

**CEEMET POSITION PAPER – 4 December 2008****Commission – Consultation of the European Social Partners for a review of the implementation of the Commission Communication and Decision of 20 May 1998**

*CEEMET represents the interests of employers' organisations from the metal, engineering and technology-based industries from 22 countries with a particular focus on social policy issues. Our national member organisations represent around 200,000 companies, employing some 12.7 million people.*

The **key points** raised in this CEEMET position can be summarised as follows:

- The autonomy of social partners is a fundamental principle of social dialogue, irrespective of its level, and has to be fully respected.
- Social dialogue must be kept separate from civil dialogue. The integration of new actors, in particular NGO's, would undermine the process of European social dialogue.
- In connection with the point mentioned before we express concerns about the fact that the Consultation on sectoral social dialogue was open to the "general public" and not exclusively addressed to the parties involved, i.e. the social partner organisations.
- The idea of cooperation between sectoral social dialogue parties and European Works Councils is strongly opposed, in particular since the latter discuss internal company issues whereas sectoral social dialogue deals with cross-industry sector matters.
- European social dialogue has to meet the challenging task of adding value while fully respecting differences in national industrial relations systems, including of course in the EU-12 Member States where sectoral social dialogue still is not always well developed, if it exists at all.
- Ultimately, European Social Dialogue is a bottom-up process which is related to the mandates and activities of the national member organisations.
- As necessary and appropriate, CEEMET is positive about enhancing cooperation between the different parties and levels involved in European social dialogue

**I. Introduction**

As the European employer organisation for the metal, engineering and technology-based industries, CEEMET represents the biggest industrial sector in Europe in social policy related questions. The CEEMET member organisations in principle are "an integral and recognised part" of their countries' "social partner structures" as is stipulated in the 1998 Commission Communication. CEEMET welcomes the opportunity to express its views on the Commission document "Consultation of European social partners on the creation, functioning, outcomes

and impact of social dialogue committees”, relating to the Commission Decision of May 1998 regarding the setting up of sectoral social dialogue committees. Through this Consultation, the Commission intends to take stock of the implementation of its Decision, ten years after its adoption, with the objective to “*better strengthen and promote the sectoral European social dialogue and its functioning*”.

After several years of *informal* social dialogue, CEEMET and the European Metalworkers Federation submitted a joint request to Commissioner Špidla in September 2008 to set up a sectoral social dialogue committee. A review of the Commission Decision of 20 May 1998 could, for CEEMET, potentially involve a revision of this joint request.

## **II. General comments**

Dialogue between the social partners at sector level can contribute to improving the economic and business environment that supports the development of competitive and profitable companies in the best possible way, thus also helping to promote sustainable employment and conditions in the industry sector.

A **fundamental principle** of a functioning European social dialogue is the **autonomy of the social partners**. The respect of this basic principle is of utmost importance. Social dialogue, irrespective of its level, has to take place on a voluntary, independent and needs-driven basis in order to be sustainable and add value. Any attempts from third parties to encroach on this sensitive notion of social dialogue would undermine the use and effectiveness of social dialogue.

CEEMET therefore finds it unacceptable and irrelevant that the Consultation on European sector social dialogue was open to the general public and not exclusively addressed to the parties involved, i.e. the social partner organisations.

CEEMET also feels that some of the questions in the Consultation document are unclear, such as questions 1.2 (2) and (4), while other questions, in particular question 4.3. (2), are formulated in a leading way.

## **III. Replies to selected questions of the Consultation document**

*Note: Given the fact that CEEMET and the EMF have only recently submitted their request to set up a social dialogue committee, CEEMET will refrain from replying to questions that presuppose solid experience with this instrument.*

### **Ad 1: On the creation of social dialogue committees**

#### **1.1. Questions on Autonomy**

**(1)** The national member organisations of CEEMET are the recognised social partner organisations for the metal, engineering and technology-based industries in their countries. CEEMET considered its role in the preparation phase of the social dialogue committee to be to thoroughly inform and consult its members on this formalised dialogue in order to obtain their clear and sustainable mandate for a relevant, value adding social dialogue.

**(2)** As mentioned above and as indicated in Art. 139 of the EC-Treaty, the Commission should take a neutral role, fully respecting the autonomy of the social partners.

**(3)** As the outcomes of the preceding social dialogue between CEEMET and the EMF often have been similar to outcomes of discussions in many existing sector social dialogue committees, CEEMET considers the qualification of this preceding social dialogue as “informal” to be inappropriate. Furthermore, CEEMET does not consider the current form of its social dialogue with the EMF as a “test-phase” before requesting the launch of a social dialogue committee. As a general comment, CEEMET members find that this social dialogue has led to some useful and value-adding results, encouraging them to enter into a formalised social dialogue with the recognition and support of the European Commission.

