Coordination and organization beyond business; institutional change and Dutch business in the 20th century

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Introduction

Competition is a key element of the modern market-system. At the same time avoiding competition and the negative impact it may have on the company is a centre figure of this market system also. Businessmen tend to organize themselves beyond the firm and to seek cooperation in order to avoid the sharper edges of capitalism. They unite to lobby with the government for better tax conditions or for infrastructural improvements, they collude to make arrangements on prices and production and in the end mergers and acquisitions are used to reduce or eliminate competition. Business interest organizations, cartels, mergers and acquisitions are phenomena with an international scope. Nevertheless in some countries cooperation and collaborative practices tend to be stronger and more enduring than in other. Cooperation is mostly related to the coordinated market system, also known as the Rhineland model. The Netherlands, with its small open economy, strong business organizations and densely personal and organizational networks is a showcase for this model. During the twentieth century business interest organizations, cartels and other forms of cooperation and concentration played an important part in the Dutch economy. However the way they interacted changed markedly.

The strategic instruments businessmen developed over time to reduce the negative aspects of competition had their own, economically related dynamics. Cartels are classically described as 'Kinder der Not' and the waves in mergers and acquisitions are clearly linked to periods of economic upswing. It is however obvious that the existence and change of the different collaborative practices fits only partly in the existing economic theories. Many questions still can be raised about the how and why of cooperation between businessmen. Cooperation was also influenced by the shifting perception of anti-competitive instruments and the changing institutional setting. This paper focuses on the way institutional changes nurtured the transformation of these strategic instruments and influenced the perception of these practices. It will present the institutional side of the medal and explore the role of institutions and changing perceptions.

To analyse and explain these changes, we make use of the theoretical approach of the business systems and varieties of capitalism literature by Whitley, Hall and Soskice and others. Business systems are – in the words of Whitley – configurations of hierarchy-market relations that become institutionalized in different market economies in different ways as the result of variations in dominant institutions.[1] Hall and Soskice in their study on the institutional foundations of comparative advantage in western capitalism, distinguish between liberal and coordinated market economies. In liberal market economies like the US or UK, corporate strategy is primarily decided by competitive market arrangements and hierarchies. In coordinated markets exemplified by Germany, Japan and the Netherlands, firms are on the contrary more dependent on non-market relationships to coordinate their actions. Firms in this type of economy draw more heavily on a set of institutions and organisations to coordinate their endeavours, though markets and hierarchies are also important elements.[2] In a coordinated market economy business interest associations typically will be powerful institutions, while cartels are generally perceived as legal instruments, contributing to economic stability. Mergers and acquisitions are not exclusively driven by shareholder value, but also the interests of other stakeholders are taken into account. In the liberal market economy business interest associations only have a marginal position and cartels are usually seen as illegal or as non-existent at best. Unfriendly mergers and acquisitions are common and mainly motivated by the consolidating of market power and maximising shareholder value.

[1] R. Whitley, *European Business Systems and markets in their national contexts* (London: Saga Publications 1992); R. Whitley, *Capitalism; the social restructuring and change of business systems* (Oxford: Oxford University Press 1999), passim.
[2] P.A. Hall and D. Soskice, *Varieties of capitalism; the institutional foundations of comparative advantage* (Oxford, OUP, 2001), Introduction, 1-68, 8-9.

This paper wants to examine how this worked out and how this interaction developed over time in a specific case like the Netherlands. In what ways did businessmen organize themselves beyond business and to what extent were institutional change and changing perceptions interacting with the market and more specific the behaviour of businessmen? And finally can we define different periods and perceive these paradigmatic changes in the Dutch market economy?

1 Cracks in the liberal system (1900-1930)

Around the turn of the 20th century Dutch business is a prototype of the liberal market economy. The government was a true proponent of liberalism and free trade ideology. Notwithstanding the growing and fierce economic competition from abroad, trade tariffs were very low or absent in the Netherlands. The Dutch policy of abstention in economics was favoured by most companies. Especially businessmen who relied on trade or had to import raw materials supported this policy. Some parts of the industry however, like the production of fertilizers or bricks, were clearly hampered by the imports of cheap products from abroad and in some cases the dumping practices of producers in neighbouring countries. Every now and then delegations of industrial branches that felt themselves harmed by unfair competition from abroad organised in business interest organisations and sought for political backing by petitioning the Dutch parliament. In most cases however the administration flatly refused to listen and repeated the old *laissez faire* argument. Tariffs in the eyes of most politicians would simply be counterproductive for the Dutch economy that was dependent on imports and trade. The Netherlands in the twentieth century were, as Jan Luiten van Zanden called it ‘a small open economy’. [3] Compared to for example the United States and the United Kingdom the Netherlands stuck to the classical free trade paradigm relatively long. When Anglo-Saxon countries in

[3] J.L. van Zanden, *The economic history of the Netherlands. A small open economy in the ‘long’ twentieth century* (London/New York, 1998) passim.

the twenties introduced trade protection and tariff barriers, Dutch industry had to do without these protective instruments.[4]

