

**SYNTHESIS REPORT**

**of responses to the**

**COMMISSION COMMUNICATION**

**concerning**

**THE DEVELOPMENT OF THE SOCIAL DIALOGUE AT COMMUNITY LEVEL**

**COM (96) 448 final**



## **EXECUTIVE SUMMARY**

1. It is generally agreed that ways must be found to make more adaptable, effective and efficient the channels through which the social partners can co-operate more closely at European level with Member State governments and the Commission in the development and implementation of policies concerning employment and economic growth.
2. The term "social dialogue" must be used with greater precision and focus. A distinction must be made between a dialogue that involves the social partners on a "voluntary" basis and dialogues that take place between the social partners, the Commission and the Member States in a formal context to satisfy statutory requirements.
3. The revision of the Treaty, the possible adoption of an employment chapter and the role of the Employment and Labour Market Policy Committee will have an impact on possible methods of improving social dialogue activities. Some support has been expressed for the integration of the Agreement on Social Policy into the Treaty but the UK Government has recorded its opposition to such a move.
4. The main concern that permeates the responses to all the sections of the Communication is the contentious issue of representation in the various consultations and the negotiation processes. In particular, concern has been expressed about the representation of the SMEs in all dialogue activities.
5. The need to recognise the autonomy of the organisations involved in social dialogue and the more formal consultative processes has been emphasised.
6. In the case of the voluntary social dialogues it has been stressed that the objectives, content, and organisation of the dialogues are the exclusive province of the social partners.
7. The value of the Val Duchesse dialogue has been endorsed by a large number of respondents. Suggestions have been made to take it forward by extending the discussions to cover new subjects. The Commission is invited to continue to provide material contributions, balanced support to the parties involved and assistance with the dissemination of the outcome of the dialogue.
8. It has been recognised that most Interprofessional Advisory Committees are not functioning effectively. UNICE, CEEP and ETUC have referred to the Joint Recommendation they adopted in 1993 on the subject. Suggestions include more timely consultation, more efficient administrative preparation, and participation of European representative organisations in their own right.
9. The sectoral social dialogue should be complementary to the interprofessional dialogue. Pleas have been made to give it priority and more substance by focusing it on strategic issues and sectors. As the sectoral dialogue is the place where most of the consequences of industrial development, technological change, economic integration and monetary change will be felt, these developments

should feature more prominently in future discussions. The Commission services will need to provide a more co-ordinated approach, with the majority of the respondents preferring that responsibility for the sectoral dialogue should remain with DG V but with the close involvement of the sectoral DGs. Support has been expressed for the study on representativeness, as well as for improved dissemination of information concerning dialogue activities. The Commission is requested to make available adequate resources essential for the success of the dialogue, and to improve the administrative aspects of organising the meetings. The possibility of introducing a restricted linguistic regime is acceptable to some but strongly opposed by many others.

10. The Standing Committee on Employment is the aspect of the dialogue most in need of improvement. However, there is significant support for the view that its reform should await the outcome of the IGC and the establishment of the Employment and Labour Market Policy Committee. Questions are raised about entitlement to participate in the SCE, and reforms concerning its work programme and decision-making are proposed.
11. For a majority, the Agreement on Social Policy has demonstrated its potential for the social partners to play an active role in the development of European social policy. The additional criteria suggested for identifying organisations to be consulted under the Agreement receive a mixed reception, with the first criterion concerning voluntary membership of organisations being particularly opposed. The validity and legitimacy of the current representation of the SMEs is challenged. A number of organisations, whether representing European employers or trade unions claim recognition and more direct involvement. An increase in the time-limit for consultation from the present six weeks receives wide support.
12. Disenchantment is voiced by organisations that have not been able either to participate in or influence negotiations under the Protocol on Social Policy. Governments have expressed concerns about the competence of the social partners and the practical difficulties that arise in the transposition of agreements into European and national legislation. A suggestion is made that the Agreement could be used to elicit complementary agreements at sectoral level. Claims are made by various organisations for more direct involvement in the negotiating process, while the view is expressed that experience gained during the first negotiation is insufficient to justify changes to the negotiating procedures at this stage.
13. While it is recognised that employment is an important responsibility for all in the Community, there is no consensus on focusing the social dialogue at interprofessional and sectoral level more narrowly on employment.
14. The offer to assist the social partners in developing links and practical co-operation with counterpart organisations in countries of Eastern and Central Europe is well received by some but raises questions of resources and the impact on existing social dialogue budgets.

15. Action to improve the transparency and awareness of the different social dialogue activities is endorsed.
16. The Structural Funds are put to the fore as a potential source of funds to encourage further joint initiatives.
17. The proposals to assist the development of new levels of dialogue in transnational industries and at regional level attract equal measure of and opposition.

## **INTRODUCTION**

### **The Respondents**

The Commission received 70 responses to its Communication. Seven Member States sent government contributions while another Member State delivered a joint government/social partners' response. The Economic and Social Committee sent an opinion and the remainder of the responses came from 24 European employer organisations, 13 from European worker organisations, 2 from regional trade union organisations, 10 were in the form of Joint Opinions from Joint Committees and Informal Working Parties, 4 from national employer organisations, 4 from national trade union organisations, and two from other national institutions.

## **GENERAL STATEMENTS**

### **The Aims of the Communication**

All respondents welcome the invitation to debate the various aspects of the social dialogue. For UEAPME the Communication is overdue. The ETUC believes that the approach too often seems restricted to administrative and financial issues. Nevertheless, it is generally agreed that it is necessary to find ways to strengthen the dialogue, to make it more adaptable and to associate the work of the social partners more closely in the development and implementation of the policies, particularly employment and economic growth.

The functioning of the social dialogue at Community level is in need of significant restructuring following the major changes resulting from the Agreement on Social Policy. Its development will shape the future of European industrial relations which cannot be left to chance or to "ad hoc" developments. It must be well thought out and have specific aims and functions (EUROCOMMERCE and FST). This is an opportunity for Europe which needs social partners to balance its construction and prevent it from becoming nothing more than a free trade area (CEEP). Strengthening of the social dialogue and extending its scope to new areas are fundamental elements in the search for a new balance between legislation and contractual agreements to put the finishing touches to the social dimension of the EU (ETUC). The social dialogue; which has improved political decisions needs to be reinforced because the close involvement of the players concerned in the development and implementation of Community policies improves their relevance and facilitates their implementation (UNICE).

