

OUR PRIORITIES

ETUC Resolutions
2004



EUROPEAN TRADE UNION CONFEDERATION

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Executive Committee - March 2004

1

UNION PROPOSALS FOR A EUROPEAN POLICY ON CLIMATE CHANGE

Executive Committee, 17-18 March 2004

Following the conference held on 9-10 December 2003 in Milan, The ETUC is calling for a truly European policy on climate change. Such a policy should acknowledge both the social and democratic dimension of the process, the need to take account of aspects associated with employment, the role of public investment, and the principle of solidarity with poor countries, and it should focus on energy efficiency and the development of alternative energy sources, as well as being accompanied by measures to adapt to the socio-economic impacts of climate change.

The ETUC focuses its priorities on the 12 following points:

IMPLEMENTING THE KYOTO PROCESS: A SOCIAL AND DEMOCRATIC PROCESS

1. The European trade union movement supported the EU's ratification of the Kyoto Protocol because it is convinced that the Protocol constitutes a unique opportunity to make a coordinated, global transition to improve the environment and to boost employment and well-being. The underlying principles here are all about sharing the load equally between all sectors of the economy and with workers, the economic opportunities and responsibilities arising from the fight against climate change, and adapting to the consequences thereof.

2. If the Kyoto objectives are to be implemented successfully, all parties, particularly workers and unions, must be involved. For not only distribution of income, but also working conditions and individuals' education and training needs will be affected by this process. Workers need to be involved through social dialogue with their employers (from European level down to local, sectoral level), in

European multinationals via works councils where these exist, in companies, in the workplace, and also through the sectoral committees of European Social Dialogue.

MAXIMISING THE BENEFITS FOR EMPLOYMENT, THE ENVIRONMENT AND ECONOMIC EFFICIENCY IN EUROPE

3. The absence of any employment-related considerations is a significant weakness in European policy implementing the Kyoto Protocol. It is crucial that the measures and policies contained in the European Climate Change Programme (ECCP) factor in the need to create sustainable, high-quality jobs by falling clearly into line with the Lisbon strategy, which includes, since the Göteborg Council, an environmental dimension.

4. In this vein, both the Member States and the European Union need to play their part to the full in implementing the commitments made in the context of the Kyoto Protocol. To do this, they must systematically consider these commitments from the point of view of the required investment and their potential for creating jobs, and must pursue appropriate active public investment policies at both the national and European levels.

5. The European Climate Change Programme should include a transition programme for workers in sectors and regions affected by measures to limit greenhouse gas emissions (GHG), including especially training programmes. The ETUC calls upon the DG Environment and the DG Employment and Social Affairs to create a joint working group, in order to analyse the impact of the programme of reduction of greenhouse gas emission on employment levels, which should include the participation of ETUC representatives.

6. Sizeable and sufficient public resources need to be mobilised to fund a European research and development policy that is redirected towards energy sources which have the potential to reduce greenhouse gases and energy efficiency.

7. In its second ECCP progress report, the Commission highlighted the need for a thorough evaluation of the impact on greenhouse gas

emissions of the liberalisation of the energy market in Europe. In this connection, the ETUC reiterates that the liberalisation process has prompted massive job losses arising from mergers and restructuring initiatives in the electricity industry aimed solely at generating short-term profit. However, these same considerations could discourage long-term investment in renewable energies and in energy-efficient technologies that are vital for achieving the Kyoto objectives and safeguarding the available supply. Moreover, the liberalisation of the electricity market could give an incentive to increased consumption, which would be incompatible with the obligations linked to climate change. The ETUC is calling for the generation and distribution of energy to be considered as a public service meeting planned, regulated European objectives that above all guarantees fair access to energy and the use of a certain level of renewable energy sources in power generation. The development of energy services geared towards the reduction of consumption should be supported.

FLEXIBLE MECHANISMS TO PROMOTE SUSTAINABLE EMPLOYMENT AND DEVELOPMENT

8. The general principle supported by the ETUC with regard to the Kyoto Protocol's flexible mechanisms (Joint implementation (JI), Clean Development Mechanism (CDM), Emission allowance trading) is that such instruments must be transparent processes with clear procedures in which workforce representatives should be involved. Moreover, internal measures that would reduce emissions remain the priority for Member States. These Flexibility mechanisms should be considered as complementary. Therefore, the use of these mechanisms should represent only a limited part of Member States' reduction commitments.

9. The Clean Development Mechanism (CDM) must effectively channel economic resources towards renewable energies and good practice in the energy sector in third countries, and should definitely not promote relocation on the basis of worldwide competition between social and environmental protection systems. Moreover the projects implemented in the framework of the Clean Development Mechanism, should not be used by the Member States to attain the aimed percentage of the gross national product used for the development assistance between now and 2010. The Workforce representa-

tives in the countries concerned (in Europe and the beneficiary countries alike) need to be informed and consulted during the process of adopting and implementing CDM initiatives, and their opinion should be a formal requirement for approval of projects by the CDM Executive Committee.

BOOSTING CAPACITY TO ADAPT TO THE FORESEEABLE SOCIO-ECONOMIC EFFECTS OF CLIMATE CHANGE

10. Political resulting in the limiting emissions must be matched by a determination to see European societies adapt to the inevitable changes brought about by climate change. The additional knowledge, investment, and measures needed to avert the detrimental effects of global warming on workers in vulnerable sectors (agriculture and tourism), and on people whose situation is weakened by their health or because they are excluded must be carefully evaluated so as to prevent any drastic situations from arising, like those witnessed in some European countries in the summers of 2002 and 2003.

11. The European Union must help third countries that are particularly exposed to the threats posed by global warming and which are vulnerable because they are poor to bear the burden of adapting. The European Union must actively promote the conclusion of international agreements on the effects of global warming, which - just as the Kyoto Protocol did in limiting emissions - would coordinate the efforts of individual countries on a global scale.

THE ROLES OF THE INSTITUTIONS

11. In the European Union, we propose that the Observatory on Industrial Change and the European Environment Agency be appointed to analyse the impact of climate change policies on strategic regions and sectors; we are calling for the Commission to suggest to the United Nations Framework Convention on Climate Change (UNFCCC) that the International Labour Organisation (ILO) be involved in the Kyoto process.

2

THE PROPOSAL FOR A DIRECTIVE ON SERVICES IN THE INTERNAL MARKET

Executive Committee, 17-18 March 2004

THE ETUC DEMANDS ONE PRECONDITION: STRONGER SOCIAL GUARANTEES FOR WORKERS

1. The proposal for a Directive on services in the internal market issued by the European Commission on 13 January 2004¹ aroused lively interest on the part of trade union organisations, not only because it would affect a key sector in terms of employment, but also because nowadays services are essential to the smooth functioning of the European economy as well as being of importance in determining the well-being of the general public. The European Trade Union Confederation (ETUC) believes that apart from being determined by a high level of social security, the development of the internal market has to go hand in hand with sufficiently strengthened social protection and adequate workers' rights and working conditions embraced with a view to maintain social cohesion within the EU.

2. ETUC has examined the proposal for a directive and recognises the major growth potential in terms of employment in these sectors, especially in the future Member States, which could help the Union to achieve the objectives set out in the Lisbon Strategy in 2000. At the same time it takes account of the growing trend towards outsourcing, especially by manufacturing companies, and of the negative effects this is having on collective bargaining and the intensification of work.

http://europa.eu.int/eur-lex/en/com/pdf/2004/com2004_0002en01.pdf

3. ETUC welcomes the measures aimed at making the internal market function more efficiently and promoting the free circulation of services, as well as measures that are in the interest of workers, companies and consumers alike. Accordingly it can support:

- the measures aimed at reducing administrative costs and simplifying procedures;
- establishing 'single points of contact' to help service providers secure authorisations and with other formalities;
- the establishment of transparent, predictable procedures that are not overly time-consuming;
- measures designed to protect workers, consumers, the recipients of services or the urban environment;
- the provision of safer services of a higher quality.

THE ETUC IS WORRIED BY THE COUNTRY OF ORIGIN PRINCIPLE

4. However, the proposals set out in the proposal for a directive are far more complex and cover a much broader range than that. This is caused by the application of the 'country of origin principle' that set down that providers are subject only to the national provisions of their Member State of origin, even though it is extremely difficult to predict all the consequences that may result. In particular, there appears to be a real risk of abuses of competition in those areas that are not harmonised Europe-wide, with negative economic and social consequences in several sectors, just as turned out to be the case in the maritime transport sector following the choices in favour of so-called 'flags of convenience'. In actual fact, these types of measures would encourage service providers to move their headquarters to the EU Member States with the lowest tax rates and social and environmental requirements. The authorities in countries with high standards would then be under pressure to lower them, with negative consequences for the environment and social cohesion. This danger is increased by the fact that the definition of Member State of origin is defined in Article 4 as the Member State "in which [the provider concerned] is established", without any further qualification. In the view of the ETUC, additional conditions are needed to prevent abuses, such as defining the country of origin in terms of the habitual residence of the enterprise and/or the place where its central administration is established or the place where the principal place of

business is situated (for a similar approach see Article 4 of the 1980 Rome Convention on the law applicable to contractual obligations).