To guard themselves against competition Dutch businessmen therefore sought different ways of cooperation. Of course family ties and social networks were old and proven means of protection against outside threats. Though these informal networks never disappeared, they were gradually supplemented by more formal arrangements. One of the first and most widespread was the business interest organisation. On a local, regional and national scope businessmen interacted and from the 1890s onwards they founded a growing number of associations. In order to compensate for shortcomings on the market, but also to pre-empt state intervention, businessmen organised themselves. Their first intention often was to help each other, protect their professional status and the quality of their products. These associations did not necessarily intend to impede upon competition amongst its members, but they tried to raise the standards of their crafts, reduce inefficiencies and encouraged better relations with customers and government. The Dutch sociologist Frans van Waarden described this type of cooperation as self-regulation.[5]

The boundaries between this kind of self-regulation, trade-facilitating cooperation and formal coordination and collusion are not clear. The associations often provided their members with information on sales, production capacity, employment, and creditworthiness of customers, quality of products and innovatory activity. They could also encourage activities to reduce inefficiencies and indeed, many organisations were a meeting place to conclude agreements on prices and production quota. A number of the successful cartels that functioned on the Dutch market in the first decade of the 20th century had their roots in these associations. The salt-producers are an example of a cartel that originated in a business interest organisation that evolved into the Salt-convention (Zout-conventie), a strong market-regulating body that functioned well into the thirties. The glass-producers united to protect themselves against foreign competition that was fuelled by the invention of the Owensmachine in the US. Their national agreements

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[4] K.E. Sluyterman, *Dutch enterprise in the twentieth century. Business strategies in a small open economy* (London/new York, 2005) 52; Ch. P. Kindleberger, *The world in depression, 1929-1939* (Berkeley/Los Angeles/London 1986) 61-65.

[5] F. van Waarden, `Regulering en belangenorganisatie van ondernemers', in: F. van Holthoorn (ed.), *De Nederlandse samenleving sinds 1815; wording en samenhang* (Assen/Maastricht), 231-237.

became largely obsolete when most companies merged during the first decades. The Dutch paper and board industry that organised itself to lobby for tariffs and protection, also saw their organisation as a platform to regulate production and prices. In some cases, like the glass-industry that joined the European cartel on bottles in 1907, these national cartels even were parts of wider international agreements.[6]

There is a lot of speculation and uncertainty on the existence of cartels in the Netherlands before World War I. But whereas in other countries cartels were a widespread phenomenon and an acknowledged practice, there was a strong secrecy on this topic in the Netherlands. Their existence was ignored and the common public as well as politicians thought them unproductive and vulnerable. Because the Dutch market was so open to competition from abroad, the common opinion was that these agreements would not survive very long. This proved to be only half of the story. In fact cartels were a widespread and in some cases very successful instrument in Dutch industry already at the turn of the century. Because there was no agreement on the effect of cartels, it was easy for the government to refrain from measures.[7] In line with its traditional *laissez faire* policy it did not interfere with cartels or any other sort of agreement between producers or merchants. This liberal outlook changed with the outbreak of World War I.

Though the Netherlands ardently stuck to its neutrality between the belligerent neighbours, this could not prevent severe economic damage to the country. The economy was seriously troubled by the fact that the transport of goods was blocked by the war and the cut-off from Dutch East Indies. Dutch government was forced to leave its traditional economic aloofness. It had to interfere to guard the supply of food and other goods, while at the same time staying out of the war. This goal was reached by a twofold policy. On the one hand the government initiated a wide array of laws to regulate the economy and especially the trade in food and exports. At the same time the government by law got the right to claim the property of stocks if this was necessary for the public welfare and to

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[6] Sluyterman, *Dutch Enterprise*, 80-81; R. Roordink, `De Koninklijke Nederlandse Zoutindustrie: Zout uit de bodem van Twente. De geschiedenis van de KNZ, 1918-1940', in: *Overijsselse Historische Bijdragen* vol. 108 (1993), 96-128; F.V. van der Most, J.W. Schot en B. Gales, `Zout', in: J.W. Schot e.a. (red.) *Techniek in Nederland in de twintigste eeuw. Deel II Delfstoffen, Energie, Chemie* (Zutphen, 2000), 90-101; J. Dankers & J. van der Linden, *Samensmeltend Glas (*Amsterdam 2001), passim; B. Bouwens, *Op papier gesteld*, 57-60.

[7] National Archives inv. 2.06.001, nr. 5885, State Committee to the Ministry of Internal Affairs, spring 1921.

establish maximum prices for food, fuel, half fabrics and raw materials. When after two years these measures proved to be no longer adequate to guarantee the supply of food, a distribution system was created. This implied a massive bureaucratisation. For a wide variety of products an institute (Rijksbureau) was formed that regulated production, stocks, raw materials, imports, exports and distribution. In these institutes civil servants closely worked together with representatives of the industry.[8]

Thus World War I not only stirred governmental interference with the economy, but also definitely contributed to the cooperation between the government and the industry and among businessmen. The First World War was characterised by a massive organisational wave in Dutch business. This first wave coincided with the bureaucratisation and the threats caused by the war. As the administrative apparatus was still in its infancy, the government had to rely to a large extent on the support from companies to effectuate its policy. In fact the business interest organisations and other cooperative bodies in the industry served as an important platform for governmental action. These business institutes paved the way for interference during the war. At the same time the governmental policy compelled the industry to look for further cooperation and seek agreements. The formation of a huge number of new organisations would in later years also prove to be the typical reaction to increased government interference. The companies were stimulated to meet and discuss the governmental measures either to oppose them or to execute them. In this way companies learned to know each other and discovered how they could work together more efficiently.[9] This kind of consultation that was stimulated by the government, in fact cleared the way for all sorts of cooperation and different forms of economic coordination.