### **The Agreement on Social Policy and the Treaty**

A number of respondents endorse the Commission's view that the Agreement on Social Policy must be integrated into the Treaty: to provide a horizontal dimension for subsidiarity and act as a force for social integration in Europe (CEEP), and to put an end to the unacceptable opt-out by the current British government (ETUC) (EUROCADRES). The UK Government, however, has placed on record its fundamental opposition to such a move arguing that the provisions of the Agreement are undemocratic and give too great a role to certain European federations of employers and unions in setting European law and social policies.

## **Definitions**

The Commission decision to regroup the diverse areas where dialogue occurs has been a source of confusion in UNICE and ETUC deliberations. The mixing up, on the one hand, of the autonomous bipartite relationships between the social partners with the tripartite institutions, in which governments participate, and, on the other, the role of information, consultation and negotiation, introduces an element of confusion about the nature, the instruments and the objectives of social dialogue. The use of the expression "social dialogue" also causes confusion because, although it has a precise meaning as a result of the Val Duchesse process, it is applied to other different activities.

Broad agreement seems to exist on making a distinction between the dialogue that takes place between the social partners on a voluntary basis, and the formal dialogue that takes place between the social partners, the Commission and Member States to satisfy statutory requirements.

## **A. THE INTERPROFESSIONAL SOCIAL DIALOGUE**

### **A. I VAL DUCHESSE SOCIAL DIALOGUE**

#### **Continuation of the Val Duchesse Model**

The value of the Val Duchesse model is endorsed because it is a forum for important discussion between the social partners (GEOPA) and provides a staging post for the legitimacy of the EU economic and social policies (UNICE). The achievements to-date, however, are not without criticism. In the context of giving shape to a social Europe and labour relations in Europe, EFBWW argues that, so far, neither the 21 Joint Opinions and Declarations, nor the European Centre for Industrial Relations have had a significant impact. It alleges that the Commission constantly proceeds on the basis of giving legitimacy to its own policy.

Nevertheless, there is much support for the social dialogue to continue as an informal and voluntary activity to cover a broad range of subjects (CESI), but the quality of the interprofessional social dialogue needs to be improved. ETUC believes that the Commission should accept its responsibilities in the field of social policy and exercise its power to act on its own initiative to propose legislation which is currently the driving force behind negotiation. The guiding role of the Committee for Social Dialogue should be strengthened and supported by the "Ad Hoc" Working Groups, particularly the Macroeconomic Group whose work provides important material to influence economic and monetary decisions within the EU. The Commission should encourage social dialogue and negotiation to cover new subjects such as the organisation of work, the working environment, or continuing vocational training throughout active life. For EUROCADRES a useful extension would embrace more specific issues such as the mobility of professional and managerial staff, their employment situation, their working time and management methods.

The success of the social dialogue requires the involvement of the social partners at every level. It must be co-ordinated at the initiative of the latter and must be supported by the Structural Funds under direct procedures such as Art. 6 of the ESF (CEEP). Respect for the autonomy of the social partners and

balanced support to the parties present is essential; the objectives, content and organisation of the dialogue, including participation in the work are the exclusive province of the social partners (UNICE). CEEP suggests that one way of ensuring co-ordination at various levels of the dialogue is to conclude agreements between the partners.

The Commission's contribution is necessary not only in providing material support but also in facilitating the flow of information and follow-up (EUROCADRES). UNICE welcomes the Commission offer of further support. However, it recalls that the responsibility for passing on the results to the constituent members of European employer organisations lies with the organisations taking part in this dialogue and stresses that UNICE already performs this task through its member organisations and at meetings of the European Employers' Network.

### **Participation**

HOTREC believes that representativeness, particularly at the interprofessional level, is crucial; it is essential that it should be seen to be legitimate and to be genuinely interprofessional. HOTREC, EURELECTRIC, and SEPLIS, among others, welcome and support the Commission's approach in urging the social partners themselves to reinforce the social dialogue by ensuring adequate representation of all appropriate interests.

There is a need to recognise fully and highlight the role of the organisations that have conducted the dialogue so far, without disrupting the relations they have built on mutual recognition and by working together. The social partners should formulate themselves sufficiently flexible procedures for participating in the interprofessional social dialogue to ensure the adequate representation of all legitimate interests involved. But these interests must be represented by the large interprofessional organisations which have the capacity to produce a balanced summary of these interests. A proliferation of organisations would make the dialogue ungovernable (CEEP).

GEOPA argues that the social dialogue cannot be properly effective in the future if all the elements concerned with this process are not effectively represented: that is not the case at the moment. EUROCOMMERCE notes that companies in commerce and distribution are not represented and SEPLIS makes the point that the liberal professions are also not represented.

Participation in the social dialogue must be accessible to organisations other than the three original participants. On the employers' side UEAPME, EUROCOMMERCE, CEMR EP, HOTREC, and GEOPA, among others, and on the trade union side CEC, CESI and SEPLIS claim a place at the table of the Val Duchesse social dialogue. The Economic and Social Committee has stated on the other hand, that in voluntary discussions between the social partners, it is up to them to decide with whom they wish to consult or negotiate.

EUROCOMMERCE and HOTREC suggest alternative solutions to deal with representation problems, but both aim to achieve a genuinely interprofessional employers' group that would participate not only in the Val Duchesse social dialogue but also in the consultations on draft legislation and actions in the

Advisory Committees, in the consultation with the Commission and the Council on problems of employment in the SCE, in discussions relating to enlargement and in different conference fora.

EUROCOMMERCE regrets that the Commission does not seem prepared to take action with regard to the problem of the lack of representativeness of the Val Duchesse social dialogue. It is a paradox that the Commission invites the social partners to ensure adequate participation at all appropriate levels while it is the Commission itself which maintains and organises the "Val Duchesse" social dialogue (GEOPA).

