

REFGOV
Reflexive Governance in the Public Interest

Services of General Interest / Theory of the Norm Unit

SYNTHESIS REPORT 2
**REFLEXIVE GOVERNANCE: SOME CLARIFICATIONS AND AN
EXTENSION AND DEEPENING OF THE FOURTH (GENETIC)
APPROACH**

J. Lenoble and M. Maesschalck
Centre de Philosophie du Droit - UCLouvain, 2007

Working paper series : REFGOV- SGI/TNU - 2

Contents

Section 1 : Some Clarifications	3
Section 2 : From a Pragmatist (Stage 3) to a Genetic (Stage 4) Approach to Governance	14
Section 3 : A Case Study in Applying the Genetic Approach: The Transformation of Collective Modes of Action by Labour Organisations in the Context of the Liberalisation of the Belgian Electricity Sector	23
§ 1 Collective bargaining and the evolution of the Belgian electricity sector's regulatory context: Some facts	23
§ 2 The implications of a genetic approach and its value added.	28

SYNTHESIS REPORT 2

REFLEXIVE GOVERNANCE: SOME CLARIFICATIONS AND AN EXTENSION AND DEEPENING OF THE FOURTH (GENETIC) APPROACH

Jacques LENOBLE & Marc MAESSCHALCK

Centre de Philosophie du Droit (CPDR, Université de Louvain-la-Neuve)

Synthesis Report 2 has three purposes. The first is to clarify the implications of certain expressions used in *Synthesis Report 1*¹ (Section 1 below). The second is to carry further the last stage of reasoning in the argument developed in *Synthesis Report 1*, which had resulted in the suggestion that the pragmatist approach to governance be taken in the direction of a broader consideration of the conditions for success of the learning operation. As will be seen below (Section 2), we call the latter approach to governance “genetic”. Last, to illustrate the contribution that a genetic approach can make and the institutional consequences that flow from its application, we apply this approach to a concrete case. In Section 3, using the genetic approach, we analyse the transformations of ways of acting that Belgian unions today must make in order to deal with the liberalisation of public services in the energy field.

Section 1 : Some Clarifications

Synthesis Report 1 advanced the terms “reflexivity” and “learning” as constituting a way to characterise a system of governance capable of maximising fulfilment of the normative expectations held by participants in a collective action. In so doing, it differentiated four approaches to governance to be found within current inquiry into governance. The implications of both the terms and the differentiation call for clarification.

In a draft report recently presented to REFGOV, C. Scott² stated that “reflexive governance, as it is conceived within the [REFGOV] project, involves the establishment of institutions and processes which facilitate the actors within a domain for learning not only about policy options, but also about their own interests and preferences.”³ While this definition is not

¹ J. Lenoble & M. Maesschalck, Beyond New-Institutionalist and Pragmatist Approaches to Governance, *Synthesis Report for the REFGOV Research Project*, REFGOV Working Papers Series: REFGOV- SGI/TNU-1, 2006, <http://REFGOV.cpdr.ucl.ac.be/?go=publications>.

² How Reflexive is the Governance for Regulation?, First Draft Report Presented to the Second Common Workshop of the SGI Subnetwork of REFGOV (not to be cited without permission), p. 1.

³ Note that this definition is found in the work of many REFGOV researchers. Thus, in his report on the research conducted by the Corporate Governance Subnetwork during REFGOV’s first year (2005-2006), S. Deakin contrasts the reflexive governance approach to the assumptions of neo-classical economic theory, namely, the “assumption of perfect information and perfect capacity to act” and “corresponding to this... a concept of the norm as a ‘constraint’, within which agents pursue their well being as far as they can.” “By contrast,” he writes, “an ‘action-based’ or pragmatic conception departs from the assumption of perfect rationality in favour of

inaccurate, it poses the risk of generating more indeterminacy than precision. For this reason, certain observations are called for.

First, in itself this definition defines the reflexive dimension of a system of governance by referring to the idea of learning. To put it another way, a form of governance would qualify as reflexive if it favoured the success of the learning operation required to satisfy the normative expectations of participants in a collective action. By limiting itself to this consideration alone, this definition of reflexive governance covers all four approaches to governance identified in *Synthesis Report 1*. That is, not only the collaborative-relational, pragmatist, and internalist-pragmatic, but also the neo-institutionalist, approaches share the characteristic of reasoning about the conditions for “efficient” or legitimate governance in terms of a learning operation. The approach of neo-institutionalist economics has drawn attention to the inadequacy of neo-classical economics approaches, which resided in their interpretation of economic evolution in terms of natural selection. Thus, even if the neo-institutionalist economics approach does not explicitly call its inquiry into the theory of governance “reflexive” and rarely deploys a theory of learning, it can indisputably be termed reflexive, or referred to as an approach that aims, in contrast to approaches of neo-classical economics, to promote the learning operation of actors involved in a collective action. Clearly the same goes for the three approaches identified in *Synthesis Report 1* as working to extend the neo-institutionalist economics approach. These two rely explicitly on the will to better understand the conditions needed for the success of the learning operation. The idea of reflexivity thus understood means simply that the transformation/adaptation of a given context effected by a given collectivity will not satisfy in the best possible way the actors’ expectations solely on the basis of this spontaneous display of their “natural” competencies. An adaptation of this kind would require the actor to conduct a “return” over her or his “accustomed competencies and behaviours” with the aim of acquiring new competencies. This operation of “reflexive return” would require specific institutional systems. Thus if we define the idea of reflexivity through the idea of learning, all the various approaches identified within the synthesis report could be termed reflexive, regardless of the significant differences among them.

This option offers the advantage of not hiving off any one approach from the others within REFGOV. In fact, it corresponds to the strategy clearly adopted when the REFGOV network was constructed: At that time, researchers were grouped together according to their choice of one of the four approaches, without either privileging or disqualifying any of the four theoretical options.

Significant inconveniences are associated with this option, however. In particular, it prevents seeing what distinguishes these four approaches to governance from each other, once we go beyond their shared will to avoid the fallacious assumption of a process of natural selection guaranteeing the constant adjustment of our collective actions towards a “social optimum”. What distinguishes them is precisely their different ways of conceiving of the learning operation (and thus, the reflexive operation that any learning operation entails). True, as has

learning as the basis for decision making, and replaces ‘constraint’ with ‘context’ as the basis for a theory of the norm. Norms are seen not as direct prohibitions, but as means of empowering actors; norms endow actors with the capacity to act. Institutional features do not predetermine outcomes, but may influence them. Actors have different perceptions of their situations, and must arrive at a shared understanding through a process of mutual adjustment of those perceptions. Normative structures will be more or less successful depending on how far they can generate a learning process of this kind” (*REFGOV Periodic Activity Report 1* (June 2005-May 2006, p. 51).

already been mentioned, many of these approaches do not undertake to develop an explicit theory of this learning operation. Indeed, this is the reason why several of these four approaches are unaware of each other. Scientific discussion of the question of governance is being conducted today within various disciplines, and often these various disciplinary discussions are conducted without attention to research being done in neighbouring disciplines. What this means is that the four approaches identified in *Synthesis Report 1* are often unaware, not just of what they have in common (namely, that they take an approach to governance in terms of how actors' learning is facilitated), but, *a fortiori*, of what differentiates them when it comes to their conception of the conditions for success of the learning operation. Moreover, in turning our attention to the differences in the way they conceive the conditions for success of a learning operation, we gain a further benefit.

The potential fruits of this investigation are not purely theoretical or academic. They are also practical and they relate to the construction of systems of governance. Bringing the four approaches together in order to examine them in relation to their conceptions of the learning operation reveals that they lie on a continuum. What emerges is that these four approaches reflect increasingly broad conceptions of the conditions that must be satisfied to ensure the success of the learning operation. Things unfold as though these four approaches implicitly reflected four successive stages of a single process of inquiry, with each successive stage working to deepen and broaden the understanding of the conditions necessary for the system of governance to enable actors to produce the best possible solution to the collective-action problem they are working to solve. And indeed that is the reason why REFGOV's research is working on two levels. On one hand, various theme-based studies have been organised to allow for the explicitation, in various concrete spheres, of the proposals for institutional design suggested by the four approaches differentiated in *Synthesis Report 1*. At this level (as was observed above), none of the four approaches is privileged over the others. Each is viewed as contributing, within its thematic sphere, clarifications that are highly fruitful in addressing problems and inadequacies presented by present systems of governance. On the other hand, parallel to this first level, an integrative system has been set up to reveal the consistency of the four approaches. The issue here is to show how the idea of possible "progressive broadening" reflects the institutional conditions that could be set up to ensure the success of the learning operation that is entailed by any governance in the public interest. It goes without saying that this integration system in no way implies that all researchers in REFGOV subscribe to it. It's merely a question of presenting the consequences for a theory of governance of an approach that takes seriously the underlying dynamic of present-day research and the deepened inquiry into the learning operation that is driving it. The concern at the heart of *Synthesis Report 1* was to lay down the bases for a system of integration, which will lead in time to the development of a protocol to assess a system of governance's "reflexive" capability to maximise fulfilment of the normative expectations held by participants in a collective action (a Public Interest Assessment Protocol, or PIA Protocol).

This is why it does not seem fruitful to limit the definition of "reflexive governance" (as Colin Scott suggested) to "the establishment of institutions and processes which facilitate [the learning of] the actors". Any form of "reflexive governance" is a function of the explicit or implicit conception of the learning operation that underlies it. Any inquiry into "reflexive governance" must therefore include the question of the differences in conception of the learning operation that can today be observed in the four "reflexive governance" approaches differentiated in *Synthesis Report 1*. Indeed, C. Scott's contribution reflects this necessity. After having defined reflexive governance as that which "facilitates" the learning operation,

he states: “Learning, with open and deliberative processes, might cause participants not only to conceive better techniques or instruments but also, beyond policy solutions, to reorder the way that the policy problems are conceived and prioritised.”⁴ It remains the case that such an approach to the conditions for success of the learning operation, conceived in terms of “open and deliberative processes”, is very specific. It is far from being widespread or taken for granted by all theories that address the question of governance in terms of the learning operation. In fact, it is specific⁵ to the second approach to governance identified in *Synthesis Report 1* – the one we referred to there as the “collaborative and relational approach to governance”.

Accordingly, it is helpful to recall the most distinctive features of the four current approaches to governance whose perspective on governance is a “reflexive”, learning-theory-based one (see Subsection 1 below.) In so doing, we will be enabled (in Subsection 2 below) to clearly identify why it is possible to speak of the extending and progressive “broadening” of the conception of the conditions for success of the learning operation that a system of governance will have to take into account, if the best possible fulfilment of the expectation of actors involved in a collective action is to be assured.

1. The first clarification, then, relates to terminology. From among the various current disciplinary approaches, we have identified four approaches within theory of governance that, implicitly or explicitly, inquire into the question of the conditions for good governance in terms of collective learning.

- The first we labelled the neo-institutionalist economics approach. As we explained, this term should be understood in a broad sense, because it is intended to cover both research in transaction-cost economics, as emerging out of the work of O. Williamson and R. Coase, and research conducted within the frame of reference of evolutionary theory.
- The second we called the “collaborative-relational approach through dialogue”. It could also be called deliberative, since it is distinguished by the idea that the conditions for success of the learning operation require an aggregative and deliberative shaping of the communicative competencies of the various stakeholders.
- The third approach we called “pragmatist”. As its name suggests, it is distinguished by its inquiry into the conditions for success of the learning operation on the basis of an explicit reference to pragmatist thinkers, J. Dewey in particular. The pragmatist approach to governance cannot however be properly understood unless we differentiate between two profoundly different trends within it. Although both these trends work to extend and broaden the presentation of the conditions for success of the learning operation developed by neo-institutionalist-economist and deliberative thinkers, they differ from each other in their understanding of this process of extension and deepening. The first of these two trends is represented by the experimentalist approach (also known as “democratic experimentalism”) of C. Sabel *et al.* The second, which has concluded by identifying the inadequacies of the experimentalist approach

⁴ How Reflexive is the Governance for Regulation?, *op. cit.*, pp. 1-2.

⁵ It would therefore appear difficult to link such a definition of governance, as C. Scott does in his Draft Report, to practices that he analyses in a more specific way, namely “experimentalist” practices developed by the OECD and the EU under the open method of coordination. These efforts at experimentalist practices should, rather, be analysed in terms of the reflexivity- and learning-based approach developed within the pragmatist version put forward by C. Sabel *et al.* under the label “democratic experimentalism”.

and recommending it be extended, was developed by D. Schön in collaboration with C. Argyris and M. Rein.

