HOSPEEM answer to
Consultation of European social partners on the creation, functioning, outcomes and impact of social dialogue committees

1. On the creation of social dialogue committees.

According to Commission Decision of 20 May 1998, the establishment of sectoral social dialogue committees is based upon the following prerequisites: (cf Article 1)

1. ***Autonomy and bipartite dimension:*** "*Sectoral social dialogue committees are established in those sectors where the social partners make a joint request*"

2. ***Demarcation***: European social partners "*shall relate to specific sectors or categories*"

3. ***Representativeness***: European social partners "*shall be composed of national members, which are themselves part of Member States' social partners structures in several Member States*"

4. ***Contractual Capacity***: European social partners shall "*have the capacity to negotiate agreements*"

5. ***Administrative Capacity***: social partners shall have "*adequate structures*" to ensure their effective participation in the work of the committees and in the consultations launched by the Commission. In recent years, the formal creation of new committees has often been prepared by informal "test phase" periods.

1.1 Questions on Autonomy

(1) How do European social partners consider their role during the preparation phase of the creation of social dialogue committees?

The preparatory phase is of extreme importance and is the phase where social partners must self assess their readiness to enter into social dialogue at EU level, both in terms of political will and of capacities (representativity, adequate structures etc…).

(2) What should be the role of the Commission when the European social partners do not reach an agreement on establishing a sectoral social dialogue committee?

The EC should only facilitate social dialogue but not interfere in it. Therefore, should SP do not reach agreement, the EC should not force them into one or another direction.

(3) What is the assessment of the European social partners on the added value of informal social dialogue phases ("test-phases") prior to the launching of new social dialogue committees?

In the case of the hospital sector social dialogue the "test-phase" has revealed essential. The joint representative Task Force set up in 2000, accompanied activities of the two sides of

industries until the formalisation of the dialogue. In the case of HOSPEEM the test phase was moreover necessary to allow HOSPEEM to properly be set up as an independent sectoral organisation, with its legal and political structure independent from CEEP. Therefore, it had the additional added value of reinforcing long lasting synergies between cross-sectoral and sectoral public services employers.

1.2 Questions on the sectors' perimeter

(1) What should be the relevant cut-off point for European sectoral social dialogue committees, at EU level?

The social partners should relatively be allowed more freedom in setting the perimeter of the sectoral social dialogue themselves. In the case of the hospital sector social dialogue it was indeed very challenging to follow the strict description of the NACE codes when it came to answer to the representativity questionnaire.

Having said that, the SP should be asked not to overspecialise and over narrow the perimeter of their activities in order to avoid over fragmentation (i.e. of the public sector). The example of the hospital sector is a good one in this sense. The sector perimeter was fixed in the "test-phase" and the choice was nearly exclusively driven by the political will of some of the national social partners. Since the SSDCs came into effective and formal operation, we are discovering more and more how this focus on the hospital sector and not on the broad healthcare sector is somewhat artificial. As a matter of fact, the instruments produced or declarations signed to date cover the healthcare sector and not only the hospital sector. This is for the simple reason that HOSPEEM (and EPSU) members are representatives of the broad healthcare sector, which the hospital sector is part of.

(2) What should be the approach as regards the minimum size of sectors?

As said above, the sector should not be over narrow and overspecialised but respond should to the reality of the "market" in which it operates.

(3) How well are sectoral developments reflected in the sectoral social dialogue Committees? (New emerging activities, new markets, new actors)

The SSDCs have the greatest potential to reflect on ongoing developments and are in principle the best placed to find specific solutions to emerging problems/strategies. However not all SSDCs are able to keep the right pace and are often "victims" and not "masters" of those developments.

(4) What do you think of the Commission's objective to cover 100% of the economy with social dialogue committees?

This is in principle good, provided it is not the objective of the EC but of the actors themselves who feel the need to cover the policy needs of their sector through social dialogue. This need is unfortunately not always evident.

1.3 Questions on representativeness

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(1) Has this criterion helped sectoral social partners to reinforce their structure and their organisation?

The representativeness is the most important criterion for SSDCs to function.