After the war Dutch government quickly returned to its strong belief in free trade and the liberal market economy was restored. Self-regulation was well thought off and interfering with business' strategies was a taboo. In this sense, the Dutch economy was very comparable with the liberal way British business was organized before the Great War. But while the government retreated, Dutch business did not return to pre-war conditions: the cooperation and organisation build during the war was only partly

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[8] National Archives, inv. 2.06.079, Introduction to the inventory on the archives of Crisisinstitutes during World War I, 1914-1926.
[9] Sluyterman, *Dutch Enterprise*, 78-79.

abandoned. This was reinforced by the strong impulse to vertical and horizontal integration given by the war. With support of the banking sector a concentration process in Dutch industry was set off in the after war years. In many branches horizontal mergers took place to create companies that could effectively compete with foreign business. New companies like Vereenigde Chemische Fabrieken or Centrale Suiker Maatschappij typically united several former competitors. CSM is a distinctive example of cooperation enforced by war circumstances. This cooperation was deliberately continued and intensified after the war which resulted in a merger to avoid infighting. In other branches like the cotton and chemical industry and the production of margarine vertical integration was a way to avoid the dependency on the supply of raw materials which had hampered Dutch industry during the war. The founding of Hoogovens, that immediately took a major share in the only Dutch steel producer Demka and the German steelwork Phoenix, is another example of this process of horizontal and vertical integration.[10] In the second half of the 1920s this merger process was again intensified, at least regarding firms listed on the Amsterdam Stock Exchange. In this respect the Netherlands seem to fit well into the pattern of merger waves in the US which was described earlier.

Dutch government was not very disturbed by this process of integration and the different forms of cooperation between businessmen. The adagio ‘business as usual’ and the liberal market prevailed. Nevertheless the first cracks in the liberal economy which in fact originated from end of the nineteenth century, could not be ignored. Businessmen tried to avoid competition by cooperation through social networks, in business interest associations and by concluding cartel agreements. In some branches these associations and agreements were superseded by mergers and acquisitions. Though the effect of these cooperative practices were at that time seen as rather limited, it is clear that their impact was definitely underestimated. This changed fundamentally in the decades to come.

2. Forced into a coordinated system (1930-1950)

[10] Sluyterman, *Dutch Enterprise*, 81-84; Sluyterman, *Driekwart eeuw CSM*, 41; J.J. Dankers en J. Verheul, *Hoogovens 1945-1993(The Hague, 1994)* 37-38.

All over the world the Great Depression drove firms and industries together in search for defence against mounting competition. Companies huddled together behind the tariff walls and import restrictions by which governments tried to protect national industries. In these years national cartel agreements became widely spread and were often even legally endorsed. The Dutch market economy also gradually but definitely began to alter as a result of the depression of the 1930s. Protection through tariffs and quota systems was little by little introduced. These defensive measures were motivated by the necessity to prevent the erosion of the balance of payments and the destruction of employment. The fact that the Dutch government did not realign prices with international price levels through currency depreciation made the use of these instruments even more compulsory.[11] Reacting to this policy companies organised themselves to lobby for protection or to plea for other measures favouring national industry. The economic malaise immediately caused an upswing in the number of business interest associations. Businessmen reacted promptly and collectively sought shelter to protect themselves against fierce competition.[12]

The effects of tariffs and quota would be lost if murderous foreign competition were simply replaced by murderous domestic competition. For that reason the government encouraged Dutch industry to cooperate and even stimulated the use of cartels. The argument that cartels maintained profits, production facilities and employment became vigorous. Cartels were thought to stop the wave of collapses that characterized these years and went hand in hand with the other trade distorting policies. Through cartels Dutch business hoped to stabilize both production and profits.[13] Though the examples of Dutch companies participating in cartels are abundant and virtually every branch seemed to be affected by some kind of agreement, it is hard to find exact data on the total numbers of cartels. The invisible handshake appeared to be paramount.

Cartels were indeed seen as a effective way to regulate production and mitigate competition. The government in 1934 even proposed a bill to regulate cartels and to

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[11] Van Zanden, *The economic history of the Netherlands*, 151-156; see for a contemporary comment: G.M. Nederhorst 'De Nederlandse contingenteringspolitiek' in: *De Socialistische Gids* (1937); National Archives, inv. 2.06.001, 8496.
[12] Sluyterman, *Dutch enterprise*, 111-113.
[13] W.A. Brusse and R. Griffiths 'Paradise lost or Paradise regained? Cartel policy and cartel legislation in the Netherlands' in: S. Martin (ed.) *Competition policies in Europe* (Amsterdam: Elsevier 1998) 15-17.

endorse co-operation in order to cease unfair and unhealthy competition. The bill that became law (Business Agreements Act) in the autumn of 1935 regulated the endorsement of cartel-agreements.[14] The government now obtained the power – if necessary - to coerce membership upon uncooperative firms and thus incorporate free riders. So, the agreement could be prohibited or enforced for a specific branch of industry. The law can be seen as a strong indication of a changing market economy and the growing role of cooperation and coordination in Dutch business. It had a lot of similarities with legislation in other European countries. One of the major differences was however that the industry itself had to take the initiative to reach an agreement. Thus self-regulation still was an important quality. Business interest organizations played a key role in this process.[15] In that respect some of the liberal characteristics were still preserved. But these would soon become far reminiscences.