### **1.2. Questions on the sectors’ perimeter**

It is unclear how question (4) should be interpreted. An objective of the Commission to cover 100% of the economy with social dialogue committees might be understood as encroaching on the autonomy of social partners and the voluntariness of the entire process, which would be unacceptable for CEEMET. Further, it is unclear what “100 % of the economy” refers to. Is it the industry sector, companies, employees, countries of the European Union?

### **1.3 Questions on representativeness**

Regarding question (5) and a possible “formal specific status (*of observers, associates, complementary European social partners*)” to be created besides the status of European social partners, CEEMET would like to refer to the Rules of Procedure for the social dialogue committees. CEEMET’s and EMF’s Rules of Procedure include, upon request and subject to the approval of the social partners, the possibility to involve observers who are not necessarily social partners.

### **1.4 Questions on capacity of European social partners to negotiate agreements**

Firstly, in terms of capacity CEEMET considers that it is fundamental for European social partners to have a clear and sustainable **mandate from their membership**. Further, by capacity to negotiate agreements -although the vast majority of results from European social dialogue take the form of joint opinions, declarations or studies- CEEMET understands that European social partners should have a certain structure, resources, expertise and experience in social policy related questions. Furthermore, we do not consider that European social partners must have a negotiation mandate *per se* (*carte blanche*), but have to be in a position to obtain a mandate whenever necessary on an *ad hoc* basis. In our view, this is exactly in line with the criteria the Commission sets out in its 1998 Decision. Ultimately, European social dialogue is a bottom-up process which is related to the mandates and activities of the national member organisations.

In this context, CEEMET also considers that it is important to take into account the state of development of sectoral social partners’ organisations in the new member and that in several of the EU-12 Member States sectoral social dialogue still is poorly developed, if it exists at all.

### **1.5. Questions on the administrative capacity**

Where appropriate, the administrative capacity of European social partners in connection with European social dialogue can be improved through a needs-based, result oriented, value adding social dialogue which fully respects the different national industrial relations systems.

Concerning social partner organisations, ESF and other external sources should be used very carefully in order to not to undermine the principles of autonomy and voluntariness.

#### **Ad 2. On the functioning of social dialogue committees**

Again, since CEEMET so far has no experience with this formalized social dialogue in the form of a committee, we will only make some general comments.

For CEEMET, the "Questions on the promotion of social dialogue" raise sensitive issues. The functioning of social dialogue should in the first instance be assessed by the social partners themselves.

For the promotion of the **participation of new Member States' representatives** as mentioned in the *questions under 2.4*, CEEMET organised a seminar with and for employer organisations from the new EU Member States and Candidate countries in 2006 and in 2007/2008 participated in an EU co-funded project run by the ILO on "Strengthening the capacity of metal sector employers' organisations of new Member and Candidate States for participation in sectoral social dialogue at national and European level". Given the historical background in the majority of these countries, CEEMET is convinced it is a challenging task to set up sustainable structures of sectoral employer organisations in the mid-term. CEEMET and its members agree that in this respect a "bottom up" approach must be followed and are ready to offer support and assistance to their sister organisations in these countries.

In the **composition** of its social dialogue CEEMET and in particular its member organisations will endeavour to take gender balance into account.

With regard to the questions on Chairmanship and secretariat (2.5), CEEMET understands that the Commission's role is to facilitate sectoral social dialogue by giving balanced and impartial support to the parties concerned.

Therefore, and in view of the principle of autonomy of social partners, CEEMET does not understand question 2.5. (1). Does this question indicate that the Commission intends to influence the agenda of sectoral social dialogue meetings and to bring more "Commission priorities" to the discussions between social partners? As highlighted earlier, by virtue of the EC Treaty, the role of the Commission is to support and facilitate the formalised social dialogue by providing logistical help or advice, if so requested by the social partners, and to ensure a balanced support. Respecting the legal requirements, social partners must be free to decide which topic they discuss in their social dialogue.

Nevertheless, CEEMET is of the opinion that in a formalised sectoral social dialogue committee, the social partners should try to have a regular exchange of information with the Commission.

### **Ad 3. Synergies and cooperation**

Questions 3.1 (4) and 3.4 (2) in the Commission's consultation document refer to the notion of "integrating new actors" in the social dialogue committees and their appropriate representation. CEEMET would like to underline that new actors, in particular NGO's, which were explicitly mentioned in the previous Commission Communication "The European Social Dialogue, a force for innovation and change" (COM (2002) 341 final), must not be involved in European social dialogue. **Social dialogue must be kept separate from civil dialogue.**

In addition to this fundamental point, an inadequate and unjustified involvement of other interested parties from civil society, notably NGOs, would not only undermine the entire process of European social dialogue, but this would lead to additional "questions on the sectors' perimeters" as raised under point 1.2 of the present Consultation document.

