



**EFFECTIVE EUROPEAN SOCIAL DIALOGUE IN AN ENLARGED
EUROPE: ENGAGING SMALL FIRM MANAGERS AND WORKERS IN THE
EUROPEAN SOCIAL DIALOGUE**

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EXECUTIVE SUMMARY

The Changing Context for EU Social Dialogue

This paper is concerned with the engagement of small firm managers and workers in the EU social dialogue, in the context of EU enlargement. Social Dialogue at the EU level is a process underpinned by the European Treaties. It brings institutions representing employers and employees at the national level, together at the European level, giving them the right to be consulted on matters related to social affairs (as set out in Article 138). The process of EU Social Dialogue has undergone dramatic development since the initiation of the bipartite dialogue in 1985. It is now entering a new phase, as a result of EU enlargement, at the same time as the EU is adjusting to increased globalisation. This presents new challenges for EU social partners.

New member states in Central and Eastern Europe face a particular challenge, in view of the low, and frequently declining, rates of trade unionisation; poor levels of recruitment among employer's organisations; and limited financial resources at the disposal of social partner organisations. At the same time, it is important to recognise that new member states are not a homogeneous group. As a consequence, although there are common underlying themes, some of the issues vary between countries.

In this context, there is a need for social partners within member states to develop social dialogue structures and to broaden their membership bases, in order to increase their ability to deliver national and European level agreements. National governments have a role in supporting social partners to develop. At the EU level, the European Commission, working closely with EU Social Partners and other member states, can help social partner organisations in new member states to develop their capacity for an effective and autonomous framework.

Evolution of the European Social Dialogue should continue to take account of the varying capacities and different traditions within member states, which provides a rich source of experience from which to address the new challenges. It should also recognise the need to facilitate the engagement of small firm managers and workers in the social dialogue process, in view of the contribution of SMEs to the European economy.

Developing Autonomous Social Dialogue in an Enlarged Europe

One of the key underlying issues for new member states is how to develop autonomous social dialogue. This requires strengthening the capacity of social partners to operate a social dialogue effectively, which is currently affected by both financial and human resource constraints.

EU social dialogue complements social dialogue practices within Member States, relying on national social partners for the development and the implementation of autonomous agreements. As a result, European Social

Partner agreements are heavily dependent on the capacity of national social partner organisations.

In this context, resource constraints are a key issue facing both employer and employee social partners in some member states, as they seek to strengthen their role as social partners at both national and EU levels. Whilst the issue of capacity and resources available to social partners is not confined to new member states, social partners in new member states have been seeking to cope with the development and national implementation of the European acquis at the same time as being required to deal with EU Social Dialogue issues. Not surprisingly, this has represented a substantial workload for organisations that in most cases are relatively recently formed.

Some Issues for discussion:

- Social partners in new member states may be able to partly ease resource constraints through their own actions. Ways of achieving this include membership growth, the development of services and sharing resources through co-operation and networking with other organisations.
- One issue is how best to build on the recent experience of EU social partners in assisting national social partners in new member states, in ways that address the financial and technical capacity constraints they face. This involves sharing experiences in order to consider what further work might be done, whether at the European level, or by other member states, to assist social partner organisations in new member states.
- Specific ways of supporting initiatives to build the capacity of social partners in new members states could include:
 - supporting a presence in Brussels
 - supporting staff training, focusing on both languages and technical skills, following appropriate skills audits.
 - supporting the development of mentoring and internship programmes for staff of social partner organisations.

Involving Small Firm Managers and Workers in Social Dialogue

The role of small firms, and the importance of their engagement in European affairs, has been recognised by the appointment of an EU Small Firms Envoy. Situated within the Commission's Enterprise DG, the SME Envoy has a wide responsibility to better integrate the SME dimension into EU policies, as well as listening to small firms and highlighting their concerns to different EC services.

As far as EU Social Dialogue is concerned, a key issue relates to the limited involvement of small firm managers and workers in social dialogue processes, which appears particularly acute in the case of the smallest enterprises. The overall contribution of small firms to the European economy is considerable, which is highlighted in new Member States, where the structure of business activity tends to be particularly small firm dominated.

Since European social dialogue includes consultation on new proposals for legislation and the negotiation of legislation, as well as the development of agreements and measures, involving small as well as large firms in social dialogue processes is important. At the same time, there are various barriers to increasing this involvement in practice. These include the fragmentation of the small firm voice; the limited management time available to take part in representative organisations and forums; low levels of union membership; as well as other behavioural barriers. In addition, the model of EU social dialogue itself is based on a process of collective bargaining, which is unfamiliar to many small firms.

Consideration could be given to how those organisations already active in social dialogue within each Member States might improve the dissemination of information about the potential advantages of being involved in social dialogue from a small firm's perspective. One way in which this might be achieved is by raising awareness of how social dialogue can contribute to dealing with issues, such as improving social conditions and raising productivity, based on consensus. This in turn could be achieved through active promotion of specific joint achievements of social partners.

Small firm involvement in social dialogue at the European level is partly driven by the degree of engagement at national level, although the conduct of Social Dialogue at the European level can facilitate that engagement. In this regard, European Social Partners, supported by the European Commission have an important facilitating role to play. They can contribute to increasing engagement with small firms by continuing to review their processes and procedures, with a view to promoting the highest levels of small firm involvement.

Some Issues for Discussion:

- In view of the size distribution of the private sector in most new member states, broadening the membership base of national social partners will inevitably involve taking steps to increase the involvement of small firms. This requires exploring the potential for such measures as awareness raising; broadening the reach and scope of social partner organisations; establishing representative bodies, which focus specifically on small firms; and improved networking between social partners.
- An important message for national social partners to promote to small firm managers and workers is that if they are not involved and

proactive in social dialogue, then they will be left to implement the results of decisions influenced and/or made by others.

- National social partners could consider undertaking more broadly based consultations of small firm managers and workers on European social dialogue issues.
- National and EU social partners could consider how the use of specific mechanisms, such as round tables and the establishment of forums on specific issues, might promote awareness and engagement with small firms.
- National and EU social partners could consider how within Member States, and at the European level, the application of the principles of “better regulation” or “governance” practice, (eg. on managing consultations, assessing impact and simplifying/standardising communications) could contribute to ensuring the maximum reach of the Social Dialogue.
- At the European level, European social partners should continue to keep engagement with and participation of small firms under review. The agreement between UNICE and UEAPME, which recognised that small firms needed to have a distinctive voice in EU social dialogue was an important step towards increasing their representation, but should continue to evolve. Indeed the European Commission Communication on European Social Dialogue flagged the need to continue to study representativeness and updating the list of organisations under Article 138.

Maximising the Potential of Sectoral Social Dialogue

One of the priorities for the future development of EU social dialogue is at the sectoral level. Arguably, this has the potential to relate more directly to the day to day issues facing small firms in the sector concerned and to engage their interest and participation. Although not all strands of sector dialogue cover sectors in which small firms are significantly engaged, others cover activities, such as personal services, which have high levels of small firm involvement.

The sectoral social dialogue committees are established with due regard for the autonomy of the social partners and are intended as bodies for consultation, joint initiatives and negotiation. The social partner organisations must apply jointly to the European Commission in order to take part in a social dialogue at European level. When submitting such an application, European organisations representing employers and workers must meet a number of criteria concerning the establishment, representativeness and operation of the sectoral social dialogue committee, namely:

- relate to specific sectors or categories, and be organised at European level

- consist of organisations which are themselves an integral and recognised part of Member State's social partner structures, and have the capacity to negotiate agreements, and which are representative of several Member States
- have adequate structures to ensure their effective participation in the work of the committees

Some Issues for Discussion

- National social partners could look at ways to promote awareness and encourage broadest possible participation in sectoral dialogue including through a variety of mechanisms.
- At the European level European Social partners might consider how to maximise the potential and, where appropriate, further broaden the scope of sector dialogue to ensure the interests of small firms are addressed.

1. INTRODUCTION

The aim of this paper is to examine the engagement of small firm managers and workers in the European Social Dialogue, in the context of recent EU enlargement. Specifically, the paper seeks to provide:

- i. An analysis of the models of engagement of SMEs in social dialogue both within Member States and at European levels;
- ii. A critical assessment of the difficulties in developing effective social dialogue that involves SMEs, particularly amongst new member states;
- iii. Examples of the practice of the engagement of SMEs in social dialogue at national and European levels, with emphasis on 'good practice';
- iv. A discussion of the ways in which Member States and the European Institutions might help SMEs to engage more in effective social dialogue.

The review is based mainly on secondary sources, supplemented by a number of key informant interviews (see Appendix 5).

1.1 Social Dialogue in the EU

1.1.1 Context

Social dialogue at the EU level is a process underpinned by the European Treaties to bring institutions representing employers and employees at the national level (i.e. the social partners), together at the European level, giving them the right to be consulted on matters coming under the banner of 'social affairs' (set out in Article 137) (European Union, europa.eu.int).

There are numerous mechanisms for social dialogue, including 'associational structure, wage setting arrangements, participation in public policy and firm-level employee representation. Social dialogue is regarded as central to contributing to good governance, comprising notions of exchange of information, consultation and negotiation between representatives of governments, employers and workers.

There is an extensive literature on social dialogue. Broadly, social dialogue has been defined as a '**...process by which the representatives of employers, workers and government exchange information and views, consult, negotiate and reach agreements on issues of concern to them.**' (Kenworthy and Kittel, 2003: iii).

1.1.2 Evolution and Legal Basis of European Social Dialogue

Social dialogue gained its legal basis in the treaty of Maastricht in 1991.¹ The institutional framework for the EU social dialogue derives from Articles 137-139 of the European Union.

Article 137 covers the social policy areas where social partners have to be consulted by the Commission and include: working conditions, health and safety at work, modernisation of social policy protection, systems including social security schemes, information and consultation of workers, equality between men and women, integration of persons excluded from the labour market and fight against social exclusion.

Article 138 specifically provides for a two stage consultation procedure.² The first stage is where the Commission is required to consult the social partners on the direction of a potential initiative. The second is further consultation on the details of the proposal. In this process, representatives of employers and employees can decide to take matters into their own hands and work on a bi-partite basis. However, if this does not happen then the Commission can continue with the initiative on their own. Commission Communication COM (1993) 600 final set out the criteria that so called representative bodies have to fulfil in order to be consulted under Article 138).

Article 139 provides the methods by which contractual agreements that result from social dialogue between social partners may be implemented. Agreements concluded at a European level 'shall be implemented either in accordance with the procedures and practices specific to management and labour and the member states or... at the joint request of the signatory parties by a Council decision on a proposal from the Commission' (Article 139, 3).

In practice, social dialogue at the EU level takes place on a bi-partite basis. The bi-partite dialogue takes place between the organisations representing employers (i.e. UNICE, CEEP, UEAPME) and employees (ETUC) at an EU level. The 'Social Dialogue Committee' is the main forum, where bi-partite social dialogue takes place, with three 'technical' sub-committees taking care of macro-economic; labour market; and education and training issues. In addition, 31 sectoral social dialogue committees have been set up.^{3[1]}

However, tri-partite consultation and concertation at the EU level has also existed since the 1970s. The conclusions of the Nice European Council in 2000 provided for an annual meeting with the social partners before since the 1970s. The conclusions of the Nice European Council in 2000, provided for an annual meeting with the social partners before the spring

¹ See Appendix 1 for chronology of events regarding the development of the EU social dialogue.

² See Appendix 2 for a diagram of this process.

European Council. This arrangement was formalised in 2003 by the setting up of a 'Tri-partite Social Summit for Growth and Employment'⁴ consisting of the President of the European Council, the President of the European Commission (who joint chair the summits), the two subsequent Council Presidents and the social partner organisations coordinated by UNICE and ETUC. These two groups each send 10 representatives, often themselves representing specific interests such as SMEs (European Union, europa.eu.int). Setting up the 'Tri-partite Social Summit' has been described as '...a bridge between the different processes of concertation. The aim is to ensure greater consistency in tri-partite concertation and to enable the social partners to contribute in an integrated way to the different components of the Lisbon Strategy' (European Union, europa.eu.int).

