

INDUSTRIAL RELATIONS IN THE DUTCH AND U.S. IT INDUSTRIES: TWO SYSTEMS MOVING APART TOGETHER?

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Abstract:

Since the mid-1990s, the Dutch industrial relations system has caught the attention of international scholars and politicians for its crucial role in realizing job creation and economic growth. While this system of close ties between employers and organized labor (the so-called ‘polder model’) has been in place for most industries, it is largely absent in the Dutch information technology (IT) industry. This is best illustrated by the lack of an industry-wide collective agreement and a preference for individually negotiated conditions and terms of employment. Given this, and the fact that the corporate culture in many Dutch IT companies is strongly influenced by American companies, the IT industry in the Netherlands may be typified as the least ‘Dutch’ of all industries. Trends and developments in the realm of work and employment in the Dutch IT industry are often considered as signs of an ‘Americanization’ of industrial relations. In this paper, we contrast these features with recent developments in the industrial relations domain in the U.S. IT industry. We conclude that, as with its Dutch counterpart, the industrial relations system in the U.S. IT industry appears to deviate from national industrial relations trends. We examine the principal factors underlying these developments. We conclude this paper with a tentative answer to the question whether the divergence of the industrial relations system of the U.S. IT industry can eventually lead to a convergence of this system and that of the Dutch IT industry.

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1. Introduction

In this paper we compare the industrial relations systems in the Dutch and US IT industries. Here we define IT industry as: hardware manufacturers, software companies, and firms specialized in the delivery of software services. One of the issues we address in this paper is: are industrial relations in the Dutch IT industry affected by the dominant American business model? In other words: to what extent can industrial relations in the Dutch IT industry be characterized as ‘American’? In order to answer the questions above we will start with a brief overview of the Dutch and US IT industries (section 2 of this paper). Then we will present a brief description of the national industrial relations systems in both countries (section 3). The emphasis of this paper is the analysis of the actual industrial relations in the two industries through in-depth interviews and literature study (section 4). We conclude this paper by discussing differences and similarities between industrial relations in the two industries (section 5).

2. The IT Industry in the Netherlands and in the United States: An Overview of a Sunrise Industry

The IT industry is often defined as a relatively young, internationally oriented, and above all, dynamic and innovative sector. Besides all these interesting characteristics it is also a sector that is defined by unparalleled booms and crashes. Few economic sectors grow as fast or fall as hard in times of economic progress and decline. The general history of the IT industry so far has mostly been one of specialization.¹ At its infancy the IT industry did not distinguish between hardware and software. The general notion of computers before the 1970s was that you could give it some input and it would provide output. People at that time assumed that no one was ever going to make any money by developing software and services. This belief was mostly due to IBM’s business model. IBM has from the moment it started in the IT industry been the most dominant player. The reason for IBM’s early dominance can be attributed to it already possessing the required expertise and competencies when it entered the market of selling computers (Norberg 2002). IBM started out as the Tabulating Machine Company in

¹ As of late specialization has been replaced by a shift towards integration of hardware, software, and services. In 1995, IBM set the trend by expanding to services and software. Almost all of the larger companies operating in the IT industry today offer a wide variety of products and services, ranging from hardware to software.

1896 and already had earned the trust of companies a long time before they started selling their first computers. IBM had always provided full service contracts to their clients and if clients bought a computer from IBM they would get a full packet service, which included hardware, software and services. This business model had been dominating the IT industry until at least 1969, when antitrust legislation forced IBM to unbundle its software, services and hardware.² Though other firms had attempted to sell software prior to IBM's unbundling process, Mahony (2002) suggests that IBM's case has been of importance for the future development of the sector into three separate areas: that of hardware, software, and services.

The process of unbundling has had significant effects on the development of the IT industry in the world, including the Netherlands. Prior to 1970 the Netherlands had only known relatively few players that either sold computers, most notably IBM, or were able to purchase computers, mostly mathematical and administrative centers. As computers became less expensive they became more popular and were used more widely.

The principle difference between the history of the US and Dutch IT industries resides in the fact that most innovations and investments in R&D as well as IT expenditures have come from the United States (OECD 2000). The principal reason for this is that the US government has invested large sums of money into IT, be it through military, aerospace, or business investments. In the Netherlands and the rest of Europe these investments have been considerably lower.

Though the Dutch IT industry branched in the same way as in the United States, it has also been a story of foreign companies entering the Dutch market. Looking at the Dutch IT industry we can note three types of lineages, whereas in the United States these lineages are not as clear cut as they are in the Netherlands. The first type of lineage is the oldest one and dates back to the earliest use of computers in mathematical and administrative centers as mentioned above. Over time these mathematical centers have been privatized and sold to other firms. What distinguishes this lineage from other lineages is that IT companies that originated from this period have a different culture that makes them more inclined to use a collective agreement. The most notable incarnations of this lineage today in the Netherlands are PinkRocade and AtosOrigin.

The second type of lineage stems from the 1970s and 1980s, when companies started specializing into different branches of information technology. In combination with an

² This situation is comparable to that of Microsoft today, which is required to unbundle some of its peripheral software from its core software product, the Windows operating system.

increasing demand for computers and different types of software, a number of foreign IT companies started subsidiaries in the Netherlands. It is quite likely that during this period when the IT industry was rapidly expanding, these foreign companies introduced 'home country' effects: they imported their own corporate culture. Examples of these foreign firms are the French Cap Gemini (which in 2000 merged with Ernst & Young, to become CGE&Y), the British CMG, and the United States based EDS. The United States during this period was dominating the world IT market, though US firms had fierce competition from Japanese businesses that were rapidly catching up, predominantly in the hardware manufacturing industries.