#### **3.2. Cooperation between sectors and the cross-industry level**

Generally, CEEMET considers that sectors should duly consider cross-industry autonomous agreement in their work. The employers' side tries to achieve some co-ordination in this respect through the informal European Employers' Network at BUSINESSEUROPE.

Equally, cross-industry social dialogue has to consider sector agreements and specific situations as agreements on topics, which at first sight appear to be of relevance for the interprofessional level, often also have significant relevance for and impact on individual sectors.

The idea of cooperation between social partners and European Works Councils was already raised in the Commission Communication "Partnership for change in an enlarged Europe – Enhancing the contribution of European social dialogue" (COM(2004) 557 final). As stressed in our position paper on this Communication, CEEMET is strongly opposed to this idea for the following reasons:

- European Works Councils discuss internal company issues whereas sectoral social dialogue deal with cross-industry sector matters
- *Per se*, European Works Councils are information and consultation bodies and not negotiation bodies
- According to EU Directive 94/45, employer organisations and trade unions are not involved in the activities of EWCs whereas they participate in social dialogue

#### **3.3. Cooperation between sectors**

As appropriate and possible, CEEMET continuously cooperates with European industry sector organisations, in particular European trade associations from sub-sectors of the metal, engineering and technology-based industries. Thus the relevance of the topic discussed might be increased and unnecessary duplication of work and divergence of positions can be avoided.

#### **3.4. Cooperation inside sectors**

CEEMET has experienced the following reasons / obstacles for national members *not to participate* in European social dialogue: unawareness, unclear concept,

limits and implications of European social dialogue, sectoral social dialogue unknown in certain countries, lack of resources or of interest in European issues, issues are not relevant at national level.

As to the issue of “new actors” please refer to the first paragraph of this section.

#### ***Ad 4. On the implementation of outcomes of sectoral social dialogue***

##### ***4.1 Questions on the typology of texts***

In its Communication COM (2004) 557 final, the Commission suggested a typology, checklists for social partners etc. to the social partners. In its position paper on that Communication, CEEMET expressed its strongly held view that the Commission should refrain from such interference as this would hamper the autonomy of the social partners and could discourage them from developing joint activities.

##### ***4.2. Questions on negotiation process***

Since social dialogue can take different forms and lead to different results, including predominant joint opinions, statements or declarations, the term negotiations seems not to fit with this reality as negotiations generally lead to “agreements”. Process of dialogue is felt to be a more appropriate term.

CEEMET and the EMF have adopted detailed Rules of Procedure for the sectoral social dialogue committee they requested the European Commission to set up. We understand that a clear basis of common principles and joint understanding of social dialogue between the social partners is of major importance for ensuring a smooth process avoiding unnecessarily frictions to occur in this process with is built on mutual trust.

Legal support of the Commission, in the very meaning of the term, should be an impartial and neutral legal support only facilitating the process as necessary.

##### ***4.3. Questions on the implementation of outcomes***

As highlighted in the introduction, CEEMET is of the opinion that question (2) is formulated in a leading way indicating that deficits exist with the transposition and implementation of social dialogue outcomes at national level. Furthermore, in most cases the results of European sectoral social dialogue are Joint Recommendations, Declarations or Opinions, i.e. of a non-binding nature, which do not require national transposition that has to be or can be “guaranteed” by European social partners.

In line with commentaries of article 139 of the EC Treaty European social partner agreements are binding only for the concluding, signatory parties and not automatically for their national member organisations. Where the results of European social dialogue are to be implemented at national level, the implementation shall be done in accordance with the different practices, systems and legal frameworks in the countries concerned. European social partners are thus not in a position to “guarantee” more binding and effective transposition etc by their affiliates.

However, CEEMET members have a common understanding that as necessary they have a role to play in the transposition or application of the results from European Social Dialogue.

In view of what has been said before, the question of whether or not to approve "specific rules for the negotiations" has to be entirely at the discretion of the social partners themselves.

#### ***Ad 5. On the impact of Sectoral social dialogue committees***

The key challenges in the social policy field faced by the sector are laid down in the CEEMET paper "Strengthening the competitiveness of the European MET industries" and joint CEEMET-EMF papers. Some of the current challenges are also highlighted in the CEEMET – EMF Rules of Procedure, which are to be reviewed in certain intervals.

The main difficulties facing a sectoral social dialogue committee, in addition to those already mentioned in the Commission Consultation document, are: non-respect of diversity of national industrial relations systems, no value adding social dialogue, possible negative repercussion of European social dialogue on the competitive environment / situation of companies and thus their workers, ....

Brussels, 4 December 2008