'Concertation', refers to the method of sharing goals of economic and social policy between government and social partners, in which the latter have autonomy and accountability. The process of concertation involves the settlement of sometimes competing interests between social partners through discussion and negotiation, which leads to joint settlements on issues which then form the basis for government policy decisions.

The final aspect of the tri-partite social dialogue at the EU level is through 'cross-industry advisory committees' which consist of representatives from the Commission, member states and 'cross-industry' social partners. They provide to the Commission on specific policies and help in implementation. There are six committees covering the policy areas of 'equal opportunities', 'health and safety', vocational training', the 'free movement of workers', the 'EU Social Fund' and 'Social Security for Migrant Workers' (European Union, europa.eu.int).

1.1.3 Sector Dialogue and SMEs: Mechanisms and Processes

One of the key mechanisms of the social dialogue process since 1998 is the establishment of social sectoral dialogue committees. These have expanded to 31 by 2005 and are established at the joint request of the social partners and approved by the Commission after having checked that they meet the necessary criteria. The sectoral dimension of social dialogue is regarded as important, as it provides an important route by which sector based representative organisations can help the EU achieve better governance, thereby contributing to the Community aquis. These sector committees span a variety of economic activities and include sectors in the primary, manufacturing, construction and services industries (European Commission, 2003). It is generally accepted that the sector social dialogue is still under development and coverage of industry as well as the level of activities of these committees is highly heterogeneous. However, it can be argued that the sector social dialogue can provide an important route for SMEs to achieve a greater voice in the European social dialogue.

⁴ See Council Decision of 6 March 2003 establishing a Tripartite Social Summit for Growth and Employment, OJ L 70, 14.3.2003.

Conventionally, the sector dialogue has tended to be dominated by large organisations. For example, in 2003, UEAPME reported the ‘...quasi absence of SME organisations in the European sectoral social dialogue’ (UEAPME, 2003). However, given the diversity of the activities of small firms and their absence from conventional tri-partite negotiations, the sector social dialogue structures may present a means for SMEs to engage more effectively in the social dialogue in the future. Indeed, there have been changes recently which have led to a growth in the level of involvement by SMEs in sector social dialogue and this has received a further impetus as a result of the recent enlargement.

Many of the sector dialogue committees cover areas that are overwhelmingly dominated by SMEs, including personal services (which was the first Sector Social Dialogue Committee to have a representative European SME organisation). The absence of a tradition of wage-bargaining between employers and employees at an enterprise level in new member states may also lead to the strengthening of the sector social dialogue committees. Again the level of activity has been uneven. For example, in Hungary a number of sector level agreements have been reached between employers and employees (Due and Mailand, 2003).

However, two important questions arise when examining the sector social dialogue committees. First, why is there still a relatively low level of SME involvement in these Committees? Second, how can their potential be realised amongst SME organisations? With regard to the first question, the nature of employer-employees involvement in a SME context is often less formalised than in larger enterprises, which can affect the perception of SME managers and their employees about the relevance of social dialogue processes to them. Second, although the sector dialogue committees provide a closer level of engagement to the reality of running or working in a small business than the conventional tripartite structures, they do not cover all the sectors in which SMEs operate, even though the Commission encourages the creation of new sectoral dialogues committees.

1.2 Social Dialogue ‘Models’ that operate across the Member States in the E15.

Although the EU social dialogue has an institutional framework and system enshrined in law, it builds on national, regional and sector practices. There are various dimensions to the social dialogue. With regard to the negotiation dimension, if the social partners negotiate an autonomous agreement which they undertake to implement themselves at the national level, then the European social partners rely on national social partners for the implementation of agreements. The process of European social dialogue interacts with national frameworks and the extent of successful operation depends on the capacity of the national representative bodies. In other words, it may be argued that an effective dialogue at the national level is a prerequisite for an effective European social dialogue. A key discourse on which the EU social dialogue process is dependent is the approach to industrial relations. Member states have different industrial relations systems

based on heterogeneity of policies and institutions. Given that these vary between member states, the very basis for the EU social dialogue is therefore disparate.

Two key features of the European social dialogue are its *evolutionary nature* and the *variety* of actual processes and type of engagement by partners across the EU. Ishikawa (2003) discusses the conditions that are considered to be important to facilitate effective social dialogue at the national level including:

- freedom of association;
- democratic foundations,
- legitimacy through representative workers' and employers' organisations;
- political will to engage in social dialogue by all parties;
- social acceptance of tripartite social dialogue;
- technical competence;
- capacity to deliver

These conditions take diverse forms across the EU25, and this will inevitably lead to different types of social dialogues in each country] across the 25 member states of the EU, because of the varying foundations for practice, inevitably different types of social dialogues will emerge.

There have been a number of attempts to summarise the types of social model within each member state as well as to depict various 'models' of social dialogue. For example, Boyd (2002) provides a review of the different social partnership systems amongst 10 member states, ranging from the low levels of formality in the UK to the relatively centralised Swedish system and the highly developed Austrian model. UEAPME (2003) presented five models of social dialogue ranging from the least formal to the more centralised. Although there are two EU wide associations, UNICE and UEAPME, neither have capacities to exercise authority over their members.

A key issue for this review is to consider the role and involvement of SMEs in social dialogue. On the whole, social dialogue has tended to involve conventional workers and employers' representative bodies, which have very uneven involvement of SMEs across member states. In addition, the overwhelming majority business interest groups are also found to be 'trade' or 'sector specific' associations, categorised by Standard Industrial Classification (SIC). This configuration of business interests feeds into the sectoral dimension of social dialogue and the sector dialogue committee system. Again questions may be raised about how to facilitate full SME engagement. These mechanisms tend to be dominated by conventional employer-employee frameworks of negotiation which is not a strong draw for SME owner-managers' involvement.

A key concern here is that classifications of different models of social dialogue across the EU tend to become rapidly out dated because of changes within existing member states systems, as well as failing to take into account the

impact of new member states on the system. Such models also suffer from difficulties in comparison because of problems in developing common criteria. However, the point to stress is that there appears to be no single, or 'best', model of social dialogue. Instead, it is the interaction of the EU social dialogue with national systems that is important. Much will depend on individual member state's structures, customs and practices upon which the social dialogue can operate. Although they are dynamic, these national circumstances will set the preconditions for the European social dialogue.

1.3 Involving SMEs in Social Dialogue

One of the weaknesses in the existing model of social dialogue at the EU level, concerns the under-representation of SMEs, when compared with their contribution to employment and economic development in the EU. Although UNICE national organisations contain some SMEs among their members, they have been considered to comprise mainly larger enterprises (Greenwood, 2002:121). UEAPME is the main representative organisation of SMEs in Europe at the EU level, drawing upon 38 full national association members representing an estimated 7 million enterprises and 30 million employees across Europe (pre-enlargement).

However, it has been pointed out that "The fragmented and variable organisations of SME interests at the national level is reflected in EU organisation" (Greenwood, 2002:139). In other words, the strength and cohesion of EU wide organisations representing SMEs is dependent on the national platforms from which it draws. For example, the strength of the Austrian SME representation in the EU is based on the high level of activity of UEAPME in the EU, which itself developed from the strong SME representative base in Austria (see case example below). Where member states are less endowed with such strong levels of representation and resource base, platforms for small firm engagement are weak or underdeveloped, leading to difficult conditions for representation at the EU level. In addition, whilst UEAPME represents small firms in the EU social dialogue process, its place is dependent on a co-operation agreement with UNICE even though it is independent from UNICE in its positions and signature in the social dialogue. Furthermore, the national base of UEAPME's membership organisations is often not representative of the full range of SMEs within member states.

A further issue concerning the challenges of engaging SMEs in formal processes of social dialogue is the reluctance of many SME owners to join and participate in representative organisations. Although this issue is not confined to new member states, it is particularly important to address. First, SMEs are dominant in many new member states. Second, SMEs continue to be important in the economic and social transformation processes in these countries.

Within the SME sector, small firms can be a particularly difficult to reach group for consultation and social dialogue purposes, for various reasons. Irrespective of national base, the predisposition of most owner-managers is to

avoid engagement with government or quasi-government agencies (Curran and Blackburn, 1994) and the challenge of bringing SMEs into social dialogue has to be set within this back cloth. This reluctance has been explained by Hart (2003) in terms of:

- (i) A lack of time, energy and enthusiasm on the part of entrepreneurs for activities that are not directly connected with their businesses;
- (ii) A lack of information about the possible benefits of participating.
- (iii) Doubts about whether any policies resulting from their contribution can be implemented quickly enough to make a difference to their particular venture.

As a consequence, it is inevitable that only a small minority of entrepreneurs typically become involved directly in policy and/or social dialogue processes, through representative organisations. Mobilising entrepreneurs to become involved is not easy, even if policy makers have a will to do so. At the same time, this is a problem that is not confined to transition or emerging market economies.

From a social dialogue perspective, an additional problem is that in many countries, membership rates of trade unions are much lower in SMEs than in larger enterprises (see Appendix 4). Although social dialogue can benefit employers of all sizes, whether or not they are unionised, a lack of SMEs' engagement with trade unions may be associated with antipathy on the part of employers towards unions. This may subsequently affect the perception of SME owner-managers of the value of social dialogue processes. Hence, although issues such as health and safety in the construction industry may not necessarily be associated with issues of trade union representation, the attitudes and behaviour of SME owners may not recognise this and hence lead to a resistance to become involved in the social dialogue process. In principle, the potential benefits of engaging in social dialogue for SMEs are similar to those for larger enterprises, in the sense that it gives them an opportunity to influence agreements, and possibly directives, affecting the business environment in which they operate. In this respect, the EU provides an opportunity for all business owners to become involved in social dialogue processes. However, small businesses cannot be forced to become actively involved in the process of social dialogue, no more than an individual voter can be forced to vote in an election. At the same time, it might be suggested that the existing model(s) of social dialogue are based on an approach to industrial relations, which fits better with the practices of large rather than small firms. If so, then this may be part of the explanation for low levels of participation by SMEs.

It may be argued that as far as EU employment and social affairs is concerned, social dialogue can offer a more pragmatic and less rigid solution to certain regulatory issues than EU derived legislation. A key problem is convincing SME owners of this, particularly in situations where their orientation towards autonomy and independence is associated with an unwillingness to associate, and where the national social dialogue context may not encourage them to do so.

1.4 The Representativeness Issue

One of the issues facing existing social dialogue processes in Europe is the representativeness of the organisations representing employers and employees. There are two dimensions to the question of representativeness:

- Recognition as a social partner in accordance with Article 138
- Participation in European social dialogue

With regard to the question of recognition as a social partner in accordance with Article 138, the question of the representativeness of the organisations consulted under Article 138 is fundamental as it constitutes the basis of the legitimacy of the social partners for consultation by the Commission and for their bipartite contractual commitments.

In order to define the 'social partners', the Commission defined representativity criteria in its Communication on social dialogue of 1993 (COM(1993) 600 final). To be eligible for consultation, the social partner organisations must:

- be cross-industry or relate to specific sectors or categories and be organised at European level;
- consist of organisations which are themselves an integral and recognised part of Member State social partner structures and with the capacity to negotiate agreements, and which are representative of all Member States, as far as possible;
- have adequate structures to ensure their effective participation in the consultation process.

In order to draw up the list of social partner organisations to be consulted under Article 138 of the EC Treaty, the Commission carries out representativity studies of the social partner organisations on the basis of these criteria. The list of European social partners consulted is regularly updated in the light of the results of these studies.

Some 50 European-level organisations are now consulted in accordance with Article 138 of the EC Treaty, and are listed in the annex to the Commission's most recent communication on social dialogue (COM (2004) 557 final).

Furthermore, whenever an application to set up a sectoral social dialogue committee is made, the Commission sends the social partner organisations concerned a questionnaire to enable them to evaluate the extent to which they meet the criteria for establishment, particularly their capacity to negotiate agreements or their representativeness which determines the relevance of the social dialogue.

With regard to participation in European social dialogue, this entails a negotiation dimension between the social partners. In order to be able to negotiate, all the parties around the table must recognise each other mutually as legitimate representatives of the groups of interests which they defend and on whose behalf they negotiate. A fundamental principle of social dialogue is therefore **the mutual recognition** of the organisations taking part.