Dutch economy was hardly recovered from the deep depression when the looming war made a deep impact on the Dutch economy and the way business was organized. To effectuate distribution in case of war the government, like in WWI, created offices for each branch in the summer of 1939. These were to be the administrative connection between import, production and trade. Offices for textiles, fuels, metals etc. would in fact vertically organize the complete business.[16] Governmental interference was again accompanied by an organisational wave. Again the number of newly founded associations rose steeply. Although the Netherlands stayed neutral for nearly another year, the economy from that moment was completely regulated. It was typical for the Dutch economy that representatives of companies headed these governmental offices. In fact the Dutch government delegated the organization and regulation of the economy to the businessmen themselves. This was inevitable because the administrative system still was relatively small and the government lacked the staff and the experience. It had to rely on the business itself and the government confined itself to supervising. Dutch business was supposed to work in the general interest, but it was clear that under these

[14] Officially the law was called Wet op het Algemeen verbindend en onverbindend verklaren van ondernemersovereenkomsten.
[15] See for example Report Business Agreement Shoe-industry, 1939: National Archives, inv. 2.06.001, 8530
[16] L. de Jong, *Het Koninkrijk der Nederlanden in de Tweede Wereldoorlog, deel I, Voorspel* ('s Gravenhage, 1969) 644-648.

circumstances any kind of agreement on production, pricing and distribution was allowed.

When the Netherlands were occupied by the Nazi troops, cooperation between businessmen was intensified and to a large extent even enforced. Under German pressure all trade associations and business interest associations were dissolved and replaced by one organization that copied the corporatist German organization of business. All companies and businessmen from one trade were forced to join their specific group in this corporatist organization. To promote the efficiency of the Dutch economy the Germans also brought the rather liberal Dutch regulations on cartels more in line with their corporatist ideology. The Cartel Decree that was imposed in 1941 by the occupying authority continued to favour cooperation and coordination as a way of allocating goods and organizing the national market. But the difference with the 1935 Act was that cartels could now be initiated and enforced by the government.[17] In fact this Decree, that copied the German situation, stayed largely inert in that respect that the government did not initiate cartels. It seems probable that cartels lost a great deal of their impact or even disappeared. As a result of the German measures economic competition became in fact non-existent because markets were completely controlled. Apart from the regulated production and distribution, the scarcity of most elementary goods created an extensive illegal market.[18] It is self-evident that in this situation of fierce regulation on the one hand and illegal trade on the other, cartels could hardly function and were in fact superfluous.

After the war Dutch economic policy focused on reconstruction and economic growth. Wartime planning and economic regulation were continued. Dutch government and business had to cope with the reconstruction of the national economy. In this situation imports and exports were heavily restricted and the government decided on wages and prices. By regulating imports and exports the Dutch market was to a large extend cut off from international competition.[19] In this economically restrictive climate mergers and acquisitions were vitally absent. The scarce data suggest that the Netherlands in this respect followed the international trend.

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[17] Asbeck Brusse &Griffiths, 16-17.

[18] H.A. M. Klemann, *Nederland 1938-1948; Economie en samenleving in jaren van oorlog en bezetting* (Amsterdam: Boom, 2002)

[19] Van Zanden & Griffiths, 184-190.

But like in the thirties cartels and other forms of cooperation between companies flourished in this situation. The government was convinced that cartels could stimulate the economy and contribute to price-stability and consumers benefit. At the same time the Netherlands had to deal with international developments that questioned the use of cartels. [20] Coordination and concentration were more prominent than ever, but the Dutch had to find a way that matched with the international requirements and at the same time fitted into their cooperative tradition.

3 Clung to the coordinated system (1950-1980)

The amazing growth of the Dutch economy during the 1950s, which has been described as 'the Dutch miracle' was to a large extent based on this tradition of cooperation and coordination. Economic growth was reached by an active industrialization policy on the one hand and powerful cooperation between employers, employees and government on the other. In fact one could say industrialisation and the miraculous economic growth was to a certain extent reached *through* cooperation. Representatives from Dutch business were explicitly invited to discuss the planning and organisation of industrialisation policy with civil servants of the Ministry of Economic affairs.[21] In addition public-private organizations brought together representatives of business and labour in many industries. They discussed problems and subjects of interest to specific parts of the economy. Apart from the application of new legislative rules they engaged in lobbying, enhancement and control of product quality or working conditions and in the stimulation of trade and export. This wide organization was headed by the Social Economic Council founded in 1950. In this council representatives of labour unions and the main employers' associations together with members appointed by the government, discussed issues of general economic interest like investment climate, social justice and productivity.[22]

[20] Mok, *Kartelrecht* ; De Roos, *De economische machtspositie* 42-43;Asbeek Brusse & Griffiths 17-18; P. VerLoren van Themaat, 'Het kartelbeleid sinds de bevrijding' in: *SEW* 1952, 129-153
[21] H. de Liagre Böhl, J. Nekkers en L. Slot, *Nederland industrialiseert ! Politieke en ideologiese strijd rondom het naoorlogse industrialisatiebeleid* (Nijmegen, 1983) 221-222.
[22] SER, *Met raad en daad; visies op de toekomst van de overlegeconomie op nationaal en sectoraal niveau* (Den Haag: SER 2000)