- The fourth approach is the one espoused by the authors of the present report (and, more broadly, the one developed at the CPDR). We have often referred to it as the “reflexive” approach to governance⁶ to emphasise its basis in what is intended to be the broadest conception of the conditions for “reflexive” return required for the success of the learning operation. However, terming this approach “reflexive” runs the risk of ambiguity in two ways. First, as was seen above, the idea of reflexivity seems often to be related in present-day work in the social sciences exclusively to the idea of learning per se, without being extended to the scope or the precise nature of the conditions required for the success of learning. (Cf. above the definitions of “reflexive” proposed by C. Scott and S. Deakin.) As well, even if we wished to reserve the term “reflexive” governance for an approach that specifies one particular conception of these conditions, the term would still court ambiguity, since it is already currently applied to several different approaches to governance. For example, G. Teubner’s systemic theory, C. Sabel’s experimentalist approach, and D. Schön’s pragmatist theory all explicitly view themselves as theories of reflexive governance. That is, use of the word “reflexive” is affected by the same difficulty as is the word “procedural” in theory of law and theory of democracy: They are terms that come to be perceived at a given moment in the progress of scholarly research as reflecting a significant insight, but that are used with meanings so different that the very success of the terms risks giving rise to more ambiguity and imprecision than theoretical or practical advances. For this reason, we suggest the term “reflexive governance” be limited to denoting the overall process guiding current research in theory of governance, which covers all four approaches identified here. Accordingly, to designate the specific “reflexive” approach to governance developed at the CPDR, which is distinguished by the will to extend and broaden the pragmatist trend (as expressed in both C. Sabel’s democratic experimentalism and D. Schön’s work), we suggest the term “genetic”.⁷ The implications of this choice of term will become clearer in Section 2 below, in which we pursue the implications of the last part of *Synthesis Report 1*, on the reasons for going beyond the “reflexive” approach to governance advanced in D. Schön’s pragmatist thinking and adopting our “genetic” approach to reflexive governance. As will be seen in Section 2, the term “genetic” is intended to take account of two factors. On one hand, the set of conditions for production (that is, *engenderment*) of actors’ capacity to carry out the “reflexive” return required for the success of the learning operation; and on the other hand, the setting up of institutional conditions likely to guarantee effective implementation of the actors’ commitments. Before we come to this point, however, we must present a

⁶ In *Synthesis Report 1*, this approach is also sometimes called “pragmatic and internalist”. While accurate, this designation may prove hard to use because it is too closely linked to certain technical philosophical assumptions. That is, this designation is based on the idea that the fourth approach, while it shares with the deliberative and pragmatist approaches the will to broach the question of learning as the basis for a “pragmatic” approach to the conditions for success of the intentionality of an action, also aims to emphasise the inadequacy of the deliberative or pragmatist conceptions associated with the pragmatic turn.

⁷ It should be noted as well, although this is not the place to examine the question in detail, that the fourth approach allows for specifying the meaning of the reflexivity that is at work in any collective action, not just as regards the use made of the term (whereas by “reflexive governance” is meant any approach to governance that resists the lure of a theory of natural selection), but also as regards (Habermasian or systemic) “collaborative-relational” and pragmatist approaches.

second clarification. It consists of a brief overview of the factors that differentiate and distinguish the four approaches to governance from each other, which have to do with those approaches' differing conceptions of the conditions for success of the learning operation required to ensure maximal fulfilment of the normative expectations of participants in a collective action.

2. The essential idea underlying this presentation of current discussion in theory of governance is thus twofold. First, current discussion rests on a shared conviction that any approach to the regulation of a collective action that assumes “natural selection” of the behaviours required to maximise fulfilment of the actors' normative expectations leads to inadequacies that emerge in the arrangement of systems of governance. Thus a “selection” of this kind entails a learning operation. As well, this discussion results in four approaches that form a progression with respect to the breadth of the conditions required to ensure the success of the learning operation. Each successive stage, *without invalidating* the positive gains of prior approaches, deems those gains insufficient and considers that supplementary conditions must be taken into account in designing systems of governance. What essential trait characterises each of these stages? That is, what is the “value added” that approaches two, three, and four aim to bring to the prior stage; or, to put it in other words, what is the inadequacy that each of approaches two, three, and four views as having been overlooked by the approach that it seeks to extend or go beyond. As was observed above, we will wait until Section 2 below to expose in depth the reasons for, and the nature of, the inadequacies that the fourth (genetic) approach to governance identifies in the third (pragmatist) approach, both in its experimentalist form and in the enhanced form presented by D. Schön, C. Argyris, and M. Rein. This question was no more than touched on in *Synthesis Report 1*. It thus now behoves us to better explicate the nature of the going beyond that the genetic approach is designed to carry out, as well as the institutional consequences this has in terms of the building of systems of governance. We will limit ourselves to briefly and clearly reviewing those specific features of the first stage of the progression that can be observed in present-day research in theory of governance within the *neo-institutionalist economics* approach (see “a” below) and its ongoing extension and deepening, first by means of the second, *deliberative* or *collaborative-relational*, approach (see “b”), then by means of the third, *pragmatist*, approach in two successive forms, and finally by means of the genetic approach (also in “b”).

a. The most characteristic feature of the neo-institutionalist economics approach is what we called in *Synthesis Report 1* its “externalist” conception of learning and what we could consequently call its “externalist” conception of governance. As was shown in that first report, this externalist conception is observable not just in the work of both transaction-cost economists and evolutionists, but also in the writings of those who, like D. North and E. Brousseau, have worked to synthesise the advances made by those two schools of economic thought. What does an “externalist conception of learning” mean, and what are its implications for systems of governance?

The basic idea is related precisely to the way these economists have sought to “go beyond” the inadequacies they detected in the theory of natural selection that underlay neo-classical economic theory, and in consequence in their ascription of excessively great virtues to the market mechanism alone. The reason natural selection cannot operate in human groupings is precisely because it is a function of a datum present at the outset. As L. Marengo and G. Dosi put it, “[A] selection mechanism can indeed, under certain conditions, select for the fittest

structures, but only if the latter exist in the first place. Selection can account for the convergence of a population toward some given form, not for the emergence of such a form.”⁸ But the neo-institutionalists’ notion is precisely that this datum present at the outset is not assumed to be subject to transformation by the learning operation itself. Any selection operation, unless “incited from the outside”, is constrained by the same limitation. This second characteristic results in what might be called an *externalist* conception of learning. For the evolutionists and the neo-institutionalists,⁹ the only way to alter the nature of the datum present at the outset consists of deploying an external factor in order to “broaden” all the initial hypotheses (or, as Simon would put it, all the routines) that are to be tested by the learning operation, in view of choosing the one that seems most powerful to solve the problem that set the collective action in motion. Innovation – i.e., the broadening of the existing representation by broadening the possibilities present at the outset – cannot emerge from the operation itself.

This “externalist” approach to learning also accounts for the approach to governance, that is, the approach to the institutional systems that must accompany the learning operation in order for the latter to result in “optimality”, or at least in the form of organisation of the collective action that satisfies the normative expectations of its members to the extent possible, i.e., governance in the public interest. A “broadening” of local actors’ representations is needed by means of an external mechanism that “imposes”, hierarchically so to speak, a collective representation. E. Brousseau¹⁰ is right to say that the evolutionists insufficiently define the form of organisation that must impose this “broadening” of decentralised local actors’ representations from outside and must ensure that learning will yield an optimum outcome overall. From this perspective, many current neo-institutionalist studies (such as those of E. Brousseau himself, including those cited in *Synthesis Report 1* that examine Internet governance and those currently being conducted by the Institutional Frames for Market Subnetwork of REFGOV) work to make explicit the nature of these external systems that, it is argued, must increasingly take the form of hybrid, public-private partnership, systems. What is important from our perspective, however, besides the advances yielded by this identification of the nature of these systems, is the externality that they embody. The idea is present therein that only an external system could “incite” the acquisition of the behaviours/competencies needed to allow for the most “efficient” possible operation. This broadening of the behaviours/competencies (that is, the broadening of the representations present at the outset from among which the actors select the solutions deemed the best possible) is assumed to have the role (and to be capable) of being incited from the outside by a supervisory mechanism.

b. It is precisely as regards this “externalist” approach to learning – and in consequence to governance – that the second (deliberative), third (pragmatist), and fourth (genetic) approaches to governance are distinguished from the neo-institutionalist economic approach. What they have in common is a shared will to “internalise” the conditions for success of the learning operation. In contrast to the externalist approach, the transformation of

⁸ L. Marengo & G. Dosi, Division of Labor, Organizational Coordination and Market Mechanisms in Collective Problem-Solving, *Journal of Economic Behaviour & Organization*, 58-2 (October 2005), 303-326, 306.

⁹ And in fact, this is the institutional form of the solution arrived at by theorists of evolutionary games and by R. Cooter working in the law and economics framework. (On this, see *Synthesis Report 1*.)

¹⁰ As E. Brousseau remarks, the organisation continues to be the “black box” of evolutionist theory. (Néo-institutionnalisme et Evolutionnisme : Quelles Convergences?, in *Economies et Sociétés*, HS 35, 1/1999, 189-215, 194).

behaviours/desired representations is viewed as resulting from the very organisation of the learning operation with respect to decentralised interaction. Granted, the form that the effort at internalisation takes varies, depending on whether the approach is collaborative-relational, pragmatist, or genetic. As has already been pointed out, the effort at internalisation is given greater and greater breadth, in the sense that the “internal organisational constraints” imposed on the manner of organising the form of cooperative action that is to be henceforward applied to decentralised action are progressively increased. The deliberative or collaborative-relational approach is characterised mainly by the will to organise the “aggregate of communicative competencies”. Concretely, the issue consists, essentially, of organising venues for cooperative deliberation by all the parties involved. It is in the increased number of these venues for participation and of the actors involved in deliberation that the conditions for transforming “routines” and “selecting” the best possible solutions for collective problems are expected to be found. Thus a twofold process characterises this initial effort at deepening the inquiry conducted by neo-institutionalist economists in the broad sense.

First, there is the perception that action on its own by an “external” system of supervision will prove inadequate to yield the hoped for results. This first idea is significant. After all, on what basis can we assume that those who will apply this external system will do so “in the same spirit” as that which prevailed when the external system was set up? Is it not the case that the familiar critique of the command-and-control approach is also relevant here? The work done by S. Deakin within the REFGOV Corporate Governance Subnetwork has made it possible to clearly reveal this first process, which underlies the justification for the proposal that the approach of neo-institutionalist economics be extended in a “more reflexive” direction. As S. Deakin shows, working on the basis of G. Teubner’s systemic theory of “reflexive law”, the usual law and economics approach deals too reductively with the complexity of the processes that drive the evolution of social behaviours. The autonomy of legal subsystems – for example, that of company law – makes it clear that a voluntarist introduction of a “shareholding approach to corporate governance”, at least into legal systems in societies with a European orientation, will not necessarily result in the effects claimed by those who support voluntarism in the name of economic logic. The reason is that the “interpretation” given to it will also depend on the traditional cohesiveness of legal entities. And these legal entities, at least in Europe, require one to take into account the more “integrative” dimension of the nature of the firm. What is in question here is not just the “cultural or ideological” dimension. “Culture” is embedded in the legal constraints that govern the way the legal system nowadays defines what is “legal” and “illegal”. Any new legal reform that may be sought will necessarily have to take into account the inevitable effort at the harmonisation of laws. If, then, we act on the basis of this necessary harmonisation, or congruence, would it not be more “efficient” to improve conditions favouring such congruence by means of appropriate systems? As F. Carvalho and S. Deakin¹¹ have pointed out, congruence might require setting up systems that favour a fuller taking into account, within companies, of all its components (the stakeholding approach) and, in so doing, a fuller account of what we nowadays call corporate social responsibility.