The last type of lineage stems from the massive numbers of small and medium sized businesses that sprouted in those periods when IT was booming business. There have been a few moments in the brief historical span of the IT industry in which it grew very rapidly and large profits were made. Obviously this attracted a lot of entrepreneurs. While some of these firms have grown exceptionally, others have dissipated or remained small. What typifies both these large establishments and medium to small sized companies is their entrepreneurial character. Examples of such entrepreneurial firms that have grown considerably in the Netherlands are Centric, Ordina³ and Baan.

3. Industrial Relations in the Netherlands and in the United States

Industrial Relations in the Netherlands

Dutch industrial relations, and particularly collective bargaining procedures, are characterized by a heavy reliance on consultation between employers' associations and unions. Representation and consultation are highly institutionalized in a system of rules and bodies such as the bipartite Labor Foundation (STAR) and the tripartite Social and Economic Council (SER).

The closely knit network of social partners and the government within which consultation takes place is often referred to as the polder model (Visser and Hemerijck 1997). It roughly has its origins in the 1920s and 1930s, a period during which union density increased and organizational connections between employers and employees expanded. Besides the already existing employers' confederations, trade union confederations for

³ Though Ordina was originally a French company, it was sold to a Dutch entrepreneur in 1973. It has been a Dutch firm ever since.

employees were established and gradually employers' organizations were accepting the presence of unions at national and industry levels, but not at the company level where employers liked to make their own decisions. Though the unions eventually were able to descend to the company level, the presence of both employers' and employees' organizations at national and sector levels remains an important characteristic of the Dutch model of consultation.

The first act to institutionalize the relations between employers and employees is the 1927 Collective Agreements Act (*Wet op de collectieve arbeidsovereenkomst*, or CAO Act). The Act did not comprise those employers and employees who did not themselves participate in the negotiations. The collective agreement merely functioned as a form of company level regulation, not as a sector, regional or national regulation. Firms not bound by a collective agreement could pay lower wages and produce at lower costs, affecting competitive relations within industries.

Ten years later, in 1937, another act was introduced, which allowed the extension and nullification of paragraphs of collective labor agreements (*Wet op het algemeen verbindend en onverbindend verklaren van bepalingen van collectieve arbeidsovereenkomsten*, AVV Act for short). The AVV Act was accepted on grounds that the factual implementation of an extension should be restricted to those situations where a collective agreement's conditions were applicable to a majority of those who were working in a certain branch.⁴

At the time, not only the extension of collective agreements was discussed, but also their nullification. Nullification was considered a means to tackle the abuse of power, a card that could be played in case an extension did not have the desired effect. Nullifying was only then permitted for those sections of a collective agreement that contravene the general interest. The general drawback of the possibility of nullification was that it would put pressure on collective agreements. The unions were not pleased with the existence of these nullification-possibilities, as they made their job more difficult.

Thanks to the AVV Act, employees knew that there would be no wage competition and that though there may be people willing to work below collective-agreement wages, this would not be allowed. A minimum wage thus was guaranteed, which prevented social unrest. Also employers would benefit as newcomers to the market would not be able to easily enter the market by paying their employees lower wages. These newcomers also had to accept the terms and conditions as agreed upon by employers and employees.

⁴ The majority requirement (*meerderheidseis*).

Proponents of a free-market economy have never been happy with the possibility of extending collective agreements, but the general tendency has been that ultimately both the extension of collective agreements and collective agreements themselves have positively contributed to the improvement of stable industrial relations, labor peace, and self regulation by social partners. Rojer (2002) concludes that there are no signs of the most important potential negative effects such as wage raises or increasing rigidity of the shaping of collective bargaining, have overshadowed the positive effects. On the contrary, (extended) collective agreements are used as the key instrument in responsible wage policy and both supply ample space for bespoke work.

In May 1945, just a few weeks after WW II ended in the Netherlands, the social partners established one of the pillars of the Dutch consensus model, the Labor Foundation. The Labor Foundation consisted solely of employer and employee representatives and its primary goal was to share ideas regarding economic social policy and to try to set aside traditional differences in interests between employers and employees and inform the government of their wishes. Five years later, in 1950, the government set up a similar institution that also included independent experts selected by the government and which resided in public law. This new institution, the Social and Economic Council, was to be the government's official advisory body on social and economic policy.

With the introduction of the 1950 Works Councils Act, employees enjoyed an additional body through which to voice their interests besides through union representation. In the first Works Councils Act (1950) the employer was still a member of, and the chair of, the works council, which was regarded as furthering the interests of the enterprise. With successive amendments of the Act (1971 and 1979), the council was given more and more powers and responsibilities and its role as a forum for representing employees' interests gained growing importance. The works council is a body composed of employees within an enterprise, which has the task of promoting the interests both of the enterprise and of its workforce. This Works Council Act makes it compulsory for a works council to be set up by all employers who employ either 100 or more employees, or at least 35 employees for more than one third of normal working hours (in which case the council has slightly more limited powers). In enterprises with fewer than 35 employees, a works council is not compulsory but the employer is required to hold consultations with the workforce at least twice a year on the state of affairs in the enterprise and any particularly important matters that arise. The Act applies both to the market sector and to institutions in the non-profit-making sector. Over the past few decades the works council has increasingly evolved from being a channel for co-

operation between employer and employees into a body that represents the interests of the workforce.

From the Second World War until around 1980, Dutch industrial relations were marked by a strong dominance of the central level. Although collective agreements were not concluded at this level (since only employers, employers' associations and trade unions possess the capacity to do so), the content of agreements was very largely governed by centralized control. This situation was to last until the end of 1982 when the so-called Wassenaar Agreement was concluded. This agreement centrally concluded between the social partners, which came about because of combined aversion to pay policy measures. Also mass layoffs in the beginning of the eighties played a role in the unions' decision to sign the agreement (OSA 1995).