(2) What should be the minimum level of representativeness for integrating new committees?
HOSPEEM does not support the"minimalist approach" to representativeness which is often taken in the set up of SSDCs. This implies first of all a self-criticism as the organisation certainly has still a lot of work to do in order to get a EU 27 coverage; however, full representativity remains as HOSPEEM political objective number one, as shown by some of the activities undertaken by the organisation (either separately or jointly with EPSU[1]).

(3) How should "organisations representing certain categories of workers or of undertakings" be handled?
This is a choice for the SP in each specific sector to be taken.

(4) What should be the most relevant approach to deal with double-affiliated organisations?
This is a choice for the SP in each specific sector to be taken.

(5) Should a formal specific status *(of observers, associates, complementary European social partners)* be created besides the status of European social partners?
This status should not be possible in SSDCs provided it is clear (as it is the case of the SSDC in hospitals) that the first aim of such a committee is to conclude agreement between management and labour. Only the representative social partners in the sector can therefore be part of it as they are the only ones able to sign up for concrete follow up and implementation of an instrument at the national, regional, local or workplace level.

1.4 Question on capacity of European sectoral social partners to negotiate agreements
(1) What is the understanding of this criterion by sectoral social partners?
The SP should have the capacity to negotiate agreements at EU level to be implemented by their respective members at the national, regional, local and workplace level. This implies that the members of the respective EU social partners must be able to negotiate and conclude agreements at all the levels mentioned above.

(2) What are the main obstacles to get and exercise such capacity?
Lack of representativity and/or lack of political will to engage and find negotiated solutions. Lobbying certainly appears for many SPs as a more quick and easy instrument, this is why many SSDCs are today a forum for lobbying and not for effective Social Dialogue.

1.5 Questions on the administrative capacity
(1) What could European social partners undertake to strengthen their capacity?
The first way of functioning for EU SPs should be by the funding from their members in order to ensure their total independence from other stakeholders. However, in majority of cases, the organisations cannot survive from membership fees alone. Therefore, an integration of this funding, and thus a pre-requisite to strengthen administrative capacity, is the support

[1] See for instance HOSPEEM-EPSU project, "Strengthening social dialogue in the hospital sector in the new Member States and candidate countries - A project for EPSU and HOSPEEM" (GHK – report in April 2008) with the support of the EU Commission covers all MS in EU27. more information can be found at www.hospitalsocialdialogue.eu

from EU Commission either directly (funding of meetings etc…) or indirectly, though project funding.
(2) What is the understanding of "adequate structure"?
It should be defined by the social partners in the sectoral social dialogue.

(3) What progress has been made? And how was it made? (in terms of capacity building, use of ESF, participations, contributions inside committees)
Please consult the HOSPEEM-EPSU work programme 2008-2010.

(4) What are the on-going challenges? (expertise, effective participation)
HOSPEEM members provide a high degree of expertise and are all very committed to the SD work. The challenge on our side is not the effectiveness or quality of participation but on the number of employers' representatives. Moreover, the sectoral social dialogue in the hospital sector being a very active one, it has been clear since the very start that the one plenary and two working group meetings allocated to the sector each semester are not enough to meet the sectors needs. Besides that, some members have raised the point of lack of translation capacity.

2. On the functioning of social dialogue committees
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According to Communication Decision of 20 May 1998, the functioning of social dialogue committees is based upon:
1. **Consultation**: *"Each committee shall be consulted on developments at community level having social implications"*
2. **Promotion of social dialogue**: *"Each committee shall develop and promote the social dialogue at sectoral level"*
3. **Adoption of Rules of procedures and work programme:** *"Each committee shall together with the Commission establish its own rules of procedure"*
4. **Composition:** *"The representatives of the two sides of the industry shall take part in the meetings and the promotion of equality between women and men should be insured"*
5. **Chairmanship and secretariat support**: *"The Commission shall provide the secretarial services and meetings shall be chaired either by a delegate of the employers or the employees or, of the Commission"*

2.1 Questions on Consultation
(1) What is the social partner's assessment on consultations within the social dialogue committees?
Good experience so far, after two years of work in the Hospital sector when it comes to article 138, EC Treaty consultations.