It is based on this first process that we can come to understand the second distinctive feature of the “deliberative” project. Since any external system is at risk of producing effects solely as a function of the “frameworks” specific to its addressees, it is necessary precisely to “act”

¹¹ F. Carvalho & S. Deakin, *System and Evolution in Corporate Governance*, FP6 Corporate Governance Workshop University of Bristol, 13 December 2006 (Draft Report, not for citation).

upon the way relations among these decentralised actors are organised. The “aggregating” shaping of “communicative competencies” among all the actors involved must be organised. It is on the basis of this deliberative involvement by all stakeholders that, thanks precisely to this communicative and deliberative system, one can look for the “broadening” of routines that the success of a learning operation requires and, in consequence, the selection of a normative solution that will maximise fulfilment of the normative expectations of all the actors. Recent reports by H. Adlard and T. Prosser¹² on the evolution of energy governance in the UK and by members of the Leeds Team¹³ on the evolution of governance in the health field in England and Wales illustrate well the institutional initiatives taken in these two sectors towards supplementing and extending the neo-institutionalist-economics-based reforms that accompanied the first steps towards liberalisation during the 1980s and 1990s. At the same time, these reports also make clear the problems and slowdowns that these “participatory” and “deliberative” “reflexive” systems appear to give rise to. In fact, both these reports show that the limitations of exclusive recourse to the mechanism of “aggregating communicative competencies” to ensure the success of a learning operation are becoming increasingly clear. Undoubtedly, as is recognised in the collaborative-relational approach to governance through dialogue, it is useful to take specific action on decentralised interaction. Thus this initial extension of the externalist approach is needed. But it proves in turn to be inadequate. H. Adlard and T. Prosser have proven that “the need for trust between actors, as social capital which could lubricate the wheels of these processes and speed them up (which is essential in the case of the urgent need to respond to the dual problems of energy security and climate change), remains in short supply.”¹⁴ Similarly, the Leeds Team, writing on recent changes in public policy in the field of health services in Wales, point out that the limitations of participatory procedures are becoming increasingly evident and that it is becoming clear that specific systems must be set up to reinforce actors’ capabilities (“to achieve capacitation, the building of communicative competencies”).¹⁵ However, as was stressed in *Synthesis Report 1*, this “attention” to the problem of actors’ “capacity” needs to be properly understood. That is, it tends to be broached in very different ways depending on whether one takes the deliberative (collaborative-relational through dialogue), pragmatist, or genetic approach. The question of “actors’ capacities” as a condition for the success of the learning operation is not articulated in the same way by the three approaches. It is necessary here to recapitulate three points in order to clarify the issues involved in this important question.

First, we should remember that there has recently appeared, within the deliberative approach,¹⁶ the will to break away from the belief that aggregating communicative competencies will on its own ensure respect for the conditions needed for governance capable of satisfying collective interests to the extent possible. Thus from within this approach there has emerged attention to questions of the “empowerment” of actors as a condition that must be imposed¹⁷ in relation to decentralised interaction and that goes beyond the sole condition

¹² H. Adlard & T. Prosser, *REFGOV UK Energy Case Study: Security of Supply and Land-Use Planning*, Draft for Paris Workshop, 2007.

¹³ *REFGOV Case Study: Patient and Public Involvement in Healthcare Governance – England and Wales*, Report for Paris Workshop, 2007 (written by the members of the Leeds Team of the Healthcare Subgroup of the SGI Subnetwork).

¹⁴ *Ibid.*, p. 17.

¹⁵ *Ibid.*, p. 32.

¹⁶ On this, see *Synthesis Report 1*, Section 2, §2, 3.

¹⁷ In this regard, see S. Burris, P. Drahos, & C. Shearing, Nodal Governance, 30 *Austl. J. Leg. Phil.* (2005), 30-58, although this article conceives of capacity building, in a highly classical manner, in terms of informational asymmetry.

of the aggregate shaping of communicative competencies. Similarly, concern to strengthen argumentative capabilities and the will to supply “sufficient opportunities for dissent and constructive counter-argument”¹⁸ is a part of inquiries being conducted in the same vein. But whatever the scope sometimes ascribed to conditions for empowerment,¹⁹ the question of actors’ capacitation is never framed in the terms that authors writing in the second pragmatist tradition (D. Schön, C. Argyris, and M. Rein) would use, nor in the still more radical terms that would be used under the genetic approach to governance. This is because what distinguishes these latter two approaches is precisely the specific way they work to radicalise the question of the level at which actors’ capacity is to be built.

Second, it should be noted that this question of building actors’ capacity is in no way related to the extension and deepening proposed by the first version of the third approach to governance, the one called “pragmatist”. As has been pointed out, this third approach has taken two successive forms, with the second of these working to overcome the inadequacies that the first, referred to by C. Sabel *et al.* as democratic experimentalism, continued to be hampered by. The inadequacy that D. Schön, C. Argyris, and M. Rein have revealed within democratic experimentalism is precisely that this approach obscures the question of actors’ capacitation. The extension of the deliberative approach effected by democratic experimentalism in no way relates to the question of the enhancement of actors’ capacities. It relates rather to another level. The advance from which theory of governance benefits under this first version of the pragmatist trend is the insight that, besides the deliberative shaping of the communicative competencies of the actors involved, it is also necessary that the “negotiation” be organised in an experimentalist manner. That is, it is necessary that actors be engaged in a process of joint inquiry in order to “allow themselves” to be taught by the results of an experimental encounter between existing solutions and new problems requiring solution. In this sense, the process of “internalising the conditions of success for the learning operation” is strengthened and a new condition is revealed, consisting of organising decentralised interaction in such a way that it is ensured that actors engage in a joint process of inquiry. This “broadening” of the conditions for success of the learning operation is reflected, according to C. Sabel, in the requirement that three new conditions be fulfilled in building systems of governance: codesign (and thus collaboration among those who define policy and those responsible for implementing it), benchmarking, and monitoring.

Third, as was observed above, the distinctive feature of the second pragmatist trend (as expressed in the work of D. Schön, C. Argyris, and M. Rein) and the fourth (genetic) approach to governance, drawn from democratic experimentalism, is the will to pursue the inquiry already begun within the collaborative-relational approach through dialogue, i.e., the inquiry into the need to pay attention to enhancing actors’ capacities. Certainly, democratic

¹⁸ *REFGOV Case Study. Patient and Public Involvement in Healthcare Governance – England and Wales, loc. cit.*, p. 29. Contrary to what the authors of the report would have us to believe, in this perspective, in which “the focus shifts from building consensus to encouragement of social dialogue between different constituencies and conceptions of the general interest,” there is no evolution from the “collaborative-relational mode of social learning towards democratic experimentalism.” Rather, this kind of attention to the encouragement of social dialogue remains wholly within “deliberative” logic. As will be seen below, democratic experimentalism implies wholly different kinds of shift of attention.

¹⁹ In authors such as J. Innes and D. Booher, the emphasis goes beyond Habermas’s formal approach and involves attending to the systems required to generate common trust among actors and ensure the emergence of “shared identities, shared meanings, new heuristics and innovation” (J. Innes & D. Booher, *Collaborative policymaking: Governance through dialogue*, in M. Hajer & H. Wagenaar, *Deliberative Policy Analysis: Understanding Governance in the Network Society*, Cambridge, Cambridge UP, 2003, 33-59, 39).

experimentalism, with its requirement that a joint process of inquiry be organised, has already allowed for an advance over deliberative approaches. Its error, however, is that it overlooks the “obstacles” that may hinder the success of a learning operation when it is assumed that actors’ “spontaneous capabilities” suffice for the success of the “joint experiment”. Indeed, no inquiry into these capabilities has been initiated within the democratic experimentalist trend. In tandem with this, the second version of the pragmatist approach and the genetic version are working to extend and radicalise the inquiries carried out by adherents of the “deliberative” approach into the question of the conditions for actors’ “capacitation”. This extending and deepening has been carried out by the pragmatists by means of the “key” concept of “defensive strategies” that actors may deploy unconsciously and that would lead actors to restrict the field of their “representations” as compared with what is needed for the maximal fulfilment of the normative expectations held by participants in a collective action. As will be seen, the genetic approach continues to deploy this “attention” to the question of “defensive strategies” as it works to better think through the conditions for going beyond them.

We can now turn to a consideration of the meaning of the extension proposed by the second pragmatist approach to governance, in comparison with both deliberative approaches and democratic experimentalism. And on this basis we will then be able to shed light on problems that D. Schön’s pragmatist approach is likely to remain faced with and the reasons why we propose extending his pragmatist approach towards a fourth one, which we call the “genetic” approach.

Section 2 : From a Pragmatist (Stage 3) to a Genetic (Stage 4) Approach to Governance

The contribution of the experimentalist approach proposed by C. Sabel consists of pointing out that communicative aggregation on its own – even when specific attention is paid to the resources needed to compensate for informational asymmetry and ensure equality in capacities for argumentation – is not sufficient to guarantee the desired maximisation of fulfilment of the normative expectations held by members of a social group. It is further necessary to ensure that participants in the development of a common norm are organised in such a way that they allow themselves to be taught in common by the results of joint experimentation with solutions viewed as the most rationally acceptable ones for the problem at hand. It is only by establishing this joint inquiry by all who are participating in the choice and implementation of the solutions under consideration that the codesign of a “norm” likely to satisfy all the interests involved to the extent possible will be developed.

C. Argyris and D. Schön have extended this experimentalist process even further by replacing the “experimentalist” version of the pragmatist approach with a more “reflective” one. While they take on board the idea of necessary codesign by all involved in the implementation process, their theory of double loop learning (also known as reflective learning and organisational learning) claims to further open up the “black box” of codesign and shed light on its conditions for possibility. The idea is that the joint inquiry process that codesign implies will only yield the desired results if attention is paid to the actors’ stereotyped behaviours, or routines. That is, “attention” to the lessons emerging from the trial by experimentation of the solutions under consideration does not suffice on its own to effect the needed adjustments to pre-existing behavioural models and approaches customarily used to solve problems, and to determine on the strategies deemed to be the most rational. The adjustment of these “frames” does not occur spontaneously as the simple product of the “shock” that results from experimenting with the solutions under consideration in a new context of implementation. The “reframing” operation calls for specific conditions. It requires that particular attention be paid to potential “defensive strategies”²⁰ that participants in the “joint experimental inquiry” may resort to as a way of ensuring their pre-existing “frames” are reproduced, a process that neutralises the shifts in behaviour and approaches to problems that the unaccustomed nature of the problems to be solved might impose. This specific attention thus constitutes a condition for the possibility of success of the choice of norm. This condition reflects the need to organise reflexivity – that is, actors’ return over their pre-existing frames. If “reflective attention” of this kind is not organised, the institutional codesign mechanism will not ensure the “capacities” needed for the success of the operation. D. Schön writes, in fact, of “capabilities”,²¹ thereby emphasising that, if this necessary attention is not mobilised, the capabilities needed for the success of the operation may be altogether lacking. This “reflective attention”, and the “capabilities” that, according to D. Schön, it is responsible for generating, will obviously feature attention to the “frames” that underlie our accustomed approaches to problems. But it will also entail specific attention to the need to create and maintain a “climate of mutual trust among policy inquirers” and develop both the “ability to put yourself in the

²⁰ On “defensive routines” and “defensive dynamics”, see C. Argyris & D.A. Schön, *Organizational Learning II*, Reading (MA), Addison Wesley Publishing Co., reprinted with corrections, 1996, pp. 103 and 275.

²¹ D.A. Schön & M. Rein, *Frame Reflection*, NYC, Basic Books, 1994, pp. 206-207.

other party's shoes” and the “ability to act from a frame while cultivating awareness of alternative frames” (also referred to as the “ability of double vision”).²²

As D. Schön and his colleagues point out, this kind of attention is undoubtedly currently under-cultivated in the institutions where future policy makers are trained, be they business schools or public policy schools. Indeed, such institutions do have a stronger allegiance to the development of cognitive competencies based on “rational choice approaches” than to those associated with “frame-reflective approaches to policy controversies”. But it is precisely by orienting training programmes towards this kind of reflective attention that the attitudes and competencies specific to “reflective attention” will be developed. The mere incitement to the development of this attention is presented as automatically generating the attitudes and competencies required for a capacity to transform one’s “frames”. As the same authors write, it is sufficient, in a manner of speaking, to “encourage” the actors to take such a reflexive approach for the approach itself to develop, seemingly as the potentiation of a competency or capability that is already tacitly present in all the subjects and whose deployment merely requires that attention be paid to it.²³

It is here that the assumption that is operative within the “pragmatist” approach to reflexivity deployed by D. Schön, C. Argyris, and M. Rein makes itself felt. As was pointed out in *Synthesis Report 1*,²⁴ the extending and deepening achieved by the pragmatist approach in comparison with the deliberative and experimentalist approaches consists of having the success of a collective action²⁵ depend on the setting up of a process that will stimulate, by means of a suitable mechanism, the use of a rule that already exists in the actors’ minds. Thus the assumption is that, in some manner or another, there exist pre-given rules and capacities that are already available. This assumption is based on the belief, voiced by D. Schön, in the “existence of a widespread capacity for reciprocal reflection-in-action”.²⁶

What are the implications of this assumption? A brief review of D. Schön’s theory will allow us to better reveal what this assumption implies. His theory offers the advantage of seeking to articulate the structure of the “reframing” operation that is to emerge from joint inquiry and the specific “attention” this inquiry will elicit when one is faced with a new problem or a conflict to resolve. As was observed in the *synthesis report 1*,²⁷ D. Schön tries to provide an accounting of this operation in terms of metaphoric learning. However, his analysis of the learning operation in the terms of metaphor reflects certain powerful assumptions. The frame each actor spontaneously deploys must be analysed as a “generative metaphor”²⁸ that, in a

²² *Ibid.*, p. 207.