5. Furthermore, the provisions of the proposal for a directive seem to contravene not only Article 50 of the Treaty (which states that service providers may temporarily conduct their business in the country where the service is provided, under the same conditions as those imposed by the country in question on its own nationals), but also Article 2 of the same Treaty, which stipulates that the Community should endeavour to promote a high level of employment and social protection. The provisions of the proposal for a directive also run counter to the case law of the European Court of Justice which recognises the right of Member States to adopt restrictive measures if doing so serves the general interest.

THE ETUC IS OPPOSED TO A CALLING INTO QUESTION OF THE NATIONAL HEALTHCARE SYSTEMS

6. Against this backdrop, ETUC reiterates the importance of Services of General Interest (SGI) for the development of the European Social Model in terms of equal opportunities for citizens, social cohesion and the implementation of the Lisbon Strategy. The Commission failed to support a framework directive on SGI, contrary to the ETUC's demands. Yet now, paradoxically, with the new proposal for a directive, the Commission now appears to find itself able to write a wide-ranging directive of vast scope on services in general in the internal market that imposes certain basic, harmonised, high-quality requirements at European level. In the absence of a clear definition of SGI, this project is certainly premature and risks the serious hindrance of their running in those countries where they are the most developed. In short, for ETUC there is no longer any reason to oppose the demands it has been making regarding a legal framework, which the European Parliament also demanded on 14 January 2004. If the European Commission is not able to deliver this, the ETUC demands a legislative moratorium concerning liberalisation until the European Commission is in a position to deliver a framework proposal on SGI.

7. In particular, the proposal for a directive sets out regulations governing easier access to health care, especially care provided in another Member State. These arrangements are intended to consti-

tute a response to the rulings of the European Court of Justice. However, the service relationship in the health care sector does not function on a simple 'client-provider' basis and cannot be reduced to such a simplistic scenario. It brings into play the State, which itself pays for such services as well as acting as their 'regulator', in the name of other fundamental priorities, such as public health. Following this proposal for a directive would amount to the de facto deregulation and privatisation of health services and create even greater legal uncertainty. Consequently, ETUC is asking the Commission to exempt health care services from this proposal for a directive and instead deal with them in a specific framework directive that affirms the principles of solidarity, accessibility, universality and continuity.

THE ETUC DEMANDS PRIORITY TO BE GIVEN TO THE IMPROVEMENT OF LABOUR LAW

8. According to the draft text, all the 'matters covered by the Posting Directive' are excluded from the country-of-origin principle. Moreover, the preamble states that the Directive does not aim to address issues of labour law as such. However, in the view of the ETUC the proposals do have repercussions in the area of labour law, and its monitoring and enforcement. It is of major importance that the Commission provides for an additional impact-assessment with regard to possible effects in different cases of cross border working, to be able to judge potential problems. It is especially important to clarify the possible interplay with the Rome Convention 1980 and the Posting Directive, as well as the relationship with the industrial relations and collective bargaining systems in the country where the worker habitually or temporarily carries out his work, if this is another country than the country of origin of the enterprise.

9. ETUC believes that, just as in the past, in future it is essential that Member States should be able to adopt reasonable measures to guarantee the smooth functioning of their labour market and prevent potential abuses by using intermediaries, such as temping agencies. ETUC has always advocated laying down the fundamental principles governing such reasonable measures in a European framework directive that would allow temping agencies to provide their services on a basis of fair competition, without having any detrimental effect

on working conditions, pay or the social protection of the workforce. It regrets that the draft of this directive is still blocked.

10. In addition, ETUC proposes not only that temporary work and the posting of workers should be totally excluded from the scope of the directive (in the same way that other kinds of services or areas are excluded, such as financial services, owing to their particular nature and the fact that they are already covered - or are about to be covered - by other Community policies), but also that the Commission henceforth set the following priorities where the regulation of posted workers and temporary work is concerned:

- The evaluation and improvement of the existing Directive 96/71/EC, as asked for also by the European Parliament;
- the adoption of the proposal for a directive on temporary work;
- the ratification of ILO Convention 181 on the private employment agencies.

This would create a general framework of protection, which could provide for an adequate basis to discuss further steps in the direction of liberalising services.

THE ETUC OPPOSES THE EXCESSIVE LIMITATIONS ON THE ROLE OF MEMBER STATES

11. ETUC is deeply concerned by the application of the 'country-of-origin principle' with respect to the consequences for the efficiency of monitoring and protection against abuses, especially in the domain of labour law. Consequently, it is calling upon the Commission to take a closer look at the potential impact of its proposals regarding this principle. ETUC has serious doubts about the feasibility of either directly or indirectly monitoring and effectively overseeing providers of cross-border services from their country of origin, particularly in respect of measures taken by Member States to protect workers within their territory, regardless of their origin or nationality, irrespective of whether they are employed directly or via intermediaries, by subcontractors or by service providers themselves. ETUC is already concerned about the limited scope and effectiveness of the existing posting directive. However, the proposals in the draft services directive may increase the enforcement problems. With regard to posting of workers, the Directive on one hand explicitly acknowledges the duties of the Member State of posting to carry out on its territory the

necessary checks and inspections to enforce the working conditions as laid down in the Posting Directive, and to take measures against a service provider who fails to comply with these. On the other hand however, the Directive prohibits to subject the provider or the posted worker with any form of authorisation, registration, keeping of documents, thereby depriving the Member State of posting from effective tools to prevent and monitor potential abuses. Although the Directive in addition obliges the Member State of origin to assist the Member State of posting to ensure compliance with the applicable employment and working conditions, which in itself is a positive proposal, this can hardly be seen as an equivalent substitute.

12. The proposal for a directive suggests that it is the country of origin which will have to check that nationals from third countries deployed by service providers - regardless of whether or not they are EU citizens - fulfil residency requirements and are legally employable as stipulated in the legislation of the country of origin (for example, a Polish agency posting Ukrainian workers to Belgium). The host Member States cannot force the worker or service provider in question to undergo any preventive checks! These proposals will seriously hamper those Member States which wish to take steps against the abuses associated with the posting of undocumented migrant workers on their own labour market. Moreover, a global shortage of financial, logistical and human means dedicated to the labour inspection services persists.

13. ETUC holds the view that systems of authorisation cannot be discriminatory and must be objectively justified. All the same, it is essential to proceed with caution when revising existing regimes, because their reduction would call into question both regulated activities and activities that are subjected to approval or licensing procedures in several countries. Moreover, care must be taken to respect the general interest and public health, for example regarding the sale of drugs over the Internet and the manner in which pharmacies work.

14. Where the nature of market services is concerned, especially those aimed at consumers, ETUC stresses the key role played by the Member States in adopting legislation to guarantee the quality of services in terms of their access, safety, contracts and information about the prices and features of the service on offer. In this connec-

tion there is no justification behind the general proposal to limit the role played by the Member States to those aspects concerned with information. Furthermore, ETUC believes that voluntary instruments can play a supporting role solely with respect to legislative requirements and that their wording cannot be left entirely up to the service providers; instead, the needs of all service recipients and the opinion of the workforce representatives in the sectors concerned must be taken into consideration.

THE ETUC IS IN FAVOUR OF QUALITY EMPLOYMENT

15. What is more, ETUC underlines the considerable extent to which services depend on the quality of employment, not just with respect to workers' skills, but also in terms of job security. The quality of services can be improved by developing a conventional and legislative framework at European level that guarantees temporary workers the same treatment as that received by the employees of the company in which they are deployed.

16. ETUC is happy that the Commission, in its Communication dating from December 2003, recognises the importance of lifelong learning and the updating of workers' skills as key parameters determining the competitiveness of service providers. In this connection, it expects from such a proposal for a directive guidelines that foster and stimulate the learning process and boost the value of the contribution made by workers.

THE ETUC DEMANDS PROPER CONSULTATION AND A MORE IN DEPTH IMPACT ANALYSIS

17. The proposal for a directive is based on the potential for growth and the creation of jobs, which are deemed both substantial and attainable thanks to the introduction of the proposed measures. However, the real consequences of previous liberalisations have fallen far short of the projected promises associated with them. Indeed, trade union research shows that they have led to the destruction of existing jobs and the erosion of social cohesion. The Commission must, before adopting the directive, prepare a more in depth assessment of its impact in these areas, working with trade union participation.

18. The directive will have major socio-economic consequences for employers and workers in several sectors. It is highly regrettable that their representatives were not consulted when the draft was drawn up, even though several articles of the text refer to the "interested parties" who ought to be consulted. ETUC demands that the unions be specifically included in these consultations. It is inadmissible that the social dialogue should be totally ignored in areas that are especially vulnerable to restructuring.