In two ways the Wassenaar Agreement was a milestone. Firstly, it ended a period of governmental control through pay policy measures. Secondly, it marked the beginning of decentralization of collective bargaining. To a degree, the AVV Act had been responsible for the process of centralization till 1970, as it effectively centralized collective agreements from a company level to an industry level.

A continuing process of decentralization characterizes the nineties. The 1993 Labor Foundation agreement *A New Course (Een nieuwe koers)* is an example of this process. The agreement encouraged the government, the employers and the trade unions to promote diversity and tailor made terms and conditions of employment. The agreement also enhanced the possibility of part-time work and the reduction of working hours, because the unions gave up their veto against the flexible deployment of labor. Finally, it also encouraged union leaders to increase the amount of consultation and democracy within their organizations (OSA 1995).

A final point worth mentioning here is the works council agreement. In 1996 the Works Council Act was revised and a new article was introduced which allowed for works council agreements. A works council agreement can be defined as an agreement between an entrepreneur and a works council. Works council agreements fit in the strategy of the Dutch government to decentralize industrial relations and the Works Council agreement is regarded as a useful instrument in providing tailor made agreements. Works council agreements can contain agreements regarding terms and conditions of employment, but usually contain procedural agreements regarding facilities and work. There is no set duration for a works council agreement and the agreements must be written down. Works council agreements are widely used in the larger companies of the Dutch IT industry.

Industrial Relations in the United States

Most features of today's US industrial relations system have originated in the 1930s, when the Roosevelt Administration introduced legislation that favored worker and union rights to bargain. This "New Deal industrial relations system" (Kochan 1984, 35) had its legislative roots in the 1935 National Labor Relations Act (Wagner Act for short). The Act provided unions with the right to organize. In order to unionize workplaces so-called representation elections were to be held. With the majority of the votes ruling in favor of union presence at a firm, a union would gain exclusive representation rights of the workers at that firm. The Wagner Act required employers to bargain in good faith and provided rules for the collective bargaining process. Compliance with the Act is enforced by the National Labor Relations Board. The Act covers most employees in the private sector who are included under a collective agreement. Negotiations typically take place at the company or plant level, so-called single tier bargaining. In those days the American Federation of Labor (AFL), the national workers organization, advocated the organizing of workers into so-called craft unions, thus separately representing workers in different trades, also known as the trade jurisdiction. Within the AFL opposition arose against the 'horizontal' organization of workers. In 1935 the Congress of Industrial Organizations (CIO) was founded in order to organize all workers in a given industry, creating industrial unions.⁵ The central unions have relatively little authority over local unions. A similar situation can be found among employers, where individual firms tend to control their own labor and personnel policy. Centrally concluded agreements between employers and unions are therefore not a feature of the US industrial relations system.

At the time of the introduction of the Wagner Act public opinion was favorable to increased union power. Twelve years later this view had shifted and a Republican-controlled Congress passed the 1947 Labor Management Relations Act (also known as the Taft-Hartley Act). The Act strengthened the position of employers, among others, by enabling the government to intervene in strikes. Taft-Hartley also abolished the so-called closed-shop system, under which employers were forced to hire only union members. Although unions considered Taft-Hartley as eroding union rights, the Act did not fundamentally change collective bargaining practices. Particularly at large unionized companies industrial relations were institutionalized and professionalized. Gross (1994), however, claims that Taft-Hartley has encouraged employers to resist worker unionization and collective bargaining. In the late

⁵ The AFL and CIO eventually merged in 1955.

1950s management opposition against unions grew, eventually leading to deep hostility vis-à-vis the labor movement in the 1960s. At the same time union density rates were in decline, from about 35 percent in the 1950s to 20 percent in 1983. The economic recession of the early 1980s paved the way for firms to sidestep collective bargaining and union involvement. Mass layoffs in union industries (such as manufacturing) and the shift to white-collar work further reduced union power, enabling firms to unilateral break away from the traditional industrial relations system. Where collective bargaining did take place it was conducted at a decentralized level, sometimes without the involvement of union leaders but instead with rank-and-file workers (Kochan 1984). Negotiations were typically aimed at reducing labor costs in order to compete with domestic and foreign cheap labor. Small-scale experiments in firms holding on to the New Deal industrial relations system required union or employee involvement in workplace-related issues (for instance quality of work programs) or at a more strategic level. For some scholars these developments and a growing interest in alternative forms of worker representation may signal a (possible) transformation of the US industrial relations system (McKersie et al. 1985; Kochan, Katz and McKersie 1986). Dunlop (1993), on the other hand, does not see a radical change of that system, since many features - such as trade jurisdiction and decentralized bargaining - are still in place. The Dunlop Commission, appointed by the Clinton Administration to examine the laws that govern and shape US labor relations, reported a decline of collective bargaining⁶ in the private sector and an increased reliance on government regulation and court rulings in order to protect workers. The Commission recommended, among others, to speed up union elections by shortening the election process (Commission on the Future of Worker-Management Relations 1995).

In the wake of the Commission's findings, the AFL-CIO has been searching for ways to revitalize the US labor movement. New leadership at the AFL-CIO and in some unions offer support for local efforts to organize as part of the 'Union Cities program'. With union density in the private sector at 8.5 percent (2002) there are reports of renewed interest in rank-and-file activism and participation (Hurd, Milkman and Turner 2003). Some of these developments take place in the IT industry, which we will discuss in the following section.