This was reflected by the CFI in the UEAPME ruling, which strongly asserted the **voluntary nature of the social dialogue** under the Maastricht Agreement: (paras. 78-79):

"...the Agreement [does] not confer on any representative of management and labour, whatever the interests purportedly represented, a general right to take part in any negotiations... even though it is open to any representative... to initiate such negotiations... it is the representatives of management and labour concerned, and not the Commission, which have charge of the negotiation stage..."

If the social partners succeed in negotiating an agreement and want it to be made legally binding through an EC Directive, then the Commission prepares a proposal for the Council following consideration of the representative status of the contracting parties, their mandate and the "legality" of each clause in the collective agreement in relation to Community law, and the provisions regarding small and medium-sized undertakings.

2. SOCIAL DIALOGUE MECHANISMS AND PROCESSES IN ESTABLISHED EU MEMBER STATES

2.1 Introduction

The history of social dialogue within the original Member States of the European Union (EU) has provided a rich source of experience from which to consider the institutions and mechanisms appropriate for an enlarged EU in the 21st Century. In this section we select five cases to illustrate the variation of origins and approaches, focusing on the implications for small firm engagement and aspects of good practice that may be built upon across the EU.

Whilst the emphasis of the paper is on EU social dialogue processes, as stated earlier, the implementation of EU social dialogue relies on national partners for implementation of agreements. As a result, in this section social dialogue mechanisms and processes are examined in a number of established member states.

The purpose of this section is to draw out a number of themes based on selected materials and original information collected from interviews with key stakeholders. These include examples where national platforms for SME representation are more formalised and embedded in bargaining structures, such as in Austria, through to those that are more voluntary, as in Ireland. It is this very diversity of national foundations which suggests that the European social dialogue requires flexibility and needs to be dynamic if the level of engagement with SMEs is to be raised.

2.2 France

In France, as in other EU Member States the SME sector dominates the economy. It is estimated that SMEs constitute 99.9 per cent of all French Companies and 89 per cent of all French employees (INSEE, 2002).

2.2.1 *Social Dialogue Institutions and Mechanisms*

The institutions and mechanisms of social dialogue **are state determined**. In brief, the French Government is at the centre of policy formulation and sets the political agenda (Saurugger, op cit). The Government is less proactive about involving private interests (unions and employers) in policy formulation than in say Austria and Germany. At the heart of the French system is an informal agreement between French business and the State – but this tends not to be particularly representative of the voice of the SME sector in what Saurugger calls the '*dirigiste*' economy. In practice social dialogue takes place at three levels (Saurugger, 2005):

At the micro-level: since the 1980s there has been a growing trend towards negotiations at the level of the individual firm – aided by the breakdown of national collective agreements in the 1970s but more specifically by the January 1982 Law which allowed possible exemptions from the 39 hour

working week. In addition, the October 1995 agreement, in the absence of any union, allowed an employee (mandated by a national union) to enter into negotiations with their employer. There has been a steady rise in the number of single-employer agreements (31,000 in 1999 compared to 2,000 in 1983) – small firms employing less than 50 employees accounted for around half of them in 1998.

At the sector level: The Law of 1982 was designed to stimulate sectoral bargaining in all economic sectors. For example, sectoral bargaining on wages is made mandatory in all sectors of the economy. Certain sectors have traditionally played a lead role (e.g., metal-working and banking) and have influenced the bargaining that has taken place in other sectors of the economy.

At the macro-level: throughout the post-war period a number of social partners have been involved in the regulation of social policies – unemployment insurance schemes, complementary pension funds, training and vocational training. Institutions (joint committees) are managed jointly by employer organisations and unions – e.g., ASSEDIC (Association pour l'Emploi Industriel and Commercial) is jointly administered by employers associations (MEDEF and CGPME – the latter for the SME sector representing around 250 sector, regional and departmental associations) and unions (FO, CGT, CFDT, CFTC and CGC). Since 1998 there has been a more formal recognition of this 'dialogue' through the Committee for Social Dialogue (see above). Macro-level negotiations are rare in France with the recent exception of the 35 hour week which was driven by the government in response to a specific problem in the labour market (*la loi Aubry* in 1997).

In 1998 the French government set up a Committee for Social Dialogue on European and International Issues (Comité du dialogue social pour les questions européennes et internationales), with the particular aim of involving the social partners more closely in French proposals on European matters. An initial extraordinary meeting of the committee - at which the Prime Minister was present - was held in December 1998. This Committee is overseen by the Minister for Labour and Employment and chaired by a qualified person appointed for three years by ministerial decree. It is composed of permanent representatives of the Minister of Labour (and those of other ministers, depending on the agenda); eight trade union representatives - and eight employers' representatives. The Committee's role concerns:

- information and consultation of the social partners on work in progress in the areas of labour, employment, vocational training and social affairs within the European Community and other relevant international organisations;
- involvement of the social partners in all stages of coordinating the employment policy introduced by the November 1997 European Council "Employment Summit" in Luxembourg; and
- consultation of the social partners on "broad economic policy guidelines."

The Committee must meet before each session of the European Council or the EU Council of Labour and Social Affairs Ministers. The Committee may also be convened by the chair.

2.2.2 Key Issues

There are a number of tensions that have been identified in the social dialogue process in France, which have implications for the engagement of SMEs:

- (i) The high and persistent unemployment (c10%) in France has meant that the operation of the institutions and mechanisms has been tested as union and employer representative bodies have failed to come to a common understanding of the way to tackle this problem. A key debate has concerned unemployment insurance policies. The lack of agreement has ceded a greater role to the state.
- (ii) Employer organisations have a strained presence on many of the national institutions and they have threatened to withdraw on a number of occasions. In fact MEDEF and CGPME did withdraw from ACOSS (Agence Centrale des Organismes de Sécurité Sociale). They objected to the use of the social security fund to co-finance the cost of reducing a firm's social contributions in the move to a 35 hour week.
- (iii) On the one hand, the demand for greater flexibility in the labour market by employers has been met by a strong voice from the unions – especially the CFDT and their position and subsequent negotiations over the RTT (i.e. the 35 hour week) and PARE (Plan to Assist the Return to Employment). However, the growth in the number of single-employer agreements in France is a testament to the difficulties in obtaining concrete outcomes from the social dialogue process. Indeed, around 4.9 million private sector workers remain outside the RTT.
- (iv) The absence of unions in most SMEs (c. 5% in the private sector overall compared with 15% in the public sector) mean that the enforcement of collective bargains is dependent upon public administration and court decisions. Employees do not feel bound by collective agreements signed on their behalf by the unions. The implication of this is that the French Government has curtailed the role of collective bargaining. It is even less likely that SMEs will be bound into these agreements and processes because of their low levels of unionisation.
- (v) Flexibility has been introduced through the law of 4 May 2004 on social dialogue which allows companies not to apply strictly the minimum norms set out in agreements reached at higher levels (EIRO, 2004).⁵ These amendments do not go as far as the employers want in terms of the flexibility they sought around inter-sectoral norms in terms of wage

⁵ EIRO (2004) Annual Review for France www.eiro.eurofound.ie/2005

bargaining, employment contracts and employee representation. The unions are opposing these plans to extend flexibility by MEDEF.

- (vi) Although observing the letter of the law in terms of employee participation, a recent report by the Institute of Economic and Social Research concluded that social dialogue has had little effect (Dufour and Hegel, 2004). For example, there is no public reference to the European Company Statute and European Works Councils are scarcely discussed.
- (vii) One of the more recent developments with the system is that the rise of single-employer agreements (see above) has meant that employer associations have become relatively weak – especially the CGPME representing the SME sector. At the same time, there has been a decline in union membership as well as inter-union rivalry. The stance of the CGT in opposing ‘all things government’ has diminished its role and *de facto* increased the power of employer organisations.
- (viii) Furthermore, there has been an increasing influence of government in social dialogue. One consequence of this is that employer organisations (MEDEF and CGPME) find a voice in the formulation of policy through political parties (UMP and UDF).
- (ix) Indirect state aid providing the legislative context for the bargaining parties to introduce levies across all employers in the relevant sector facilities to levy funds to participate in social dialogue – an example being the craft sector (EIRO, 2002).

Thus, the national context which has been shown to be important for the development of social dialogue, has undergone changes in the French system.

2.3 Germany

The share of SMEs in the German economy is considerable as they contribute 99.6 per cent of the total number of companies and 60 per cent of total employees (Grote, J and Lang, A in UEAPME, 2005). The definition of the SME sector in Germany is slightly more complicated than in other EU Member States, with the concepts of *Mittelstand* and *Handwerk*⁶ lending themselves to important practical and political implications for the operation of social dialogue institutions.

⁶ Most of what is normally categorised as ‘small business’ in other countries falls within the legal form of *Handwerk* – *artisans and entrepreneurs*.. *Mittelstand* is hard to define as it is not readily associated with definitions related to size, turnover or ownership status. Therefore, not all *Mittelstand* are SMEs, whereas *Handwerk* represents the most significant part of *Mittelstand*. Often *Mittelstand* gets transformed into ‘family-owned’ as a proxy.

2.3.1 Social Dialogue Institutions and Mechanisms

The underpinnings of the social dialogue in Germany are rooted strongly in the system of industrial relations. Historically, the system of industrial relations has been highly stable in Germany (Grote and Lang, op cit) and based on a consensus between trade unions and employers associations and is underpinned by *codetermination*, a unique feature of German law that gives employees a voice in company policy.

The German Confederation of Trade Unions, *Deutscher Gewerkschaftsbund* (DGB) is an umbrella organisation for eight German trade unions representing around 7 million people at the end of 2004. The DGB coordinates joint demands and activities within the trade union movement and represents the member unions in discussions with government authorities, political parties and the employers' organisations. However, it does not formally have a role in collective bargaining and does not conclude pay agreements.

The Confederation of German Employers' Associations BDA (*Bundesvereinigung der Deutschen Arbeitgeberverbände*) and the BDI (*Bundesverband der Deutschen Industrie*) are the high-level national employer's organisations and have numerous affiliates. These are the most influential national level organisations whose domain includes SMEs, but not exclusively so. There is no associational differentiation between larger enterprises and SMEs which has increasingly become a focus of criticism (Traxler et al, 2001).⁷

Overall, the German system of business interest associations is quite complex. As a result of the two very distinct definitions of 'SMEs' in Germany set out above, it is possible to identify a very fragmented system of representation which is neither corporatist nor pluralist. There are a large number of associations (Associations of SMEs – ASMEs and Business Interest Associations - BIAs) representing the interests of the *Mittelstand* and *Handwerk*. The *Handwerk* have a more visible representative structure through the most important association – the Central Association of German Artisans (Zentralverband des Deutschen Handwerks - ZDH) and its more local affiliates – the Chambers of Artisans (Handwerkskammern – HWKs). All of these operate within the system headed by the BDA at national level. However, despite this level of local, regional and sector activity it has to be said that *Mittelstand* and SME-related problems are not of central concern to the BDA (Grote and Lang, 2005)

In practice social dialogue takes place at both micro and sector level through the increasing number of collective agreements being negotiated. The Federal Ministry of Economics and Labour recorded that there was an increase in the number of valid collective agreements registered with them in 2004 – 61,772 compared to 59,636 in 2003. Of these, just over half were

⁷ Traxler *et al.*, (2001) 'National Labour Relations in Internationalised Markets: a comparative study of institutions, change, and performance' Oxford University Press: Oxford.

association agreements between trade unions and employers associations with the remainder being company agreements negotiated between trade unions and individual employers. The Institute for Employment Research estimate that only 43 per cent of west German and 21 per cent of east German *establishments* were covered by sectoral agreements in 2003. With respect to employees covered by these agreements the figures were 62 and 43 per cent respectively. No information is currently available specifically for the SME sector.

2.3.2 Key Issues

A number of issues have been identified in the German system of industrial relations and which have implications for the social dialogue. First, the system of employee representation is well established in German industrial relations and not contested in principle by either employers or trade unions. The establishment of works councils in new companies (by definition small firms), however, can sometimes become a heavily contested issue between the employer and the trade union concerned. Some employers, for example in retail, the fast-food industry or in the so-called 'new economy', are known for their opposition to the establishment of works councils.