Businessmen were not always devoted to this public-private organization in which they had to work closely together with representatives of their employees. Many industry-related issues could not be discussed in the new institutions and in a lot of industries such a public-private association did not come to the fore. For these reasons the self-regulating business interest associations that had been dismantled during the war, were revitalized. The re-establishment of business interest associations started immediately after the war. As we saw this third organisational wave accelerated from 1947 onward to reach its peak in 1950 and only gradually faded during the fifties. By the mid 1950s most of the pre-war organizations had been revived. Most business interest associations existed alongside the public-private institutions. Again the foundation of business associations was a clear sign of a coordinated market economy.

During the late 1960s and early 1970s, when the economy made a downward spiral in an unfriendly economic climate, the associations became an even more active partner for the government. Lobbying, collecting data and negotiating with trade unions, consumers and other parties of the industry were of growing importance. But this was just one side of the medal. The associations of employers still proved to be an ideal scaffold to make arrangements on prices, production and sales.[23]

In the post war decades cartels again played a vital role in Dutch business. Especially after economic policy was gradually liberalised from 1950 onwards, they were seen as instruments stabilising prices and wages. In fact hundreds of daily products ranging from zippers and soles to cigars, beer, margarine, soap and salt were affected by agreements on prices, production or other cartel-like agreements.[24] Above all cartels were considered to contribute to an efficient coordination of production. The general climate of mutual agreement and understanding stimulated this kind of arrangements between businessmen. Though cartel-arrangements by nature often were secret, they were definitely not seen as illegal. This only changed gradually in the fifties as a result of external pressure.

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[23] *SER-almanak voor Sociaal-Economisch Nederland* (Den Haag: SER 1980); B. de Vroom en B.F. van Waarden, ‘Ondernemersorganisaties als machtsmiddel (I)’, in: *ESB* 01-08-1984, 667

[24] National Archives, 2.06.063, Economische Raad, inv. 99, Nota overzicht kartelregistratie, Bijlage B (Januari 1949)

As in other European countries, decartelization became an issue in the Netherlands. The United States constantly stressed the negative aspects of restrictive competition and the abuse of cartels. In 1949 the Americans even started an anti-cartel campaign and liberalization of the European economies became one of the major conditions for financial support in the Marshall Plan.[25] The American anti-cartel crusade – as Asbeek-Brusse and Griffiths called it – had little success in the Netherlands and cartels did not disappear. Cartels and gentlemen's agreements continued to be popular with business as well as governments and were generally accepted.[26] On the other hand, the pressure of the Americans could not be ignored and placed the discussion on restrictive trade and competition policies on the political agenda.[27] The Dutch government became increasingly concerned to create a law that made a greater degree of regulation, supervision and control on cartels possible. Already in 1950 it proposed some adjustments to the existing law which would make it possible to fight abuses of monopolists. [28]

The founding of the EEC again put cartel policy on the agenda. The EEC proposed to ban cartels, but the Dutch government in this respect did not align with European policy. The Social Economic Council in discussing the concepts of the EEC treaty explicitly stated that a ban on cartels would 'disown the technical, social and economic advantages that cooperation between companies in any shape can bring'.[29] With the Economic Competition Act that became effective in 1958 the Dutch government could act against cartelization, but at the same time a regulation of competition could be declared generally binding. This act in fact endorsed cartels as long as they were not contrary to the public benefit. It was in this respect a clear product of the economic and political reality of these days.

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[25] A.S. Milward, *The reconstruction of Western Europe 1945*-1951 London: Methuen & Co 1984) 56-61; W. Wells, Antitrust & the formation of the postwar world (New York 2002) . 157-187.
[26] Asbeek Brusse & Griffiths, 15-39; Sluyterman, *Dutch enterprise*, 157-159
[27] H.G. Schröter, *Americanization of the European economy; a compact survey of the American economic influence in Europe since the 1880s* (Dordrecht: Springer 2005) 67-71
[28] Minutes Estates General, II 1953-1954, Memorie van Toelichting, 3295, nummer 3; zie ook: Mok, *Kartelrecht* , 27
[29] SER, Verslag van de werkzaamheden van de Commissie Europese Economische Integratie, publication by the SER 1957, nr. 6, 57 [courtesy Keetie Sluyterman] .

In the Netherlands of the 1950s and 1960s coordination clearly prevailed over the liberal market economy. Cartels and gentlemen's agreements were part of the economic coordination. As an institution in which large parts of the business community participated, cartels were supposed to have a positive impact on the stability of prices and income. And even in industrialization and regional policies cooperation could be supportive.[30] The Dutch considered the law of 1958 as an essentially flexible instrument and a tool to stabilize prices and inhibit inflation. In the European perspective this was rather exceptional but it fitted in the general and traditional Dutch belief in the benefits of business interest associations and self-regulation. Self-regulation and coordination were preferred to the invisible hand of market forces. Nevertheless the importance of cartels waned and as we saw during the 1970's the number of formal agreements sharply decreased. This was mainly due to external dynamics. The economic slowdown and the more complex international business environment made cartel agreements more vulnerable. Besides, the European legislation on competition caused uncertainty about the legal consequences. The use of alternative strategic tools, especially mergers and acquisitions, became more prominent.