²³ D. Schön and M. Rein observe that, in contrast to business schools and policy schools, schools of design (mainly architecture schools) tend, in the context of study programmes developed in their design studios, to be more attuned to what is required by codesign that is attentive to the requirements of possible reframing. “The generic conditions of the design studio constitute a practicum that becomes reflective when students are encouraged to reflect on the understandings they bring spontaneously to design projects, as well as on the meanings of their coaches’ words and actions, and when their coaches reflect on the theories and processes they bring to their own demonstrations and descriptions, as well on the understandings and puzzlements revealed by their students’ attempts at designing” (*ibid.*, p. 208).

²⁴ *Op. cit.*, p. 109.

²⁵ That is, the capacity to satisfy the normative expectations of its members, to the extent possible.

²⁶ D.A. Schön, *The Reflective Practitioner: How Professionals Think in Action*, Aldershot, Ashgate Publishing Limited, 1996, p. 353.

²⁷ See reference in Note 1.

²⁸ “The metaphor which accounts for centrally important features of the story – which makes it understandable that certain elements of the situation are included in the story while others are omitted; that certain assumptions are taken as true although there is evidence that would appear to disconfirm them; and, especially, that the

sense, constitutes the actor's rule of identity. Every actor has specific interests that define her or his own identity within the social group. But a feature of this rule of identity is that it has a dual function. Its character as a "rule" guarantees the outcome of a twofold operation.

On one hand, it allows the actor to assign to the specific context she or he is faced with the "meaning" that corresponds to her or his "own identity" and adopt a corresponding role. On the other hand and at the same time, it guarantees its own variation, that is, its own changing adjustment to the transformations associated with differing contexts. That is why it is called generative. It produces a rule for the interpretation and integration of the facts. Thus it makes possible the "representations" of specific situations and guarantees the possibility for assigning "meaning" to them. It defines how the facts will be selected that will in turn define the meaning to assign to the situation that must be solved (this is the first operation).

At the same time (and this is the second operation), this rule also guarantees the success of the learning/adjustment entailed by ongoing changes in the specific contexts that have elicited the problems to be solved. This rule of identity – inscribed in actors' minds – ensures that, despite the constant newness of the problems to be solved, the actors will transpose the unaccustomed (the new) onto the known (the familiar). It is this that the idea of the generative metaphor points to: the rule guarantees social actors' capacity to re-read metaphorically, as "analogues" of previous experiences, new situations needing solutions. By means of this inventory of the similar (which allows for perceiving the new as an analogue of the old), the representation that a social actor assigns to a given situation as a function of her or his own identity (or interests) self-adjusts. Variation is made possible by the rule itself. This rule, in the manner of a "scheme" that can be applied to the construction of an image, guarantees the construction of a representation with due respect simultaneously to the specific features of the given context and to the requirements of the identity rule. That is why we use the expression "schematic approach to representation" to designate this approach to solving the question of the conditions for possibility of an identity representation and the variant forms it takes according to the context in which it is applied.

This also helps in understanding why we referred to an "incitement" approach in connection with the theory of "reflective" learning developed by D. Schön, C. Argyris, and M. Rein. According to these pragmatist authors, it is in a sense "sufficient" to pay attention to the problem of reframing for the identity rule inscribed in the frame to be automatically deployed, and for the twofold operation the rule is thought to guarantee to take place – simply because attention has been focused on the necessary "adjustment" to the frames.

It is just this "schematic" assumption of a rule stored in the minds of actors participating in a collective action, along with the incitement approach to governance associated with it, that must be challenged. It is on this score that, in our view, the pragmatist project – not just in the "Deweyan" and "experimentalist" version of which C. Sabel is the exponent, but also in the more "reflective" version developed by C. Argyris, D. Schön, and M. Rein – requires correcting and extending: correcting, because the underlying assumption must be exposed; extending because the exposure of this assumption entails, not a challenge to the organisation of governance proposed by the pragmatists, but supplementation and an indication of what it requires to reach completion.

normative conclusions are found to follow so obviously from the facts" (D.A. Schön, *Generative metaphor: A perspective on problem-setting in social policy*, in *Metaphor and Thought*, A. Ortony (ed.), Cambridge (UK), Cambridge UP, 1993, pp. 137-163, p. 149).

An examination of four points will make it possible to understand the nature of the shift that must take place vis-à-vis this “schematic” approach to the conditions for possibility of an identity representation, as well as the nature of its variation according to its contexts of application.

1. First, the operation by which one adopts an identity – that is, by which we “represent” ourselves, we represent our “interests” in a given context of action, and we “present ourselves as actors” capable of interacting with other actors in order to advance our own interests – does not occur “automatically” or “spontaneously”. Its “success” requires specific conditions to be present and consequently a specific form of “attention”. It is indeed to the great credit of D. Schön, C. Argyris, and M. Rein that they discerned the inadequacy of traditional approaches to governance, in particular deliberative approaches, as regards this matter of actors’ capacity to form appropriate representations of the circumstances and of their own interests. They rightly saw that all the usual approaches to governance cancel out the difficulties specific to this operation. As was seen above, they revealed how often routines and defensive strategies prevent actors involved in a collective action from forming appropriate representations of new problems to be solved and from co-operatively taking part in the joint inquiry that the search for an appropriate solution entails. Such defensive strategies are clues to the existence of a “handicap” in one’s ability to suitably represent the problem to be solved: The actor remains the prisoner of what might be called a “repetition compulsion” that obstructs the self-adjustment process needed for the operation of representation to succeed. It could be said that this repetition compulsion – or defensive strategy – points to the failure of the “subject formation” capacity, that is, the capacity to form one’s identity and be able to represent the interests at stake within a given situation. True, as has been observed, pragmatists like D. Schön do not have at their disposal the epistemological tools to extend this insight. Since they adopt a “schematic”, rule-based, approach, they assume that it is sufficient to pay attention to the difficulty in order to automatically “activate” the actors’ “innate” competency to form a subject. Thus they do not manage to construct epistemologically what they nevertheless discern to be an operation whose success cannot be assumed to be the result of automatic competency.

Their insight requires a supplementary epistemological stage to avoid the pitfall of an assumption of actors’ innate competency to ensure the automatic success of the operation of constructing an identity representation. To avoid this pitfall, it is necessary to conceive this “capacity for self-representation” as the product of an operation of “terceisation”; that is, as the product of an operation that requires, as part of the process of self-construction, the invocation of a third element whose externality makes possible the actor’s construction of her or his image – the image that will enable her or him to identify herself or himself (and her or his interests) in a given context for action. What does this mean? An initial metaphor will help in understanding our use of the term “terceisation”. Reference to a mirror clearly conveys the nature of the operation of representation. To represent oneself is to give oneself an image: it is to “recognise” oneself in an image. But, as the metaphor of the mirror makes clear, it is necessary to “recognise” oneself in the other that an image consists of. Thus it is necessary to first grant existence to this otherness, to this differentiation between oneself and this image that is reflected back from the mirror. Absent this operation of differentiation, the operation of representation cannot achieve success. To put it in still more metaphorical terms, if I am to recognise myself in the mirror, the third factor represented by the mirror must be invoked. The frame of the mirror is the condition for possibility of the existence of the image that the subject recognises as self and identifies with. Thus the success of the operation of representation entails conditions for possibility closely associated with the process of

differentiation or terceisation. It is the need for a device that ensures the existence of this operation of terceisation that D. Schön's schematic approach ends by cancelling out. On this basis, we can revert to a discussion of the two dimensions implied by the operation of identity representation that pragmatists like D. Schön and C. Argyris appropriately emphasise, all the while believing its success to be guaranteed by the presence of a rule stored in the mind of every actor.

What is at issue then is the capacity to form an identity. Identity formation has two dimensions. On one hand, it consists in the capacity to form an image. On the other hand, it consists in the capacity to transform that image. The second dimension implies that one experiences one's identity as "a form capable of varying", that is, as a form with no determinate content. It is important that we not identify ourselves with a determinate or specific image that would take shape as a single identification.

This twofold dimension is what allows a group the conditions for possibility of forming a subject. The subjectivation process implies the capacity to identify oneself, to take on an identity. Correlatively, however, this identification must be accompanied by the perception of one's identity as a simple form whose contents can be determined and transformed through action. It is in fact just this twofold dimension of the relationship that a group has with its own identity that makes possible the "capabilities" D. Schön writes about. That is, the capability of "double vision", which allows one to put oneself in another's place, is wholly determined beforehand by the capacity of recognising otherness, that is, of not limiting one's self-identification to a single image. Thus it is first necessary for the identity relationship to inscribe within itself what has been called a logic of terceisation that installs an "externality" within the relationship that every actor has with himself or herself. On the construction of this "externality" depends the success of the twofold operation entailed by any "joint inquiry" in search of a solution that will "maximise to the extent possible" the fulfilment of the expectations held by parties in a collective action. Let us now seek to explicate more concretely the need to install an "externality" within the relationship every actor has with himself or herself – or itself.

A more concrete approach will allow us to better conceptualise the kind of institutional mechanism, over and above the mechanisms already revealed by the neo-institutionalist economics, deliberative, and pragmatist approaches, that the capacity of a system of governance to satisfy to the extent possible the intentionality governing any collective action depends on.

2. To carry out this operation of *terceisation*, every collective actor must submit to a twofold operation.

The first operation concerns the actor's relationship with the "past". This is a matter of "reconstructing" the actor's relationship with "collective identity making". With this question as the starting point, the actor must examine itself and reconstruct the *form* its *identity* takes on through its past actions. Note the rich semantic ambiguity of the expression "collective identity making", which implies that a collective actor experiences itself in its *organic* capacity to be organised as a collective actor "representing and aggregating" the various members it is comprised of. But "collective identity making" also implies a "*modal* or *functional*" dimension, that is, a dimension related to the possibility of operating and representing itself as a collective actor in a context for action. The collective actor must experience itself through its capacity to represent itself, that is, to form an identity whose

substantive representation can vary and adjust according to transformations occurring in the contexts for action. Thus what is at issue here is the first dimension of *the installation of the capacity to be an actor* (i.e, the operation of self-capacitation). This dimension, as we have just observed, concerns the relationship with the past and works to construct this capacity to form an “image”, to be “reflected” in an image subject to variation. For this reason, we can speak, more precisely and rigorously, of a dimension of *reflectability*.

The second operation internal to this construction of “self-capacitation” concerns the relationship with the future. The question governing this second process is that of “ability-to”. What transformations must be carried out in the way the actor has given meaning to its identity? What means, what “ability-to”, must it adopt in order to ensure, in the new context that it is faced with, the realisation of this identity form “with no fixed contents”, which it defines as its own “collective identity making”? Under what conditions can it make this form effective in the context of the new constraints on action? Thus the current situation is re-examined in the light of the identity form that underpins it (retrospective relationship associated with reflectability), but also in the perspective of transformations necessary to ensure the realisation of this form in a new context for its application. This, then, is the second dimension of the *installation of the capacity to be an actor* (i.e., the operation of self-capacitation). As we have just seen, it concerns the relationship with the future and works to construct the capacity to adjust one’s “image” according to what is entailed by the fulfilment of the “identity form” one takes on as one’s *destiny*. For this reason, we may speak, precisely and rigorously, of a dimension of “*destinability*”.

It is only through this twofold operation that the modification of a representation that is associated with what “pragmatists” call “joint inquiry” can be rescued from the “unconscious repetition” that, through the “defensive strategies” that are its telltale signs, limits the shifts required to solve the problem the actors are faced with. It is because they overlook the need for this twofold operation of “self-capacitation” that D. Schön, C. Argyris, and M. Rein’s conception of the reflexivity at play in all learning is too narrow. As we have seen, the reason for this is that the notion of reflexivity developed by the pragmatists remains subordinated to a schematic approach to the construction of the shifts performed by learning. As was seen, the pragmatic shift brought about by joint experimentation is not the mere auxiliary of the transformation of representations, as might be inferred from the notion of reflective return implicit in the “looping” metaphor. Joint experimentation consists in an inferential relationship with experience that has consequences for both an *anticipatory relationship* with the current situation, to the extent that that situation is capable of evolving (*destinability*), and a *retrospective relationship* with it, to the extent that it is subject to being re-read and re-appropriated in various ways, depending on what the future will bring (*reflectability*). This reflexive position, simultaneously open to anticipation and retrospection, also makes it possible epistemologically to determine an inferential relationship with concepts that goes beyond the schematising logic of representation and considers the concepts themselves concretely, as possible guides to action that are open to their own fulfilment, rather than as sets of constituted meanings burdened with the task of fixing meanings and defining identities. The diachronic prevails over the synchronic; a forward-looking posture prevails over a backward looking one. But note that the idea of “forward looking” includes the uptake of the retrospective dimension that leads to a redefinition of the meaning of the kind of reflexivity in question.