19. The analysis of the impact of this proposal for a directive does not sufficiently address the issues raised above. In any case, many items still need to be clarified. Consequently, ETUC cannot support the draft directive as it stands. In addition, via the consequences that the proposal for a directive will have (some of which were mentioned above), the proposal for a directive would threaten both to call into question existing collective agreements, including those concluded at the sectoral level, and question the provisions of existing national labour codes. Consequently, in a nutshell, it would lead to even more 'deregulation' and 'social' insecurity, and all in the name of a hypothetical benefit in terms of jobs. The ETUC demands stronger social guarantees for the workers (in particular through the directives on posting or temporary work) and the quality of services of general interest for the European citizens before continuing with this project. ETUC therefore expects its concerns to be taken more seriously and a clearer answer to be given to its demands.



ETUC DECLARATION ON THE PROPOSED REFORM OF EU POLICY ON CHEMICALS (REACH)

Executive Committee, 17-18 March 2004

The draft Regulation on REACH (Registration, Evaluation and Authorisation of Chemicals) applies to the 30,000 chemical substances produced or imported into the European Union in quantities exceeding 1 tonne per annum. By adopting it on 29 October 2003, the European Commission pursued two main objectives, the first being to achieve a high level of protection for human health and the environment, the second being to promote the efficient functioning of the single market and enhance the competitiveness of the European chemical industry.

The European Trade Union Confederation is of the opinion that the REACH proposal constitutes a significant contribution to sustainable development in keeping with the commitments made by the EU and its Member States in Lisbon and Gothenburg.

The planned reform is important for several reasons. Firstly, concerning a Regulation rather than a Directive, it will apply directly in the 25 Member States as soon as it enters into force. REACH will replace around 40 existing directives and affect a very large number of different sectors. The system adopted will not only impose obligations on manufacturers (in the chemical industry), but also on numerous users of chemicals (e.g. in the building trade, woodworking industry, automotive sector, textiles, agriculture, the provision of services in the environmental and health sectors, the computer sector...)

REACH should also have considerable impact on the existing legislation designed to protect workers exposed to hazardous substances in the various sectors concerned, namely by:

- providing missing information on their properties;
- making chemical safety data publicly available on a right-to-know basis;

- enforcing the efficient distribution of information to downstream users and their personnel in a bid to counteract the risks of occupational diseases;
- encouraging the replacement of the most harmful substances by less hazardous substances, via restrictive and authorisation procedures, with a view to minimising risks.

With a view to genuinely improving the health protection of workers exposed to chemical products, the ETUC demands that particular attention should be paid to ensuring that the obligations laid down in the REACH system are consistent with those of the occupational safety and health directives.

REACH fits in with the approach set out in the Single European Act aimed at expressly linking the development of the internal market with respect for workers' rights and their protection in health and safety terms. ETUC believes that downstream users, like manufacturers and importers of chemical substances, must be responsible for all safety-related aspects of their products for that part of the life cycle in which they are involved, including recycling and disposal.

The 30,000 substances concerned will have to be registered with a future European Chemicals Agency. In this framework, the producers will henceforth have to supply the appropriate information required to ensure the safe use of their products before those products can be marketed within the European Union. ETUC welcomes this adoption of the principle of shifting the burden of proof, and strongly supports it.

ETUC calls upon all the economic actors to recognise the principles of registration and duty of care as general principles. ETUC also believes that the inclusion of other worrying substances should be facilitated in the authorisation procedure.

ETUC demands that workers' representatives be made members of the future European Chemicals Agency on a tripartite basis because it believes that the involvement and initiatives of employers and unions in the bid to securing better health and safety standards is a key precondition for the success of the Lisbon Strategy. Greater familiarity with good practices is essential in this connection. ETUC stresses that ongoing, constructive social dialogue between the

social partners at both European and national level is an essential prerequisite for improving the implementation of existing legislation on worker's protection and training.

ETUC also notes that REACH should foster innovation. This is vital for the European economy as a whole and for the chemical industry in particular. It must enhance its capacity to come up with modern solutions for its future by developing criteria that embody respect for the environment and social responsibility.

To meet the requirements set out in Johannesburg in 2002, the European Union must take steps to ensure that the principles of REACH are recognised worldwide, thereby ensuring fair conditions of global competition.

There is a pressing need at European level to diagnose the requirements that this imposes in terms of defining and financing public and private sector R&D. Equally, smaller and medium-sized companies (SMEs) in particular need to gain a finer appreciation of the specific impact on employment of the implementation of the REACH Regulation, failing their adoption of appropriate preventive or stopgap measures. These measures ought to go hand in hand with a sharing of the costs, risks and financing schemes between producers and users, and especially between the major chemical groups and SMEs and SMIs. This can be done in particular by facilitating the application by SMEs and SMIs of the rules set out by the REACH system via the use of clear and simple procedures which enable them to cut their costs.

Based on the concerns and demands set out above, ETUC and its member federations undertake will not only continue to ponder these matters and take further action, but will also take initiatives based on the annex¹ to draw up specific proposals designed to improve REACH by jointly safeguarding both the protection of the environment and the health of citizens and workers alike, thereby making a contribution towards sustainable development.

¹ The ETUC executive committee has given the Ad Hoc REACH working group within the «Sustainable Development» Working Group the responsibility further the questions raised in the annex.

ANNEX TO THE ETUC DECLARATION ON REACH

In addition to the ETUC declaration, we believe there is a need to consider some elements of the proposed draft reform in greater depth with a view to improving its contents. We have identified the following dimensions where thought and action is required:

1. DUTY OF CARE

In what way should the general principle of the 'duty of care' be reintroduced into the REACH system so that it covers substances which fall outside the scope of the Regulation in question, namely those produced or imported in quantities below the registration threshold of 1 t per annum?

For registered substances that are not classified as hazardous, shouldn't we guarantee the possibility of demanding manufacturers and importers to document the sources used to decide on that non-categorisation and place them at the disposal of the respective authorities if requested to do so?

2. REGISTRATION

What will be the consequences of easing the requirements governing the registration of substances produced or imported in quantities of between 1 and 10 t per annum?

Wouldn't the exemption from a chemical safety assessment and from the requirement to draft a chemical safety report for the 20,000 substances concerned (2/3 of the substances that will have to be registered under REACH) represent a major loss of benefit with respect to the health and safety of workers exposed to hazardous substances?

Wouldn't risk management be improved by the following elements?

- If the obligation to submit a Chemical Safety Report applied to all substances produced or imported in quantities exceeding 1 t per annum.

- If the following tests were required for substances produced or imported in quantities of between 1 and 10 t per annum:

1. Acute toxicity

2. Algal growth inhibition test
3. Biodegradability test

3. ASSESSMENT

To safeguard the quality of the information provided by manufacturers or importers, isn't there a need to participate in the debate on the possibility and feasibility of introducing a quality control system into REACH? Could such a system cover both toxicological and exposure data?

4. AUTHORISATION

In the REACH system as it currently stands, the authorisation procedure applies to the following chemicals of very high concern: CMRs, PBTs and vPvBs . Shouldn't this regime be extended to other, equally hazardous chemicals, like strong respiratory and cutaneous sensitisers?

5. LINKS BETWEEN REACH AND LEGISLATION GOVERNING WORKER PROTECTION

It is important to remember that current legislation governing the protection of workers' health and safety against risks associated with chemicals remains in force and that REACH will therefore apply without prejudice to the minimum directives 89/391/EEC , 90/394/CEE and 98/24/EC .

In this context, isn't there a need to look into the potential clashes between some provisions planned in the REACH system and existing legislation governing health and safety in the workplace?

Should we consider the possibility and feasibility of introducing provisions into the REACH that aimed to shore up the application of the various directives on occupational health and safety? In particular, might we envisage getting together with the relevant parties to consider how the obligations regarding assessment as set out in directive 98/24/EC and those provided for in the REACH system can be made totally compatible with each other?

6. DOWNSTREAM USERS AND SMES

Bearing in mind the limited possibilities of a large number of companies in Europe, isn't there a need to think about the possibility of asking the relevant authorities to organise an aid plan to facilitate the implementation of the REACH system, especially for SMEs and downstream users?

7. IMPACT ON EMPLOYMENT, HEALTH AND EUROPEAN RESEARCH PROGRAMMES

ETUC is also wondering what impact the application of REACH legislation might have on employment and health in the numerous sectors concerned. In the event that such impact was evaluated afresh, ETUC would like to be involved.

Could a commitment also be made to consider the potential influence of REACH on the definition of future European research programmes ?