Mergers and acquisitions had always been an instrument for external expansion. Many Dutch firms, also smaller ones and family firms used horizontal concentration as a way to benefit from economies of scale while at the same time eliminating competitors. Nevertheless concentration activity in the Netherlands, though it roughly followed international trends, in the first half of the twentieth century as we saw was rather low. A couple of striking cross border mergers however gave birth to the chief Dutch multinationals in the first decades if this century and created global concerns like Unilever and Royal Dutch Shell. But in general mergers and acquisitions had a rather humble importance in Dutch business. This rather inert picture changed radically in the 1960s. The number of mergers and acquisitions more than quadrupled between 1958 and 1965 and merger activity remained on a relatively high level during the economic downturn of the 1970s. When mergers and acquisitions became a more important strategic instrument they characteristically were regulated and a committee was set up. In

[30] Asbeek Brusse & Griffiths, 22-23; H.M.J. Quaedvlieg, *Ondernemende autoriteiten* (Deventer: Kluwer 2001) 44-52

1970 the Social Economic Council (SER), representing government as well as business and labour interest associations, drafted rules of conduct in case of mergers. Companies were required to follow a set of rules when they intended to merge or to acquire another company.[31] Thus mergers and acquisitions were framed into the coordinated system.

After 1965 corporate strategies shifted to vertical integration and diversification instead of horizontal concentration. Also in the Netherlands the rise of the conglomerate turned out to be the most eye-catching appearance of this period. Firms diversified and entered unrelated markets. One should however not exaggerate the impact of conglomerate concentration. Empirical research from the early 1970s showed that only about 15 percent of the mergers and acquisitions that took place during the second half of the 1960s brought together unrelated firms.[32] Apparently horizontal concentration and the elimination of competition remained strong drivers for the concentration process. Especially in the manufacturing industry like textiles, paper and board, machinery and shipbuilding, mergers and acquisitions were frequently used to confront mounting competition. Striking cross-border mergers between the Dutch firms Enka, Fokker and Hoogovens and their German partners Glanzstoff, VFW and Hoesch gave this third merger wave an international outlook. These cross-border mergers however failed partly because the diverging national institutions did not fit with the cross border problems these companies run into during the 1970s.[33]

There are various reasons why a merger wave occurred in this period.[34] The literature that connects merger and acquisition activity to economic factors is most influential. As H.W. de Jong argued in his theory on the dynamics of market structures and processes, the merger wave of the 1960s was the characteristic answer of an industry entering the phases of maturity and decline, while at the same time the economic prospects were still favourable.[35] Though this theory might be attractive to explain the phenomenon of mergers and acquisitions in the 1960s, it doesn’t reveal anything about the arguments of businessmen to amalgamate. As Hans Schenk argues in his bandwagon

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[31] SER-besluit Fusiegedragsregels, 15 mei 1970.
[32] SMO, *Fusies, een terreinverkenning* (The Hague: SMO 1970)
[33] M. van Os, *Grensoverschrijdende fusies in de twintigste eeuw*(Amsterdam 2009) 101-130.
[34] H.W. de Jong, ‘Fusiegolven: theorie en praktijk’ in: *Tijdschrift voor Bedrijfsadministratie* 102 (1998) 1218, 446-451, compare to: B. Bouwens, Focus op Formaat; strategie, schaalvergroting en concentratie in de Nederlandse papier- en kartonindustrie, 1945-1993 (Utrecht 2003) 46-59.
[35] H.W. de Jong, *Dynamische markttheorie* (Weteringbrug: Edclusa BV[4] 1996)

theory merger activity can to a large extent be explained by the behaviour of managers copying their competitors thus bringing about a merger wave.[36] The most commonly used argument for takeovers was and still is synergy, including economies of scale and scope. This synergy motive suggests that mergers and acquisitions occur because of incremental gains that result from combining the resources of both the bidding and the target firms. After concentration assets can be better utilized as a consequence of indivisibilities and as a result concentration increases market power and the possibility to extract surplus at the expense of competitors (and consumers). In this argument mergers and acquisitions can be seen as a logical substitute for cartels and gentlemen's agreements. Thus these strategic instruments, cartels on the one hand and concentration on the other, can be seen as communicating vessels reacting to a changing economic situation, but also dependent on the institutional context .

4. Back into the liberal system?

In the last decades of the twentieth century the Dutch market economy seemed to evolve step by step into a more liberal direction. The importance of traditionally strong coordinating institutions that had their roots in the interwar and postwar period, seemed to wane. In the eighties strong economic and social interference was gradually replaced by deregulation. Dutch government had to economize on social expenses and advocated more individual responsibility. As a consequence regulation and central coordination of Dutch business also was released.[37] In this respect the Dutch economy fitted into the international pattern in which the theories of Milton Freeman inspired the American and British government to massive budget cuts and liberalization of the economy. Free trade and free markets gained momentum in these years. In Europe this was supported by the attempts of the EEC to build a single internal market and to remove barriers to trade within the community.