Second, the reform of the Works Constitution Act (BetrVG) in 2001 was welcomed by the DGB, which stated that the new law would improve the work of works councils and thus make it more appealing for employees to stand for election to councils. For leading employers' representatives, however, the 2001 reforms went too far. According to the BDA, the reformed Works Constitution Act disadvantages SMEs in particular by introducing more rules and bureaucracy, reducing companies' flexibility and increasing the costs resulting from co-determination. Most prominently, employers opposed the extension of the number of works council seats and the extended provisions for the release of works councillors from their regular work duties.⁸

In relation to SMEs, although the system of codetermination does operate in the larger organisations, it is less clear how this operates in the SME sector. The voice of the *Mittelstand* is only weakly developed through the employer associations and especially the BDA. It has been suggested that the *Mittelstand* associations are rather fragmented and insignificant in terms of SME relevant associations (UEAPME, 2005:116). However, the concept of *Handwerk* appears to be translated into a set of coherent mechanisms regulating activity in the sector (i.e., essentially the craft sector) – membership of the employer associations is tightly controlled and very well organised between national, regional and local level.

⁸ Heiner Dribbusch, Institute for Economic and Social Research, WSI

2.4 Austria

SMEs play an important role in the Austrian economy, contributing to 99.6% of all businesses and 65.3% of employees in 2001 (UEAPME, 2005). In classifying Austrian industry, often a distinction is made between craft skill production (Handwerk) where a legal qualification is needed and manufacturing industry with the latter having higher levels of capital intensiveness and mass production and the head of the enterprise performing only management functions. As a result, the foundations for industrial relations in Austria have tended to be conducted separately for craft and manufacturing.

2.4.1 Social Dialogue Institutions and Mechanisms

The Austrian model of social partnerships is often regarded as amongst the **most embedded and highly developed** in the EU. There are two principal foundations for the representation of Austrian SMEs: the Chambers; and the voluntary interest associations (VI). The Chambers are public-law bodies with membership domains, structures, powers and responsibilities based on mandatory memberships. Membership of a Chamber is compulsory. They exist for all economically active interest groups and range from employers, employees and the professions. The Chambers have responsibility for representing their members' interests and participate in state regulatory functions through formulation and implementation. There are three leading chambers: the Austrian Federal Economic Chambers (WKO), the Federal Chamber of Labour and the Chambers of Agriculture. The second foundation is the Voluntary Interest (VI) associations which tend to be specialised along sector lines, provide the opportunity for groups to organise subject to meeting the basic requirements of the Association Act and registration with the authorities.

Social partnership in Austria includes two processes: *Konzertierung*, the participation of five 'peak' interest associations in government policy formulation; and *Akkordierung*, the participation of peak interest associations in the search for and achievement of compromises between interested parties. The system of social dialogue in Austria takes place at the company (via management and works councils), sector and macro levels.

The Austrian system of social dialogue has a number of distinguishing features. The Chambers of business undertake the roles of both trade association and an employers' association. Representative bodies are *not* explicitly organised along 'size of enterprise' lines although, in practice, because of the one member – one vote principle in the Economic Chamber of Austria, it has been argued that SMEs are at an advantage because of their sheer numbers. In contrast, the Voluntary Interest (VI) associations, which represents manufacturing interests and where voting rights are weighted, tend to favour large firms.

The general outcome of these structures is that SMEs are integrated and dominate the general associations (WKO) whilst large firms tend to be

represented through the specialised associations. This is the opposite case in most other EU systems where SMEs tend to have less of a voice through the mainstream agencies.

A further unique aspect of the Austrian case example is the role of the WKO. The WKO is a powerful member of UEAPME, the leading representative organisation of SMEs in the EU. However, the WKO is excluded from membership of UNICE because it is considered not sufficiently independent of Austrian government structures.

2.4.2 Key Issues

- (i) The Austrian model of social partnership has provided a sound platform for representation of SMEs at the EU level. The *Konzertierung* and *Akkordierung* processes involving five 'peak' interest associations engaging with government have provided a coherent basis for representation of SMEs in the EU social dialogue. The involvement of the Austrian Federal Economic Chamber (WKO) in UEAPME has, in particular, proven to be a successful and unique relationship.
- (ii) One of the key issues surrounding the Austrian model of social partnership is that surrounding the level of autonomy of the representative bodies from the government, given their embedded engagement at regional and national levels.
- (iii) There has been strain put on the consensual system of policy making because of pressure on the social model deriving from a slowing down of the economy and reform of the social insurance system.
- (iv) The system has experienced challenges more recently because of the pressure on resources and the need to cut costs. This has led to some rationalisation amongst the WKO.
- (v) In 2001, the WKO was restructured in order to reduce running costs. As a result, services provided by the WKO were transferred to the Land-level chambers and the WKO concentrates on representational activities at national and EU levels. The IV has also undergone some restructuring as a result of the decline in employment in industry.

The above restructuring suggests that even the more centralised and consensual systems of social dialogue can be put under pressure when the economic bases of the institutions are themselves under strain. In the Austrian case, the previously consensual process of decision making has changed particularly in relation to growing tension between social partners and government as the latter seek to reduce expenditure.

2.5 Denmark

SMEs comprise 99.5% of all enterprises and provide 72.6% of employees in Denmark (European Observatory, 2003). They are divided into four broad areas, covering minor industry, building, retail and service which collectively are called 'Trade and Minor Industry (Handwerk and Kleinindustri).

2.5.1 *Social Dialogue Institutions and Mechanisms*

The Danish system of SME representation has its origins in the Danish Constitution from 1849, renewed in 1953, which laid down a general freedom of association. The first major collective agreement between the Danish Employers' Confederation (DA) and the confederation of trades unions (LO) was agreed in the September Compromise 1899, otherwise known as the 'constitution of the Danish labour market'. However, one of the distinctive features of the Danish system is that membership of labour market organisations is *not* compulsory.

The social dialogue in Denmark takes place at the company, sector and cross sectoral levels. In general, detailed negotiations are undertaken at the level of the company following a framework agreement at the sector level. The business associational structure of SMEs in Denmark includes both size and cross-sector representation.

The largest representation body for SMEs is the Danish Federation of Small and Medium-Sized Enterprises (HVR) although this organisation has experienced changing membership and roles during since its foundation in 1879. The HVR has an estimated 22,500 members covering family run businesses to those with up to 100 employees. Membership of HVR tends to be through member organisations rather than directly and covers service trades, retail, building and repair trades, and small manufacturing industries. In some cases businesses had dual membership: of both the DA and HVR.

HVR is not involved in collective bargaining but focuses on influencing government policies such as taxation, education, innovation, trade and export. The goals of HVR include reductions in taxation and administrative burdens, easier access to finance, improved education and training and the promotion of the culture of the self-employed. HVR has a seat on the Danish Council for Trade and Industry and Council for Export giving it access to government committees.

2.5.2 *Key Issues*

SMEs have had a strong presence in the Danish system of social partnership, through the HVR and the DA and historically, as a result have been influential in the processes of negotiation. However, as a result of demands for greater flexibility by employers the Danish system has undergone transformation. This has involved what has been termed '**centralised decentralisation**' where business associations have undergone mergers and the bargaining has moved away from the DA to sector-orientated, employers' associations.

For example, between 1961 and 2003 it has been estimated that the number of associations reduced from 255 to 13 (UEAPME, 2005). The manufacturing sector created an umbrella association, the DI. There is also further reported pressure on the Danish system of representation as associations seek to reduce their financial contributions to the DA.

One outcome of the process of restructuring and mergers has been a **reduction in the representation** of SMEs because their associations were merged into the same associations as large enterprises. For example, the HVR lost building companies to the BYG in DA. Mergers have also led to rivalries between associations leading to further fragmentation of the coherence of the SMEs representation.

2.6 Ireland

Ireland is a small European economy which has undergone phenomenal growth by international standards in the period 1987 to 1997. Some of the headlines of that growth are:

- GNP grew by 70% (US 27%; EU15 24%; UK 20%)
- GNP per capita 59% of EU15 average in 1987 – 88% in 1997 – *intensive* growth
- But *extensive* growth as well (absolute levels of GNP; population and employment):
 - 23% more jobs (US 17%; UK 5%; EU15 3%)
 - Fall in level of emigration (net immigration)
 - Rise in real after-tax wages
- Productivity relatively stable – employment, participation and inverse age dependency the key.

According to Barry (1999) that growth can be explained by the long-term consequences of fiscal stabilisation of late 1980s; EU Structural Funds; increased educational attainment of the workforce; continued Irish success in attracting FDI inflows; and wage moderation and peaceful labour relations

SMEs constitute the majority of enterprises in Ireland (e.g., 90% employ 50 people or less). During the growth of the economy highlighted above the growth of value-added in SMEs was around 8 per cent per annum which was slightly higher than for larger firms (Walshe, 2005).

2.6.1 Social Dialogue Institutions and Mechanisms

Ireland operates on a **voluntary system of business interest representation** and collective bargaining. The institutions of social dialogue operate under the structure of the National Economic and Social Development Office (NESDO) and are statutory bodies under the National and Social Development Bill (2002) – they include the National Economic and Social Council (NESC) – overall economic policy, National Economic and Social Forum (NESF) – equality and social inclusion focus; and the National Centre for Partnership and Performance (NCP) – focus on the workplace

The most important is NESC whose origins go back to 1973. It is representative of the major economic and social interests in society – employers, trade unions, and the farming sector. Since 1998 the community and voluntary sector have become involved and there are various independent and public sector nominees.

The interests of the SME sector are represented through the Small Firms Association (SFA), the Irish Small and Medium-Sized Enterprises (ISME) and the Chamber of Commercials Ireland (CCI) which are affiliated to the employer organisations IBEC – Irish Business Employers Confederation. However, there is direct competition between these organisations for membership.

Through a series of national programmes the contribution of the social dialogue process to the Irish economy has been summarised by Walshe (2005) as follows:

- contributing to macro-economic stability in the 1990s by centralising wage agreements and introducing new employment rights.
- framework for the development of economic policy
- framework for the development of critical education and skill policies which many see as the most critical factor in the growth of the Irish economy
- framework for initiatives regarding research and innovation

2.6.2 Key Issues

The impression that the social dialogue process generally works well and has produced some important economic outcomes for Ireland needs to be viewed in the context of those factors that were within the control of the partners in Ireland. However, many of the factors contributing to this rapid growth are beyond the scope of the social dialogue process. What can be said is that the relatively successful growth of the Irish economy has enabled the development of a particular form of dialogue, focusing on specific development initiatives at national and sector levels.

2.7 The Social Dialogue in Established Member States: Thematic Summary

2.7.1 In the discussion of the representation of SMEs in the social dialogue the importance of the ***national context***, including economic structure and performance, political and legal systems and industrial relations processes cannot be underestimated. These contexts shape the institutional framework and mechanisms for the representation for SMEs in the EU social dialogue.

The above discussion of the various social dialogue institutions and mechanisms in different member states show the ***variety of national platforms*** on which the EU social dialogue can build. These platforms vary, from those with a very long history of development, illustrated by Austria where social dialogue is embedded at local, national and EU levels, through

to the less formal and more recently developed and less embedded, as in Ireland. However, it these examples also show that a relatively informal system is not necessarily at a disadvantage to those with a long history and formalised. However, this does not take us away from the basis point that ***the existence of a national system of representation is an important prerequisite for the development at the EU level.***

2.7.2 A key theme to emerge is the ***unevenness in the representativeness*** of SMEs in national social dialogue institutions and mechanisms. A major remit of national social dialogue systems appears to be the management of industrial relations. However, the fact that SMEs are unlikely to be unionised, means that both employers and employees from such firms are typically outside conventional social dialogue mechanisms. This is a major weakness in some of the cases and does little to motivate owner-managers to actually engage in social dialogue processes.

2.7.3 There also appears to be a variation in the membership levels and therefore representativeness of SMEs. A 'compulsory business association membership' approach for does appear to provide a strong foundation for local, national and EU wide representation. Conversely, it also appears that owner-managers of SMEs resist joining associations. One specific issue that needs to be recognised is the heterogeneity that exists within the SME sector, which has implications for involvement in social dialogue. For example, a representative of UNICE identified very small, particularly family firms and handicraft businesses, as a group that often do not affiliate in any representative structure.