## **A. II INTERPROFESSIONAL ADVISORY COMMITTEES**

### **Review of structures and tasks.**

Some respondents, among them the ETUC, make it quite clear that they do not consider that Interprofessional Advisory Committees form any part of the social dialogue due to their tripartite or even quadripartite nature. They are official committees consulted in a formal framework which has nothing to do with social dialogue at Community level. FBE feels that their survival in their present form should be reviewed. The European Social Partners have already expressed their views on the functioning of the Advisory Committees in their Joint Recommendation of June 1993 (ETUC), as noted by the Commission.

AUSTRIA believes that the Advisory Committees provide important information and participation fora in which the social partners can play a valuable role in helping to prepare legislation or other measures, and can contribute their knowledge and experience. But the systematic and timely consultation of these committees is not proving effective. The size of the European Social Fund (ESF) Committee makes it relatively inefficient, and the recent trend of resorting to more working parties with fewer participants, is a means of improving the situation. Nor is it clear to what extent opinions are taken into account by the Commission where discussions usually take place at a very late stage (e.g. the Opinions of the committee on Equal Opportunities on the IGC or judgements of the Court of Justice).

For ETUC, the ingredients for a worthwhile contribution are a high standard of documents prepared on time, the provision of adequate preparatory meetings in which to study these documents, and improved resources to assist workers' and employers' groups. For CEC the membership of the committees should be modelled on the recent formula applied in the case of the Equal Opportunities committee. EUROCHAMBRES advocates the tried and tested model of the Advisory Committee on Health, Hygiene and Safety at Work.

EUROCADRES, among others, endorses the proposal made that the Advisory Committee on Social Security for Migrant Workers and the Advisory Committee on Freedom of Movement for Workers could be merged and cover all problems linked to the free movement of workers and questions relating to immigration from third countries. AUSTRIA and the UK are opposed to such a merger.

### **Adapting membership**

EUROCADRES argues that to improve the effectiveness of the committees the membership should not be based exclusively on national delegations but should also have delegations appointed at the European

level depending on the problems to be dealt with and the specific national, regional, professional and sectoral issues involved. ETUC believes that its role in the co-ordination and organisation of the committees and working groups should be recognised, and that it should become a member of the committees in its own right and work alongside the members nominated by national organisations. This approach would make it possible to make advances in the Europeanisation of the functioning of these committees.

Several European social partner organisations request that their sector be represented in these committees. The UK Government stipulates that representation of the European social partners should not be at the expense of the social partners appointed by the Member States.

ETUC attaches importance to the appointment of observers from the European Economic Area representing trade union and employers' organisations from Norway and Iceland as already recommended in the social partners' Joint Recommendation of June 1993.

## **B. SECTORAL SOCIAL DIALOGUE**

### **General Statements**

The sectoral social dialogue is complementary to the interprofessional dialogue at European level (EUROCADRES). So far, the Commission has attached more importance to the social dialogue at the interprofessional level (EUROCOMMERCE) (FIEC/EURO-FIET). The ETUC asks that priority should be given to the sectoral dimension, particularly in view of the problems which European integration brings at the level of industrial and sectoral policies, to encourage the development of forward-looking management and policies that will avoid negative effects and exploit the opportunities and potential scope for development and job creation.

### **Review of the structures**

Many respondents agree with the Commission that more substance should be given to the social dialogue at sectoral level by focusing it on strategic issues and sectors. EURELECTRIC believes that there is no point having a social dialogue on issues which do not add value for the sector or to the debate on European social policy in general, but it considers that it is not entirely clear what the Commission means by "strategic issues". GEOPA believes that it could be dangerous to give the sectoral social dialogue more substance by focusing it on strategic issues and sectors and asks what criteria will be used to choose the issues involved.

The ETUC deplores the Commission's separation of social, economic and industrial policy. This lack of co-ordination is particularly prejudicial to the interests of the sectoral level, where the various DGs involved either ignore each other or ignore social policy implications. The ETUC fully supports the development of a sectoral dimension of social dialogue and hopes for an increase in the resources allocated for running the JCs and IWPs. The nature of the committees is of secondary importance, and ought not to lead the Commission to mask the real problem which is the content of the committees' work

and the genuine involvement of the DG concerned. The Commission's criticism of the JCs rests not on policy or quality analysis but on an "accountancy" approach to administration and finance which, in the opinion of FIEC/EURO-FIET, can lead to the conclusion that the ultimate objective is the reduction of costs rather than the promotion of the social dialogue at sectoral level.

EURELECTRIC believes that in a voluntary dialogue it should be for the parties to the dialogue to determine the areas for discussion, the terms of reference and the outcome. Any attempt by the Commission to prescribe the topics which should be discussed in the social dialogue or the scope of the dialogue would not be welcome. CEA, GEOPA and FETBB/FIEC make similar points. ETUC has no doubt that the Joint Committees (JCs) provide an important channel for handling the industrial and sectoral policies at European level. If improvements are necessary, they should be developed with the social partners of the sector concerned to draw on positive experience and find realistic solutions to problems encountered.

ETUC believes that the social partners should be able to give their advice on actions undertaken by a sectoral DG which affect the future of the specific sector. The consequences of economic integration and monetary union are most strongly felt at sectoral level, particularly the risks of restructuring businesses, of delocalisation and qualitative and quantitative changes in employment. The sectoral level is the most realistic level for intervention. It is closest to reality, best able to anticipate changes and to arrange for their integration in an effective and socially acceptable fashion through negotiation.

CER believes that the DG for transport has not always shown the same interest for the JC for Railways since it was revitalised in 1986. The general impression is that the social aspects have not always been taken into consideration when formulating the various policies for the rail sector. In the coming years the sector will be the subject of inevitable major structural changes deriving from the common transport policy. It is desirable that DG VII should be able to measure directly the social costs of its policy and the implications for persons at work in the sector. The direct involvement of the sectoral DG in the running of the JC seems to be the best way of ensuring that the JC opinions are taken into consideration in the future. FST believes that the Commission has a statutory duty to consult the social partners on any initiative that may have a social impact on the sector involved and that it is not the sole prerogative of the Commission to decide which initiative is or is not going to have that impact..