But institutional change comes at a slow pace. Competition did not replace coordination right away, but the way businessmen coped with the risks and uncertainties

[36] H. Schenk, Economie en strategie van de fusieparadox, in: J.C.K.W. Bartel et al, *Fusies en acquisities. Fundamentele aspecten van fusies en acquisities* (Dordrecht, 2002), 62-133.
[37] Sluyterman, *Dutch business*, 219-221.

of the market gradually changed. During the economic downturn of the eighties business associations again proved to be precious instruments for coordination between businessmen and also between the social partners. In 1982 employers and employees concluded a central agreement to tackle mounting unemployment by cutting wages and at the same time create new jobs. This was the start of the “poldermodel” that became a symbol of Dutch social peace and cooperation as a new fundament for economic growth. Again self-regulation and coordination proved to be of great value. Nevertheless these organizations also proved vulnerable and the importance of business interest associations in general faded. Though the number of associations did not diminish markedly, their influence definitely declined. The Dutch association for the paper and cardboard industry for example lost much of its influence and coordinating power as most companies were taken over by foreign multinationals in the last decade of the century. The association largely had to confine itself to concluding agreements on environmental policy and recycling with Dutch government on behalf of its members.[38] As a result of deregulation, most of these national associations lost their authority. Due to European unification and globalization regulations and rules were laid down more and more by international institutions. To some extent the position of these national associations was overtaken by international organizations, but the impact of these institutions is still a matter of discussion.

At the same time the attitude towards cartels changed fundamentally and resulted in a public discussion on the restrictive competition policy during the eighties. The EEC until then had no strong anti-trust powers, despite its view that cartels reduced competition and hampered the unification of the community. Most European countries outlawed price-fixing and abuse, but cartels until then were not prohibited.[39] In the 1980s massive state subsidies to national industries, the privatization of state owned industries, the liberalization of international financial markets and the increasing number of mergers and acquisitions stimulated a revision of the existing competition policy. By the end of the 1990s there was a much clearer sense on all sides that such activities as price-fixing and market sharing were delinquent and rarely justifiable. Competition was seen as vital

[38] Bouwens, *Op papier gesteld*, 328-329.
[39] J. Fear, ‘Cartels’ in: G. Jones and J. Zeitlin *The Oxford Handbook of Business History* (Oxford: OUP 2008) 279; H.W. de Jong, ‘Nederland kartelparadijs van Europa’ in: *ESB*, 14-03-1990

to promote economic growth, because it would force companies to become more efficient and stimulate innovations. The free market would be properly run only when competition became the dominant mechanism.[40] The reform process of the European competition policy resulted in an anti-trust enforcement that achieved more focus and sharper relief. The number of cases the Commission had to deal with greatly increased during the 1990s.[41] This happened in the context of a global development. In 1998 the OECD adopted a strong position on the regulation of the so-called hardcore cartels and during the 1990s the US enforcement against international cartels became more determined. Many European states also moved towards criminalization of cartel behavior.[42]The European anti-trust policy made a clear shift towards the liberal market archetype in which antitrust is at the core of market regulation.

The Netherlands did not stay behind. In 1998 a new law replaced the existing competition regulation of 1958 that had left much room for cartelization. Compared to other European countries the Dutch were definitely late with their actions against cartels. But the message of the new competition act like in other countries of the European Union was clear. It made cartels illegal and favored competition over coordination. The Dutch law also created a new competition authority (NMa) with more than 300 employees. This legally founded body had to test mergers and acquisitions, counter cartels and strive for fair competition. NMa successfully took action against companies that participated in a cartel or abused a dominant position and also assessed mergers and acquisitions. It definitely meant the end of Netherlands as the 'cartel paradise'. Several cartel agreements were revealed, among which the case of the construction industry, that turned out to be a long-lasting legal event.[43] The increasing attention for cartels and the intensifying prosecution made companies that colluded vulnerable. Cartels became perilous as an instrument to reduce the uncertainties of the market. The international cooperation of

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[40] David Harvey, *A brief history of neoliberalism* (Oxford: OUP 2005); K.E. Sluyterman, *Dutch enterprise* 184-185

[41] J-F. Pons and T. Sautter 'Esuring a sound competition environment: rules, practice and challenges of European competition policy' in: J. Eekhoff (ed) *Competition policy in Europe* (Berlin/Heidelberg/New York: Springer 2004) 29-62

[42] D.G. Goyder, *EC Competition law* (Oxford: Clarendon Press[3] 1998) 561-604; Paul Craig and Grainne de Burca, *Regulating cartels in Europe* (Oxford: OUP 2003) 140-142

[43] P.A.G. van Bergeijk, 'On the allegedly invisible Dutch construction sector cartel' in: *Journal of Competition Law and Economics* 4 (2008) 1, 115-128 See also: website Nma: www.nmanet.nl, visited, 25-09-2008

several competition authorities increased the risks for collaborating firms. It is not surprising that also in the Netherlands companies started to look for other instruments and strategies to moderate competition and gain more market power.