4

THE COORDINATION OF COLLECTIVE BARGAINING 2003-2004 AND THE PARTICIPATION OF WORKERS

Executive Committee, 17-18 March 2004

COORDINATION OF COLLECTIVE BARGAINING

1. The action programme of the Prague Congress stressed the importance of strengthening the coordination of collective bargaining. Recent developments underline this even more. With rising unemployment and continuing restructuring in all European sectors, trade unions are facing difficult bargaining positions and risk once again being confronted with the danger of competitive wage dumping. Meanwhile, employers and governments are themselves 'coordinating' on an European level and do not hesitate to misrepresent social agreements or government measures in one country to increase pressure on trade unions in the rest of Europe. Moreover, trade unions in Europe have to address the fact that European institutions themselves are calling for even more wage moderation and reforming national collective bargaining systems in the direction of more decentralisation. Finally, sharp wage differentials in the Europe of 25 risk being exploited with workers in the new member states not receiving their fair part of the increase in economic welfare and productivity.

DEVELOPMENTS DURING 2003

2. **Trends in collective bargaining during 2003: generally in line with ETUC recommendations.** Based on the report of the Committee for the coordination of collective bargaining, the ETUC notes the following trends over 2003:

a) In a majority of cases, the guideline, adopted by the ETUC in its November 2002 Executive Committee Resolution, for wage negotiations to compensate for inflation and translate productivity increases into real wage increases to the maximum extent

possible has been followed quite closely. Most countries, but not all, have indeed seen a trend of wage increases as high as the sum of inflation and national productivity. In particular, some countries (UK, Denmark, Sweden) have even exceeded this guideline over the past years .

b) In 2003 and previous years, a majority of trade unions in the EU – 15 succeeded in maintaining the purchasing power of wages. On the contrary, when governments, such as the Italian government, approved an inflation target far below the dynamic of the real inflation rate as a guideline only for wages and not for prices, then the result has been a sharp fall in purchasing power for workers.

c) Collective negotiations have also followed up on the recommendation to improve qualitative working conditions as part of collective agreements. In many countries (Germany, France, Italy, Belgium, Portugal...), special attention was paid to lifelong learning of workers by negotiating training issues in collective agreements. A number of countries (Denmark, Belgium) have negotiated reductions in collective working time, whereas collective agreements in France have defended the 35-hour week against the decisions by the new French Government. Mandatory minimum wages are increasing quite rapidly in several countries, in particular in the UK and in some eastern European countries. In contrast, progress on the gender wage gap has been piecemeal, and public sector pay increases are under pressure from the public deficit objectives set by national stability and convergence plans in the context of the Stability and Growth Pact.

ETUC GUIDELINES ON COLLECTIVE BARGAINING 2004

3. Prospects for 2004: In order to avoid the risk of competitive wage dumping, the ETUC calls upon a strict follow-up of the coordination guidelines. The ETUC underlines, as a priority, the need to avoid the possible vicious circle of competitive disinflation in the 2004 collective negotiations. This is now even more urgent in view of the need to revive household demand as a means of tackling the current economic slowdown. Instead, collective bargaining outcomes that are in line with the sum of inflation and productivity are necessary in order to allow wage income to perform its function of motor of consumption expenditure and aggregate demand, while at the same time preserving price stability.

4. Strengthening the qualitative issues of collective bargaining.

In view of the current worsening situation, it will be necessary in the coming months to seek to step up our initiatives, particularly in the field of equal pay and precarious employment, in accordance with the decisions of the Prague 2003 Congress and the Executive Committee Resolution of November 2002. We are aware of the difficulties involved in achieving this at the national level, where actual results do not reflect a lack of interest or change of priority. On the contrary, the Collective Bargaining Coordination and Worker Participation Committee of the ETUC underlined at its last meeting in November 2003 the importance of reviving our general initiatives on these activities and the need to deepen all aspects of work quality. Better relations with European Industry Federations are vital in view of the fact that many of the qualitative elements of bargaining are dealt with at the sectoral level.

5. Coordination on working time. Concrete experience confirms that prolonging working hours and more liberal regimes allowing overtime will not create new jobs but will in the end lead to even more unemployment. The GDP gap with the US should not be narrowed through intensification of working hours and labour related stress. The revision of the working time directive, ending the opt-out regime in this directive, is an opportunity that must be seized to put absolute limits on this form of flexibility competition. In any case, the ETUC confirms the need to negotiate working time regimes, with the purpose of guaranteeing the interests and the needs of workers by increasing security in adaptability. Consequently, with regard to weekly and overtime working time regimes, we strongly support the principle that a point of reference must be found in relation to a qualitative life balance for workers and their right to effective social protection.

6. Insuring progress for all workers. The ETUC calls on trade unions to oppose pressure from employers to realise the decentralisation of collective bargaining in a unilateral way and hence to preserve and defend the basic elements of the sectoral/multi-employer bargaining system. Multi-employer bargaining systems go hand in hand with 'solidaristic' wage policies and assure that all workers, whether they work in small or big companies share in overall economic progress. In 2004 special attention is to be paid to

the objective of increasing the net purchasing power of low paid workers. Also, increased attention has to go to health and safety matters. The general worsening of working conditions, the increase of labour productivity, the use of atypical workers and the reduction of investments to prevent accidents on the workplace are the main reasons why there has been an increase in workplace accidents at European level. With regard to the new Member States, safety at work is threatened by the combination of increasing industrial production and the use of atypical worker statutes. It is thus necessary for us to focus on health and safety protection as a priority and demand clear information for trade union representatives as to their negotiating rights, together with an effective system of control and inspection by the public authorities.

7. Campaign for equal pay. As the Prague Congress underlined, a wage gap continues to exist and is even widening. Statistics show that the difference between men's and women's wages remains and that the average wage for women is 16% less than that for men. In earlier resolutions, we have already examined the causes and have drawn up a trade union strategy, based on collective bargaining, to face up to this situation. We reiterate our commitment to follow up this strategy even more strongly with the multiannual work programme – as approved by the Executive Committee on 14 December 2001 – with the aim to reduce the wage gap between women and men by 2 - 5% in the forthcoming years. In order to realise this objective, actions must be developed at the national and sectoral levels based on collective bargaining and, in particular, on the revision of job classification, including systems of evaluation. It is also important to utilise the results of negotiations in the European social dialogue on the framework of actions on gender equality in which the issue of equal pay is one of the key areas of debate.

8. Contributing to the Lisbon agenda of the knowledge society. As quoted in the report of the task force on employment, business has to break out of the vicious spiral of under-investing in training of workers. Trade unions will continue to strive for and improve collective agreements concerning training efforts and lifelong learning for workers. In committing a well-defined financial percentage of the wage bill to training efforts and sectoral or intersectoral funds, collective agreements overcome the free rider problem that is at the root

cause of such under-investment and can play an important role in securing the right for every worker to be able to enjoy lifelong learning. In this regard, it will be essential to follow-up the "framework of actions on the lifelong development of competences and qualifications" signed by Social Partners in 2002. Only with more concrete and coherent actions aimed at implementing this framework of actions at national and sectoral levels will we be in a position to support this key issue of the Lisbon strategy.

9. Continue to build strong systems of collective bargaining in eastern Europe. The ETUC considers enlargement as an historical opportunity to build a strong and unified Europe. But if all workers are to benefit from the economic consequences of enlargement, the systems of collective bargaining in the new Member States have to be strengthened. The ETUC Seminars in Gdansk in 2002 and Budapest in 2003 were a very useful step in this direction and they also helped to build awareness of the actual reality in these countries. It is now even more important to develop these activities since enlargement represents a completely new challenge for the coordination of collective bargaining strategy as a whole. For this reason, it was agreed at the Collective Bargaining Coordination and Worker Participation Committee that the next Summer Seminar will be dedicated more particularly to this new framework. In addition, it is important that the EU social dialogue experience be widely disseminated in order to strengthen current weaknesses in industrial relations, with the aim of increasing the quantity and quality of bargaining and of creating more collective bargaining structures in order to defend workers. The ETUC will work towards this objective with the help of the different instruments available and stronger relations with national trade unions and European Industry Federations. Another important instrument is the "work programme of the European Social Partners 2003-2005", regarding the new Member States. In fact this programme foresees many joint actions, such as industrial relations, lifelong learning, restructurings, social dialogue and EWC, social and economic policies, aimed at increasing the European *acquis* in the new Member States.

10. Strengthening the practical application of the ETUC guideline. In order to assure the practical implementation of the coordination guideline, trade unions will engage in a more intensive exchange of information on ongoing negotiations. Through seminars, the ETUI-

newsletter and the meetings of the ETUC committee on the coordination of collective bargaining and worker participation, the ETUC will organise a transparent flow of information on the different collective bargaining rounds. It is also useful to make the ETUC's coordination activities better known amongst workers and collective bargainers.

PARTICIPATION OF WORKERS

11. Industrial relations and participation instruments are extremely important in the present political and economic climate.

The common viewpoint amongst employers and many governments that participation and concertation policies are difficult to implement in times of economic slowdown or crisis, whereby enterprises are left with more freedom and unilaterality, must be countered.