Wide participation and the growth of the sectoral dimension are major factors in successfully building the Union through the involvement of the greatest possible number of citizens. In this context it is essential to build social dialogue in the public sector between governments and employers in the public sector regionally and locally. (ETUC)

Contrary to the Commission, the EACB hold that the JCs and IWPs are not suitable organs for consulting the social partners on proposals having social implications, particularly when this is done in the context of the official procedures set out in Article 3 of the Agreement on Social Policy. These organs were not created for that purpose.

The Commission should provide the financial and logistic means to enable them to organise work sessions when necessary, suitable conference rooms, interpretation, secretariats, prior distribution of working papers in the official languages and the financial support to launch a programme of work to develop the sector involved (Joint Postal Committee)

### **Organisation of consultations**

The Commission's declaration that it will strengthen co-operation and co-ordination within its services concerning the consultation procedures is explicitly welcomed by a number of organisations.

The possibility of transferring some of the tasks relating to the JCs and IWPs from DG V to the relevant sectoral DGs has received a mixed reception. For example, in civil aviation, ERA believes that DGVII should take on the role of organising Bureau meetings, ensure that the level of representation at meetings is adequate to enable genuine debate of strategic issues and become responsible for raising issues of which the social partners may not be aware. DGV should continue to take a significant role in the discussions ensuring that the social implications of issues are fully discussed, and that the members of the JCCA are updated on the implications of general social initiatives. Prolonged discussion of issues on which the social partners are not able to reach consensus should be avoided as they have no value.

HOTREC argues that the transfer of some tasks relating to the JCs and IWPs from DG V to the relevant DGs is not possible. Given, for instance, that the activities in the field of tourism involve directly at least 10 DGs, the dispersal of the social dialogue would result in a significant upheaval with large financial implications for the Commission. With the present weakened state of DG XXIII this would in effect mean the elimination of the social dialogue in the HOTREC sector. For EACB, the transfer of certain Joint Postal Committee tasks from DG V to sector-based DGs would be highly damaging to the policies that the Union hopes to enforce. It would be incoherent to adopt a horizontal approach for competition policies and a vertical approach for social matters.

The JC dealing with the social problems of agricultural workers cannot limit itself to giving opinions on Community initiatives in the social area. The consideration of economic and social issues of a sectoral policy at Community level calls for the development of a closer collaboration between the JC and DG VI. DG V is responsible for the social dialogue, and there can be no question that a transfer of responsibility take place. Such a transfer to the technical DGs would inevitably lead to the sectoral social dialogue being constrained to the technical issues of Community policies. Direct involvement in discussion of the global aspects of social policies and the labour market in the EU would be lost, especially involvement in the development of European regulations, directives and decisions in this field.

A view expressed by organisations in a number of sectors, is that the major problem currently affecting the process of consultation is that the sectoral social partners are not consulted in time on the social implications of the initiatives involving regulations and the formulation of directives deriving from Community sectoral policies.

DG V is seen by a number of organisations as the most appropriate directorate to organise the sectoral social dialogue and to have general responsibility for all dimensions of social policy, particularly employment. CEEP believes, however, that the sectoral DGs should be more directly involved. In some cases, e.g. the development of economic and monetary union, there may be a need for a significant degree of cross-sectoral co-ordination. (NFU) (NBU). ETUC believes that DG V and the other DGs involved in conducting consultation meetings should develop a joint management approach and that DGs ought perhaps to share the costs as is already the case with DG XXII

### **A study of the representativeness of social partner organisations**

EACB, EURELECTRIC, EUROCOMMERCE, and FBE explicitly support this study the results of which will facilitate the future of the social dialogue will help to produce a clear assessment of the economic and social importance of each of the social partners and will help to increase the respect for each of the interlocutors. HOTREC is surprised that the Commission has published its Communication before it has received the results of the study on representativeness. AUSTRIA welcomes the Commission's intention to carry out the study, which should take account of the specific features of all Member States, and could also be used as a basis for verifying and if necessary modifying the composition of the committees.

### **Adapting the membership**

CEEP, EACB, ECSA and FBE explicitly agree that the number of members on the JCs or IWPs could be reduced, as does ACI Europe, provided that membership continues to be fully and equitably representative.

BDA warns that the composition of the JCs is an extremely explosive subject. One representative from each social partner group in each country is the minimum requirement. The Commission must not interfere with the autonomy of the groups by bringing in sectoral organisations with an independent status as happened in the case of the LEONARDO Committee. This could make the work considerably more complicated.

CER is satisfied with the present structure of the JC for Railways and warns that to reduce the number of meetings per year or the number of participants, would adversely affect the mission and relevance of the JC, would reduce the quality of the dialogue and the level of mutual understanding, It is important that the JC should be opened to the representatives of the new Member States to help them to manage the new experiences they will encounter.

With reference to the working party to be created for the public service, the representation should be in proportion to the one developed for Post and Telecommunications. Due account should also be taken of pluralism within the social dialogue. (EUROFEDOP)

### **Operational reforms**

The way meetings are organised by the Commission needs to be improved. Proper planning and preparation contribute greatly to more effective dialogue, including the despatch of discussion documents

in good time (NBU). The Commission should provide the secretariat as well as the resources necessary for the meeting. With advance knowledge of the agenda and possession of the documents and reports, the participants would then be in a better position to organise preparatory meetings for the plenary. If the Commission decides to reduce the number of meetings, it should take into consideration the importance of an economic activity and apply the reduction to the activities which consume a disproportionate part of the budget. (EUROCOMMERCE)

To save costs, ECSA would be prepared to have one plenary and two bureau meetings per year. Working groups established to examine specific issues could meet as required. Such changes could well carry the potential danger of a lack of timely information on social/transport issues but this could presumably be mitigated to a great extent by regular written reports from the Commission to the social partners. EUROCHAMBRES recommends that the JCs should resort more frequently to the adoption of sub-working groups.

ERA believes that plenary sessions do not add anything of value. The Bureau meetings should be made more effective, becoming the key forum for discussion of all strategic issues (including social issues) under consideration by the Commission, which could affect the future development of air transport and the welfare of the companies and employees concerned.