This epistemological clarification was needed in order to be able to go on to the institutional level and address the problem of supervision of the learning process. That is, it allows us to understand why effectively “inciting” actors to reflexivity requires, besides having recourse to

the mechanisms clearly laid out by experimentalists and pragmatists like D. Schön, C. Argyris, and M. Rein, that we act on *actors' capacities*. It also makes it possible to understand the operation of *self-capacitation* as attention paid to two questions reflecting the dimensions of reflectability (collective identity making) and destinability (ability-to) that together constitute the reflexive operation by which an actor constructs its capacity to build a representation – of itself and of the context.

3. This reflexive attention to the operation of “self-capacitation” also makes it possible to give a better account of a certain dimension that the language of pragmatist authors tends to cancel out. Talk of “framing” and “reframing” leads one to believe that the shift performed by the learning operation involves substituting one representation for another. But to speak of substitution or transformation suggests that the transformations just carried out result in the erasure of former representations and the emergence of a wholly new representation. The reality is more nuanced. Even a pragmatist author like C. Sabel, in fact, acknowledges the necessity for such a nuanced reading in describing the changes at work in the field of companies and companies’ organisational forms. In line with what is now an abundant scholarly literature in the theory of the firm, C. Sabel points to the emergence of a “non-standard” form of enterprise. In contrast to the standard model of the firm based on the routinisation and hierarchical integration of tasks,²⁹ non-standard theory privileges the systematic challenging of routines and exploration of ambiguity within a decentralised structure. The approach of the non-standard firm has a relationship to more dynamic and open learning: Whereas the standard firm confronts endemic ignorance in its workforce by simplifying tasks, the non-standard firm promotes co-operative behaviours as a way to uncover new solutions in the face of complex tasks. What is peculiar to the strategy of the non-standard firm is that it allows not just for learning to choose solutions, but for learning *to choose how to choose solutions*.³⁰ C. Sabel is, however, fully aware that the emergence of the non-standard firm does not imply the elimination of old forms of enterprise organisation. The two co-exist and in many fields more hierarchical modes of organisation would appear to retain their full effectiveness.

In other words, the operation of “substitution” or shifting overlays a complex operation that consists not of a simple substitution but rather of a “combination”. If, nowadays, we wish to find the best possible forms of organisation, what is necessary is not just to be open to non-standard forms of organisation but to be able to determine when and where to preserve the old forms and when and where to replace them with new ones. The construction of the rule that the learning operation entails in order to “choose” the solution that will satisfy the normative expectations of participants in any collective action to the extent possible is more complex than D. Schön’s language of reframing (that is, of substituting one representation for another) would lead one to believe. “Semantic” language of this kind risks cancelling out the complexity of the pragmatic shift that the learning operation entails.

To have grasped this is to recognise a symptom of the “reductionism” in the approach to reflexivity developed by D. Schön. We presented above both the “epistemological” reason for this reductionism (the schematic rule-based approach) and how to go beyond it (by extending

²⁹ C..F. Sabel, A Real Time Revolution in Routines, in *The Firm as a Collaborative Community: Reconstructing Trust in the Knowledge Economy*, C. Heckscher & P. Adler (eds.), New York, Oxford University Press, 2006, pp. 106-156, p. 111.

³⁰ S. Helper, J.P. MacDuffie, & C..F. Sabel, Pragmatic Collaborations: Advancing Knowledge by Controlling Opportunism, *Industrial and Corporate Change*, vol. 9/3 (2000), pp. 443-483, p. 478.

reflective attention to the operation of self-capacitation). But this observation now also makes it possible to understand how, at the close of a learning operation that incorporates attention to the twofold dimension of the operation of self-capacitation, the construction of the rule of judgement must in the end attend to the question of the combination of what is to be maintained of the old “representations” and what is to be transformed in them. Attention of this kind implies attention to the risks of simplification that are often associated with emphasis on the effectiveness of new “representations”, without taking thought for how they are to be combined with existing representations.

4. If the reasons guiding our effort to extend the pragmatist approach to learning proposed by D. Schön, C. Argyris, and M. Rein are grasped, then the implications of this project as regards, not the actor’s relationship with himself or herself, but the actor’s relationship with other actors and with the institutional mechanisms intended to structure their interactions and reflect their negotiated agreements, will also have been grasped. And clearly what happens at this second level is key to a theory of governance.

Our critique of the pragmatist approach has consisted of showing that it reproduces the behaviourist assumptions made by the approaches to governance it sought to go beyond. The setting up of incitement mechanisms (joint inquiry and the provision of devices and mechanisms to induce reflective attention to the need for going beyond defensive strategies co-operatively) is expected to produce the hoped for effects of shifting and cognitive transformation. The mechanism is understood to produce on its own the behaviour looked for. The assumption is that the mechanism to some extent operates from the outside, in the manner of an incitement that activates a pre-existing rule that guarantees the hoped for behavioural transformation. As we have seen, there exists a pragmatic inadequacy in this way of understanding the conditions for the possibility of satisfying the intentionality that governs any action by a subject. These conditions for possibility necessitate a self-capacitating operation that no incitement mechanism can assume, in a mentalist fashion, to be taken care of by a given capacity stored in every actor’s mind.

If that is the case, it is clear that the same flaw of a mentalist assumption taints the expectation that any institutional mechanism set up in a negotiated manner in order to guarantee a co-operative solution will produce, on its own, behaviours in line with the negotiated co-operative agreement. The same asymmetry as was observed in the context of the subject’s relationship with itself must be recognised to exist inter-subjectively as well. Assumptions of the creation of symmetry must be exposed as having ties to the schematic assumption that was laid bare above. One way or another, it is necessary to critique the assumption that an institutional mechanism is capable of creating a symmetry-producing situation on its own; that is, the assumption that actors involved in a negotiation situation will all line up with the same allegiance to normative constraints for respecting the co-operative requirements negotiated.

This exposure leads, in governance terms, to the necessity to set up a mechanism for “vigilance” or “alertness”, designed to assess the extent to which the institutional mechanisms set up by the actors, in interaction with each other, have made it possible, through their implementation, to carry out the hoped for adjustments and learning effects. The objective of the operation of self-capacitation described above is to make possible the emergence of the capabilities actors need to identify the difficulty of transforming the impasses engendered by adversarial positioning and the difficulty of delineating the very positions that have contributed to these impasses. For its part, the institutional mechanism is designed to assess

the capacity of the co-operative mechanisms, which were set up to get past these impasses, to mobilise and elicit the behaviours required to ensure the desired overcoming. The operation of self-capacitation is the trace left on the systems of governance of the “normative” conditions specific to the emergence of the capacity to be an “actor”. The institutional assessment mechanism is the trace left on the systems of governance of the fact that, contrary to what is widely assumed,³¹ actors’ capacity to commit themselves to following a rule cannot be assumed to be a given.

³¹ For a clear instance of this assumption in J. Habermas’s pragmatic philosophies and R. Brandom’s pragmatist ones, see J. Habermas, *From Kant to Hegel: On Robert Brandom's Pragmatic Philosophy of Language*, *European Journal of Philosophy*, 8.3 (2000); pp. 322-355, p. 328.

Section 3 : A Case Study in Applying the Genetic Approach: The Transformation of Collective Modes of Action by Labour Organisations in the Context of the Liberalisation of the Belgian Electricity Sector

We believe that, in grasping the impact of this twofold test, a helpful case study is provided by an analysis of the ways that Belgian labour unions will have to adapt in the face of the liberalisation of public services in the energy field and more specifically in the electricity sector. To present this example, it will be necessary to make a brief overview of specific conditions in Belgium, from the perspective of this sector's circumstances as well as of the positions adopted by the sector's labour-movement actors and developments in labour relations (Subsection 1 below). Next we will show how the transformation in modes of action occurs in different ways and results in different strategies, depending on whether the actors deploy an "experimentalist" analysis, a Schön-Argyris pragmatist analysis, or a "genetic" approach (Subsection 2 below).

§ 1 Collective bargaining and the evolution of the Belgian electricity sector's regulatory context: Some facts

In Belgium, the implementation of the European directives dating from 1996 and 1998 took the shape of a reform of the electricity-market authorities and the whole sector's restructuring in line with the principle of the uncoupling of production from distribution and transport from sales. The federal government has authority over matters of rate regulation, planning, and electrical production, while regional governments have authority over matters of distribution and local-network management. The new regulatory authorities were set up in 2001. As of March 2003 in the Flemish part of the country and January 2007 in the Walloon part, individuals were able to choose their supply contracts. As of 2002, Electrabel, the traditional operator, restructured its activities into four distinct entities responsible for production, trading, network management, and sales, respectively. These changes did not, however, alter Electrabel's monopolistic hold over these subsectors. Thus it is possible to clearly observe the market-concentration and vertical-integration phenomena identified by the European Commissioner for Competition, Nellie Kroes.³² Moreover, a report commissioned from *London Economics* in 2004 by the new regulatory authority (known as the CREG, see below) observed that "ideally Electrabel should be broken up so that there were seven or eight generators. However, it was acknowledged this was not feasible under Belgian expropriation laws and Electrabel stated they would not voluntarily break themselves up. *London Economics* recommended further auctions of existing capacity to encourage new entrants."³³ Nevertheless, consumers today are definitely dealing with a liberalised market that features a

³² As the Commissioner wrote, "The European Commission has decided to launch two sets of formal proceedings against the agreements for suspected infringement of regulations under the EC treaty on abuse of dominant position. The first is against Electrabel, the traditional operator in Belgium's electricity sector, which is a part of the French SUEZ group; the second is against the traditional French operator EDF" (July 2007). (Quotation translated from the French for the purposes of the present document).

³³ *Power in Europe*, 25 October 2004, p 3; qtd. by Steve Thomas, *The European Union Gas and Electricity Directives*, Public Services International Research Institute, University of Greenwich, September 2005, p. 70. This report may be found at the CREG's Web site, under the title *Structure and Functioning of the Electricity Market in Belgium in a European Perspective*, *London Economics*, October 2004. On page 17 (as well as p. 280) is found the more modest recommendation that Electrabel be broken up into three or four operators.

choice from among several electricity providers, while various trades have gone their separate ways, resulting in the restructuring of labour relations in this sector.

In the course of this liberalisation trend, the Belgian legislature and its social partners (the State, unions, and management) have sought to preserve the context of collective bargaining that had governed the sector's regulation. "Since 1955, under the *Comité de Contrôle de l'Électricité et du Gaz* ("Committee for the Monitoring of Electricity and Gas", or CCEG), Belgium has enjoyed a regime of co-ordinated action and control that was unique in Europe."³⁴ Its role consisted mainly of "submitting advice and recommendations on rate setting ... and proposed electrical equipment (and natural-gas supply) plans"³⁵ On 21 February 2001, the board of directors of the *Commission de Régulation de l'Électricité et du Gaz* (Electricity and Gas Regulatory Commission, or the CREG) was set up in compliance with a statute of 29 April 1999. In line with the spirit that informed the structures that had existed since 1955, the various social partners participated in a reflection on market liberalisation, and they all continued as members of this new energy-sector regulatory authority.³⁶ Their seats on the CREG are distributed as follows:

- 7 for labour organisations and organisations that represent small energy consumers;
- 7 for employers' organisations and organisations representing large energy consumers;
- 9 for public authorities;
- 4 for other organisations (environmental groups, consumer protection groups, etc.).

Thus the energy sector was in a position to count on the effects of a regulatory mechanism external to labour relations, which would be able to present a picture of the transformations under way from a codetermination perspective.

Furthermore, this mechanism was rooted in a system of collective bargaining based on the negotiation of collective agreements that situated the current transformations in a deliberative climate of respect for the interests of all parties. Electrabel, having prepared itself beginning in 1990 for the possible effects of market liberalisation by ensuring its control of production and of the network through agreements with its sole competitor, the SPE (*Société coopérative de production d'électricité*),³⁷ had been able to ensure collective bargaining focused on job security and wage-related benefits overseen by a sectoral *Commission Paritaire*, or joint committee (known as CP), CP 326,³⁸ that had been set up by statute of 5 December 1968. In this climate of co-operation, the Belgian experience of the European job losses in the electricity sector during the nineties was linked to collective bargaining, which kept recourse to redundancies to a minimum.³⁹ This unusual social context contributed to the development

³⁴ CRISP (2000), C. Declercq & A. Vincent, L'ouverture du marché de l'électricité, I. Le cadre institutionnel, *Courrier Hebdomadaire*, n° 1684, p. 17. (Quotation translated from French for the purposes of the present document.)

³⁵ *Ibid.*, p. 18. (Quotation translated from French for the purposes of the present document.)

³⁶ Web site: <http://www.creg.be/fr/>

³⁷ Together they account for 96% of Belgium's electricity production.

³⁸ According to the most recent changes (Royal Decree of 26.03.2004), CP 326 has authority over workers in general and their employers, that is, businesses whose activities consist of electrical and gas energy production, transport, metering, and trade, and laboratories related to these activities.