⁶ In the late 1990s over 100,000 collective agreements covered 9 million employees in the private sector, according to BLS data cited in Cutcher-Gerschenfeld, Kochan, and Calhoun Wells (1998).

4. Industrial Relations in the Dutch and US IT Industries

One can imagine that US dominance in the IT industry for over fifty years has left its traces on foreign corporate cultures and industrial relations systems. In the Netherlands for instance pay-for-performance structures are quite unique, but are a common practice within Dutch IT firms. Also the presence of unions in the software and services segment of the IT industry is significantly lower than in other industries. There are reasons to assume however that the US model of industrial relations is under pressure. At the time of writing, IT industries in most countries are hit hard by what appears to be a global economic downturn. Firms that once prospered in a booming industry now are faced with a shrinking demand for products and services. Overvalued stocks, optimistic business forecasts, strong dependency on other industries, short-term recruiting and selection strategies, and a general believe that the sky was the limit for start-up Internet companies, characterized an industry on its way to maturity. A decade of virtually unlimited growth, often financed with venture capital, ended with a bust of the 'Internet bubble'. 'New economy' businesses have to follow 'old economy' rules: at the end of the day profitability is what matters. The folding of dot-com start-ups has had a ripple effect on more established firms. The difficulties that IT firms in the United States faced at the end of the 1990s has turned into a global shakeout of the IT industry.

Industrial Relations in the Dutch IT industry

At the start of 2002, the Dutch IT industry⁷ is comprised of 17,945 companies employing 150,700 people.⁸ 30 companies exist that employ over 500 people.⁹ About 200 of these small and medium scaled businesses, predominantly office machine and computer suppliers, are organized through the *Werkgeversvereniging ICT* (employers' organization ICT). The *werkgeversvereniging ICT* is part of a larger federation named *Nederland~ICT*. *Nederland~ICT* is predominantly a lobby organization for the IT industry, trying to get IT on the political agenda. Provision of information also works the other way around and they communicate information coming from politics to their members. *Nederland~ICT* is not a very powerful organization in terms of influence as it does not have any significant tasks further than providing information. From the absence of further formal sectoral bodies for the

⁷ Defined in terms of SBI'93 codes 72: software and service companies and 30: office machine and computer suppliers.

⁸ Source: CBS/Statistics Netherlands.

IT industry one can assume that there's little interest in such a body. To some extent this can be explained by competitive pressures within the sector. Each company tries to manifest itself by focusing on its individuality. This is demonstrated both in the companies' advertisement with clients and potential employees.

Three unions are operating in the IT industry in the Netherlands on a national scale; the FNV, the Unie and the CNV. In the Netherlands, the FNV is the largest and the Unie the smallest. Within the IT industry their differences in size are not that great and the level of competition between the unions within the IT industry is much lower. The unions claim to have a level of union membership in the IT industry close to 10 percent, whilst the general figure for the Netherlands is close to 28 percent. More than likely this figure of 10 percent is closer to 6 percent as the figure was based on those firms that were operating with a collective agreement. Moreover, as was previously mentioned, a large part of the IT industry is comprised of companies smaller than 200 employees and unions generally do not operate in such small companies, so the likelihood of finding significant numbers of members in these companies is not very high. The number of employees working with a collective agreement in the software and services branch is close to 23 percent in 2001. The reason for this is that the six companies using a collective agreement in this niche of the IT industry employ a significant number of people. In comparison to the rest of the Netherlands this figure is quite low however, as roughly 80 percent of all employees in the Netherlands fall under a collective agreement.

All members of the *Werkgeversvereniging ICT* work with a collective agreement for the hardware and office equipment segment with the IT industry, the so-called the *ICK* collective agreement. Today roughly 35,000 employees fall under its grasp. The *ICK* collective agreement has been around for quite some time and was introduced during the latter half of the 1980s. It was introduced by request of the members in order to prevent to fall under an extended collective agreement of a 'different' branch. Quite a few of these small businesses operate on the boundaries of different branches such as the light engineering industry, but do not wish to become associated with the extended collective agreement (and associated pension and training contributions) of these branches. Today this problem is still current and several attempts have been made to have the *ICK* collective agreement extended as well in order to define the boundaries more tightly. Though the latest attempt to get the

⁹ This means that 99.83 percent of the companies of the Dutch ICT sector is comprised of small and medium scaled businesses. For the whole of the Netherlands this percentage is closer to 99 percent (source: Ministry of Economic Affairs).

ICK collective agreement extended has a high probability of being accepted, the previous attempt was not because of the nature of the ICK collective agreement. The ICK collective agreement is propagated as a minimum collective agreement, which allows some parts of the agreement to be determined at the company level by both the employer and its works council. Several source elements, such as the reduction of working hours, overtime, overtime bonus, inconvenience bonus, and hourly pay, can be traded for a number of spending elements such as money, deposit in the early retirement fund, save-as-you-earn deduction, hour or day off, and day care.

There have been many attempts at getting the ICK collective agreement extended in terms of the AVV Act, but so far all these attempts have failed due to different parties having different interests. The unions think an extension of the ICK collective agreement will open doors to them to companies previously closed to unions. Employers themselves did not truly desire an extension of the collective agreement, but were threatened by a competing extended collective agreement from the microelectronics industry. The problem was that these companies did not want to pay to the employers' contributions to the training and education and pension funds that this sector had. In some instances this would have led to bankruptcies, because these contributions would have had to be paid retroactively. In effect the employers tried to make a deal with the unions. Until so far this had not been possible, because before the employers were too ambiguous with respect to extending the collective agreement for their sector. Now the employers agreed that it was somewhat in their interest. So the deal with the unions was made and the unions helped extending, because without the help of the unions this is not legally possible. In the meantime however the Werkgeversvereniging ICT have been negotiating and making an arrangement with the micro electronics industry. In this arrangement both parties have clearly defined what firms belong and what firms did not belong to the ICK sector. The extended collective agreement will now come, but it is expected that it will probably only be extended for one period (two years), because of the arrangement with the unions.