Interpretation and translation resources are unquestionably most problematic issues. A number of employer organisations would accept a restrictive linguistic regime encompassing German, English and French. But trade unions, some employer organisations and governments consider that the social partners would be handicapped if they were not able to express themselves in their mother tongue.

Effective communication technology should help to alleviate problems of resources. For instance, the wider use of the Internet and E-mail facilities is an obvious answer to human resource problems and would allow speedier consultation (ACI EUROPE). EUROCHAMBRES is positively disposed towards the use of information and communication technology on the basis of harmonised standards. New technologies which can be used as helpful accessories can, however, in no way replace direct exchanges (Joint Postal Committee)

The Commission should allocate resources equitably between the various branches of the economy and, in principle, treat JCs and IWPs equally (EACB and FIEC/EURO-FIET).

### **Improving information and co-ordination**

There is broad support for the strengthening of inter-sectoral co-ordination by bringing together representatives from the different sectoral dialogues for the purpose of receiving information from the Commission and exchanging information between themselves on the progress of their work. However, some words of caution are expressed: care must be taken that such meetings, involving inevitably large numbers, do not become unwieldy and thereby less effective and less useful (ACI); the discussions should be limited to exchanges of information (HOTREC); they should not replace sectoral social dialogue and the sectoral associations should continue to be able to communicate to the Commission their own

individual points of view on social dialogue subjects specific to their branches (EUROCHAMBRES). The decisions to hold such meetings should be taken on a case-by-case basis, in close co-operation with the social partners concerned to identify needs and develop appropriate methods (EUROCOMMERCE).

FBE and ECSA have doubts that regular meetings would improve the social dialogue or be cost effective. The interests of sectors are so different that identifying common ground is very often difficult and of limited value. A preferred approach is for the Commission to inform in writing the various JCs of the ongoing work being undertaken and only decide to convene joint meetings where the social partners identify a clear case for doing so (ECSA). DG V's new monthly newsletter on the European Social Dialogue and initiatives such as the publication of the special issue of "Social Europe" could help to keep the social partners informed (CER and FBE). CEEP advocates conferences organised by the Social Dialogue Committee.

UNICE, BDA and FBE point out that on the employers' side co-ordination is handled by the European Employers' Network. UNICE is not favourable to the Commission's proposal for bringing together the representatives of the different sectoral dialogues to reinforce sectoral co-ordination. BDA believes that the Commission should not create complicated arrangements which are unnecessary.

### **C. THE STANDING COMMITTEE ON EMPLOYMENT**

#### **Preserving the objectives**

Again the point is made by some respondents that the SCE is not a forum for social dialogue but for tripartite consultation.

CEC believes that employment policies require a permanent and stable structure which can bring together the different opinions of the various institutions involved and the social partners in the Community. However, there is broad agreement among respondents that the way in which the SCE currently operates is inefficient and that reform is necessary if it is to achieve its objective. However ETUC, UNICE and EUROCADRES, among others, believe that given the decision to establish an Employment and Labour Market Policy Committee and the proposal to the IGC discussion for an employment chapter, proposals concerning the SCE should be presented only after completion of the IGC.

Although it queries the need to preserve the SCE, the FBE accepts that its true benefit is that it is the only body which brings the social partners and the Council into direct contact.

While AUSTRIA would like to see the SCE incorporated into the procedure it advocates for the preparation of broad guidelines on employment policy, it suggests that the failure of the SCE could be alleviated somewhat by co-operation between the planned ELMPC and the social partners. ETUC, however, warns against the risk of being diverted by the Commission's proposal for linking reforms of the SCE to the implementation of the European Council decision concerning the committee for employment. The UK Government is opposed to the link because the ELMPC which has been established to support

the Social Affairs Council will be accountable only to the Social Affairs Council and not to the Commission or the SCE although appropriate liaison may be maintained. It argues that reform of the SCE should therefore progress independently of the operation of the ELMPC.

CEA points out that structural change is not the industrial sector's prerogative alone but also affects the financial sector and insurance in particular. Several insurance federations are not members of their national interprofessional organisation, and it is important for them to be able to make their views known.

### **Renewal of working methods**

The proposal that the SCE should establish a work programme setting its work in a long-term context is welcomed by AUSTRIA, UEAPME, EUROCHAMBRES and the CEC. GEOPA suggests that the work programme should be drawn up in consultation with the social partners. CEC suggests that the SCE should operate through small "ad hoc groups", the plenary being too formal. UNICE does not see a need for the establishment of a secretariat to prepare the work of the SCE.

### **Improving the output**

EUROCOMMERCE feels that the Committee's conclusions should be truly joint ones. UNICE, on the other hand, has doubts about the usefulness of changing the current practice for arriving at conclusions.

The BDA believes that the Commission's proposal to associate the social partners more formally with the conclusions of the SCE is unlikely to improve the effectiveness of the Committee and is likely to weaken the position of the Chairperson.

### **Updating the membership**

There should be coherence between the membership of the Social Dialogue Committee and that of the SCE in terms of social partners involved, and the range of members could be enlarged. (CEEP) CESI advocates the review of the membership, wider participation by the European social partners and claims a place in the committee as does EUROCHAMBRES. UEAPME and EUROCOMMERCE are not opposed to rationalisation of the SCE membership on the special condition that UEAPME, being recognised as a European interprofessional organisation is allowed to continue to participate in all the activities of the newly constituted SCE. Similarly, EUROCOMMERCE claims a place in the SCE either directly or through the Employers' Liaison Committee. Several European organisations see no justification why some organisations of a purely national status are represented on the SCE.

### **Liaison Committee**

AUSTRIA, CEEP, CEC and CESI have endorsed the proposal for a Liaison Committee to improve efficiency (AUSTRIA and CEC), and to ensure a balance between the parties (CEEP).

EUROCHAMBRES is sceptical about the need to invite the social partners to express their views through a Liaison Committee. If the composition of the SCE is balanced, preliminary meetings of the interest groups are set up and each group nominates a spokesperson to represent the interest group's view in the plenary, the efficiency of the SCE would be increased and there would be no need to create a Liaison Committee with additional functions.