³⁹ This was so despite a workforce reduction by some 2,400 jobs during this period. The number of job losses in this sector across Europe during this period is estimated at 250,000.

of the idea that such social stability was integral to sound development by a key sector of the economy that was responsive to public interest.

Labour-movement actors in Belgium

What are the specific features of Belgian labour organisations operating in this deliberative context? Generally speaking, Belgian unions have constituted a significant majority voice in social relations since the end of World War II. In many employment sectors, the rate of unionisation continues to exceed 90%. Labour organisations are grouped on both a sectoral and a geographic basis. The *Centrales professionnelles* are trades-based federations of affiliated trade unions and the *Fédérations régionales* regional ones. Nationwide, they are brought together under two broad cross-professional confederations, one that has a Social-Christian orientation⁴⁰ (the CSC, which accounts for 53% of unionised workers) and the other a socialist one⁴¹ (the FGTB, with 40%).⁴² These two major players are both represented in the electricity sector. They are recognised by law as representing workers⁴³ and enjoy privileges associated with this status, including that of negotiating collective agreements at both the level of individual companies and the sectoral level. These agreements take the specific form known as *conventions collectives de travail* (collective labour agreements, or CCTs). These are the only organisations empowered to represent workers on the collective bargaining bodies (i.e., the *Commissions Paritaires*, or CPs, mentioned above).⁴⁴ So called “social elections” are called every four years in each company to fill the union seats on the works councils and workplace safety boards.

In the electricity sector, the rate of unionisation approaches 95% and reflects the national distribution of union membership, with the CSC accounting for 50% of workers and the FGTB for 40%.⁴⁵ The specific union that accounts for FGTB representation in the electricity sector is GAZELCO,⁴⁶ the gas and electricity labourers’, office workers’, technicians’ and management union, which is a member of the FGTB-affiliated trade union federation called *Centrale Générale des Services Publics* (or General Public Service Federation, , though it represents private-sector workers too). On the CSC side, two trade union federations are present: the *Centrale Nationale des Employés*,⁴⁷ or CNE, and the *CSC Electricité et Gaz*, affiliated with the *Centrale de l’Énergie et de la Chimie*.⁴⁸ Before the implementation of reforms in 2001, the various affiliates were distributed by activity sector as follows: 27% in production, 6% in transport, and 61% in distribution.

⁴⁰ Confédération des Syndicats Chrétiens (ACV in Dutch). Web site: <http://www.csc-en-ligne.be/default.asp>.

⁴¹ Fédération Générale du Travail de Belgique (ABVV in Dutch). Site: <http://www.fgtb.be/CODE/fr/home.htm>.

⁴² A third confederation, with a distinctly minority membership share (9%), is liberal in philosophy. This is the *Centrale générale des syndicats libéraux de Belgique*, or CGSLB (ACLVB in Dutch).

⁴³ Statute of 5 December 1968.

⁴⁴ These organisations also take part in the management of social security agencies, have the right to set up organisations for the payment of unemployment benefits, and field candidates for the position of “social judges”, who preside over labour tribunals.

⁴⁵ Cf. CRISP (2000), A. Vincent & C. Declercq, L’ouverture du marché de l’électricité, III. Organisation et stratégies des acteurs, *Courrier Hebdomadaire*, n° 1695, p. 35 and CRISP (2002), E. Arcq & M. Aussems, Implantation syndicale et taux de syndicalisation (1992-2000), *Courrier Hebdomadaire*, n° 1781, p. 9.

⁴⁶ Web site: <http://www.cgsp.be/code/fr/frameca8c.html>; the Dutch-speaking branch is the ACOD-GAZELCO, whose Web site is at <http://www.acodonline.be/ACOD/Sectoren.aspx?SectorID=5>

⁴⁷ Web site: <http://www.cne-gnc.be/>

⁴⁸ Web site: http://csc-energie-chimie.csc-en-ligne.be/secteurs/electricite_gaz/info/info.asp. The Dutch-speaking branch is called ACV Elektriciteit & Gas.

Two labour-movement cultures

It is worth examining the case of the CSC in order to grasp the changes experienced by labour unions in the sector even before the period of market liberalisation, whose effects began to be directly felt as of 2001, when the “Plan Transform 2003” was announced by Electrabel. From 1954 to 1976, Elcogaz, a branch of *CSC Énergie Chimie*, was responsible for this industrial sector. As of 1976, only one employee status was recognised for the whole sector, covering both labourers and office workers. On the French-speaking side, the CNE acquired responsibility for this sector’s workers, excluding workers associated with transport-network management, who continued to be represented by Elcogaz. On the Dutch-speaking side, the two federations already present continued to work side-by-side and were joined by representatives of Elcogaz. These three partners came together formally in 1992 under the *Fédération des électriciens et des gaziers* (the FEG, which, in 2004, became *CSC Electricité et Gaz*).⁴⁹

This situation internal to the CSC significantly altered the order of things in the sector’s labour representation and emphasised the divide between two very different cultures of collective action. Thus the CNE felt closer, in terms of its culture of intervention, to the socialist GAZELCO, with which it shared an approach attuned to questions relating to the sector’s general interests (such as impact on jobs)⁵⁰ and consumer interests.⁵¹ In contrast, *CSC Electricité et Gaz* was concerned above all to maintain the ethos of codetermination that had prevailed in the sector’s industry-labourer approach, which was more attuned to the benefits derived from a thriving sector (such as wage-related benefits and tax-free fringe benefits, or benefits in kind).⁵²

Thus prior to 2001, two labour cultures stood openly opposed to each other in the Belgian electricity sector. The first, industry and labourer based, found itself in a defensive dynamic and remained governed by the “responsible codetermination” strategy that ensured a form of private-sector profit-sharing (with an impact on wages). The other, which bore the stamp of the service industry, maintained the more classic public-service approach conceived in terms of the number of jobs available⁵³ and an approach framed in terms of service to society and

⁴⁹ Thus this common labour grouping covers *CSC-Énergie*, *ACV-Énergie*, and LBC-NVK (the last representing Dutch-speaking employees) and does not include the natural French-speaking ally of the LBC-NVK, the CNE-GNC.

⁵⁰ “In 1997, two of the four unions representing workers in the sector campaigned strongly for a reduction in working time to 32 hours in order to safeguard, and assist in the creation of jobs. They asked for this reduction to 32 hours to be carried out over a period of six years without loss of pay to recruit 1,700 people in open-ended contracts. They asked the company that the BEF 30.4 billion profit should be used to create more jobs.” (Ecotec, 2001, *The Effects of the Liberalisation of the Electricity and Gas Sectors on Employment, A Final Report to the European Commission*, ECOTEC Research & Consulting Limited, Birmingham, p. 24).

⁵¹ CRISP (2000), n° 1695, p. 36.

⁵² With the evolution of employment in the sector, *CSC Electricité et Gaz* lost many of its affiliates, and even the trade federations it is affiliated with must now contemplate operating on a larger scale, i.e., a merger between *CSC-Bâtiment et Industrie* and *CSC Énergie Chimie*. *CSC Bâtiment et Industrie* itself recently emerged as the end result of several mergers that had occurred with a chain effect in activity sectors such as quarrying, glass, cement, etc. On the other hand, the outsourcing trend in the economy of the eighties fostered an increase in the number of affiliates of the CNE, which is now the most powerful federation in its confederation.

⁵³ “A collective agreement was signed between the sector and the two minority unions in May, which provided for the recruitment of 1,000 workers with open-ended contracts and 3,000 temporary workers to make up for 2,500 workers leaving the company through natural wastage over a period of 6 years. The two majority unions

concern with the objective of guaranteeing the quality of service to customers (and therefore with the quality/price ratio). Thus two possible paths existed and an impasse arose between two opposing visions of the kind of collaboration that should be sought with other actors in the electricity sector: whether to preserve benefits that had increasingly become the prerogative of a minority, or resituate action in line with the new rules of the game, i.e., learn a new role. This impasse, which had already developed before the sector's liberalisation, continued to influence labour's strategies in the context of liberalisation.

Evolution in collective bargaining from 2001 to 2007

As for Electrabel, on 30 January 2001, management presented to the group's 35 works councils its "Transform 2003" plan to "enhance its competitiveness and offer attractive working conditions" in order to prepare the electricity sector for full market liberalisation. These goals were summarised in a press release called *Electrabel entame un nouveau dialogue social*, or "Electrabel initiates a new collective bargaining approach". According to management, the group's priorities were three in number and were designed to address increasingly rapid liberalisation:

- 1) Restructuring of activities around the four basic headings of production, trading, network management, and sales.
- 2) Research and development for skills to match the market's new challenges.
- 3) Enhancement of the organisation's competitiveness through effective and targeted mobilisation of all partners involved.

In connection with the requirement for new skills, the press release clearly stated that "certain positions that were useful in a regulated marketplace lose their usefulness in a liberalised marketplace. Conversely, new positions must be created which require new skills (trading, e-commerce, ...)." Thus 1,700 positions that "were no longer useful in the performance of the four basic activities" were to disappear from the organisation chart in 2003.⁵⁴

This announcement of fresh job losses occurred in a climate that was still favourable to the social-welfare-based negotiation of career termination. In 2000, the average age of Electrabel workers was 45. Thus there was leeway for scaling down the workforce by using such social-welfare-based mechanisms as early retirement⁵⁵ and voluntary departure. It appeared that collective bargaining was being channelled in a pre-determined direction associated with job

eventually also signed the collective agreement on 28 January 1998. On this date the management also promised 'to examine positively' the reduction of working time to 35 hours a week over the course of 1999-2002 under certain conditions, including the preclusion of wage increases, agreements on increased flexibility, etc. During the discussions on the collective agreement of 1999-2000, these conditions were not accepted by the unions." (Ecotec, 2001, p. 24)

⁵⁴ Source: <http://www.eurofound.europa.eu/eiro/2001/03/word/be0103343ffr.doc>. This estimate was based on the following figures: a workforce of 15,235 as of 1 January 2001, the hiring of 350 new workers to do the new jobs (in compliance with existing collective agreements), retirements, deaths, and voluntary departures, placement measures for finding an employee another position within the same company (including provision for training activities). There remained 800 people whom "it would not be possible to re-direct or reassign within the company." Management announced that a socially acceptable "co-ordinated solution" would be found for these people outside Electrabel. (Quotations translated from French for the purposes of the present document.)

⁵⁵ Departures at ages 52-54 under Transform's collective labour agreement (CCT) and 57-59 under the collective social planning agreement *Programmation sociale CCT* for 2003-2004; then departures at age 58 based on interruption or departure with benefits for continuing education under the 2005-2006 CCT.

retention and security.⁵⁶ This plan was very badly received by workers and their unions, especially the two organisations that now undertook to develop union strategies intended to take account of new imperatives associated with the obligations regarding services of general interest and requirements for universal service. The result was an impasse in collective bargaining that lasted until 2003. It was not until 2004 that a social-planning agreement (*accord de programmation sociale*) on early retirement was signed.

The first consequence of this situation was the disruption of what had been called the “pax electrica”, which had enabled Electrabel to maintain the advantages of being a monopoly. In 2003, the CREG challenged the production agreements reached with the *intercommunales* (public companies with mandates to more than one municipality) grouped together under the SPE.⁵⁷ The second consequence was that, since GAZELCO and the CNE had stood firm in opposing the CCTs from 2001 to September 2003, they occupied a strong position during the social elections of 2004.

Over the last three years, essentially for two reasons, the social-welfare situation has hardly improved in this sector. On one hand, Electrabel has continued to pursue its production-sector restructuring strategy; on the other hand, new companies on the scene are making sure they circumvent employment conditions set out by the sector’s CPs and are working to obtain recognition under other CPs more favourable to themselves, for instance under CP 218.⁵⁸

In this climate of increasingly rapid liberalisation, it appeared in 2001 and then in 2003 that the various labour organisations had no choice but to take a defensive posture vis-à-vis what could only be perceived as a will to deregulate the sector. The 2005 Suez-Electrabel and 2006 Suez-Gaz de France integrations only served to intensify labour organisations’ sense of uncertainty about their future ability to preserve their sector’s acquired rights.⁵⁹

§ 2 *The implications of a genetic approach and its value added.*

In considering these changes in collective bargaining, the question we are asking is not how transformations in the regulatory model at work in this sector should be analysed, but rather how to analyse the various possible approaches on which participants in this collective action have been able to base, and will be able to base, their redefinitions of strategies for action, in the climate of new constraints on collective action that changes in the regulatory context present them with. The hypothesis we put forward relates to the value added that the genetic approach can contribute on this score.

⁵⁶ “The possibility exists of taking early retirement over the age of age 57. In addition, there are options for career breaks and reduction in working time. The latter have to be agreed at (local) company level.” (Ecotec, 2001, p. 25).