The ICK collective agreement is the only collective agreement in the IT industry for companies that employ fewer than 300 employees. Usually unions do not visit smaller companies because there are simply not enough members within these companies to legitimate union presence. In the Netherlands, besides the previously mentioned ICK collective agreement, a total of 15 collective agreements exist in the IT industry. Of those, nine can be found in the hardware segment of the sector, the other six in the software and services segment. For the Netherlands we will be focusing at the software and services

segment. The reason for this is that given the assumption that collective agreements are least expected in those firms where the average level of education is high, employees are more than likely capable of negotiating their own terms and conditions of employment. The number of collective agreements in this part of the sector seems to validate this assumption.

When looking at those companies employing a collective agreement, two main reasons seem to exist for them doing so. Firstly, these companies are more or less a direct descendant of computational centers. These companies were defined as first lineage companies in the introduction. Stemming from an era in which almost every company had a collective agreement a culture was inherited, which was comfortable using this type of agreement. Two examples exist in the Netherlands: PinkRocade and Atos Origin. Another example would be Torex-Hiscom, but this company has a history that dates back to 1973 and stems from a foundation that wanted to develop a universal information system for Dutch hospitals.

If ICT companies that stem from a tradition of using collective agreements are likely to continue using collective agreements, the opposite also holds true. During the 1970s and 1980s larger ICT companies came about in the Netherlands that stemmed both from international businesses (second lineage) and smaller entrepreneurs that used the growing demand for information technology to their advantage (third lineage). If companies stemming from these lineages were never using collective agreements, they are not likely to use these now.

A second reason why companies seem to adapt a collective agreement is related to the manner in which the company expands. Some companies expand predominantly through autonomous growth. Other companies grow primarily by taking over other companies. Companies expanding through autonomous growth mainly use works council agreements if they started out with that type of agreement. Key examples in the Netherlands are CMG and CGE&Y. Companies expanding through mergers and acquisitions seem to use a collective agreement only if they deemed it essential for their expansion strategy. Primary examples are EDS and Getronics. The previously mentioned PinkRocade and Atos Origin have also grown through acquisitions. The following table shows which companies are using a collective agreement and which companies are not, where rows indicate a company's lineage (see also section 2 of this paper) and columns indicate a corporate growth strategy. A more elaborate discussion of the ten cases can be found in Van Liempt (forthcoming).

Table 1: Inclination Towards Use of Collective Agreements

Organizational Background	Type of Growth	
	through acquisitions and mergers	through autonomous growth
lineage 1	PinkRocade (7000 employees) (collective agreement) AtosOrigin (6000 employees) (collective agreement)	Torex-Hiscom (300 employees) (collective agreement)
lineage 2	EDS (3000 employees) (collective agreement)	CMG (6000 employees) CGE&Y (5000 employees)
lineage 3	Ordina (3000 employees) Centric (3000 employees) Getronics (7000 employees) (collective agreement)	Baan (850 employees)

As the scheme shows, most of the mentioned IT firms grow through taking over other firms. This may create a need for harmonization of terms and conditions of employment. Two of these firms (Getronics and EDS) indicated they have introduced a collective agreement because the acquisition of some firms would not have been possible. These firms only wanted to be taken over if the acquiring party used a collective agreement. Also another firm (AtosOrigin) stated that using a collective agreement has enabled the company to acquire several firms. These firms thus consider the collective agreement to be instrumental in their corporate growth strategy. In the Netherlands both parties must first agree on the new terms and conditions of employment before they are allowed to take over the firm. Making sure the terms and conditions of employment are agreed upon therefore has a high priority. Some firms (Centric and Ordina) claim they do not need a collective agreement for this reason. Within these firms two common practices can be found. The first is simply taking over a firm and keeping that firm separate from the rest of the enterprise. No attempts are made to harmonize the terms and conditions of employment. This is usually the case when the firm that was taken over had more generous terms and conditions of employment and harmonizing these would be too costly. A second strategy is to harmonize the terms and conditions of employment. This is usually done by a mix of evaluating primary (wages) and secondary (vacation days, fringe benefits, etc.) terms and conditions of employment. These evaluations are done together with the works council or a group of employee representatives of the firm that is to be taken over.

Though having a collective agreement indicates a strong favor towards harmonization, in practice not all different terms and conditions of employment are harmonized. A good example of a company that often is reluctant to harmonize the terms and conditions of employment in case that would be too costly, is EDS. EDS recently took over an automation branch of a Dutch bank. Banks in the Netherlands are generally known for their highly

favorable terms and conditions of employment. EDS chose not to harmonize the bank's collective agreement as that would have been too costly.

The widespread practice of acquisitions in the Dutch IT industry thus has been conducive for some firms to start using a collective agreement. An evenly important factor remains the inherited culture of a firm. Employees like to stick to what they are used to. If they are used to the unions negotiating on behalf of them, they will usually favor unions. The same holds true for the works council. This implies that the number of collective agreements used in the Dutch IT industry is not likely to rise in the near future. The companies not employing a collective agreement are not likely to switch in the near future. The unions had hoped that with the current poor (labor) market conditions in the IT industry the number of union members would rise significantly. Though this may be true to some extent, unions will have to deal with adverse selection: only those employees whose labor market position has recently worsened join the union. This specific group is not as representative for the position of unions as a more general population of the work force. Also if the currently downward spiral in the IT industry is broken it remains to be seen whether this new group of union members will stay with the union.