## **D. SOCIAL DIALOGUE UNDER THE AGREEMENT ON SOCIAL POLICY**

### **General Statements**

ETUC warns that this section carries the greatest risk of confusion. A clear distinction must be made between the various activities of information, consultation and negotiation with regard to the responsibilities of the Commission and those of trade union and employer organisations. There is no automatic passage from one activity to another. On the one hand, the Commission is under an obligation to consult and has the responsibility for information and consultation. On the other hand, only the social partners involved, acting with complete independence and mutual recognition, can decide to open negotiations.

For UNICE implementation of the social dialogue under the Agreement on Social Policy has shown its value in terms of better consultation of the social partners and with the first conclusion of a binding European agreement. Experience is both positive and promising and demonstrates that the procedures foreseen are operational.

### **D I. CONSULTATION OF THE SOCIAL PARTNERS**

#### **Reviewing the criteria for identifying organisations to be consulted**

According to UNICE, CEEP and ETUC, the criteria proposed in their Joint Opinion of 29 October 1993 on the implementation of the Agreement remain completely valid. The European Parliament's suggestions for two additional elements to be taken into account regarding representativeness reflect these criteria (UNICE) (CEEP). Insofar as the European social partner organisations are based on voluntary membership, asking for complete 100% representativeness would be illogical (UNICE). CEEP points out that two additional criteria are important (a) to have the will to engage in a constructive dialogue and (b) to be capable of including sectoral and interprofessional issues in the general social debate.

EURELECTRIC, CER, NFU, and FBE have no objection to the adoption of suggested additional criteria, but FBE makes the point that in some countries the banking supervisory authorities, for security reasons, require by law that banks should be members of the national banking association which, on occasion, also acts as an employer representative. GEOPA argues that any revision that may be made should not have the effect of excluding the representatives of the agricultural sector.

UEAPME, EUROCHAMBRES and SEPLIS are emphatically opposed to the first of the extra representativeness criterion proposed in the Communication. The voluntary nature of membership says nothing about the representativeness of the organisation concerned. A system that restricts participation in a social dialogue to employers' organisations and trade unions may well be appropriate for big enterprises, but it does not take account of the interests of SMEs. Because small businesses lack organisational strength, there are only a limited number of voluntary organisations in Europe that are in a position to represent their interests efficiently. The policies of horizontal organisations with voluntary membership tend to be influenced by, and to protect the interests of, larger enterprises that are financially

powerful. The policies of organisations with compulsory membership have to reflect an objective balance of the various interests of their constituent members. These organisations take an active part in social dialogue and conclude collective agreements at national level, and they cannot be excluded from the dialogue at European level. What should be decisive for admission to the social dialogue is the question of the independence of the organisation from their respective national government.

CEDI states that SMEs, which are underrepresented, need to be accorded recognition in a way that is commensurate with their economic importance. Limiting the consultation of SME organisations to UEAPME, in its capacity as the European umbrella organisation for SMEs, is no longer acceptable. SMEs, service-providers and the liberal professions should be represented only by organisations which represent solely the interests of SMEs, to the exclusion of the interests of large firms, and which have voluntary membership.

In its Opinion on the Communication, the Economic and Social puts forward criteria on which the representativeness of an organisation should be judged:

- it must have member organisations in at least three-quarters of the EU Member states;
- it must have a mandate to negotiate;
- all its affiliated organisations must be entitled to negotiate at national level and to implement agreements concluded at European level, and
- all its affiliated organisations must be considered in their Member states as representative.

### **The organisations consulted**

The ETUC does not wish to interfere with the Commission's right to consult whoever it deems necessary. The ETUC considers, however, that the Agreement on Social Policy information and consultation procedures entails sending documentation to all European professional federations of the ETUC who should appear annexed to the list of the representative organisations.

The results of the study carried out by the Commission on the representativeness of the social partners, summarised in the Communication on the implementation of the Protocol on Social Policy [COM (93) 600] remain valid (UNICE). The list of organisations published in then is based on a differentiation of the levels of responsibility of the various types of organisation. That structure corresponds to the actual situation and should be maintained. (EUROCADRES)

UEAPME rejects its classification in the 1993 Communication, as representing a certain category of undertaking, as inaccurate and deliberately discriminatory. They are a fully interprofessional organisation representing all categories of SMEs.

A number of organisations request to be added, or in some case retained, on the list of organisations to be consulted. CIETT requests to be informed and, as appropriate, consulted on all elements of the social dialogue. EUROCHAMBRES welcomes the Commission's intention to examine regularly the list of the European organisations to be at sectoral level. This must be done particularly with regard to the new

Member States. SEPLIS endorses the Commission' intention to review and update regularly the list on the basis of the currently applicable criteria.

EURELECTRIC has no strong objection to the Commission bringing together voluntarily representatives from the different sectors, whether or not they are currently part of the social dialogue structures. CER also welcomes the proposal and the Liberal Professions would be happy to co-operate in the development of linking structures between all social partners.

EUROCHAMBRES are sceptical about the creation of liaison structures, and they see a danger that they will be used to involve organisations that the Commission does not consider to be "General Cross-Industry Organisations" only indirectly in the dialogue. As a result, the point of view of SMEs may no longer be taken into consideration when Commission proposals are prepared. However, if the liaison structures are intended to provide additional facilities to improve co-operation between the social partners and are not designed to replace existing facilities, they would be acceptable.

### **Amending consultation procedures**

A large number of respondents have explicitly welcomed the Commission proposal that the time-limit for the first-stage consultation should be reconsidered, that the deadline should be adaptable and should be fixed on a case-by-case basis depending on the nature and complexity of the subject.

The six-week limit is in most cases considered too short, and proposals for time-limits for first-stage consultations include periods of eight weeks (FBE), three months (UNICE) (CER) and four months (CEEP) It is argued that there is a need to allow time for proper consultation at the grassroots level and to avoid the submission of rushed, ill-prepared and unsatisfactory responses. EUROCADRES, EUROCHAMBRES and CER believe that the problems of setting time-limits could be lessened if the agenda of the subjects likely to be raised for consultation during each year could be announced at the beginning of the year. EUROCOMMERCE and FIEC/EURO-FIET consider that the time-limit should be set after consultation and close co-operation with the social partners.