(2) How could consultations between social dialogue committees and other consulting bodies be better articulated?
Many questions are concerning different DGs, i.e. Employment, Education and Culture, SANCO, different Commissioners´ cabinets, etc. At the moment there is a clear lack of coordination amongst these different actors and this has a negative impact on the effectiveness of consultation processes (other than those under article 138, EC treaty that are in the remit of DG employment)

2.2 Questions on the promotion of social dialogue

(1) What is the impact of the European social dialogue on the visibility and defence of the sectors' interests?

The impact is of great value, provided that social partners are committed to deliver concrete results having an impact on policy making in the sector. This has been the case of the hospital sector so far (see for instance the Joint Declaration on healthcare and the Code of conduct and follow up on the ethical cross-border recruitment and retention). The first text was signed in December 2007, in the middle of discussions of what then became the proposed directive on cross-border patients' mobility, the latter in April 2008, well ahead of the publication of the Green Paper on mobility of healthcare professionals.

(2) What sort of tools should be available for promoting the outcomes of the European social dialogue (exchange of information, consultations)

More support for communication tools by the SP should be given also in terms of funding. The website devoted to sectoral social dialogue should be improved and funding should be automatically available for SPs to draw up and manage the SSDCs website.

Also, greater attention should be given to the dissemination process and awareness raising campaigns following the signature of negotiated texts.

(3) How could social partners better use the committees for an autonomous social dialogue?

The SSDCs are the best place for SPs to exercise autonomous social dialogue as all instruments are in place. It only depends on the political will of the parties to use the SSDC as an effective instrument.

2.3 Questions on rules of procedure and work programme

(1) Should the rules of procedures be more harmonised, standardised or developed more with the cooperation of the Commission?

No. It is important that each sector keep the right to define the rules of procedure and work programme that better fit to their purpose.

(2) Should the decision-making process inside committees be reviewed regularly?

Yes, whenever the SP in the sector feels it necessary.

(3) What is the best pace for drawing up work programmes (annual/ biannual?)

Biannual is the minimum period to plan activities in an effective and realistic manner. Rolling agendas should also be considered.

2.4 Questions on composition of delegations

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(1) How do social partners promote the participation of new Member States' representatives?

To date, the main promotion in the hospital sector social dialogue has been involvement through specific project activities. See the above mentioned HOSPEEM-EPSU project, "Strengthening social dialogue in the hospital sector in the new Member States and candidate countries" and the project "The role of European and national social dialogue in a

changing hospital and healthcare structure" managed by the Polish healthcare confederation with the support of HOSPEEM and EPSU.

(2) What measures should they take for ensuring a balance between men and women within delegations?
The hospital sector has a balance within the 40/60 interval of men/women.
We do not intend to take specific measures on this issue, at least on the employers' side, because in our view the geographical balance is a much more important concern than the men/women breakdown.

2.5 Questions on Chairmanship and secretariat
(1) How can the balance between the Commission' priorities and the social partners' work programme be ensured in the drafting agendas of meetings?
Agenda of meetings must be the unique remit of social partners if social dialogue is meant to be autonomous.

(2) Should a deadline be set for communicating agendas, working papers or any other documents (slides) prior to social dialogue committees' meetings?
All material should be sent out at least one week ahead of the meeting.

(3) How could the logistics of meetings be improved (table plans, names, pre-meetings and debriefings with secretariats and the Commission)
All depends by the good cooperation and communications flow between SP secretariats, between them with the EC.

(4) How could the chairing of the meetings be improved? (objectives to reach, summarising discussions, synergies between Chairs and the Commission)
The chairing in the Hospital sector is working well by sharing the chairmanship at every meeting - By closer cooperation between the secretariats of HOSPEEM/EPSU/Commission.

(5) What sort of tools should be used for ensuring follow-up of the meetings? (debriefings, questionnaires, indicators, monitoring of actions)
By closer cooperation between the secretariats of HOSPEEM and EPSU

(6) What use is made of the minutes? by the European social partners, by their members?
Minutes are a necessary and used for follow-ups by social partners and members.