⁵⁷ Electrabel referred to this initiative as “posturing” and wondered why the CREG had waited so long before denouncing a situation that had been created with the blessing of the public authorities (*L’Écho* - 21/11/2002). In 2003, a widely reported conflict occurred between the local public companies for distribution associated with the City of Liège and Electrabel, with the latter accusing the former of having broken the “pax electrica” of 1991.

⁵⁸ The *Commission Paritaire Nationale Auxiliaire pour Employés*. By Royal Decree of 05.01.1957, this CP has “authority over workers whose occupation is of a mainly intellectual nature and who are not covered by any specific national *Commission Paritaire*.” It covers all businesses that are not members of a specific CP. (Quotation translated from French for the purposes of the present document.)

⁵⁹ The agreements signed in Belgium between the government and Suez are still under challenge both on the Belgian political scene and by the European Commission.

Since the implementation, beginning in 2001, of the European directives, collective bargaining has, as was explained above, evolved. In this context, the actors' modes of learning were not limited to existing deliberative paradigms. They also took a more experimental turn, in order to generate the capacity to deal with the new order. The splitting apart of trades in different activity sectors (production and distribution) and the weakening of the public service led unions to work out repositioned strategies and representations. To grasp what is at stake, deployment of an experimentalist paradigm alone – even one that is attentive, like D. Schön's, to actors' capacitation – appears to us inadequate. It is necessary rather to implement, in a more precise fashion, a genetic approach to learning, in order to determine the factors that reflexive governance of this sector should take greater advantage of.

a. Strategy 1: The experimentalist analysis

If we insist on an experimentalist analysis of the evolution described above, the nature of what has been learned will appear to be essentially defensive.⁶⁰ Given the presentation of successive restructuring plans for the production and distribution sectors, the opportunism of new entrants hoping to break out of the framework of existing collective agreements (taking the form of “social shopping”), labour organisations had no choice but to adopt a job-protection and wage-maintenance strategy. Thus the two labour organisations (GAZLECO and the CNE) that stood apart in 2001 from the three that shared a codetermination culture (the FEG members) ended by making wage-related issues their negotiating priority and were accordingly led to sign an *accord de programmation sociale* that, adopting the sector's codetermination perspective, relied on organising career termination (2004). In this way, they were led, for example, to denounce Electrabel's outsourcing strategy, which was designed to transfer some of the company's departments to CP 218 (*Commission Paritaire Nationale Auxiliaire pour Employés*). In that instance, the adjustment was made in favour of a strategy perceived as *unavoidably constrained*, without its interpretive frames being subjected to re-examination. This defensive adjustment did not take account of any other possibility than simple implementation, without any reconsideration of the interpretive frames supplied by the prior situation, in which what was essential was to take action aimed at the fair redistribution of the sector's profits among workers.

b. Strategy 2: A Schön-Argyris type pragmatist reflexive analysis

Analysis that takes into account capacitation for reframing in D. Schön's sense makes it possible to show that the labour actors did not act exclusively from a defensive learning perspective. The principal source of conflict, whose perceptible consequences have to do with wages, relates to another type of issue that shifts the wage issue and removes it from the codetermination paradigm for negotiating wage scales. What GAZELCO and the CNE categorically rejected was a transition to a new management mode focused on the monitoring of skills, whose consequence was the implementation of a system of bonuses linked to merit (merit rating). This was to be applied to employees hired after 1 January 2002. According to GAZELCO and the CNE, this new provision could have resulted in wage disparities of up to

⁶⁰ Here, benchmarking, co-design, and monitoring mechanisms were implemented by the actors and made it possible to improve the capacity for engagement with the deliberative mechanism, which however was limited to wage and status issues. These mechanisms could prove useful if applied to a broader set of issues. But the question remains why a labour actor should broaden its strategy to define such issues.

30% between old and new statuses. The new measures risked undermining social solidarity in the sector and rendering it more fragile in order for the sector to restructure and take on the new obligations related to services of general interest and requirements for universal service. Similarly, conflict over CPs and CCTs was not limited to the status issues associated with CP 218. GAZELCO and the CNE also denounced Electrabel's circumventing of the legal framework set by CCT N° 72 (which concerned workplace stress), because concepts unrelated to workplace well-being, such as anti-social behaviour, mobility, assessment by one's co-workers, etc., were being made subject to assessment.⁶¹ In this instance, too, there was a question of the redefinition of the context in order to achieve better co-operation on quality-of-life and workplace-safety issues.

It would thus appear that the hard-line positions that formed a part of the line taken by labour between 2001 and 2007 were directed towards the conditions for redefining the co-operative framework on the basis of the new rules of the game. These organisations also acted through CREG to support measures against price-fixing and against the sector's lack of transparency in dealing with consumers. In the same vein, labour organisations took strict positions on sustainable-development issues. Involvement in negotiations on how to implement obligations related to services of general interest and requirements for universal service, price controls, and energy-policy safety was thus reinterpreted in the broad framework of a commitment to the sector's sustainable development.⁶²

c. Strategy 3: A genetic analysis

The limitation of these first two analytic strategies is that they overlook a fundamental identity transformation underlying the collective-action process that they reveal. If the impasse between the two labour cultures has persisted, as the social elections of 2004 made clear, and if the rejection of the 2001 personnel-management guidelines is found to be as forcefully present as ever in the terms of the 2007 collective agreement, the reason is that an identity repositioning of crucial importance to the actors involved is at play, and those actors are working to incorporate it into their negotiation methods.⁶³ Thus in the conflicts that have occurred since 2001 between unions and Electrabel's management, the unions voluntarily refrained from disrupting service continuity in the sector. That is, they took users' interests into account in framing their actions. More broadly, the positions adopted by unions show

⁶¹ GAZELCO newsletter, 23/02/2004.

⁶² According to the *Fédération syndicale européenne des services publics* (FSESP), the Commission's approach to energy-market liberalisation "does not meet the needs of an energy policy that would strengthen independence and focus on sustainable development". The FSESP's Secretary General, Jan Willem Goudriaan, stated that "grave problems such as job losses (300,000 over the last ten years), lack of qualified personnel, and the impact of competition on vulnerable users, are not being addressed. Increasing the degree of competition will not make it possible to increase investment in a sector that needs a highly stable framework, rather than a policy with a yo-yo effect. Instead, they will result in price hikes and have serious repercussions for all users." As presented at <http://www.euractiv.fr/print-version/dossier/liberalisation-marches-gaz-electricite>, article entitled Libéralisation des marchés du gaz et de l'électricité, posted on 01.05.2007. (Quotations translated from the French for the purposes of the present document.)

⁶³ This manifestation of the impasse related to collective-action identity is still current: On Thursday, 18 October 2007, the *Commission Paritaire Plénière du Gaz et Electricité* (CP 326) met, Mr. Marc Desmet presiding. These are the voting results reported by the labour organisations:

- GAZELCO – FGTB: 68% AGAINST
- CNE – CSC: Over 67% AGAINST
- CGSLB: AGAINST
- CSC Énergie: 55% IN FAVOUR

direct references to consumers' interests, in the form of references to matters such as supply guarantees for every vendor, green electricity, the implementation of universal service, the most vulnerable customers, etc.

These are just some of the clues to the occurrence of a more fundamental change in labour action's identity position vis-à-vis the new order. In the past, users' interests were clearly subordinated to those of workers in the sector. This constitutes, in fact, the heart of the impasse between the two labour cultures identified above: the place assigned to users' interests in relation to workers' sectoral and status interests. The impasse between labour organisations is itself entwined with a more fundamental impasse related to the potential for solidarity between workers' and users' interests. It is this more fundamental impasse that is resurfacing in discussions of limiting the right to strike by legislating a *minimum level of service*.

c. 1 A new identity for action

In the logic of state monopolies, better quality of work should result in better service quality for the citizen-user. In the case under consideration, indeed, what was expected to result from actions taken on working conditions was progressive and indirect impact on general well being. In this vein, Claus Offe describes German industrial trade union federations as “more readily ‘other regarding’ than company unions,”⁶⁴ more attentive to the consequences of their demands and strategies for employment forecasts in general as well as for the rate of inflation and their companies' competitiveness. As Offe continues, “If there is anything distinctive about the ‘European’ model of capitalism, it is the insight, congealed in a myriad of economic institutions and regulatory arrangements, that the interest of ‘all of us’ will be served if the pursuit of the interest of ‘each of us’ is to some extent constrained by categorical status rights.”⁶⁵ Within this perspective, the fragmentation of sectors and the proliferation of normative regimes result in the weakening of collective actors who had been accustomed to act on the basis of traditional mechanisms for collective bargaining.⁶⁶

Currently, labour organisations are inclined to take account of conditions for collective action using precisely the contrary logic: a better regulation of services to the citizen-consumer will result in better working conditions. This model completely alters the received image of collective labour action in a system of social capitalism. Rather than looking for the indirect effects on overall well-being of action taken on working conditions, an alternative approach consists of searching for actions with direct effects on the quality of service supply in order to achieve indirect effects on working conditions. This change in orientation represents a blind spot for analyses conducted in terms of the automatic adjustment of practices and the spontaneous revision of beliefs, as assumed by an experimentalist analysis.

c. 2 Going beyond the impasse between labour organisations

In the case of the impasse between opposing labour strategies, it appeared necessary to oppose collective bargaining strategies as deployed by the codetermination option to strategies that

⁶⁴ OFFE C. (2003), The European Model of “Social” Capitalism: Can It Survive European Integration?, in *The Journal of Political Philosophy*, Vol. 11, n° 3, pp. 437-469, p. 444.

⁶⁵ OFFE (2003), p. 444.

⁶⁶ OFFE (2003), p. 463.

prioritise protection of public service and consumer interests. This opposition even influenced collective agreements, taking the form of a contradiction between merit-based wage provisions and employment provisions that protected career-termination plans.

In shifting towards a new logic for action, organisations that have been stuck in an adversarial stance⁶⁷ can now wield a collaborative logic in this sector without abandoning the key element underlying their positions, namely protection of the general interest, as expressed in the requirements for public service. This enables them to reshape their position by linking their service- and employment-based logic to the logic of sustainable development adopted by the other organisations. For them, the sector's sustainable development is just one aspect of a broader commitment to society that includes sustainable development but also takes in cost control, access to green electricity, and universal service standards that can protect all citizens.

c. 3 A new strategy

In the past, users' interests were clearly subordinated to those of the sector's workers. The new positioning will undoubtedly go beyond this impasse. Clearly it's not a question of a simple logical reversal, since the terms involved are no longer the same. A different correlation subsists among different terms. Whereas the citizen-user's interests were **subordinate** to action by the traditional public-service union, what is now in question is **linking** the protection of the interests of the citizen-consumers of these services with the interests of workers in the liberalised service sectors. Thus the challenge consists of **translating** key issues of energy policy, universal service, and free market choice into work organisation issues that transform the labour organisation into an obligatory conduit through which the decision-making process must pass.

Increased guarantees of universal service and freedom of choice under fair competition conditions and the defence of an energy policy that is consistent with sustainable-development concerns and environmental constraints: these things can only be advanced if the public interest is placed before workers' interests, even if, for example, keeping nuclear power plants in operation represents a significant component of the interests of workers in this sector. However, implementing this position (the ability-to of the collective identity making) requires forming new alliances and going beyond the polarisations created by history as well as by reforms.

In our view, it is also possible to discern the same trend in labour organisations' efforts to form a collective purchasing co-operative with an explicit commitment to the environment⁶⁸

⁶⁷ I.e., those concerned that the labour strategy take account of obligations related to services of general interest and requirements for universal service.

⁶⁸ This is the Power4You (www.power4you.be) service. On their Web site, one finds the following: "The objective of this undertaking is to provide electricity and gas to all under the best conditions. That is, conditions of optimum pricing, contract length, contract-extension and withdrawal terms, consumer protection, and the energy's green quality." According to the weekly *La Libre Belgique*, "Power4You is a co-operative corporation set up on the initiative of the *Centre de recherche et d'information des organisations de consommateurs* (CRIOC [Consumer Groups' Research and Information Centre]). The partners in the co-operative are some 15 organisations and associations, including unions (CSC, FGTB, CGSLB), the *Ligue des familles* [the League of Families], *Vie féminine* [Women's Lives], and others. It is not necessary to be a member of any of these organisations to benefit from Power4You's offer. It's possible to sign on by choosing any one of these organisations at random as one's 'intermediary', without having to belong to it. The goal of Power4You is

and the intention to make energy prices accessible.⁶⁹ In so doing, labour organisations are adopting an approach peculiar to the distribution sector and finding their own place in the sector's new order.⁷⁰

c. 4 Beware of the recurrence of the impasse between users and collective action

Taking this new strategic basis into account, it is possible to identify hot buttons that could trigger recurrences of the old impasses, not just impasses between labour organisations with opposing conceptions of their collective-action identities, but also the impasse we have termed more fundamental, between workers' and users' interests. This is especially true as regards the issue of the transition out of the nuclear field, which could prompt labour to act exclusively from the perspective of job protection. It is also true of the issue of minimum service levels, which always entails the risk of placing workers' interests, in the form of the right to strike, in stark opposition to those of users, in the form of access to service.