The second phase of consultation should not be launched too soon after the first. Before deciding to adopt a proposal for a directive, the Commission should examine in depth the different views that may have been expressed about the possible options for Community action. (FBE) GEOPA considers that the current time-limit for the second-stage consultation is too short and impractical since it is at this stage that the social partners have to decide, on the basis of the Commission's latest proposals, whether or not they wish to embark on negotiations. GEOPA suggests that eight to ten weeks would be more realistic for this second stage.

## **D. II NEGOTIATIONS UNDER THE AGREEMENT ON SOCIAL POLICY**

### **Reviewing procedures**

CEEP considers that with the agreement on parental leave the social partners have proved that they are capable of playing an effective role in the formulation of the European social framework, avoiding cumbersome legislative procedures whose results are often regarded as too "Eurocratic".

UNICE welcomes the Council's recognition that it could not change the agreement on parental leave. It would like to recall that in the event of the social partners deciding to send their agreement to the Commission for a Council decision, the legislator should integrate this agreement verbatim without changing the text. If this were not the case the legislation produced could not be regarded as an agreement between the social partners and the legislative procedure would then have to resume from the stage where it was suspended. It would have to start with a Commission proposal and follow the procedures foreseen in the Treaty for the development of EU legislation, including the involvement of the European Parliament in the decision making process, discussions and votes in Council, etc.

ETUC and UNICE express the view that the experience gained with the negotiation of the first agreement on parental leave provides an insufficient basis on which to draw conclusions for changing the Agreement on Social Policy. UNICE is opposed to a revision of the procedures at this stage. BDA warns that the European Parliament may not exercise any influence on the substance of negotiations between the social partners under the Agreement. This would not fit in with existing arrangements and would jeopardise the whole procedure.

GEOPA argues that, in light of the parental leave agreement, an agreement between some social partners will, by means of a directive, have an impact on everyone, including employers and employees in sectors that were not represented in the negotiations. It is not acceptable that some sectoral organisations and not others should be invited to participate in the negotiations on the basis of discretionary criteria. GEOPA feels that, when certain parties decide to open negotiations on the subject of a Commission initiative, a third phase should be introduced to make it possible to consider ways and means of involving the other parties in the negotiating process. Indeed when, at the end of the second phase some organisations wish to embark on negotiations a new situation may arise which may cause all social partners consulted by the Commission to review their original positions.

ETUC suggests that complementary sectoral negotiations can follow from a European interprofessional framework agreement with the aim of improving or adapting the general agreement to particular categories or situations. If these negotiations end in agreement this may be implemented either on a voluntary basis or by a Council Decision. If any sector is excluded from a Directive, the Commission should initiate complementary legislation which would enable negotiations between the trade union and employers' organisations involved in the sector to take place, the results of which should be covered by a Council decision as necessary.

AUSTRIA feels that questions concerning the precise competence of the social partners (in the context of substantial matters versus procedural and institutional aspects), the type of legal instrument (arising from a discrepancy between the German and other versions of the term used for a Decision), the involvement of the European Parliament and the interpretation of the exact meaning of framework agreements for the purpose of transposition should be resolved before the next draft based on the Social Protocol is discussed by the Council.

### **Representativeness of the contracting parties**

UNICE, CEEP and ETUC explicitly repeat the view that only the social partners themselves can develop their own negotiating structures and that the Commission cannot impose participants on a freely undertaken negotiation. The organisations involved in the interprofessional dialogue must ensure that they comply with the representativeness criteria and have a mandate to negotiate and conclude agreements.

UEAPME points out that to represent an organisation does not necessarily imply having the mandate to negotiate on its behalf. HOTREC maintains that an association involved in negotiations cannot claim to represent the interests of all employers and to commit them to the outcome, if some employers in certain sectors feel that they are not, or are inadequately, represented. With UEAPME, EUROCOMMERCE and others, they cannot accept that some associations, like UNICE, should conclude agreements at European level which are then turned into directives when they are not representative of a sector in certain Member States. UEAPME and EUROCHAMBRES state that, in the case of the Parental Leave Agreement, the contracting parties did not represent the SMEs.

UEAPME consequently argues that this puts into question the validity of the agreement, and has been forced to challenge the subsequent Directive in the Court of First Instance. It deplores the fact that the Commission did not use the Communication to resolve the problem of the participation of SME representatives in negotiations, with the result that SMEs are excluded from the negotiations on part-time work. UEAPME strongly disagrees that the question of the representativeness of an agreement should be settled on a case by case basis, and demands to be included in all negotiations. EUROCHAMBRES and SEPLIS however, agree with the Commission that the question should be resolved on a case-by-case basis.

On the basis of its proposals for criteria to judge the representativeness of European organisations, the Economic and Social Committee has a particular view on how to judge if an agreement concluded under the Protocol procedures is representative. The ESC states that every European organisation which fulfils the representativeness criteria (as defined by the ESC) should be admitted to the negotiations if it so wishes.

AUSTRIA is aware that the involvement of the social partners is an internal matter for the social partners, but the absence of the Wirtschaftskammer Österreich, from the process covered by the Social Protocol goes against the principle that participation should reflect the situation in each Member State.

EURELECTRIC believes that if agreements reached by the main social partners are to be widely accepted, the latter will need to ensure that mandates for the negotiations take account of sectoral opinion. In this context, it suggests that the internal UNICE/CEEP networks should be fully utilised and that ad-hoc arrangements should be made to ensure that sectors particularly affected by a specific proposal are involved. FBE also points out that thought should be given to the way in which partners who feel that they are not represented by European interprofessional organisations, and who do not wish to negotiate at European sectoral level themselves, can be associated with the negotiations.

EUROCHAMBRES considers that the acceptability of negotiated agreements to organisations that do not take part in the negotiating process can only be ensured by guaranteeing the inclusion of all representative organisations in the decision-making process from the very beginning of the negotiations. Liaison structures and information meetings cannot take the place of this requirement.