3. Synergies and cooperation
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According to the Commission Communication of 26 June 2002, synergies between sectors should be reinforced
3.1 Questions on the cooperation between social partners and the Commission
(1) To what extent could the support given by the Commission be improved?
By more meeting facilities in case the SP are delivering

(2) How could the transparency of social dialogue committees' work be enhanced?

More information, newsletter and websites, etc. see www.hospeem.eu which has information about the work in the Hospital sector and links to EPSU and EU-Commissions programs.

(3) How is the Commission website on social dialogue used by social partners?
As said above, the part on sectoral social dialogue should be improved. It needs to be updated and more transparent. There is need for newsletters, and more updated information, etc. for the different actors and for the website to be more user-friendly with easier access etc.

(4) What should be the role of the Commission in integrating new actors in committees?
It is not the task of the EC but of the representative SP in the sector.

(5) Do you think that the SSDC's work and contributions are adequately taken into account in European social policies?
Not always. This depends on various factors. In some cases the SP themselves are not strong enough in making their voice heard. This is not the case in the hospital sector. The problem experience in our sector so far is the difficulty to being heard by the variety of stakeholders involved in healthcare policies. As mentioned above many different DGs and cabinets are involved in this field and the voice of SPs in the sectors should be properly taken into account by all those different actors.
An additional factor that makes the contributions not always heard is the negative impact of the proliferation of SSDCs in fields that are unequally relevant in terms of impact on the economic and social life of EU citizens. The over multiplication of voices drowns the voices of those who really count weaker and less visible.

3.2 Cooperation between sectors and the cross-industry level
(1) How should sectors integrate cross-industry autonomous agreements in their work and reflection?
The sectors should use the cross-industry instruments as a starting point of their discussions, in order to check whether the necessarily broad cross-sectoral instruments need any integration/specification at sectoral level. A self explanatory example is the current multi-sectoral initiative on 3d party violence.

(2) To what extent do social partners cooperate with the cross-industry social dialogue? With the European Works Councils?
The cooperation is certainly good on the TU's side taking into account that sectoral federations are integrated in the ETUC statues. On the employers' side cooperation should be improved and HOSPEEM strongly support the project of CEEP to set up public services employers' network aimed exactly at increasing synergies between the cross-sectoral and sectoral levels as far as SGIs employers are concerned.

3.3 Cooperation between sectors
(1) Could you envisage other tools than the "forum de liaison" for ensuring the coordination between sectors?
Yes. One step would be to transform this forum from an information sharing instrument to a more policy making instrument.

(2) What is your assessment of pluri-sectoral initiatives?
The principle is certainly a good one but, there is not yet enough evidence to give a real assessment, apart from the crystal-silica agreement. HOSPEEM will be able to give a proper assessment following the results of the ongoing initiative on third party violence.

(3) What type of tools should be available for better identifying common issues between sectors?
See answer to question (1), i.e. better use of the Forum de Liaison

(4) What can you learn from other committees' practices?
In principle, possible solutions to problems where a common denominator is identified as in third party violence. However, in practice this learning process has not yet started for the hospital sector.

3.4 Cooperation inside sectors
(1) What are the reasons/obstacles of national members for participating/ not participating in European social dialogue meetings?
The lack of information/awareness about benefits of EU social dialogue and its impact on national, regional, local and workplace activities.

(2) Are new actors well represented in committees?
No, there is a need to get more new actors, i.e. organisations from the social economy, private, "religious/confessional/non confessional" hospitals, non-profit hospitals, etc.

(3) What are the main obstacles facing newcomers when joining committees?
The language barrier is for those which interpretation is not available. However, on the employers' side this problem appears to be minimal.
There is also a financial issue to face. Apart from the SSDCs activities, for social dialogue to be effective requires unilateral meetings that are outside the EC funded meetings.

(4) How do European social partners work with national member organisations whose resources, constraints and strategies vary greatly from one country to another?
This is a huge problem. It creates a vicious circle as on the one side employers' organisations need to cover as many MS as possible for their representativeness, and on the other side they cannot survive without members able to fulfil their financial obligations. For the time being, the only way is to encourage members with financial constraints to apply for EU funded projects and to support them in the implementation of those activities. However this only brings palliative solutions.