2.7.4 ***Much of the ability to engage in social dialogue depends on the economic stability and prosperity*** of the member state rather than the existence of a formal system of representation. The latter may be a necessary but is not a sufficient system for the effective representation of SMEs in the social dialogue process.

2.7.5 Whilst ***no best model appears to emerge***, a broader question of how representative the voluntary SME bodies are in terms of their density of membership needs to be raised. In some cases, as in Ireland, there appears to be no 'peak' organisation representing SMEs exclusively, whilst in others, such as in Denmark, SMEs have specific national representation (through the HVR). Much depends on the configuration of the business association: in Austria for example, although the Chambers are not SME representative bodies, the sheer number of SMEs joining the WKO means that they have strong representation. On the other hand, SME representative bodies may have little engagement within the process of industrial relations negotiations because of their strong corporatist nature and low levels of unionisation.

2.7.6 ***A main theme to emerge is the changing nature of the conventional models of social dialogue at national levels*** and its impact on EU representation. This calls into question stereotypical notions such as 'the ...model', or the like. These changes have mainly derived from fundamental economic pressures: be them crises or successes. It appears

that successful social dialogue is to some extent, contingent on successful economic progress. Where there has been an economic downturn, as for example in Germany, this appears to have led to some reforms in the social dialogue institutions and processes. In contrast, Ireland has witnessed developments in the social dialogue institutional framework which cannot be disassociated from economic success.

2.7.7 One *message* from the analysis of the established member states is that each member has their own particular system of SME representation in social dialogue. However, it also appears that:

1. there are differences in what the social dialogue means *in practice* at the national level. Certainly for SMEs 'social dialogue' conveys the process of negotiations between trades unions and employers and for many (given the low level of trade union membership in SMEs) this is something that is alien to their world;
2. these systems vary considerably between member states: SMEs may be represented through sector, general or indeed SMEs focused organisations. Successful representation appears to occur when there appears to be a variety of routes rather than a single or exclusive route;
3. these national bases are evolving but not necessarily in favour of stronger SME representation, particularly in the case of company level agreements and the decline or concentration of business associations and;
4. although compulsory membership of an organisation does provide a basis for representation of SMEs in that it has been shown to help develop a culture of engagement and a resource base for activities. This may not necessarily be based on 'size' of enterprise but it does help overcome the low levels of SME involvement associated with voluntary memberships. However, this should not be assumed to be the only route to enhancing social dialogue, particularly given that many grass roots representative bodies are focused on specific constituencies and that the essence of social dialogue is voluntarism rather than compulsion or binding agreements.

3. SOCIAL DIALOGUE MECHANISMS AND PROCESSES IN EU NEW MEMBER STATES

3.1 The Context

In the new member states of Central and Eastern Europe, the post-communist period has involved enormous economic and social changes, which have implications for social dialogue. The transformation of these former centrally planned economies has involved the restructuring of many large state-owned enterprises. The development of a small business sector is one of the key elements in the process of social and economic transformation. This was facilitated initially by administrative and legal reforms, which made it legally possible for private businesses to trade, followed by an ongoing period of institutional change and development. In most cases, the process of institutional change is still ongoing, which many commentators have suggested is the most challenging part of the transformation process.

However, now that these countries are members of an enlarged Europe, establishing the basis of social dialogue involving both sides of business is a necessary part of the EU social model, as well as an integral part of establishing an appropriate system of governance to enable ongoing private sector development (Smallbone, 2003). It is also a necessary part of new member countries playing their full role within the EU. This presents a major challenge for countries with no recent tradition of self governing organisations; a heritage of trade unions and business organisations that were heavily politicised under the previous system; a pattern of private sector development that is dominated by SMEs, which are a 'difficult to reach' group in social dialogue terms in many countries; and a lack of resources and relevant experience.

3.2 The Experience

It has been suggested that one of the weakest aspects of social dialogue in new member states is the sectoral and firm level dialogue, which contrasts with 'numerous tri-partite consultation mechanisms' (Ghaleb and Vaughan-Whitehead, 2003). A common feature is the rarity of sectoral level collective agreements. Where they do exist, they are normally confined to wage issues, rarely covering employment issues, working conditions, health and safety or training. In addition, they usually have weak regulatory force:

'...sectoral social dialogue is clearly the least developed 'pillar' of national industrial relations systems in the EU candidate countries' (Ghaleb and Vaughan-Whitehead, op cit).

The general trend has been a reduction in the number of sectoral level, collective agreements despite some attempts to strengthen them. These agreements are thought to cover somewhere between 8% and 30% of employees, with most estimates being towards the lower end of this estimate.

At company level, most social dialogue centres on discussions over pay and working conditions, which is usually carried out by trade union representatives. Indeed, the dominant level of collective bargaining in CEECs is at the enterprise level, although it is suggested that the scope of collective bargaining at this level has been shrinking (UEAPME ENTER project, 2003). In almost every case, it has been the employee representatives rather than the employers who take the initiative in seeking collective agreements. Such agreements are thought to cover between 6% (Estonia) and 40% (Hungary) (Due and Mailand, 2003).

So-called 'multi-employer agreements', which may cover most major employers within a given sector, typically refer to agreements signed by the successors of large state owned enterprises (SOEs), which have been sold off as several privatised enterprises. The scope of collective bargaining varies considerably between CEECs, although the average is estimated to be about 25-30% of the labour force (UEAPME ENTER project, 2003). In Slovenia, the figure reaches almost 100%; about 50% in Slovakia, down to 10-15% in Lithuania. Slovenia is rather idiosyncratic in terms of social dialogue mechanisms, since very high levels of TU membership are combined with compulsory membership of Chambers of Commerce for businesses.

Tripartite dialogue tends to be focused on wage-related issues (e.g. minimum wage; wage increase determination), rather than covering a wider set of economic, social and labour market issues. Another aspect is that there appears to be little linkage between what is discussed and agreed as part of the tripartite process at a national level and social dialogue and collective bargaining below this level.

Whilst the new member states of Central and Eastern Europe share many of the characteristics associated with their shared heritage, they also represent a varied group of countries. From a social dialogue perspective, key points to note are differences in the starting points for the transformation process at the start of the 1990s; some differences in the change processes that have operated during the transition period (e.g. with respect to privatisation processes), as well as differences in cultural heritage. As a result, whereas in a number of CEECs, such as Poland, some private business activity was able to exist during the communist period, in other countries, such as the Baltic States, all private business activities were illegal during communist times. The heterogeneity of background and experience is reflected in differences between new member states in levels of membership of both trade unions and employers organisations, as described above.

3.3 Difficulties Faced by New Member States in Developing Social Dialogue Mechanisms

The existing evidence base with regard to the current state of social dialogue in new member states is rather patchy and somewhat dated, although improving. For example, Pollert's assessment (1999: 210) is that:

“Despite current discussion on the accession of the most advanced CEE [Central and Eastern European] economies ... to an enlarged European Union, it is significant that little is discussed or known about the nature of industrial relations in these countries” (Pollert, 1999: 210)

Vatta (2001) describes the involvement of social interest groups in public policy-making as “irregular, if not totally ineffective”. Others refer to the weakness of bilateral dialogue in most of the new EU members (EUROPA, 2005), with mention of bipartite dialogue only really being identified in Latvia. At the same time, Due and Mailand (2003) paints a somewhat less bleak picture as part of a more comprehensive summary of social dialogue in six Accession states.

Although the method of social dialogue, in terms of bipartism or tripartism, depends on whether the parties prefer the involvement of governments or not, in most new EU member states, governments have been strongly involved since the beginning of the reform process and were usually the initiators of tripartite meetings organised to deal with major reforms. In other words, **national social dialogue in new member states is generally tripartite**, because these countries had no culture or experience of autonomous industrial relations, because of the all-embracing control of the state during the socialist period.

In addition, it has been suggested that because social partners were needed in the early years of transition to share responsibility for difficult reforms, they were given political legitimacy by national governments, as well as by some international organisations, almost irrespective of their membership. The participation of social partners in tripartite fora was taken as de facto criteria for their representativeness, although clearly there is a difference between political recognition and representativeness based on membership.

Social dialogue institutions in CEECs do not usually have statutory authority and as such their legitimacy is sometimes called into question. However, a comparison between those bodies without a clear statutory basis and those that have this shows little difference in co-operation levels. In addition to the overarching economic tripartite bodies, all countries have a number of bodies covering more specialised areas such as employment policies, working environment, social security, and education. At the same time, tripartite consultations in CEECs are typically not supported by a strong bipartite relationship between employer and representatives of employees.

For the new democracies of Central and Eastern Europe, the establishment of effective social dialogue presents a particular challenge, for a number of reasons:

(i) **Transformation from a centrally planned to a market economy has major implications for the industrial relations system.** Restructuring processes that have involved a shift away from an emphasis on large state owned companies, towards an emerging privately owned SME sector has been associated with a reduction in the importance of trade unions and a

more fragmented context for employers to form associations. In addition, these restructuring processes have also involved a shift from a narrow focus on heavy manufacturing, which was part of the socialist economic model, to a greater emphasis on a range of service activities, in which small firms are dominant. In combination, these changes represent a major challenge to the establishment of social dialogue institutions and processes, because of the greater fragmentation that is implicit in them.

Specifically, the rapid increase in the number of SMEs, which has been a major source of dynamism in CEECs during the transformation period, has contributed to the difficulties of organising sectoral dialogue. The fact that trade unions are not well represented in the sectors dominated by SMEs (e.g. retailing, trade, services) contributes to this situation.

(ii) **The involvement of organised groups, other than political parties, is sometimes not well understood, particularly since there is no recent tradition of self governing organisations.** As a result, social partnership is sometimes confused with the corporatism or neo-corporatism practised by totalitarian regimes, rather than as a complement to classical parliamentary democracy (Rychly and Pritzer 2003).

(iii) In terms of **employee representation**, the inheritance from the Soviet period included a tradition of trade unions that were strongly linked to the Communist Party. Although they have disconnected themselves to varying degrees, in the majority of countries the reformed communist trade unions have the largest political influence.

In practice, however, the structure of the trade unions varies significantly from state to state. In Latvia and the Czech Republic, for example, one single trade union has near monopoly representation of employee interests. In Poland and Estonia, two major trade unions compete for members and for influence on the political system. Lithuania and Hungary are characterised by pluralistic trade union structures, with evidence of considerable antagonism between the organisations, although recently more co-operation has been in evidence.

One aspect of the transformation process is that trade union membership in CEECs has declined rapidly since the end of communism, when approximately 90% of employees were members. Levels now vary from 10% - 40% of employees, with representation and trade union membership much weaker in the emerging private sector, particularly in the case of SMEs.

(iv) Another way in which the context for social dialogue in new member states is different to that of established members of the EU is with respect to **the development of employers organisations.** In contrast to most Western EU states, where employers organisations developed initially as a response to trade union power, in the emerging market economies of Central and Eastern Europe, employers' organisations grew out of a desire for more effective lobbying with government on behalf of an emerging private sector, in a context where there was no recent history of self governing organisations and a lack of detailed understanding and experience of the role. In addition, the

rapid development of the private sector has contributed to a multiplicity of SME organisations, based on locality, in some cases, and sector in others. Fragmentation disperses the representation of the interests of SME organisations and weakens their position.

No tradition of employers' organisations existed before the collapse of the communist regimes, which means that since 1989, it has been necessary to build these from scratch. It has been suggested that their absence is the most significant weakness in industrial relations in these countries. In most Central and East European countries (CEECs), it is difficult to distinguish between employer organisations and associations of entrepreneurs, most of which have developed as interest or lobby groups, focusing their attention on aspects of economic policy. In terms of membership, it is estimated that employer organisations in the CEECs represent on average only 2%-5% of the total number of enterprises (UEAPME ENTER Project, 2003).

Another result of the historical legacy is that in comparison with established EU member states, in CEECs, it is more difficult to distinguish between employers' organisations and Chambers of Commerce. This is because difficulties in organising themselves initially resulted in many employers organisations in CEECs building their organisations on the basis of former chambers of commerce and industry. These 'old' chambers had a special role under the previous system that in effect made them an arm of the state, dominated as they were by large state owned companies. Under transition in the 1990s, this offered some benefit in terms of political recognition and some existing institutional resources, although the resultant organisations were very different institutions from the employers' organisations existing in established EU countries. As a consequence, it has proven difficult for some social partners on the employee side to find employer organisation counterparts, particularly at a sectoral level.