12. On the contrary, as positive experiences and solutions have shown in the past, we are convinced that all processes of change or restructuring are better managed when trade union and worker participation, at the different levels, is solid and well structured. Furthermore, we are firmly convinced that a social Europe has to safeguard the participation of workers and trade unions in plants and companies at European level companies. Guarantors of this are information, consultation and worker participation. Workers must be informed and consulted fully and in good time as a standard and daily practice forming the basis of employer/employee relations.

13. For this reason, we must confirm our capacity to act on this subject in a continuous and rigorous manner at the different levels. Especially in light of the enlargement of the European Union, greater emphasis needs to be placed on working together to ensure the sustainability of the European Social Model. Workforce participation is needed if this challenge is to be met. European Works Councils play a key role in this, ensuring that workers' interests are taken into account when companies make decisions. For this reason, we demand the prompt revision of the EWC Directive, in accordance with the resolution which was adopted by the Executive Committee in December 2003.

14. In addition, we demand that worker participation in the event of cross-border mergers be regulated along the same lines as the

European Company Statute (SE) Directive. The arrangement governing participation in the Mergers Directive gives workers the participation rights customarily awarded by the central management of the merged company. This reference to the applicable national provisions on participation may result in the loss of existing arrangements governing participation. ETUC finds this unacceptable. We demand that the Commission corrects the Mergers Directive accordingly. The compromise of the European Company (SE) should not be called into question again.

15. The European Commission has proposed an Action Plan on Modernising Company Law and Enhancing Corporate Governance in the EU. The Commission cites the following as central political objectives: increased efficiency and competitiveness of companies in the EU, the strengthening of shareholders' rights, and better protection of third parties. Whilst these aims and the resulting Commission initiatives should not be rejected, ETUC believes they should be linked up with initiatives in the area of 'participation'. This applies in particular to topics that are especially sensitive from workers' point of view, such as facilitating the freedom of establishment of companies or the European Private Company and other European legal forms of enterprise. The involvement of workers and their representatives must be a component of modern European corporate law. We find it unacceptable that the Communication makes no mention of the information, consultation and participation of trade unions and workers and provides no role for them to play.

16. The European Commission initiative on Corporate Social Responsibility (CSR) prompted a discussion on codes of conduct in Europe. In this debate, ETUC holds the view that companies' behavioural guidelines, such as codes of conduct, corporate governance codes, and so forth, can only supplement those workers' rights to participation that already exist in the EU Member States. We cannot allow such codes of conduct to weaken workers' rights to information, consultation and participation.

17. The prompt and correct transposition at the national level in all 25 member states of the Directive on the SE and that on the information and consultation of workers is fundamental. In this regard, we consider that the establishment of a monitoring body would be

useful to provide support, both on the legal and the technical aspects, during all the different phases of transposition at the national level.

ANNEX 1

1.1.1 TABLE VX

Wages per head minus inflation plus productivity per head

| | 2000 | 2001 | 2002 | 2003 |
|-------------|------|------|------|------|
| Belgium | -2,5 | 2,1 | 1,6 | -0,4 |
| Germany | -0,4 | -0,6 | -0,6 | -0,8 |
| Greece | -1,3 | -2,8 | 0,6 | -0,2 |
| Spain | -0,4 | 0,6 | -0,3 | 0,4 |
| France | -0,6 | 0,5 | 0,4 | 0,3 |
| Ireland | -2,5 | 1,7 | -5 | 0,2 |
| Italy -0,9 | 0,6 | 0,5 | 0,7 | |
| Luxembourg | -2,4 | 5,8 | 3 | 1 |
| Netherlands | 0,8 | 0,4 | 1 | 1,5 |
| Austria | -2,2 | -1 | -0,9 | 0,4 |
| Portugal | 1,3 | 0,8 | 1,4 | -0,9 |
| Finland | -2,1 | 2,3 | -1,6 | 0 |
| euro 12 | -0,5 | 0,4 | 0,2 | 0,1 |
| Denmark | -1,3 | 1,4 | -1,2 | -0,1 |
| Sweden | 3,7 | 3,1 | 0,1 | -0,2 |
| UK | 2,4 | 1,9 | 1,3 | 1,5 |
| EU 15 | 0 | 0,6 | 0,2 | 0,3 |

(source: European Commission)

5

THE NEED FOR INFORMATION, CONSULTATION AND PARTICIPATION IN CASES OF CROSS-BORDER CHANGES IN COMPANY STRUCTURES AND TRANSFERS OF COMPANIES' REGISTERED OFFICES

Executive Committee, 17-18 March 2004

1. ETUC stressed in its last Congress in Prague in 2003 that a high level of worker participation should be guaranteed in the European Company and that there should be no possibility of opting out. Following this line ETUC fully endorses the final compromise, which was reached in respect of the European Company Directive concerning participation rights. That is why ETUC urges all EU institutions to be fully in accordance with this historic compromise regarding all legal provision in respect of cross-border company structures. Therefore, the 10th Directive on cross-border mergers, as well as the envisaged 14th Directive on the transfer of registered offices, must not fall back behind this compromise.

2. Furthermore, workers' participation at board level is an important element of corporate governance systems existing in several Member States and could be a real asset in terms of corporate dynamics and the company board's capacity to aim at long-term value creation. ETUC can, therefore, only endorse the present proposal for a directive on the condition that it avoids any reduction but, instead, fully reflects the workers' rights to participation as well as to information and consultation.

3. While ETUC welcomes that the draft Directive on **cross-border mergers** embodies a provision (article 14) aimed at safeguarding the rights to board level participation, which the workers of the

companies being dissolved by the merger could exercise before the merger, it urges the EU institutions that there should be no fall-back behind the level of protection already reached in the Directive concerning participation in the European Companies (SE-Directive 2001/86/EC).

That is why it is of utmost importance that article 14 should be completed in such a way as:

- to cover not only the case where the national law applicable to the company created by the merger does not impose compulsory worker participation but also the case where that law does provide for a weaker system of worker participation as well;
- to cover all types of mergers as meant in article 1 under a, b and c;
- to provide that, in all cases covered, all the workers of the company created by the merger, whether or not employed in the Member State of that company's seat, can take part in the system of participation on an equal footing.

4. The draft Directive should recognise the role of the workers' representatives of the companies taking part in a merger (in the sense of the Directive) throughout the decision-making process with regard to a planned merger on the basis of the Collective Redundancies Directive, the Transfer of Undertakings Directive, the General Framework on Information and Consultation Directive and the EWC Directive or, if it is guaranteeing a higher level of protection, the Member States' legislation implementing them. Furthermore,

- the information about the draft terms of the merger should be completed with information with regard to the workers' rights to information and consultation in the company created by the merger as well as their other rights as far as not yet covered by the Transfer of Undertakings Directive (e.g. pension schemes) and should also be delivered to the workers (articles 3 and 4).
- the expert report should also be made available to the workers' representatives of the companies taking part in the merger (article 5).

5. As in the case of other labour law directives it should be stated explicitly that implementation of this Directive does not justify any reduction in the national level of protection (non-regression clause) but allow for better provisions in national law (most favourable clause).

6. There was no consultation of the Social Partners in the framework of Article 138 EC. That is why ETUC asks to be properly consulted.

7. It is disappointing that the European Employers' organisation UNICE has positioned itself against the provision with regard to the safeguarding of workers' participation of the Directive proposal and, at this stage, more in general against any participation model.

In other words, UNICE is leaving the compromise reached in respect of the EU Company Directive, regarding participation rights. On the contrary, the experience confirms that the enterprises which have integrated social and community interests in their management agenda, and which regard the representatives of the employees' interests have an unquestionable added value for better governance. This will positively distinguish European companies, within the framework of global competition, from enterprises originating in other parts of the worlds.

8. Concerning the envisaged Coordination Directive relating to **transfers of registered offices**, it is of utmost importance that the same rules apply as in the case of the European Company (SE) Directive 2001/86/EC in respect of safeguarding the workers' participation. Transfers should not be used as a means to reduce, undermine or even get rid of acquired workers' rights.



MAY 1ST, 2004 AN HISTORIC MOMENT IN THE REUNIFICATION OF EUROPE

Executive Committee, 17-18 March 2004

The date of May 1st, 2004 constitutes an historic moment in European Integration. It signifies much more than an enlargement of the European Union from 15 to 25 countries with 455 million inhabitants. It is in fact a real reunification of Europe which the Second World War had left divided against the will of its citizens.

The ETUC has already underlined that this integration presents a unique opportunity to bring together all the peoples of Europe on the basis of fundamental democratic values: democracy, peace and freedom. This process must continue to lift the very last remaining obstacles which block the full achievement of this ambitious plan.