As in previous periods mergers and acquisitions were proven means to reach concentration and coordination of markets and production. Already in the second half of the 1980s a new upsurge in the international merger wave could be detected. This merger wave started in the US in the early eighties, but spread to Europe and also to the Netherlands. Dutch business had been through a deep period of depression. In 1982 the number of bankruptcies reached a peak, while at the same time unemployment was at an unprecedented level. A number of conglomerates that had been founded in the decade before were dismantled and several cross-border mergers proved to be a fiasco. But economic recovery again stimulated concentration. In the second half of the 1980s Dutch business began to catch up with international economic upswing and this was reflected in the rising number of mergers and acquisitions. Dutch business clearly participated in the fourth merger wave. The number of mergers and acquisitions that had been at a low tide around 1982 gradually rose to reach a new peak in 1990. The unfriendly takeover until then hardly known in the Netherlands, was introduced into Dutch business. This was facilitated by new financial means like "junk bonds", but also new rules for corporate governance made the unfriendly takeover more common. In industry the number of transactions doubled in this period while it tripled in banking and insurance. This was mainly due to the expected unification of the European market and the consequent internationalization that would be stimulated by this process. Dutch industry reacted with a strong concentration.

In the nineties the fifth merger wave was even more articulate with the number of transactions steeply rising to an unprecedented level in 2000 (to fall back even more dramatically in the first years of the new century).[44] Dutch business in the last two decades of the 20th century clearly shifted to mergers and acquisitions as the most important coordinative strategic instrument. These transactions replaced other collaborative practices as the most effective way to consolidate market power and to

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[44].www.ser.nl/nl/taken/zelfregulering/fusiegedragsregels/overzichtfusiezaken/overzichtfusiezaken1970_2000.aspx

maximize shareholder value. Dutch business as a consequence of these merger waves became more international and a full member of the global economy. In this process Dutch business lost part of its coordinative characteristics and gained a more liberal outlook. To what extent this liberal outlook is decisive for the Dutch market economy is still under discussion.

Conclusion

In this paper we discern four periods in which different sets of interdependent rules, institutions and perceptions dominated the Dutch market economy. The institutional characteristics of these periods must be interpreted as signs of different market economies. Institutional changes thus indicate a changing market economy. In every period each form of cooperation had its own intrinsic value for businessmen and also – as we have seen –its own image in the perception of the public. Both significance and perception of the different collaborative practices could change over time and even have an opposing connotation in different periods. Cartels could for example safeguard employment and promote world peace in one period, stabilize prices and prevent inflation in another and could be seen as criminal in a third phase. To focus on only the economic edge of cooperation is insufficient to explain the development of business interest associations, cartels and mergers and acquisitions. The structure and the performance of the industry appear to be just one side of the medal. It is clear that pure economic assumptions and developments cannot completely explain the occurrence of the different forms and degrees of cooperation.

To explain these changes and the subsequent alternations in the market economy this paper makes clear that traditions, formal and informal rules are important in shaping market structures. Concentration alone is not a sufficient indicator of competitive conditions in any particular industry. An analysis of industrial traditions and the organisational structures and objectives of firms and government(s) is required to build a complete picture of competitive conditions in a market. The Dutch economy at the turn of the 20th century was clearly a liberal market economy in which the government stuck to its 19th century *laissez faire* position. Changing industrial relations and an emerging social policy stimulated the formation of business interest associations. Growing competition at the same time drove businessmen into cartel-like forms of cooperation. The government ignored the existence of these agreements and refrained from action. These organisations and agreements however were the first signs of a market economy that evolved in a more coordinated direction.

During the 1930s Dutch government began to interfere intensely with social and economic relations to counter the effects of the crisis. The sudden boost of cartels, which were now stimulated by the government and legally endorsed, was a clear sign of this alteration. This process was intensified by the looming war and the occupation. Dutch business was forced into organisation and had to deal with dense regulations. The market economy at the end of the war can certainly be seen as coordinated. The Dutch miracle was to a large extent build on the continuation of cooperation and regulation. Business interest organisations flourished, cartels were seen as pillars of price stability and steady economic growth. Only when the economic growth began to hamper in the second half of the 1960s the importance of cartels faded little by little. They were replaced by mergers and acquisitions as strategic tools to cope with declining profits and mounting competition. Dutch government actively supported this process. Only in the 1980s it gradually retreated from direct economic interference and it also altered its position towards cartels. Dutch government explicitly discussed the consequences of this change in 'regime' and even placed the discussion on the new cartel legislation in the context of changing market systems and the convergence in the varieties of capitalism.[45] At the end of the twentieth century the Dutch market economy indeed seemed to develop into a more liberal direction again, in which competition replaced coordination in the configuration of institutions and market-relations.

This paper makes clear that these institutional changes were not implemented overnight but they nevertheless were of decisive importance for the organisation of the market economy. As we have seen business interest associations, cartels and mergers changed over time in tasks, performances and the way they were perceived. They coloured the sequence of cooperation in their own way. Formal and informal rules, legislation and tradition turned out to be very important in the dynamics that caused a

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[45] HSG (Minutes of parliament), 1998-1999

sequence of collaborative practices. These changing institutions also indicated alternations in the market economy. Over the last century this was an ongoing process in which liberal and coordinative principles alternately dominate the market economy. The liberal system came to dominate the Dutch market economy and also seemed to spread globally in the first decade of our century. But the financial crisis of last two years and the drive for sustainability may again alter the scene. Governments are interfering with financial markets and new rules and institutions are created to curb banks and financial corporations. To guard the earth from exhaustion and suffocation new arrangements in production chains and energy systems seem to be a solution. New institutions might be necessary to oppose the uncertainties and imperfections of the market that is not capable of countering these threats. Thus coordinative principles may again overtake the liberal system that seemed to have become paramount.