As a social dialogue partner representing public employers, CEEP has experienced particular difficulties in finding appropriate member organisations in some new EU member countries, because of difficulties in identifying independent public employer's organisations in this context. A representative of CEEP referred to the lack of awareness in some new member states that public employers could have a voice at EU level. The Baltic States is a good example, since CEEP has no member organisations there to match trade union partners.

(v) In practical terms, **organisations involved as social dialogue partners, in new member states, often lack sufficient resources and capacity, to undertake their roles** (such as lobbying) in the process of social dialogue effectively. For example, although the membership negotiations in most candidate countries involved consultation with entrepreneurs' organisations, such methods are typically not embedded in everyday policy practice and doubts have been expressed about their effectiveness. In the case of Poland, for example, all social partners are blamed for this deficiency, for reasons that include: firstly, insufficient familiarity with procedural aspects of preparations for negotiations; and secondly, insufficient knowledge about integration

processes themselves and negotiations connected with them (social partners, <http://www.ukie.gov.pl>). In practice, differences in the level of knowledge between government and non-governmental organisations seriously limit the possibility of conducting consultations based on partnership principles. Consequently, social partners and non-governmental organisations in EU new member states are typically insufficiently prepared to undertake discussions on the most important issues concerning them, which reflect a more fundamental weakness, namely their lack of resources.

One of the key issues facing social dialogue organisations in CEECs is a lack of resources. Many employers' organisations face considerable difficulties in attracting sufficient membership fees and thus the resources required to run their organisations effectively. On the trade union side, the dramatic and continuing fall in membership, associated with rising unemployment, privatisation and sectoral shifts, has weakened them financially as well as politically.

(v) A lack of appropriate institutional capacity helps to explain why **social dialogue is typically not well developed at the sub-national level**. A common issue is a shortage of resources and know-how required to establish social dialogue at a local level. Estonia may be used to illustrate the problem, where a combination of a small country with a multiplicity of local authorities results in a situation where institutions capable of effectively engaging in social dialogue mechanisms at the sub-national level simply do not exist.

3.4 Social Dialogue and the Accession Process

Although the development of social dialogue mechanisms and processes in new member states presents many challenges, it is important to recognise the developments that have taken place in recent years, although the extent of these varies between countries. For example, a representative of UNICE emphasised the reduction in the amount of fragmentation in terms of employers' organisations over the last decade, whilst at the same time, comparing the pluralism that exists on the employer's side in Hungary with the emergence of a shorter list of credible organisations in Poland.

In some cases, activities contributing to the development of organisations that eventually became part of social dialogue processes, started in the early 1990s. For example, UEAPME became involved in helping to build the capacity of employer's organisations that expressed interest in becoming members of UEAPME in 1991.

The process of preparing to join the EU has contributed to awareness of social dialogue issues in new member states and to the development of social dialogue mechanisms and processes, in order to implement the 'acquis communautaire'. Existing social partners played a role in this, initially in disseminating information about the potential benefits that EU social dialogue offers to social partners, stressing its potential role as a credible alternative to EU legislation, because of its more pragmatic and less rigid solutions. Despite this, it would appear that social dialogue in the new member states is still in its

infancy, although it is reported to be more advanced in some countries (e.g. Poland) than others (e.g. Hungary).

3.5 Capacity Building

There have been various attempts to help new member states develop their social dialogue capacity, including some funded under the EU's Phare programme. According to a UNICE representative, specific practical issues that social partner organisations in new member states have needed help with include how to obtain a mandate from their members; how they report to members; and how they present compromises to members.

One of the most significant attempts at capacity building is a joint project of the four social partner organisations, which has completed its pilot phase (UNICE, 2004) and is now into Phase 2 (Wild, 2005). The pilot project involved the design and organisation of two day workshops in each of the pilot countries in 2003-4, during which representatives of national partner organisations were invited to identify their needs with respect to building their capacity to represent the view of their members in the European social dialogue. On the basis of the needs identified, action plans were developed by social partners, both individually and jointly to address these.

4. ANALYSIS OF CURRENT PRACTICE IN SELECTED EU NEW MEMBER STATES

4.1 Introduction

This section of the paper is concerned with current social dialogue practices and mechanisms in selected new member states of the EU. The aim is not to comprehensively report on the situation in all new member countries, but rather, to illustrate the diversity of specific experiences and contexts in CEECs, as well as some of the common issues.

It is important to recognise that important differences exist in the context for social dialogue in the new member states, reflecting variations in the industrial relations systems (see for example Appendix 4: Trade Union Membership Across Europe). Thus, whilst sharing a common recent heritage of operating as centrally planned, socialist economies, they must not be considered as a single bloc. As a result, enlargement of the EU has widened the range of industrial relations cultures in the EU, to include a group of countries with experiences that are significantly different from those of pre-existing member states.

In most Central and East European countries, the most important element in social dialogue, so far, has been tripartite co-operation at a national level (Mailand et al, 2001), conducted either as ad hoc negotiations/consultations, or more commonly in permanent bodies. At the same time, there are considerable variations in the general picture of national tripartite co-operation between countries, as the following discussion illustrates.

The selection of new member states for more detailed discussion sought to include countries with a range of social dialogue experiences. In this regard, Poland was identified as containing aspects of good practice social dialogue among new member states, by a number of representatives of EU social partners that were interviewed, as were the Czech Republic, Lithuania and Estonia. At the same time, Hungary and Slovakia were described as 'still complicated' by one informant, which refers, amongst other things, to a fragmented pattern of social dialogue partners.

In the rest of this section, the social dialogue situation and issues are briefly reviewed in Poland, Estonia, Latvia and Hungary, in order to illustrate some of the common issues facing Central and East European countries, as they seek to participate in European social dialogue, as well as the diversity of experience in terms of current practice.

4.2 Poland

Poland has a well developed tripartite structure for national social dialogue, which is reflected in a large number of specialised national tripartite and multilateral bodies. The key national tripartite body is the Tripartite Commission for Social and Economic Affairs, which is mainly a consultative forum. At the same time, disputes have been common within the Tripartite

Commission, which has not always proved capable of reaching agreement (Mailand et al, 2001). However, a number of events contributed to tripartite social dialogue in Poland entering a new phase in 2001. The termination of trade union's active involvement in politics encouraged them to prevent new partners from joining the Commission, which resulted in a number of new social partners participating.

Poland also has a number of regional and local tripartite bodies, covering issues, such as working environment and labour market policy. Since not all national social partners may be members of EU social partner organisations, they were not able to participate in the project led by EU social partners to help build the capacity of social partners in new member states.

4.3 Estonia

As in other new member states, tripartite social dialogue is better developed at the national level in Estonia than social dialogue at the sectoral and company level, where collective agreements are only negotiated in a limited number of cases. Tripartite negotiations began in 1992 in Estonia, when the first tripartite agreement on social security was signed. Apart from an annual agreement on the national minimum wage, tripartite agreements and consultations mainly concern issues such as the rate of tax free income, unemployment benefit, social security and vocational education.

Apart from seeking to develop bipartite social dialogue, there is also a need, in Estonia to extend the range of issues for negotiation beyond wages and working conditions to a wider range of employment and social policy issues. At the same time, this needs to be associated with a continued strengthening of social partner organisations, although it must be kept in mind that independent employer and employee representative organisations have only been established since 1990. At the same time, the situation with respect to social dialogue in Estonia is changing rapidly. For example, in 1999 the Estonian Confederation of Employers and Industry and the Estonian Confederation of Unions signed an agreement to participate in a joint project to strengthen the development of social dialogue in the country.

On the employee side, there are two central trade union organisations in Estonia: the Association of Estonian Trade Unions (EAKL) and the Estonian Professional Employees Union Association (TALO), both of which have observer status in the ETUC. However, it is reported that the main obstacle to the development of trade unions and collective bargaining is the overall negative attitude towards trade unions in the country (Philips and Earnets, 2003). Trade unions are said to lack strong support from employees for various reasons, which include high unemployment; a legacy of negative attitudes towards trade unions and collective bargaining that is a throwback to the Soviet system; the development of sectors, such as financial services, construction and small business activity, which are almost union free; the bad financial state of trade unions; and the inadequacies of the legal framework with respect to co-determination, in a situation where industrial relations are

often employer dominated. This reflects a poorly developed collective bargaining system at all levels.

On the other hand, positive trends have been identified with respect to trade union activity in Estonia, as a result of the influence of Scandinavian neighbours; the success of trade unions in certain industries; their increasing visibility in society; the creation of a register of collective agreements; and the influence of international contacts, particularly through the EU, which has brought tangible benefits in fields, such as training.

On the employer side, the main social partner is the Estonian Confederation of Industry and Employers (ETTK), which resulted from a merger of two other organisations in 1997, and which obtained observer status in UNICE in 1999. EVEA, which represents mainly self employed people and sole proprietors, is involved in EU social dialogue through its membership of UEAPME.

In Estonia, bilateral negotiations are held between employers and employees central organisations, as well as between government and the unions and government and entrepreneur organisations, which is contributing to developing a culture of consultation, between social partners in the country. Although relatively young, social dialogue in Estonia is evolving, with both employer and employee representative organisations established during the last decade or so. However, social dialogue at the sectoral and company levels is much less developed than at the national level which together with expanding the range of issue for negotiation beyond wages and working conditions and developing bipartite mechanisms and processes, are the main priorities for the future development of social dialogue in Estonia.

One specific focus for social dialogue development, identified in the National Development Plan for Estonia, is 'tackling youth unemployment through social dialogue'. The intention is that this will be achieved through measures, such as vocational education; measures to promote the employment of youth; opportunities for work experience; the creation of subsidised jobs for disabled young people; and the training of counsellors and the employment of young disabled people. In this regard, action plans are developed by the relevant Ministries in co-operation with social partners and institutions responsible for implementing programmes. Although information is not available on the progress achieved in this respect, the agenda would seem to be a good focus for demonstrating the contribution of effective social dialogue at a national level, thereby helping to increase its legitimacy, which is essential to the development of meaningful social dialogue at the EU level.

4.4 Latvia

In Latvia, the basis of the tripartite system of social dialogue at the national level is the agreement on the establishment of the National Tripartite Co-operation Council (NTSB), which was signed in 1998, with the aim of achieving consensus on solving the socio-economic issues of the country. The functions of NTSB include: conciliation in the case of collective disputes; the promotion of co-operation at the sectoral and regional levels; discussions

and the formulation of proposals and draft regulations on issues related to employment and social policy. The NTSB consists of 7 representatives from each of the social partners and 7 from government; four sub-committees cover vocational education and employment; employment relations; social security and health care. Decisions are made by consensus and are binding on participants. Although one tripartite regional council has been established, tripartite social dialogue is essentially a national phenomenon in Latvia.

Although not confined to Latvia, the Latvian case may be used to illustrate the specific problems faced by new member states in terms of developing effective social dialogue that includes SMEs. Whilst not specifically focused on social dialogue between employer and employee organisations, some of the difficulties faced by employer organisations in encouraging SMEs to participate in their activities may be illustrated with reference to data gathered in a number of focus groups, held in Latvia in 2005.⁹

According to a representative of the Latvian Chamber of Commerce and Industry, whilst its members drawn from the small business sector are often quick to describe the problems they face when participating in meetings or group discussions, but when asked to produce short, written summaries subsequently, nothing is received. It was suggested that only larger firms have the resources to do so. Whilst this may be frustrating from the standpoint of the representative organisation, it may be argued that the case demonstrates one of the reasons why small firms can benefit from representation on their behalf. As a representative of a sector-based employer organisation pointed out, in most small firms, day to day business problems tend to overshadow longer term issues, including those related to the general business environment, which is what is sometimes described as 'fire fighting'.

Another issue identified in the Latvian focus groups, reflecting the situation in a number of other new member states, is the degree of fragmentation that exists, reflected for example, in the number of employers' organisations. In Latvia, more than 60 employer and business associations are reported to exist, representing various industries and sectors. Although a SME and craft association has been created to represent all associations with government, the system was reported to suffer from a lack of efficiency, particularly with respect to communications between associations and their members.