The European trade unions find themselves at the forefront of the action for this reunification. When the Solidarnosc Congress, the first free trade union in the communist bloc, launched an appeal to the workers of Eastern Europe in 1981 to create free trade unions, this idea appeared to be a utopia. This dream has now come about. Today, almost all the trade unions of these countries find themselves within the ETUC family. However, there is still work to be done, not only in the East but in the Balkan countries.

Trade union work in the whole of Europe is necessary to guarantee the maintenance of social standards in the areas where they are satisfactory, and to obtain improvements in those areas of the Continent which remain far from having decent living conditions. The rules of the European internal market contribute to economic development, but competition in the global market exposes the European workers to continuous changes and restructurations. To stand up to these

challenges, we must act together so that Europe unites its social dimension on a solid basis, of workers rights and of social dialogue, of quality services of general interest which will allow each woman and man to live a decent life.

The present and future member states have many problems in common. Everywhere there are fears linked with enlargement. The experience of European integration has however proved that in this globalised world it is easier to advance by jointly looking for solutions. A lack of solidarity will only hold back social progress in the whole of Europe.

Enlargement signifies investing in the common future of the peoples of Europe. The ETUC is delighted that it can contribute to this historic event. It calls upon its affiliated organisations to continue their efforts so that this even bigger Europe can offer more opportunities to European workers and guarantee that they enjoy fully all their rights as citizens.



REBALANCE THE LISBON STRATEGY BY STRENGTHENING THE SOCIAL PILLAR

Executive Committee, 17-18 March 2004

1. In the aftermath of the terrible events of 11th March, the ETUC urges the Irish Presidency to keep the Lisbon Strategy follow-up at the top of its agenda for the Spring Summit on 25 and 26 March. The need to restore confidence by taking concrete measures to support the economy is now greater than ever. Major efforts are required to enable Europe to become, by the year 2010, the most competitive and dynamic knowledge-based economic area in the world – an economic area with sustained growth, more and better jobs and greater social cohesion! It is already apparent that important interim growth and employment targets will not be achieved by 2005. The European Commission, in its report for the Spring Summit, openly admits, among other things, that the goal of raising the employment rate to 67% by 2005 can no longer be achieved.

2. The causes of Europe's weak growth and associated labour market problems are predominantly "made in Europe"! The ETUC has repeatedly called for a balanced macro-economic policy mix and a sensible implementation of the Stability and Growth Pact. The ETUC is also concerned at the one-sided policies conducted by numerous member states which, relying exclusively on narrow structural reforms, conduct what are in essence purely supply-side policies designed to increase flexibility, deregulate labour markets and dismantle welfare services. Such policies erode the confidence of consumers and workers in Europe.

3. The ETUC explicitly welcomed the Lisbon Strategy and has on several occasions called for its effective implementation ¹. But the trade unions reject the one-sided use of the Strategy to legitimise neo-liberal policy approaches. The Lisbon Strategy must be implemented in a manner that is economically, socially and ecologically balanced.

4. Against the background of EU enlargement and in the context of the European Economic Area, we need, more than ever, a new economic policy direction, one that accords equal weight to the supply and to the demand sides and which puts the social dimension of Europe back in the centre of policy making. Only in this way can the employment rate be raised to 70% by the year 2010, for such progress requires 15 million additional jobs in EU15 and as many as 22 million in EU25. Only a perceptible change of policy direction will restore working men and women's confidence in Europe. Only in this way is it possible to strengthen the consumer confidence so urgently needed for an economic upturn based on the internal market and to allow the huge private savings surplus, amounting to 3.8% of GDP, to be channelled into investment and consumer activity.

EUROPE MUST ACHIEVE ITS GROWTH POTENTIAL

5. Urgent action needs to be taken in order to support sustainable growth. The expected recovery lacks conviction so far and is being threatened by turbulence on the exchange markets. Domestic demand needs to take over and play a leading role in securing the recovery.

6. The policies of the European Central Bank (ECB) must, given low inflation, take account of its obligation to foster growth and employment. The interest rate reductions decided by the ECB came too late and were excessively timid. A further cut in interest rates is required to give the economy a strong and enduring boost.

¹ See most recently the resolution adopted by the ETUC Executive Committee on 4 and 5 December 2003 : "Give the recovery of the European economy a chance : relaunching the Lisbon strategy".

7. Lisbon will only be reached when the Stability and Growth Pact (SGP) becomes a stability and growth Pact for more and better jobs. A continuing restrictive fiscal policy can only jeopardise the opportunities for economic revival. We need an intelligent and flexible use of the Stability Pact. The Spring Summit should give out a clear signal so that the requisite public investment can be fostered rather than inhibited and the member states can effectively stabilise their economies without imperilling the long-term balance of their national budgets. In its December 2003 resolution, the ETUC's Executive Committee made practical proposals for a sensible reading of the SGP². Moreover, we also need a better coordination and harmonisation of certain tax policies in order to avoid competitive tax dumping on company taxes, savings taxes and green taxes.

8. The ECB also has a primary responsibility in preventing a further acceleration of the value of the Euro. The Commission and the European finance ministers (ECOFIN) must reach agreement on exchange rate guidelines designed, among other things, to stabilise the exchange rate between the euro and the dollar. Here too the ECB has a decisive role to play.

9. The ETUC reiterates, in this connection, its support for the European growth initiative, referring once again to the need for significant progress with regard to its financing and for important fields – such as investment in human capital, environmental technologies, and investment in social and ecological town-and-country-planning initiatives – to be taken into account.

10. The ETUC shares the Irish Presidency's view that environmental technologies can make an important contribution to technological innovation and at the same time strengthen competitiveness, open up new markets and create new skilled jobs. In their Manifesto for sustainable development: investing for a sustainable future, the ETUC, together with the European Environmental Bureau (EEB) and the Social Platform of NGOs, have presented to the Spring Summit specific proposals for sustainable investment in the fields of housing and transport³.

² See Resolution of the ETUC Executive Committee : 'The suspension of the Stability and Growth pact : The Stability Pact must become a stability and growth pact'(December 2003)

UNLEASHING SOCIAL EUROPE'S EMPLOYMENT AND PRODUCTIVITY POTENTIAL

10. In spite of some progress towards the higher employment rate targets, we are still a long way from the goal of raising the general employment rate to 70% by 2010. Large areas of European employment potential continue to lie fallow. The Commission no longer considers it feasible to raise employment to 65% by next year. Unemployment, meanwhile, has risen once again and is currently over 8% on a European average. Still particularly shocking is the situation of young people, among whom average unemployment in Europe is as high as 17%. Among older workers the employment rate is about 40%. If the 50% target is to be reached by 2010, it requires the creation of 7 million jobs for people aged between 55 and 64. Against this background the discussion in several member states about raising the statutory retirement age is entirely beside the point.

12. Although some progress has been recorded in the efforts to raise the employment rate among women – now at 55.6% – the measures adopted to reduce gender segregation on the labour market are utterly inadequate. The gender pays gap remains as high as ever at 16% – and in the private sector it is as much as 21%! In the view of the ETUC, a specific equality plan needs to be drawn up to combat gender discrimination effectively. Such an action plan must include means to ensure that society and labour markets develop in such a way that women and men have equal possibilities of entering the labour market: i.e. ensuring adequate child care facility, paid parental leave, improved working conditions and working hours.

13. Labour productivity trends are disappointing. Productivity growth has slowed significantly and in 2003 it was only 0.6%. To some extent, of course, this slowdown is the result of weak economic growth; but other factors, such as pay restraint, the decentralisation – not always planned – of collective bargaining, employers' 'flight' from federations, the growth in non-standard forms of employment, and inadequate investment in human capital, are equally responsible

³ ETUC, EEB, Social Platform : Manifesto for Sustainable Investment : Investing for a Sustainable Future

for the unsatisfactory productivity developments. Active labour market policies which compel the unemployed to accept jobs that are quite incompatible with their qualifications cannot fail to have adverse effects on productivity.

14. In those cases where the social partners have taken responsibility for further training and lifelong learning, a much better outcome can be observed. In companies with collective agreements more than half of employees take part in training programmes; in companies without a collective agreement, the proportion is less than one third ⁴. Firms must find a way out of the vicious circle of insufficient investment in training, if the productivity potential of European employment is to be unleashed. A more systematic implementation of the Framework of Actions for the Lifelong Development of Competencies and Qualifications, agreed at the European level by the social partners, will contribute to bridging the knowledge gap of the workforce and of workplaces.

15. So not only is a new economic policy direction is required, Europe also needs a new, and more positive innovation and structural policy.