4. On the implementation of outcomes of sectoral social dialogue
According to the Commission Communication of 12 August 2004, the aim of the Commission is to promote awareness and understanding of the results of the European social dialogue, and to improve their impact and follow-up.
4.1 Questions on typology of texts
(1) To what extent is the typology suggested by the Commission within its Communication known by the European social partners?

It is fairly well known by SPs in the Hospital Sector, at least on the employers' side. The text of the 2004 Communication is always available for members during negotiations and the typology of text has, nearly always supported internal discussions when deciding what the most adapted tool for the item treated would be.

(2) How is this typology used by social partners when European negotiations are launched?
See previous answer

(3) Has this typology helped social partners to draft follow-up provisions?
See previous answer

(4) Could social partners involved in sectoral social dialogue committees give concrete examples?
"Code of Conduct and Follow-up on Ethical Cross border recruitment and retention" to be implemented by 2010 on national, regional and local level in the MS

4.2 Questions on negotiation process

(1) Should specific rules of procedure for the negotiations be approved by social partners before launching negotiations?
The SSDCS has general Rules of Procedure that also cover the case of negotiations. More specific and detailed rules only for negotiations are not deemed necessary as they could limit the necessary flexibility social partners need during negotiating process.

(2) Should observers (or other social partners) be invited during the negotiation process?
No, unless the negotiating social partners deem it necessary and only in an ad hoc basis.

(3) Should non-EU social partners be more involved in negotiation processes?
No, absolutely not. The negotiations are not an intellectual exercise but a process ending with an instrument that must be implemented. Only actors with the capacity to implement the instrument can take part in the process.

(4) How do social partners assess the legal support of the Commission (DG EMPL, other DG's) during the negotiations phase?
The negotiations are an autonomous process and the EC should not influence it. However, the legal expertise they can bring is sometimes crucial to unblock stalling situations.

4.3 Questions on the implementation of outcomes

(1) What type of implementing indicators could be developed?
Working with the present typology in implementing indicators. The implementing indicators should be developed and decided by the social partners in the different SSDCs.

(2) How could European social partners guarantee more binding and effective transposition and implementation by their affiliates?
According to the principle of Subsidiarity, the social partners in each MS should be responsible for the transposition and implementation by their own traditions and regulations in the different sectors.

(3) What sorts of incentive actions are most appropriate for ensuring implementation?
More should be invested in communication of results reached at EU level and on the rights and obligations deriving from those results.

(4) To what extent should social partners involve Member States in the implementation of their outcomes?
See question *4.3 (2)* above.

5. On the impact of Sectoral social dialogue committees
(1) What are the key challenges faced by your sector?
Privatisation and liberalisations flows, economic migration, how to handle restructuring and economical recession in the healthcare sector. New Skill Needs and the Demographic change and the consequent need to re-think the focus from hospital care to long term care, How to reconcile work and family life in a sector with more than 60% to 80% of women in the workforce.

(2) What specific responses have activities of your sectoral social dialogue committee given?
For the moment being, the concrete response we tried to give was to the item of cross-border recruitment and cross-border movement of professionals towards the "Code of Conduct and Follow-up on Ethical Cross border recruitment and retention" signed in December 2007.

(3) What are the main difficulties that could put into question the pursuit of activities of a sectoral social dialogue committee? (lack of trust, of delivery, of capacity, weakening of representativeness, new perimeter, economical changes…)
The first threat that blocks the SSDC's from functioning effectively is the lack of political will on the two sides of industry to find concrete solutions for concrete problems. For the time being, this is certainly not the case for the hospital sector committee, at least as far as the employers are concerned. The second and equally important obstacle is the lack of representativeness. This is why HOSPEEM is constantly engaged in improving this aspect.

(4) How do you see to address them?
Representativeness could be improved through membership campaigns. However, HOSPEEM does not have enough financial resources to organise such activities. Therefore the best action for us remains to deliver concrete social dialogue results and by that convince new employers' organisations about the added value of EU social dialogue and the necessity for them to join the process.