A further issue emerging from Latvian focus groups is that government requests for comments on draft legislation often involve such short deadlines, that effective consultation by business/employer organisations with their members is impossible. However, views differed about whether or not this reflects a lack of commitment on the part of government to real dialogue, or whether it simply reflects a lack of experience and professionalism in government Ministries. In their defence, government Ministries in Latvia, and other new member states, have experienced increasingly high workloads,

⁹ The authors are indebted to Arnis Sauka of the Stockholm School of Economics in Riga for sharing these data with us on which this section is based.

partly as a result of pre- and post-Accession related activity, in a context where resources are extremely limited.

Nevertheless, whatever the specific reasons for unrealistic timescales in this particular case, the key points to emphasise are firstly, the importance of establishing and adhering to clearly defined rules governing social dialogue relationships; and secondly, the need to find ways to strengthen the resource base of social partner organisations, faced with a need to take steps to establish national social dialogue mechanisms, whilst also attempting to take a part in EU level issues.

While there are promising trends with respect to the development of social dialogue in Latvia, accession to the EU has presented the country with major challenges in terms of social and economic development (such as continued restructuring, a need to increase productivity, a need to improve social conditions for the population as a whole), which social dialogue can contribute to dealing with. In this context, although the legal basis for social dialogue has been established, there is a need to raise public awareness of how social dialogue can contribute to dealing with such issues, and the conditions needed to achieve this. At the same time, a representative of a trader's association suggested that despite these problems of low levels of involvement and representativeness, there are always some firms willing to be involved in, for example, the process of improving regulations.

4.5 Hungary

In Hungary, the institutional framework for tripartite social dialogue was set up in the late 1980s, making it the first to be established in Central and Eastern Europe. This involved the creation of the Interest Reconciliation Council (IRC), comprised of employers and employee representatives, as well as representatives of government. It is reported that during the turbulence of the early 1990s, the IRC played a role in helping to avoid and to resolve any social conflicts, although a failure to reach agreements led to growing criticism and institutional reform (Foti, 2003). Key barriers appeared to be representation, legitimacy and the weakness of social partner organisations.

The employer's side of social dialogue in Hungary is still fragmented, with 10 employer organisations and considerable differences in their traditions, coverage and influence. On the employee side, the role of trade unions weakened in the early 1990s, because of the labour market situation, reinforced by divergence between emerging trade unions; difficulties they faced in finding their place in a new political situation; and the legacy of a monolithic trade unions structure that existed in the past. As in other transition countries, structural changes in the economy reflected in the rapid growth of small private enterprises which are not unionised and do not have 'work councils', contributed to the situation (Appendix 4 shows the low proportion of the workforce that is unionised). Since a significant proportion of both employees and employers are not covered by collective agreements, the legitimacy of social dialogue has been difficult to establish. As a consequence, social dialogue in Hungary in the late 1990s reached a low ebb, degraded to consultations or forums for hearing information and opinions,

rather than a process for achieving consensus and reaching agreements. A further problem is that at a sectoral level, employers are not authorised to conclude collective, binding agreements. As a result, sectoral dialogue in the European sense is weakly developed in Hungary.

At the same time, political changes in recent years have increased the stated commitment of government to pursuing meaningful social dialogue with social partners, with a view to concluding agreements. This has included an attempt to strengthen social dialogue at the sectoral level, through a new forum established to manage the Phare Programme on 'Strengthening Autonomous Social Dialogue'. In addition, the Hungarian government has helped to establish a Sectoral Dialogue Committee, which will provide an institutional framework to conclude sectoral agreements.

5. EMERGING ISSUES AND SOME IDEAS FOR DISCUSSION

5.1 The Changing Context for EU Social Dialogue

5.1.1 EU Social Dialogue has undergone considerable development since the initiation of the bipartite dialogue in 1985 and is now entering a new phase, as a result of EU enlargement at the same time as the EU is adjusting to increased globalisation.

The European Union is facing a period of considerable change both from within as factor of enlargement and externally as it pursues a strategy of adjustment in relation to increasing globalisation. As part of that change the Commission has identified the need to promote a renewal of the Social Dialogue at all levels so that it can play a full role in mobilising support and a common understanding of the challenges faced and the solutions proposed. Given the close linkage between action at EU and national level the Commission has called for the Social Partners to better articulate what they do at each level.

Some of the new challenges facing EU social partners are associated with varying economic disparities within the EU. These disparities have implications for labour markets, which in turn have implications for working conditions, which are issues facing employers and employees throughout the EU. In this regard, analysis of social dialogue in established member states has shown that economic stability can be a key factor influencing the successful operation of social dialogue within them. Recent changes in the French and German systems, for example, demonstrate how economic downturn can put pressure on the social dialogue system.

5.1.2 Playing a full part in EU social dialogue represents a major challenge for new member states that typically have weak structures for bilateral dialogue.

New Member States face an additional challenge where Social Dialogue is characterised by low, and frequently declining, rates of trade unionisation; poor levels of recruitment among employer's organisations; and limited financial resources at the disposal of social partner organisations. In these circumstances small firm managers and workers may be the least likely to be associated with employer organisations and trade unions.

If economic conditions are weak and/or unstable, and social dialogue processes are affected, then it will be particularly difficult to encourage small firm managers and workers to come to the table. This emphasises the importance of developing approaches to social dialogue that are robust in a variety of economic circumstances, as well as being inclusive with respect to employers of all sizes and the workers they employ.

Nevertheless, the desire to engage in social dialogue at the EU level is encouraging the strengthening of social dialogue organisations, mechanisms and processes in new EU member states. This underlines the importance of

the EU and existing member states helping new members to build their capacity for social dialogue, as well as reviewing the adequacy of existing arrangements for EU social dialogue in the post-enlargement period.

5.1.3 In seeking to strengthen EU social dialogue processes and mechanisms in an enlarged Europe, it is important to recognise that new member states in Central and Eastern Europe are not a homogenous group.

Differences exist between new member states in terms of size, the level of economic development, the state of development of their social dialogue systems, as well as in the attitudes of government towards social dialogue. As a consequence, although there are common underlying themes, some of the specific issues facing social partners vary between countries. Of course, it must also be recognised that established member states are also rather heterogeneous, not least in terms of how social dialogue is approached. However, as a representative of UNICE emphasised when interviewed, differences in approach to social dialogue do not necessarily mean that the key underlying issues are different, in terms of what social partners expect at the European level.

Future Actions and Priorities

- There is a need for social partners within Member States to develop social dialogue structures and to broaden their membership bases, in order to increase their ability to deliver national and European level agreements. National governments have a role in supporting social partners to develop. At the EU level the European Commission, working closely with EU Social Partners, and other Member States can help social partner organisations in new member states to develop their capacity for an effective and autonomous framework.
- Evolution of the European Social Dialogue should continue to take account of the varying capacities and different traditions within Member States and of the particular need to facilitate the engagement of small firm managers and workers in the social dialogue process.

5.2 Key issues and some ideas for discussion

5.2.1 Developing Autonomous Social Dialogue in an Enlarged Europe

One of the key underlying issues for new Member States is how to develop autonomous social dialogue. This requires strengthening the capacity of social partners to operate a social dialogue effectively, which is currently affected by both financial and human resource constraints.

EU social dialogue complements social dialogue practices within member states, relying on national social partners for the development and the implementation of autonomous agreements. As a result, European Social Partner agreements are heavily dependent on the capacity of national social partner organisations.

In this context, resource constraints are a key issue facing both employer and employee social partners in some member states, as they seek to strengthen their role as social partners at both national and EU levels. Whilst the issue of capacity and resources available to social partners is not confined to new member states, it has been suggested that social partners in new member states are struggling to do more than their sister federations in established EU countries with fewer resources (Wild, 2005). Instead of being able to shift resources from the national to the EU level, which is what happened in established member countries over a number of years, social partners in new member states have been seeking to cope with the development and national implementation of the European acquis at the same time as being required to deal with EU Social Dialogue issues. Not surprisingly, this has represented a substantial workload for organisations that in most cases are relatively recently formed, which affects the resources they have been able to accumulate.

Ideas for discussion:

- Social partners in new member states may be able to partly ease resource constraints through their own actions. Ways of achieving this include membership growth, the development of services and sharing resources through co-operation and networking with other organisations.
- One issue is how best to build on the recent experience of EU social partners in assisting national social partners in new member states, in ways that address the financial and technical capacity constraints they face. This involves sharing experiences in order to consider what further work might be done, whether at the European level, or by other Member States, to assist social partner organisations in new member states.
- Specific ways of supporting initiatives to build the capacity of social partners in new members states could include:
 - supporting a presence in Brussels
 - supporting staff training, focusing on both languages and technical skills, following appropriate skills audits. Experience already exists of such initiatives, though seminars held in 10 countries, as part of a joint project of European Social Partners, focusing on Central and East European countries.
 - supporting the development of mentoring and internship programmes for staff of social partner organisations.

5.2.2 Involving small firm managers and workers in Social Dialogue

The role of small firms and the importance of their engagement in European affairs has been recognised by the appointment of an EU Small Firms Envoy. Situated within the Commission's Enterprise DG, the SME Envoy has a wide

responsibility to better integrate the SME dimension into EU policies, as well as listening to small firms and highlighting their concerns to different EC services.

A key issue concerns the limited involvement of small firm managers and workers in social dialogue processes, which appears particularly acute in the case of the smallest enterprises. Generally the contribution of small firms to the European economy is considerable. Based on evidence from the EU Observatory for SMEs report 2003, 99.8% of all businesses in the EU are SMEs; the vast majority of these are micro enterprises, employing less than 10 people (see Appendix 3 for a breakdown of the enterprise size structure by country). This situation is highlighted in new Member States where the structure of business activity tends to be particularly small firm dominated.

Since European social dialogue includes consultation on new proposals for legislation and the negotiation of legislation, as well as the development of agreements and measures, involvement of small as well as large firms in social dialogue processes is an important objective.

While there are clearly strong arguments in favour of small firm involvement in a social dialogue processes, which impact on employment and social policies that affect them, there are various barriers to increasing this involvement in practice. These include the fragmentation of the small firm voice, reflecting the heterogeneity of this type of enterprise; the limited management time to take part in representative organisations and forums; low levels of union membership; as well as other behavioural barriers. In addition, the model of EU social dialogue itself is based on a process of collective bargaining, which is not present and unfamiliar to many small firms.

In these circumstances some culture shift may be required among small business managers and workers with respect to representation, if they are to fully engage in social dialogue. At the same time, Social Dialogue, both within Member States and at the European level, needs to continue to actively reach out to the small business community.

Consideration could be given to how those already active in social dialogue within each Member States might improve the dissemination of information about the potential advantages of being involved in social dialogue from a small firm's perspective, in order to encourage increased participation. One way in which this might be achieved is by raising awareness of how social dialogue can contribute to dealing with issues, such as improving social conditions and raising productivity, based on consensus. This in turn could be achieved through active promotion of specific joint achievements of social partners.

Small firm involvement in social dialogue at the European level is partly driven by the degree of engagement at national level, although the conduct of Social Dialogue at European level can facilitate that engagement. In this regard, European Social Partners, supported by the European Commission have a vital facilitating role to play. They can contribute to increasing engagement

with small firms by continuing to review their processes and procedures, with a view to promoting the highest levels of small firm involvement. The agreement between UNICE and UEAPME, which recognised that small firms needed to have a distinctive voice in EU social dialogue was an important step towards increasing small firm representation.