EUROCOMMERCE interprets the Commission statement that "the consultation of the social partners does not in itself imply access to negotiations" in the following way: all social partners consulted in the framework of Article 3 have the right to enter negotiations and have access to Article 4. Any other interpretation would in reality be in contradiction with the statement that only the social partners themselves can develop their own negotiating structures. This being said, EUROCOMMERCE remains fully prepared to find a long-term political solution with UNICE which is acceptable to all parties.

## **E. BROADER ISSUES FOR THE DEVELOPMENT OF SOCIAL DIALOGUE**

### **E. I EMPLOYMENT AND THE CHANGING POLICY ENVIRONMENT**

FIEC/EURO-FIET, EUROCOMMERCE, and NBU recognise that employment is a priority issue. CEDI would welcome, in particular, the inclusion of job creation in the social dialogue. The ETUC suggests that social dialogue could lead to European strategies for employment with particular reference to the White Paper on "Growth, Competitiveness, Employment", the five Essen objectives and the European Job Confidence Pacts. The UK government feels that the social partners have no formal role in implementing the framework agreed at Essen unless individual Member States wish to involve them in accordance with their national traditions.

UNICE welcomes the importance attached to employment in Europe and, together with CEEP, considers that the battle against unemployment must remain one of the European Union's main priorities. It reaffirms its support for the employment strategy defined by the Essen European Council. However, it underlines that employment policy is essentially a national responsibility and recalls that job creation is primarily a function of flexibility and economic and social innovation. The social partners play an important role in the definition and implementation of national employment policies. However, given that employment creation and growth take place as a result of a combination of a whole range of policies, some of which are outside the competence of national social partners. UNICE believes that development of the European social dialogue must be considered separately from this question.

Rather than focusing the social dialogue on employment, CEEP would prefer that the impact on employment should become a permanent criterion for analysing draft decisions. The social dialogue cannot be limited to the sole issue of employment. It must cover all social problems.

## **E. II SOCIAL DIALOGUE AND ENLARGEMENT**

ETUC, EUROCADRES and CEEP are among those who share the view that the prospect of enlargement makes it necessary to open the social dialogue to the social partners in Central and Eastern European countries (CEECs) as quickly as possible to assist their independent development in industrial relations.

AUSTRIA believes that enlargement will make it necessary to help the CEECs develop appropriate systems of social dialogue. This does, however, raise the question of how to finance the measures proposed. The UK Government, while firmly committed to the accession of CEECs to the EU as soon as they are ready, does not feel it is appropriate for the Commission or the social partners to impose solutions on these countries.

UNICE is convinced that the Commission can give useful support to development of the social dialogue in Central and Eastern Europe, with a view to facilitating the economic and social reforms under way and to prepare them for accession to the EU. Its federations, in partnership with other national and international organisations, participate in actions to provide employer organisations in these countries with technical assistance. At this stage, UNICE believes that priority must be given to actions which seek to underpin the development and consolidation of representative employer organisations in CEECs. This question must be tackled separately from the existing European social dialogue.

## **E. III INFORMATION AND CONSULTATION**

Several respondents agree that there is a need to ensure greater transparency in and awareness of the different social dialogues activities (EURELECTRIC, CEMR EP, SEPLIS), not only for the benefit of all interested parties involved in the dialogue but also for those outside who are not directly involved (CEEP). In this context, CEEP explicitly welcome the Commission's proposal to improve the flow of information among participants in the social dialogue but also considers that the EU Institutions must also be kept informed and that, by the same token, the European social partners must undertake to keep their own members informed of social dialogue activities and results.

The interprofessional and sectoral social dialogue already meet within UNICE/ETUC at national level through their respective federations. While an occasional meeting for a joint exchange of views might be useful, regular meetings are unlikely to prove effective. It is, however, important that information should be made available in a form that can be disseminated widely. The proposal by the Commission to issue a regular newsletter on the topics being discussed in the social dialogue and on any positions or agreements reached is welcomed. (EURELECTRIC) The Commission should also seek greater

dissemination of information through the mass media to reach a broader section of the European population and to enable EU citizens to get a better idea of the efforts undertaken and the results achieved at European level in the social field (CEEP).

EUROCOMMERCE and EURO-FIET have already taken initiatives in the past to communicate the results of their social dialogue to the widest possible extent through national round tables, joint activities and through verbal and written communications but Commission support remains indispensable for future activities. EUROCHAMBRES recommends that all minutes and information material about the European social dialogue at sectoral or interprofessional level to make them available to every interested party and that, for external purposes, a brochure on the social dialogue could be prepared for circulation to all the social partners at national level.

#### **E . IV SUPPORT MEASURES FOR JOINT INITIATIVES**

CEEP expressly supports the Commission's proposals and considers that the Commission should undertake to support and finance the joint initiatives of the social partners, whether in the context of the Structural Funds or through joint operational initiatives, such as CERI which was created to develop the social dialogue in Europe, especially within enterprises and organisations, through training officials and experts

UNICE is convinced that the research and training actions carried out by the social partners play an important role in the development of the European social dialogue. It welcomes the fact that the Commission envisages a strengthening of its support for joint operational initiatives in the framework of the social dialogue. However, it recalls that Article 6 of the European Social Fund regulation targets the social dialogue in the generic sense and Community social dialogue.

#### **E. V NEW LEVELS OF SOCIAL DIALOGUE**

While ETUC is in favour of extending social dialogue to the level of transnational business, UNICE believes that the question of developing the social dialogue at regional level or in multinationals should not be covered in this Communication. This type of dialogue is not covered by the Treaty. The UK Government does not accept the idea that the Commission should support social dialogue in transnational industries and in cross-border regions.

For CEEP, the promotion of a regional or local dialogue involving employers' and workers' representatives as well as all the social and economic players operating in the area is of paramount importance to galvanise European social policy. ETUC believes that social dialogue must develop a new dimension at the level of cross-border regions and points to three pilot projects including EURES which is already bringing together the social partners and representatives of public employment services in pilot committees. NBU believes that it is also worthwhile considering conducting part of the sectoral dialogue at regional level. Such a development should not, however, be seen as replacing the sectoral dialogue at European level but as supplementary to it.