Because the unions have so little power in the IT industry in the Netherlands, they cannot usually defend their position as much as they would like. Their only bargaining power has so far stemmed from companies wanting to take over firms already using a collective agreement. The companies not employing a collective agreement have generally such a strong individualistic culture that there is little room for the unions. Generally management has strong ties with the works council and tries to use these as a tool against potential union influences. As a human resource manager of a Dutch IT company stated: "The works council is a tool against union meddling".

Industrial Relations in the US IT Industry

Employment in the US IT industry is estimated at 5.3 million workers early 2002. Much of the employment growth is realized in the 1990s. Early employment growth originates in the 1970s, which also see union attempts to organize IT workers. In Silicon Valley, traditionally the heart of the U.S. IT industry, the United Electrical Radio and Machine Workers (UE) reaches out to workers in manufacturing jobs at semiconductor companies through its organizing committees. They are met with fierce resistance by the employers. Intel's co-founder Robert Noyce epitomizes the anti-union climate in the industry: "Remaining non-union is an essential for survival for most of our companies... This is a very high priority

here.”¹⁰ The Machinists, the Teamsters and the Stationary Engineers unions, attempt several times to organize Intel workers. Only once do they manage to get an election, in which they are defeated by a four to one margin (Wolfe 1983).

Of all union drives in Silicon Valley since the early 1970s none of them brings workers a union contract. The anti-union stance among employers coupled with union-busting strategies constitutes only one of the barriers for unions to enter the IT industry. In addition, employers apply so-called ‘union substitution’ strategies to avoid unions. Nonunion companies such as IBM and Digital Equipment introduce ‘positive personnel policies’ (e.g. high wages, training and career development programs, and employee participation and involvement) to cater to the needs of workers (Kochan and Katz 1988).

A substantial number of both high and low-end IT positions are occupied by foreign workers. Both undocumented workers in manufacturing jobs and H1-B visa holders (guest workers) in software companies – for whom being employed is a prerequisite to live in the country – shun union involvement for fear of being deported. Unions fight an uphill battle also because of the shortage of skilled workers that characterizes much of the 1990s. Companies apply a wide range of strategies to entice workers to join a firm and stay with the company, from foosball tables and free bagels on Mondays to signing bonuses and stock options. Employees can ask almost everything they want, or they will leave for another firm, particularly in California where non-competition clauses are prohibited. Being able to vote with their feet, ‘dot-com yuppies’ and ‘Internet cowboys’ do not feel a need for a union.

However, during these boom times unions manage to tap into the discontent of a group of high-tech have-nots: the temporary workers that are employed on a large scale by firms in the IT industry. In 1998, all eyes are set on the Seattle area where a number of (former) temporary agency workers at Microsoft Corporation organize themselves in order to collectively voice their dissatisfaction with the way Microsoft and temporary work agencies are treating agency workers. To secure the organization’s flexibility, 6,000 out of Microsoft’s approximately 19,000 Seattle-based workers are ‘contractors’: temporary workers who are on assignment at Microsoft for a duration anywhere between six months and six years. Microsoft does not hire these ‘permatemps’ as they are popularly dubbed, but rather sends them to a temporary work agency through which they are then employed at Microsoft. Microsoft executives state that using temporary agency workers is fair to these workers: workers do not come in thinking they have permanent jobs only to find themselves out of work at the end of

¹⁰ Eisenscher (1993), unpublished manuscript cited in Benner (1998).

their project.¹¹ At Microsoft the temporary agency workers do exactly the same work as regular Microsoft employees. What separates the agency workers from Microsoft employees is the fact that they miss out on benefits, cannot attend company events and have to wear orange ID badges, distinguishing them from the blue-badge Microsoft workers. Non-compete clauses prohibit agency workers to apply for jobs at Microsoft.¹² In the light of these working conditions and in the wake of the decision in *Vizcaino v. Microsoft Inc.*, which deals with the large scale use of temporary agency workers by Microsoft, the aforementioned group of (former) temporary workers establishes WashTech, the Washington Alliance for Technology Workers.¹³ WashTech's member base slowly but steadily expands over the months following its inception, with technology workers from other companies in the Seattle area joining the alliance. Microsoft chooses to ignore the worker representation as it considers the temporary work agencies to be the employers of the workers.¹⁴ WashTech becomes an official affiliate of The Newspaper Guild-Communication Workers of America (TNG-CWA), through which it receives financial support to finance its organizing and awareness campaigns. By the summer of 1999 WashTech has 250 dues paying members and 1,400 subscribers to its listserv (Van Jaarsveld 2000).

While the legal heat is on Microsoft to find ways to deal with its 'permatemp' problem, WashTech expands its organizing activities to include all kinds of technology workers in the Seattle area. In November 2000, 400 employees at the customer service department of Internet retailer Amazon.com in Seattle seek union representation through WashTech. Their complaints include job insecurity, mandatory overtime shifts, and erratic work schedules. An Amazon spokeswoman states that the company "needs to be flexible in order to innovate on behalf of customers and employees. Unions are not terribly flexible when it comes to making changes for the workforce or customer base."¹⁵ She adds "we just don't think [having a union] it's going to be in the best interest of our company".¹⁶ Two months later, the company announces that it will close the entire department in spring 2001; the majority of workers will be laid off. A similar scenario takes place at the San Francisco product-review company etown.com. A workers' request for elections to join the Northern California Media Workers Guild, a CWA affiliate, in January 2001 is approved by the NLRB.

¹¹ *New York Times* (1999). High-Technology Sector Unmoved by Labor's Song. July 26.

¹² *Seattle Times* (1999).