ENCOURAGING INNOVATION AND SOCIAL PARTNERSHIP

16. The ETUC welcomes the Irish Presidency's emphasis on innovation and social partnership as vital to successful implementation of the Lisbon Strategy. Innovation in the field of new products and production processes is the key to the future of the European social model. A unilateral focus on strengthening the competitiveness of European businesses is not the way to achieve successful and lasting innovation. In this respect, the ETUC recalls its earlier proposals and demands:

- a significant increase in public and private R&D expenditure to reach the target of 3% by 2010
- adequate investment in human capital in order to achieve the

⁴ Source: Communication from the Commission on Improving the quality of work – Com(2003)728 final, November 2003

benchmarks set for education, vocational training and lifelong learning

- an innovative industrial policy to be devised on the basis of inter-sectoral and sectoral action plans, involving the social partners.

17. Social partnership, social dialogue and worker participation are not just key elements of the European Social Model but also an important production factor in fostering innovation and implementing a policy of reform attentive to the human factor and geared to the need for social balance. The ETUC has, on numerous occasions, called for a balanced relationship between flexibility and security. At the Spring Summit the Heads of State and Government have once more an opportunity to show that they are not only concerned about flexibility but also about security in the interest of workers.

18. Worker participation, based on effective information and consultation rights, is not an obstacle to, but, on the contrary, a factor operating in the service of, competitiveness. As such the ETUC calls for:

- Prompt revision of the European Works Council (EWC) Directive
- Inclusion of participation rights in the mergers directive on the basis of provisions similar to those contained in the European Company (SE) Directive
- A fundamental revision of the Commission communication on corporate governance
- Amendment of the working time directive to put an end to the opt-out.

19. It is unacceptable for the ETUC that, in the case of the Commission communication on corporate governance and the 10th company law directive, there should have been no prior consultation with the European social partners, according to the Treaty provisions

CONCLUSION

20. With the enlargement of the European Union on 1 May 2004, the process of European integration will enter a decisively new phase. In a united Europe economic success must be combined with

social justice. Competitiveness, sustainable growth, more and better jobs and social cohesion can be achieved only via the high road of rising productivity, development of appropriate skills and high wages. At the Spring Summit, the Heads of State and Government have the opportunity to embark on a new policy direction and thereby contribute to the success of the Lisbon Strategy. The ETUC and its member organisations are prepared to make their contribution to an economically, socially and ecologically balanced reform strategy.

21. The ETUC has serious doubts about the establishment of a high-level group to carry out a mid-term evaluation of the Lisbon strategy. Such an evaluation should be performed under the auspices of the Commission. The systematic and timely participation of the social partners is indispensable.

21. The proposal for a ‘super commissioner’ for economic reforms is not acceptable. This would merely accentuate the one-sided orientation towards implementing the Lisbon strategy. Social and ecological progress would be subject to the dictates of competition policy. This runs counter to the balance and the better coordination between economic, social and ecological policies demanded by the ETUC.

Instead the ETUC welcomes the Irish presidency proposal to have a ‘European partnership for change’ as a means to promote innovation and productivity through social cohesion and stronger social dialogue and to support macroeconomic demand policies that will finally kick start the recovery.

ANNEX:

ETUC BACKGROUND PAPER FOR THE SPRING COUNCIL 2004

I. INTRODUCTION

Lisbon is off course. The recent joint employment report openly admits that the mid-term objective of an employment rate of 67% by 2005 can no longer be attained.

Moreover, developments concerning growth and labour productivity are worrying. 'Lisbon' should be about building a competitive, fast growing and high level of employment economy on the basis of innovation and high productivity. In the Lisbon scenario, realising high growth is essential to combine intensive job creation with high productivity. In reality however, the opposite is happening. The picture that is emerging in reality is one in which Europe is experiencing low levels of growth, as well as low productivity growth. And although this low level of productivity somewhat softens the blow on unemployment rates, this is clearly not compatible with the Lisbon agenda and not the way forward for Europe.

This background paper argues that these disappointing developments on low growth and low productivity outcomes are not a coincidence, but rather the consequence of decisions taken by European policy-makers. Over the past few years, Europe has pursued a narrow agenda of unbalanced policies:

- Europe has pursued the objective of monetary and financial stability while forgetting about the need to support the dynamics of growth.
- Europe has systematically tried to increase competition on as many markets as possible, thereby playing down the need for policies that organise cooperation in certain areas, in particular concerning the building of the social dimension of Europe or the need to protect services of general interest from increasing liberalisation.

The key message of this paper is that a radical overhaul and re-balancing of policies is vital. If Europe really wants to get Lisbon back on track, then a two-tiered policy must be implemented:

- In order to return to high growth, Europe needs supply and demand policies. This requires urgent action in order to secure the recovery in Europe (see part I).
- In order to support labour productivity growth, Europe needs to respect and make use of the productivity and innovation potential that social dialogue, collective bargaining and European social guidelines can offer. The promotion of Social Europe should be placed back at the centre of policy making (see part II).

II. ACHIEVING EUROPE'S GROWTH POTENTIAL

The main policy challenge facing Europe is to achieve its growth potential

The official European policy discussion over recent years has repeatedly pointed out that Europe needs to raise its growth potential. Potential growth in Europe (in other words the growth rate that is achievable without causing inflationary pressures) is estimated to be about 2 – 2.3%, which is too low to significantly reduce unemployment.

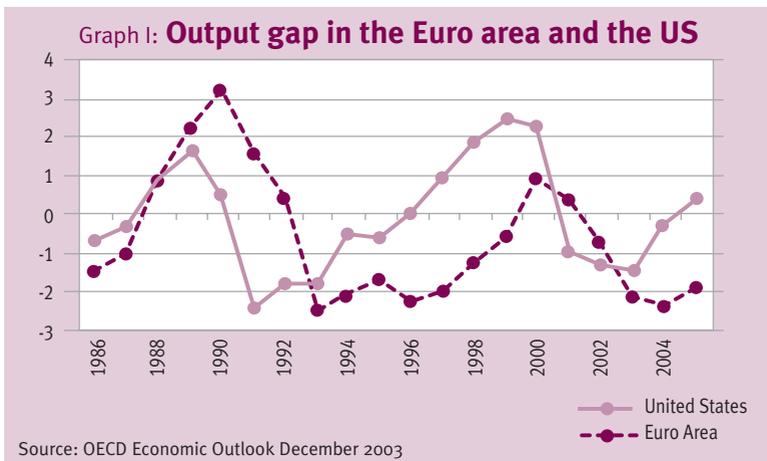
Obviously, a potential growth rate of 2% is an extremely conservative estimate. Indeed, the list of structural reforms that Europe has been implementing over the nineties is rather spectacular: internal market, competition in network industries, structural wage moderation combined with a structural increase in profitability and the introduction of one single currency eliminating currency turmoil within Europe and driving down long term interest rates. Asserting against this background of continuing structural reform that potential growth has actually been falling from 2.8%, over the period 1982-1991, to 2% during the 1990s is incomprehensible!

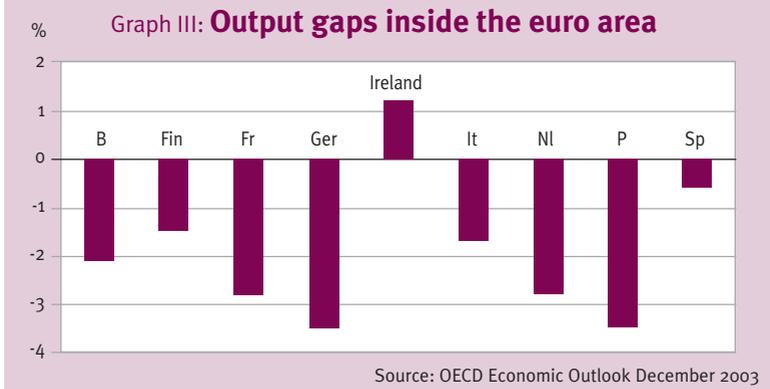
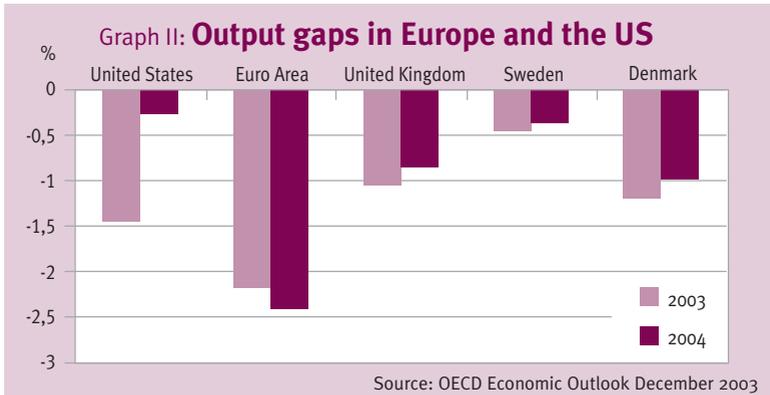
However, since 2001, the European economy did not even achieve this low estimate of its potential growth rate. For three years in a row, growth has been systematically below 2%. When corrections are

made for the leap-year effect, 2004 may well turn out to be the fourth year with growth that is substantially below potential.