Ideas for discussion:

- In actively promoting the benefits of being involved in social dialogue, an important message for national social partners to promote to small firm managers and workers is that if they are not involved and proactive in social dialogue, then they will be left to implement the results of decisions influenced and/or made by others.
- In view of the size distribution of the private sector in most new member states, broadening the membership base of national social partners will inevitably involve taking steps to increase the involvement of small firms. This requires exploring the potential for such measures as awareness raising; broadening the reach and scope of social partner organisations; the establishment of representative bodies focusing specifically on small firms who can articulate their needs and interests; and improved networking between social partners;
- National social partners could consider undertaking more broadly based consultations of small firm managers and workers on European social dialogue issues;
- National and EU social partners could consider how the use of specific mechanisms, such as round tables and the establishment of forums on specific issues, might promote awareness and engagement with small firms;
- National and EU social partners could consider how within Member States and at European level the application of the principles of “better regulation” or “governance” practice, for example, on managing consultations, assessing impact and simplifying/standardising communications could contribute to ensuring the maximum reach of the social dialogue
- At the European level, European social partners should continue to keep engagement with and participation of small firms under review. The agreement between UNICE and UEAPME, which recognised that small firms needed to have a distinctive voice in EU social dialogue was an important step towards increasing their representation, but should continue to evolve. Indeed the European Commission Communication on European Social Dialogue flagged the need to continue to study representativeness and updating the list of organisations under Article 138.

5.2.3 Maximising the Potential of Sectoral Social Dialogue

One of the priorities for the future development of EU social dialogue is at the sectoral level. Arguably, this has the potential to relate more directly to the day to day concerns of small firms in the sector concerned and to engage their interest and participation. Although not all strands of sector dialogue cover sectors in which small firms are significantly engaged others cover activities, for example personal services, have high levels of small firm engagement.

The sectoral social dialogue committees are established with due regard for the autonomy of the social partners and are intended as bodies for consultation, joint initiatives and negotiation. The social partner organisations must apply jointly to the European Commission in order to take part in a social dialogue at European level. The European organisations representing employers and workers must, when submitting this application, meet a number of criteria concerning the establishment, representativeness and operation of the sectoral social dialogue committee, which are checked by the Commission:

- relate to specific sectors or categories, and be organised at European level
- consist of organisations which are themselves an integral and recognised part of Member State's social partner structures, and have the capacity to negotiate agreements, and which are representative of several Member States
- have adequate structures to ensure their effective participation in the work of the committees

Ideas for discussion

- National social partners could look at ways to promote awareness and encourage broadest possible participation in sectoral dialogue including through mechanisms referred to in Section 5.2.
- At the European level European Social partners might consider how to maximise the potential and where appropriate further broaden the scope of sector dialogue to ensure interests of small firms addressed

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Appendix 1: Chronology of Development of EU Social Dialogue

Main dates in the evolution of the European social dialogue

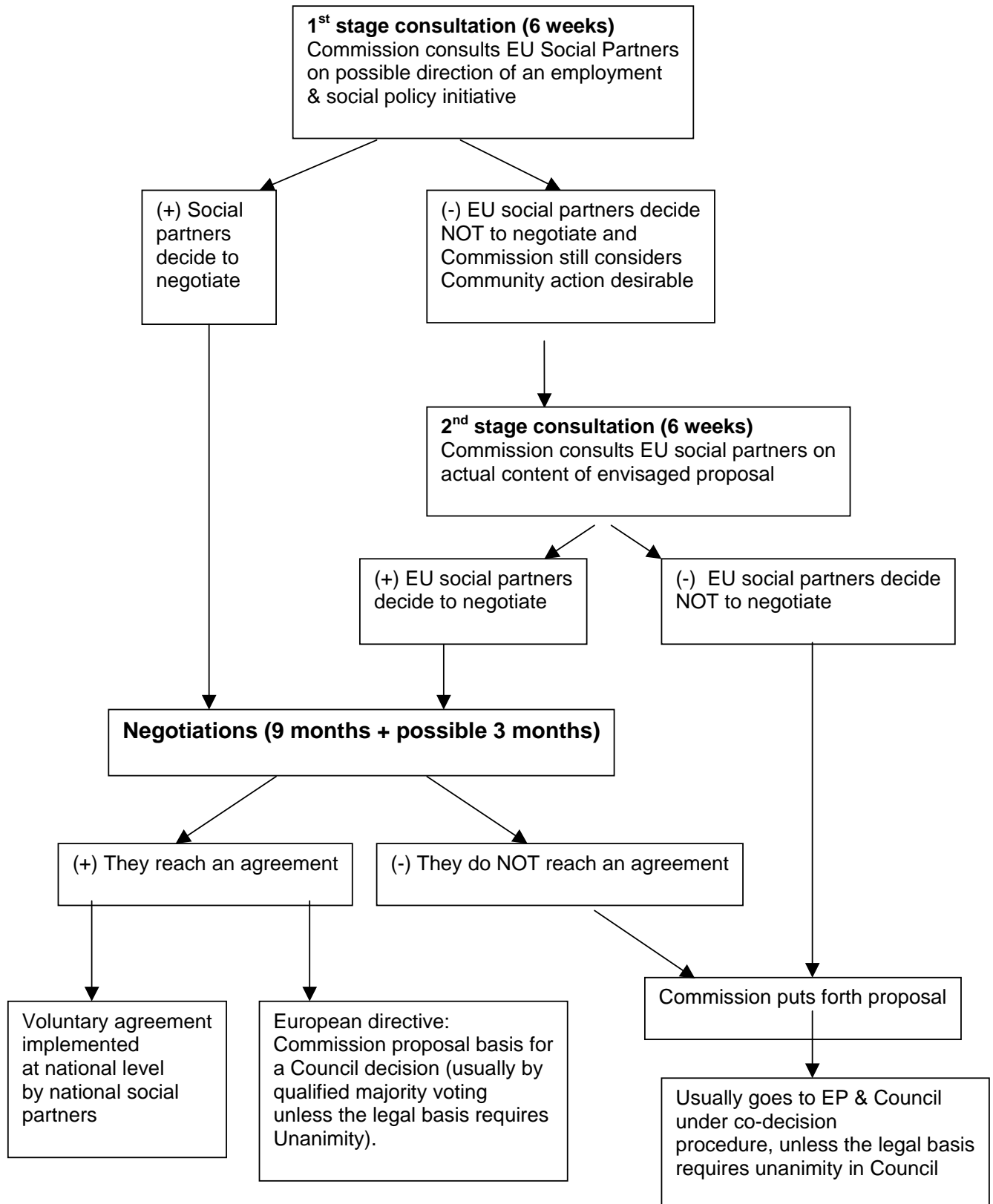
- **1985** - The launch of the bipartite dialogue, initiated and supported by the Commission, and traditionally known as the "Val Duchesse" process, after the place where the first meeting was held. The social partners begin to adopt non-binding joint opinions.
- **1991** - Against the background of the 1991 Intergovernmental Conference, the social partners negotiate the Agreement of 31 October 1991, proposing reforms to the Treaty decision-making provisions in the social policy field. The social partners' proposals are incorporated virtually verbatim into the Protocol on Social Policy annexed to the Treaty on European Union.
- **1993** - Commission Communication "concerning the implementation of the Protocol on Social Policy" (COM (1993) 600 final).
- **1994** - The Treaty on European Union enters into force.
- **1995** - Successful negotiation of the parental leave agreement, the first Article 139 framework agreement implemented by Council directive.
- **1996** - Commission Communication "concerning the development of the social dialogue at Community level" (COM (1996) 448 final)
- **1997** - Successful negotiation of the second framework agreement implemented by directive - on part-time work.
- **1997** - The provisions of the Protocol on Social Policy are incorporated into the Amsterdam Treaty as Articles 138 and 139.
- **1998** - 20 May 1998 - Commission Communication "Adapting and promoting the social dialogue at Community level" (COM (1998) 322 final) defines the criteria for the establishment, composition and operation of sectoral dialogue committees and constitutes a new departure for the development of social dialogue within sectors at European level.
- **1999** - Successful negotiation of the third framework agreement implemented by Council directive - on fixed-term work.
- **2000** - Lisbon European Summit, the Heads of State and Government set out a ten-year strategy for the economic and social development of the European Union. The common vision requires an integrated approach across a range of economic, social and environmental policy areas, in order to achieve sustainable economic growth, more and better jobs, with greater social cohesion. The successful implementation of the Lisbon agenda requires the active involvement of the social partners. Presentation of the Social Policy Agenda at the Nice European Council in December 2000, which underlines the importance of social dialogue in promoting competitiveness, solidarity and an appropriate balance between flexibility and security in employment.
- **2001** - 11 December 2001 "Joint Contribution" of the social partners to the Laeken European Council

- **2002** - 26 June 2002 - Commission Communication "The European Social Dialogue, a force for innovation and change" (COM (2002) 341 final).
- **2002** - A new generation of texts entailing a greater implementation and monitoring role for the social partners - Firstly, adoption in March 2002 of the Framework of Actions for the lifelong development of competencies and qualifications, to be implemented by the open method of co-ordination. Secondly, adoption in July 2002 of the telework agreement, the first "autonomous" Article 139 framework agreement, to be implemented and monitored by the social partners themselves.
- **2002** - Adoption of the first independent joint multi-annual work programme (2003-5) on 28 November 2002.
- **2003** - First Tripartite Social Summit for Growth and Employment; with the Council Presidency, the President of the Commission and highest-level representatives of the social partners (on basis of Council Decision of 6 March 2003)
- **2004** - 12 August 2004 - Communication from the Commission "Partnership for change in an enlarged Europe - Enhancing the role of European Social Dialogue (COM (2004) 557 Final)
- **2004** - 8 October 2004 - Adoption of the second 'autonomous' agreement on work-related stress.

Source: smallbusiness|europe: (<http://www.smallbusinesseurope.org/>)

Appendix 2: EU Social Partner Consultation and Negotiation

[Source: www.smallbusinessseurope.org/]



Appendix 3: Percentage Share of the Total No. of Enterprises by Enterprise Size Group and Country

	Micro	Small	Medium	Large
EU-15 (1)				
Austria	86.9	11.2	1.9	0.4
Belgium	93.2	5.7	0.9	0.2
Denmark	87.4	10.2	1.9	0.5
Finland	93.2	5.4	0.9	0.5
France	93.0	5.8	1.0	0.2
Germany	88.0	10.1	1.5	0.4
Greece	97.5	2.1	0.3	0.1
Ireland	85.6	12.4	2.1	0.0
Italy	95.6	3.9	0.4	0.1
Luxembourg	87.5	12.5	4.2	0.0
Netherlands	90.4	7.5	1.6	0.5
Portugal	93.4	5.6	0.9	0.1
Spain	93.4	5.8	0.7	0.1
Sweden	93.4	5.6	0.8	0.2
United Kingdom	89.4	9.0	1.4	0.2
New EU Member (2)				
Czech Republic	94.6	4.4	0.9	0.2
Estonia	78.5	17.8	3.3	0.5
Cyprus	..	..	..	..
Latvia	76.9	18.9	3.7	0.5
Lithuania	81.5	14.9	3.2	0.4
Hungary	51.0	40.2	..	..
Malta	..	..	..	..
Poland (2)	96.5	2.4	0.9	0.2
Slovenia	91.0	..	..	..
Slovakia	..	23.4	5.2	..

(1) For the Old EU members, shares for total number of enterprises refer to 2003

(2) For the new EU members, shares for total number of enterprises refer to NACE Sections C to I and K 2001

(3) Shares for total number of enterprises refer to 2000

Source: Eurostat (2004) and Observatory of European SMEs (2003)

Appendix 4: Trade Union Membership Across Europe

	Proportion of Workforce in Trade Unions
Austria	47%
Belarus	80-90%
Belgium	60%
Bulgaria	18%
Croatia	65%
Cyprus	60-70% (in private sector)
Czech Rep	25%
Denmark	60%
Estonia	30%
Finland	80%
France	9%
Germany	27%
Greece	26%
Hungary	16%
Iceland	85%
Eire	50%
Italy	30%
Latvia	17%
Lithuania	10%
Luxembourg	57%
Malta	63%
Netherlands	25%
Norway	60%
Poland	14%
Portugal	26%
Romania	44%
Russia	60%
Slovakia	30%
Slovenia	41%
Spain	15%
Sweden	80%
Switzerland	25%
UK	30% (19% in Private Sector)

Source: Federation of European Employers, 2005 – www.fedee.com/condits.html

Appendix 5: Key informants Interviewed

1. Therese de Liederkerke
2. Ann Branch,
3. Valeria Ronzitti,
4. Maria Helena Andre,
5. Liliane Volozinkis,

UNICE
European Commission
CEEP
ETUC
UEAPME