¹³ Another factor contributing to WashTech's formation is the decision by the Washington State Department of Labor and Industries to eliminate overtime pay to IT employees who earn more than \$27.63. This decision affects high-tech agency workers who on average earn \$30 per hour (DuRivage 1999).

¹⁴ *Seattle Times* o.c.

¹⁵ *Computerworld* (2001).

The company's president dismisses the desire for a union by stating that "unions have a political agenda, we care about our employees' jobs and their well-being." Etown.com shuts its business early 2001.

Whether or not the closures of the Amazon.com department and etown.com are motivated by the imminent arrival of a union at the companies, the response of employers to 'automate or relocate' (or shut down, for that matter) is nothing new in the IT industry. In a widely publicized union drive, the Glaziers, Architectural Metal and Glassworkers Union attempt to organize workers at Atari in 1982. After the Glaziers claim to have collected enough worker signatures to organize an election, the company initially responds by pampering and simultaneously intimidating workers (Hossfeld 1995). Worker support for the election subsequently erodes. As the union is preparing a second drive, company management announces that it is relocating its production to South East Asia. As a consequence, 1,700 people in the Valley lose their jobs. A second, and even more compelling, example can be found in the case of Versatronex, a manufacturer of electrical coils and subcontractor for IBM. In 1992 a UE-supported workers' demand for better working conditions at the plant spills into a six-week strike. As strikers camp out in front of one of the company's main customers, some of them go on a hunger strike. In January 1993, after the workers' actions win recognition for a union, the plant is closed (Bacon 1993).

In the few cases where traditional organizing strategies create inroads for unions into the IT industry, they do so through traditional parts of the industry. In the telecommunications segment of the IT industry unions benefit from their historically solid member base in landline telephony in organizing workers at (divisions of) mobile telephone companies. For nearly half a century, the CWA has a strong tradition of representing blue-collar telecom workers prior to the break-up of the AT&T-run Bell System in 1984. Following this divestiture the CWA is confronted with a workforce scattered over numerous small firms in a deregulated market for telephony. The two-dozen regional Bell companies (the 'Baby Bells') acquire other firms, merge with each other, and expand their activities to include wireless and broadband telecommunications. This development is characterized by an increased use of temporary staffing arrangements and non-union workers in the new departments of the companies. The union is rapidly losing ground among telecom firms: 65 percent of AT&T's

¹⁶ *CNET News.com* (2001).

workforce in 1984 is a union member, whereas a decade later union density at the company is 43 percent (DuRivage 1999). Although the CWA is able to sustain sizeable representation of workers at companies that provide residential telephone services during the second half of the 1990s, it fails to reach out to employees in the growing ‘new economy’ segments of telecommunications, such as wireless and broadband (Batt, Katz and Keefe 1999). However, at the turn of the century, the CWA is able to transform itself into the ‘union for the information age’, as organizing campaigns at wireless phone companies are successful. In 2001 and 2002 the CWA and the International Brotherhood of Electrical Workers (IBEW) organize workers at Verizon Wireless, the largest mobile phone company in the United States and 11,000 workers at Cingular Wireless, the second-largest player in this field. The CWA already represented 72,500 workers at Verizon Communications, which was created after Bell Atlantic acquired GTE. However, only 46 of the 32,000 workers at Verizon Wireless were unionized prior to the organizing drive.¹⁷ Cingular was formed by a merger between SBC Communications and BellSouth. Most of the Cingular workers now represented by the CWA are former SBC employees, who had a union contract prior to the merger with BellSouth. The CWA also has bargaining units at Sprint Wireless and AT&T Wireless.

At the beginning of the twenty-first century the CWA represents more than 740,000 information technology and communications workers. The union tradition in the Bell System echoes through today’s industrial relations system in the IT industry. The CWA also represents 57,000 workers at AT&T, Lucent Technologies (spunoff from AT&T in 1996), and Avaya Communications (spunoff from Lucent in 2000). With these companies CWA and IBEW have established partnerships targeted at worker employability and career development. It is not surprising to find these traditional union-management alliances in typically blue collar, manufacturing-related, segments of the IT industry.

The most recent actions of the union are directed at computer giant IBM. Workers at IBM have formed Alliance@IBM, a CWA affiliate. The Alliance does not have any bargaining power, but has been successful in pressuring IBM to improve pension schemes for 65,000 workers.¹⁸ Through its affiliation with CWA Alliance@IBM is currently striving to gain bargaining rights with the company. If successful, unions will have a tremendous foot in the door of the IT industry. Freeman and Rogers (2002) have labeled Alliance@IBM the most

¹⁷ *New York Times* (2000a).

¹⁸ *Computerworld* (1999); *New York Times* (2000b).

striking example of open source unionism, a form of unionization that is open to workers who are in favor of a union, but have not (yet) managed to win a union election.

In our view a union that is open for all workers everywhere is the Working Partnerships Membership Association, which has been created under the leadership of the AFL-CIO South Bay Labor Council in San Jose, California. Through Working Partnerships organized labor is successfully reaching out to low-skill workers employed in Silicon Valley, not only at IT firms. Many of these workers are in temporary positions doing clerical, light-industrial and manufacturing work. Employees can join Working Partnerships at a \$25 fee. This member association then offers workers access to health care and training, and provides additional worker benefits. Together with the WashTech initiative Working Partnerships epitomizes union responses to regional dynamics, cutting through companies and occupations and facilitating grassroots organizing.

Table 2 summarizes the main features of the industrial relations in the IT industry in both countries.