However, other behaviours would appear to confirm there is a will to avoid reverting to impasses, given a new collective-action identity. An especially eloquent example is labour's opposition to SPE-Luminus' restructuring plan.⁷¹ Rather than basing their arguments on job loss, labour organisations are addressing the role of the new infrastructure vis-à-vis access to green energy.⁷² According to their stated position, "the employees of SPE-Luminus are not interested in exclusively financial logic. They wish to fully carry out the mission they are entrusted with and that they have carried out with professionalism for many decades. This mission is fully in line with the objectives of the Kyoto Protocol."⁷³ In this instance, labour action is clearly aligned with the interests of users and citizens in general. Another example is provided by the actions taken to expose the risks that sub-contracting and intermediate jobs

simple: to negotiate a gas or electricity energy-supply contract with an operator with a view to getting the best price. Power4You put several suppliers in competition with each other, and Lampiris won out: the specifications in its bid got the best score. In just a few days, Power4You had over 170,000 hits at its Web site." See also *Le Monde*, 8 September 2007.

(http://www.lalibre.be/article.phtml?id=904&subid=1087&art_id=370742).

⁶⁹ The European Trade Union Confederation had in fact stated that key elements of its energy-policy perspective were the elimination of social inequality linked to unequal access to energy services and the combating of global warming resulting from intensive fossil-fuel use. ETUC believes one way to pursue these priorities is to enhance public and democratic control over energy.

⁷⁰ True, potentially it thereby lands on a new fault line where a clash of interests could develop. But opting for a position linked to sustainable development could also represent an interesting opportunity for institutional learning as to how to better identify potential conflicts of interest in order to overcome them, perhaps by more radically expanding the co-operative approach that underlies the initiative and that is currently under-publicised. If this were to take place, users would be clearly identified as partners. This position could point to more appropriate conditions for regulating the sustainable development option in reforming the sector.

⁷¹ "SPE-Luminus produces green electricity with:

- hydroelectric power plants on the Meuse River;
- wind farms; and
- dual-energy units.

This production of renewable energy makes it possible to prevent the production of at least 110,000 tonnes of atmospheric CO₂ per year." (Statement of 15 March 2007; translated from the French for the purposes of the present document.)

⁷² "This restructuring logic, if it comes to pass, will result in a reduction in the availability of the hydroelectric power stations and thus in a reduction by 20% of green electricity production. This production deficit will inevitably have to be compensated by the use of thermal plants and will thus cause the production of 20,000 tonnes of thermal CO₂" (15 March 2007).

⁷³ Source: <http://www.spebel.be/oldindex.php?offset=40>.

pose to the sector's service safety and reliability. For example, the following remarks occur in a critique of the SPE call centre's recruitment policy: "500,000 customers are surely entitled to count on a certain number of jobs of indefinite duration. This staffing structure constitutes SPE's brand image and represents the customer's first contact with the supplier, the key component of SPE's sales force!"⁷⁴

A genetic analysis of these elements allows us to view them as more than mere strategic changes in discourse. The examples we have chosen are drawn from the labour organisation's **internal communications** and not from communications intended to present the public face of collective action. This really is a case of the making, within the organisation, of a collective identity that is consistent with the aim of public service and users' interests forming the condition for the labour organisation's *ability-to* in its new context for action. These positions are guiding action and determining the negotiating positions adopted in the development of current collective agreements. In this context, relations with the CREG are also evolving; and in particular, questions of investment in view of future energy production are taking shape as key talking points in relation to sustainable development, as the case of SPE Luminus makes clear.

What a genetic approach can contribute to collective learning

The genetic approach is not defined by opposition to the contribution made by experimentalist and pragmatist approaches of the Schön-Argyris type. Rather, it supplements them and provides them with a better constructed frame for collective actors' self-transformation. The experimentalist approach reveals a process of adaptation in response to constraint, which defines itself at the outset reactively, according to changes in the context, and is thereby led to develop *defensive* positions such as repositioning within wage negotiations (in response to merit-rating) and in relation to career-termination provisions. The Schönian approach, on the other hand, reveals that these defensive reactions are accompanied by a type of re-examination of the beliefs that make them possible. It thus allows for a re-assessment of the stimulus-response paradigm in the teleological perspective of a practical aim that consists of ensuring the reproduction of an existing *ability-to* within a new social setting. On this analysis, what prevails is the incorporation of new beliefs about the capacity for collective action, such as sustainable development in the sector. The genetic approach supplements the Schönian paradigm by showing that this projection of a new collective identity making assumes something other than the identification of a rule of reproduction. It assumes a task of identity reconstruction focused in the first instance on a critical examination of the past and, by this means, the identification of impasses that have imperilled the success of actions undertaken. Thus the collective-identity-making capacity is re-examined and progressively rebuilt, so that new positionings, such as the requirement for better pricing regulations, better employment policies to ensure the accessibility and reliability of green energy, better guarantees of universal service, and so on, can be made possible. Thus it is how the repositioning is guided that will ultimately determine the interpretive frame to assign to the new power relations, rather than the reverse. The issue is allying interests rather than subordinating them to each other.

The genetic approach makes it possible to reveal critical operations by actors with respect to impasses of the past and the "translation" operations required to go beyond them to a new

⁷⁴ 21 May 2007. (Source *ibid.*; quotation translated from the French for the purposes of the present document.)

positioning. This paradigm of self-capacitation is thus directly predicated on the identification of impasses that undermined similar strategies in the past, as in the case of possible alliances between public-service workers and those services' users that have been overlooked in the past. The value of taking a self-capacitation perspective is that it makes one attentive to initiatives taken to recreate the ties between the actors involved. For example, in the case under examination, what would be needed is an operation of translation that links users' interests to the negotiation process and thus seeks to redefine the latter's operational frame. A concrete mechanism for terceisation of positioning is thus identified as a condition for learning.

To produce this repositioning, labour organisations resort to critical operations that concern not just their future role but their past role. The variations in the possibilities opened up emerge not only from the simple analysis of a changing context, but from the taking into account of the limitations of the earlier role and of the learning already accomplished regarding the conditions for, and potential possible obstacles to, a collective identity making. The ability-to based on the new positioning will result directly from the way the variations opened up by the past, and the overcoming of the impasses the past reveals, will be taken advantage of. As regards the implementation of the new ability-to, the regulatory mechanism aimed at by the collective actor's repositioning will remain incomplete if it does not comprise an assessment mechanism designed to ensure that the operations performed do allow for the desired repositioning in terms of collective identity making.

What guidelines can be inferred from this approach?

The genetic approach seeks to cumulate the benefits of existing reflexive approaches to social learning while situating these benefits within a process of collective action likely to have an impact on the identity conditions (see above references to critical trials) and normative conditions (**translating** key issues of energy policy, universal service, and free market choice into work organisation issues) of its self-transformation. Thus the defensive and collaborative learning that has taken place in the situation in question are taken into account, but resituated within a more fundamental process of self-capacitation associated with the actors' transformation. What has been learned can thus be linked to the terceisation mechanism that redefinition of identity positioning entails and be explicitly confronted with the impasses that identity repositioning works to go beyond, as a condition for possibility of the new ability-to.

In the case under examination, it is illuminating to revisit, in this frame of reference, the analyses of the sector proposed by the International Labour Organization in 1999⁷⁵ following the first experiments in liberalisation. In the first instance, the ILO identified the main defensive form of learning, namely the adjustment to new wage strategies and more specifically, in the sector of new distribution companies, adjustment to a powerful requirement for flexibility regarding working conditions. In the second instance, the ILO also identified the collaborative learning that resulted from the need to create a new context of co-operation between labour organisations and businesses in the sector, in order to ensure workers' protection as new sectors of independent activity were developed and to take the initiative of forging collective bargaining as part of a process in which management should have asserted its position as "principal" (as defined by the economic theory of the principal-

⁷⁵ ILO, *Gestion de la privatisation et de la restructuration des services publics de distribution (eau, gaz et électricité)*, Geneva, 1999, p. 101-103.

agent problem) vis-à-vis the public authorities. On a different aspect of collective bargaining, the ILO noted that it will be necessary, in future, to take account of a kind of third way.⁷⁶ This third way could be paved by a new entrant, namely consumers, who are the bearers of specific normative expectations regarding the obligations related to services of general interest and requirements for universal service. There was no explicit articulation of this third way with the first two, although it appeared to have the potential to alter the order things as regarded collective bargaining and regulation of the sector.

In this context, defensive and collaborative lessons remained divorced from each other and closed off from a possible experiment in “terceisation”. Thus one can see how even collaborative learning intended to redefine the context for co-operation in the sector in terms of sustainable development and businesses’ social responsibility remains disconnected from potential interaction with the interests of other actors; and indeed entails the risk, in practice, of eventually being partly opposed to other approaches framed in terms of public and universal service. Since the impasses would not have been identified, they would be capable of neutralising efforts at repositioning and block off actors whom it would be beneficial to bring on board.

A genetic analysis makes it possible to discern whether a terceisation mechanism is at work, and if so, how; and how it is playing a part in the process of collective identity making. On this score, in the case under examination, the most important issue is the change of positioning conditioned by a third party, the citizen-consumer, and the effort to redefine a collective identity in light of the role of the relationship with the third party. Within the labour organisations in question, this effort at identity and teleological shifting in order to bring users’ interests on board is characterised, first in internal communications (in particular in the form of information campaigns that adopt the user’s perspective on market liberalisation); and then in the internal building of collective bargaining positions, by its incorporation of priorities related to users’ interests into its reasons for action and into the content of activist interventions. Finally, identity shift is also taking shape through public actions that build direct ties with citizens’ activist platforms regarding the sector’s service requirements. At this point, it becomes possible to identify a set of shared priorities that unite workers in the sector with consumers. These include:

- the requirement for price controls and the fair redistribution, through general rate reductions, of profits from increased productivity;
- the requirement for continuity of service and a policy for equal treatment in terms of supply;
- the requirement for adequate and attractive access to green electricity;
- the requirement that regulations for an open market be respected and consumer access to information and consumer freedom be guaranteed;
- the requirement for measures to favour the most vulnerable consumers;
- etc.

Using the genetic approach, it is possible to better define what is at issue in this “terceisation” process, from the perspective both of labour organisations and of the sector’s regulation as a whole. For labour organisations, the issue is not in the first instance one of entrenching a new collective identity making, as if, for example, it were necessary for labour organisations’ research departments to adopt the performance indicators of universal service and develop

⁷⁶ *Ibid.*, p. 103-104

proposals for policy recommendations to labour leaders. Rather, the issue, as the genetic approach makes clear, is the restructuring of these organisations' collective identity, i.e., their way of making collective identity in line with the learning made possible by the terceisation of their social position.

This issue's first aspect consists of the self-capacitation that has been produced and that must be produced in order to manage to redefine unions' collective identity making by means of critical trials that make it possible to identify and go beyond previous strategic impasses. The second aspect consists in the capacity for translating this repositioning, such that it is integrated into demands that relate to the sector's regulation and that bring other actors on board.

With this approach to actors' transformation, the genetic approach also subjects to re-examination the regulatory mechanisms' own assessment capacity, i.e., the way these institutional mechanisms can themselves oversee the critical trials and the translations required for the sector's regulation to be transformed in line with the actors' repositioning within a true joint inquiry. A question essential to the public governance of the sector is how and under what conditions to organise new ways of negotiating within the sector in order to incorporate the normative potential of this repositioning of collective action.⁷⁷

Impasses persist within the sector's development that are not related just to labour organisations; but labour organisations have contributed to their being more explicitly identified. Thus the idea of the culture of codetermination, according to which users' interests' were subordinated to those of the sector's economic development, persists within the present order of things, in the form of the belief that the sector's evolution towards greater profitability and international competitiveness within a liberalised marketplace will ultimately benefit the individual consumer. In the same way, the idea that the impact of the sector's segmentation (and the issues of labour-relations restructuring that it brings in its wake) can be separated from the public's stakes (such as green energy and safety of supply) in these activities also constitutes a way of obstructing open discussion of businesses' social responsibility in the context of requirements for public and universal service. Dispersing labour's forces along this fault line amounts to a failure of normative potential prejudicial to the discovery of new solutions.

To truly and effectively negotiate new regulatory methods in this sector will require *both* that the actors affected by these impasses evolve in a context of joint inquiry suited to their continued transformation *and* that there be a mechanism for assessing the results of this transformation with a view to the overcoming of identified impasses.

⁷⁷ In the same vein, the CSC's most recent positions reflect a will to renew the discussion on the role of the CREG in relation to price regulation and better monitoring of the sector's development. (Source: Info CSC, 16 November 2007.)