For this scheme to go ahead, Government was willing to fork out up to Lm2.52 million, provided that at least 200 employees would take up the offer (The Times, 21.1.99). At this time, Kalaxlokk had 477 employees on its books with an annual wage bill of about Lm2.4 million.

The GWU did *not* accept this proposal, arguing that Government was only abdicating its responsibilities by laying off workers through this scheme. It insisted that Government had obliged itself to guarantee the workers' job in the 1994 agreement and was therefore obliged to find them alternative employment. The union however said that it would not oppose the implementation of the scheme provided that it was on a voluntary basis and those who would opt to refuse this golden handshake would not be discriminated against. The union made a plea for more dialogue and meetings to find a solution. The Prime Minister was quoted as saying (The Times, 23.1.99) that the Government was still interested in continuing discussion to find a solution that would enjoy the support of all interested parties.

This willingness by both parties to enter into discussion was followed by intense and prolonged negotiations. These were finalised in June when the union accepted the following proposal made by the Government:

- Workers who voluntarily terminate their employment with the company will each be given a sum of Lm900 for every year of service with the company. The money will be paid as a tax free, lump sum.

- Such workers would still be eligible to register as unemployed and to receive all other social security benefits.

- The company reserved the right to refuse any application.

- For the scheme to be put into effect as least 200 of the 477 workers on the company books have to apply.

- Those who opt to remain in employment with Kalaxlokk will be guaranteed that their working conditions as stipulated in the 1996 collective agreement will remain operative.

Sources close to the company were expecting that at least 300 of the 477 employees would apply to leave (The Times, 9.7.99). The prevailing assumption was that this scheme had brought to an end a controversial issue that had beset Government and union for years. However, by the date set as a deadline in the agreement, fewer than 200 workers, the target set in the agreement, had applied to leave and to accept the termination benefits. In view of this unexpected low response to the offer, the Government stated that it had to review and assess the situation. The company should only be viable with a drastically trimmed workforce. Sources close to Government were quoted as saying that the Government was determined to close down Kalaxlokk unless the GWU was able to offer a proposal that would make the company viable (The Times, 16.7.99). The chairperson of MIMCOL, the company overseeing state enterprises, was quoted as saying "some remedies have not worked, surgery will now be applied". (The Times, 16.7.99).

These press statements, claimed the GWU, were part of an orchestrated campaign to mobilize public opinion against the workers and justify the liquidation of the company and the subsequent dismissals of workers. The union held firm to its stand that the Government, according to the agreement signed in 1994, could not abdicate its responsibilities towards these workers.

Meetings between Government and union were resumed. It was finally decided to extend the deadline and give Kalaxlokk employees an opportunity to reconsider their position. The response

this time proved to be to the Government's satisfaction as, by the time of the new deadline, 277 employees had handed in their letter of resignation.

With 186 workers left on the books of the company, the Government was laying out plans to sell it to a private investor. The GWU warned Government not to take a unilateral decision and to consult it before making such a move. This issue seemed to be once more heading towards an amicable solution. However a new controversy arose about the guarantee fund. The union claimed that according to the agreement Government was bound to provide a fund to guarantee termination benefits for those workers who remained in employment with Kalaxlokk.

The Government proposed to finance a guarantee fund for those Kalaxlokk workers who had opted for the golden handshake scheme but were retained by the company because their skills fitted with the company's needs. The GWU refused this offer, stating that according to the agreement signed on the 18th June 1999, the Government was bound to guarantee termination benefits for all Kalaxlokk workers. To force Government to reconsider its decision, the union ordered the harbour pilots not to assist ships carrying fuel for Enemalta. Mediation talks got underway and on 26th August 1999 an agreement was reached between the GWU and Government. The two sides agreed on the setting up of a guarantee fund of Lm 1.2 million to be utilised by workers in case of redundancy.

Both sides claimed victory over this issue. The Prime Minister was quoted as saying that the previous offer made by the Government had been more beneficial to the workers and that the GWU had lost "the battles it chose to fight" (The Times, 29.8.99). In contrast, the editorial of the GWU-owned paper *L-Orizzont* (28.8.99) claimed that the fact that all Kalaxlokk workers – and not just those listed as remaining with the company – would be benefiting from the fund was a substantial improvement over the previous offer.

General Conclusions

One may claim that the events of 1990's did not cause any major alteration in the power relations between the actors involved in local industrial relations. The outcome of the Phoenicia dispute in the first months of 1990 did act as a spur to employers to call for changes in the legislation to curtail trade union power as regards for example the right to order a sympathy strike. However, no changes were effected.

The social dialogue begun in 1990 through the incomes policy was maintained even when there was change of government in 1996. Indeed in the 1990's the Maltese industrial relations system is characterised by bargaining at two different levels: at enterprise level through single collective bargaining and at national level at the Malta Council of Economic Development (MCED). While at the MCED trade union representatives together with the other social partners agreed on an annual cost of living adjustment (COLA) based on a retail price index (RPI), they continued negotiating other wage increases over and above COLA for their members through collective bargaining at enterprise level.

Nevertheless, the events of the 1990's show that social partnership is not synonymous with industrial peace and harmony. The institutional set-up of social partnership offered a platform where the different interests of workers and employers were recognised and the collective representation of their interest accepted. But it did not always prove to be an effective mechanism for solving the industrial conflicts that occurred.

The disputes of the 1990's also show that unions are not only pure and simple collective bargaining agencies but they also try to protect employee interests beyond the workplace. The workers' rights as consumers can only be enhanced by improving, or at least maintaining, the purchasing power of their pay packet. The stand taken by the unions over the high rises in water and electricity bills announced in the Budget for 1998 was aimed towards the maintenance of this purchasing power. The trade unions also

claimed that the RPI upon which the rate of inflation is based was in need of revision to reflect the present state of the market needs of the individual. In its memorandum to the Government over the 1999 Budget, the GWU recommended that the RPI should be compiled by an independent body (such as the National Statistics Office), reporting directly to Parliament.

This effective brokerage of a trade-off between different interests and their resistance to any measures that adversely affect the wage packet are manifestation of the resilience of trade unions. They managed to maintain their position as the obvious legitimate force of organised opposition. However, as the events of 1990's show, in their opposition stance they have to solve the dilemma as to what is lawful and what is not. The Government sought to draw demarcation lines over trade union action, perhaps to gain some control over this opposition. The Civil Court, in two separate cases, ruled that the industrial action taken by trade unions was not in furtherance of a trade dispute. These rulings may have provided Government with some form of control in the industrial relations scenario (at least until one of these rulings was revoked by a Court of Appeal). The need to update our industrial law and define clearly trade union recognition as a trade dispute was spelt out by the International Labour Organisation.

Thus the integrative and collaborative spirit upon which industrial relations in 1990's were designed did not always prevail. But the evidence suggests that there was no subversive plot to abort this spirit. The Maltese Governments of the 1990's sought to incorporate trade unions into the formulation of national labour economic and social policy, rather than trying to marginalise them.

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