Table 2: Industrial Relations in Dutch and US IT Industries Compared

	Netherlands	United States
Role of industry associations and employers' organizations	Predominantly a lobby organization.	Lobby (influencing policy agenda)
Most important actors with regard to collective bargaining	Unions, works councils and the national employers' association (AWVN)	Industry unions and individual firms
Scope of collective bargaining	One industry collective agreement exists in hardware. 15 collective agreements are concluded at the company level.	Company level
Union strategies	Presenting collective agreements as modern flexible institutions (ICK collective agreement). Worker representation in collective bargaining processes, voicing worker concerns (worker advocacy).	Industry-wide approach. From worker advocacy to worker organization.
Union density	28% hardware segment of the IT industry 6% software and services segment of the IT industry 25% nationally	14% in IT industry including telecommunications 8.5% nationally (private sector)
Main differences compared to national industrial relations system	No industry-wide negotiations exist.	Increasing union presence. Union services also open for workers in nonunion firms.

5. Discussion and Conclusion

The sections above show that (developments in) the industrial relations in both the Dutch and US IT industries deviate to some extent from their respective industrial relations systems. In the Dutch IT industry unions have relatively little influence, most importantly due to their small member base in software and services. Union influence is limited to firms using a collective agreement, either because they have traditionally done so (even in those cases when they have been acquired) or because a collective agreement was a prerequisite to acquire another firm.

Dutch companies currently employing a works council agreement are not likely to make a move towards a collective agreement. The reason for this is predominantly because of the strong culture of individuality within most of these IT firms. Individuality within these firms is something that is cherished by both the firms themselves as their employees. With such a strong focus on individuality, there is no room for exterior influences such as from unions and employers' associations. Individual IT firms want to maintain full control over the cost of the delivery of goods and services, without unions being able to affect the wage structure. This gives firms discretion to adjust wages according to market developments.¹⁹

Overall decline of the union member base in the United States has triggered unions to search for ways to organize growing industries, such as the IT industry. Unions operating in the IT industry have acknowledged the need to apply new organizing tactics, which circumvent lengthy procedures to organize workers. The top-down initiated changes through the AFL-CIO 'Union Cities Program' has created institutional support that generated mobilization among workers in Silicon Valley. Bottom-up initiated changes, such as the mobilization of temporary agency workers at Microsoft and other IT companies in the Seattle area, have enabled national unions, such as CWA, to institutionalize the worker movement in fast growing industries that are traditionally not union turf. The preconditions that enabled this revitalization were largely absent during the 1970s and 1980s when attempts were made to organize workers in hardware firms.²⁰

¹⁹ In 2003 for instance, Cap Gemini has asked some of their employees who were earning above-market wages to take a pay cut. Most of the employees accepted these pay cuts.

²⁰ See also Voss and Sherman (2000) for a more elaborate discussion of the revitalization in the American labor movement.

American unions in the IT industry have proven more successful than their Dutch counterparts at penetrating the sector and mobilizing employees. The fact that CWA is an industrial union (and thus not limited by trade jurisdiction) provides the union with tools to approach workers in the entire industry, regardless of their profession and the nature of the employment relationship. IT unions have been able to take workers' advocacy to the next level and realize some form of workers' representation. This is a process that works bottom up and is initiated by the workers themselves.

In the Netherlands this process of employees organizing themselves does not exist at all. There have been a few moments where the unions have been able to rally a number of IT workers, but these rallies have not proven successful and were also regarded with a kind of disdain. IT workers simply do not go on strike, it does not fit their status and they have little faith that it will make a difference. They have a good notion of what is going on in their industry and their complaining will not suddenly incite clients to hire them, there simply is not enough demand for them at the moment.

While IT unions in United States are supported by the AFL-CIO in their choice for a new organizing strategy, the unions in the Netherlands seem to lack a common initiative to approach the IT industry. A 1998 study advised the FNV (one of the three unions operating in the Dutch IT industry) to change the way they approached the IT industry. According to the study unions should focus on the fact that workers in the IT industry are typically highly educated white collar workers. Also the FNV union was advised to set up projects in the IT sector that could attract attention of IT workers. The projects would focus on several themes such as telework, OSHA, job descriptions, and female workers. This has had some effect, but budget cuts and the arrival of new union directors, with traditional views on organizing, brought innovation to a halt. Soon after, worker attention for the unions was back to its old level. In effect not much had changed.

Management and – particularly high-skilled – employees remain convinced that employers and employees can find each other without elaborate institutions and organizations. The question that needs to be raised however is whether this conviction is purely based on market conditions. Because if this is so, one could expect changes in attitude when poor market conditions such as have been prevailing both in the Dutch and US IT industries since

2001.²¹ So far this has not been the case in the Netherlands. Only on a few occasions have the unions been able to gather people to make a stand. These gatherings have had little effect and in the end the unions have been unable to prevent these mass layoffs.

Though the unions in the United States IT industry are rising to the occasion – even more so if employees at IBM succeed in being acknowledged as a union – the industry is still far away from being characterized by institutionalized collective bargaining. Collective agreements are applied more widely in the Dutch IT industry, although their number has not risen since 1999. Currently the Dutch unions are investing most of their time in handling reorganizations within IT firms and seem to lack the time to invest in new relations with employers. It is not clear what strategy Dutch unions will follow in the near future. If this industry has predominantly American traits as we described above, then maybe worker organizing requires an American approach. It might therefore make sense for Dutch IT unions to look beyond the geographical boundaries of the ‘polder model’ and explore possibilities to apply organizing tactics of their US counterparts.

²¹ In the Netherlands 23,000 people have been laid off in the IT industry in 2002; in the first half of 2002 113,000 jobs were cut in the US IT industry. (Sources: <http://www.webwereld.nl/nieuws/13323.phtml> (Dutch data; Bureau of Labor Statistics (US data)).

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