This disappointing growth record has introduced a ‘slack’ in the economy that is now comparable with the non-use of productive capacities that emerged after the deep recession of 1993. The OECD in its December Economic Outlook for example estimates that production in the euro area is 2.5% below its potential level for 2004. Graph I presents these OECD figures on the output gap, comparing the euro area with the developments in the US. It appears that the euro area followed the US in the 2001 downturn but did not succeed in following the US in recovering from the slump. Graph II establishes the output gap for the remaining European countries. During the years 2004-2005, the UK, as well as Denmark and Sweden are also confronted with some under utilisation of productive resources in their economy, but certainly not to the same extent as is the case for the euro area. Also notice the fact that the negative output gap is falling in all countries, except for the euro area.

Inside the euro area, important differences also appear (see graph III). The degree of economic slack is not so evident in Spain. Ireland and Greece even appear to have a lack of positive output gap, implying that actual demand and production is in fact exceeding its productive capacities. Germany, and France to a lesser extent, on the other hand are experiencing deeply negative output gaps.





At the same time, this extraordinary degree of economic slack presents an opportunity. It implies that the European economy is able to grow over the coming three or four years at a growth rate above potential by absorbing the existing slack in the economy. In practical terms, this means that Europe could achieve 3% growth over the coming three to four years, without raising the spectre of inflation and price instability. Europe cannot afford to miss this opportunity. Going further down the path of low growth will:

- result in continuing employment restructuring, faster de-industrialisation and increasing unemployment
- push the euro average deficit over the 3% reference value
- bring us dangerously close to the spectre of deflation

■ discourage investments, thereby reducing the capital stock and hence the potential growth rate of the economy itself

Therefore, Europe urgently needs policies to ensure that the economy will make a sharp recovery from its four-year slump.

...but European policy makers desperately cling to the recipes that got us into this mess in the first place

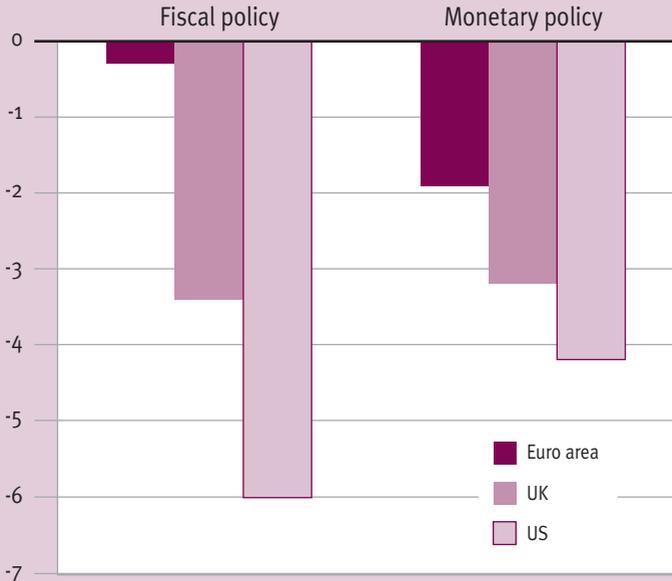
However, the policy recommendations that have come out of the Lisbon process so far have not been very reassuring. European policy makers, in particular the Ecofin ministers intend to continue to pursue an economic agenda that continues to be focussed completely on the supply side. Price stability, keeping in line with the Stability Pact and structural reform remain the chosen policy options. Responsibility for the demand side of the European recovery is, once again, left into the hands of external demand and the recovery of the world/US economy and in highly uncertain 'confidence' effects that would be triggered by 'structural reform'⁵.

These are exactly the same policies that have been pursued over the last couple of years and that have failed to shield the European economy from the downturn experienced by the rest of the world. From 2000 to 2003, structural deficits in the euro area have hardly changed, whereas the ECB's interest rate cuts came 'too little, too late'. While both developments do not necessarily point to restrictive policies, they do imply a lack of active support for economic growth. This is clear in graph IV where the fiscal and monetary impulses that the euro area, the UK and the US have given their economy from the onset of the crisis (2000) up to 2003 are demonstrated. In the UK and the US, both monetary and fiscal policies have been much more supportive of growth than has been the case in the euro area.

Continuing on this road in 2004-2005, may well hold back recovery and result in another year of extremely low growth:

Experience in Germany does not confirm this. On the contrary even, the approval of main parts of Agenda 2010 in December 2003 was immediately felt in disappointing consumer purchases.

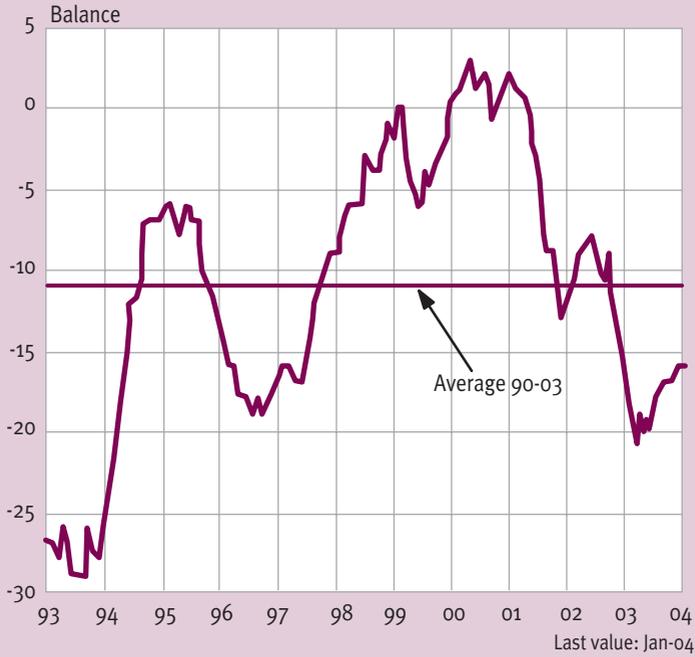
Graph IV:
**Fiscal and monetary policies :
 change From 2000 to 2003**



■ The impact of the recovery in external markets will be dwarfed by the negative impact coming from the appreciation of the euro. First, lagged effects from the appreciation wave that took place from mid 2002 to mid 2003 will continue to exert their negative influence. On top of that comes the recent appreciation (5% since the end of 2003). We estimate (see separate report on the ECB) that this will bring down growth in 2004 to a mere 1.3%. Given the fact that the US core inflation rate keeps on falling and has now reached an all-time low of 1%, a further falling dollar (hence a further appreciation of the euro) may well be a preferred option by the US in order to avoid its economy from tipping into deflation.

■ There are already signs that European households are drawing their conclusions from the refusal of policy makers to take responsibility for the management of the recovery. The recovery

Graph V:
Consumer confidence in the euro area



Source: DG II, web site

Graph VI: **OECD composite leading indicator for industrial production**



Source: OECD

Graph VII: **OECD leading indicator for the US and the UK**

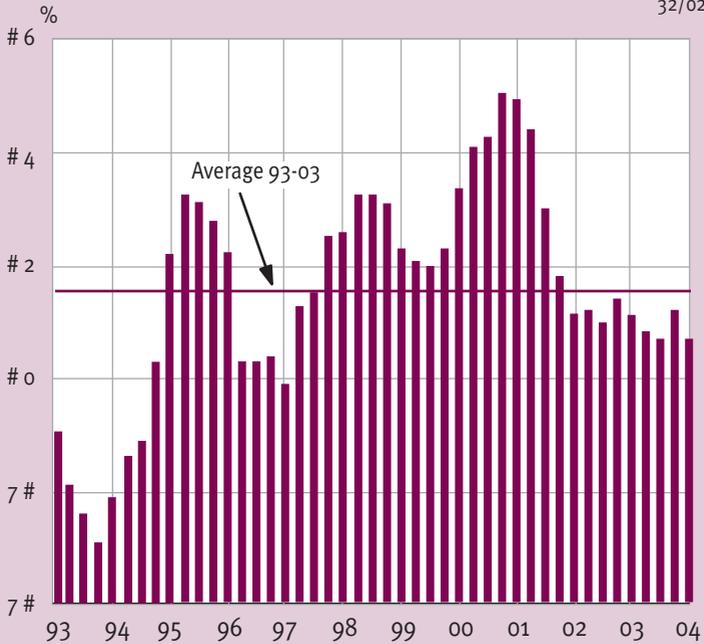


Source: OECD

Graph VIII:
**Capacity utilisation
in manufacturing industry**

Last value: 04Q1

Actual level
minus average
32/02



Source: Web site DGII

in consumer confidence, which is still below its long-term average, seems to have come to a stand still see graph V). Most recent figures on retail sales (November 2003) are also disappointing. Workers fear for their jobs and the fact that many governments are pushing through the dismantling of the welfare state does not help.

Other recent indicators confirm the fact that the ongoing recovery already seems to be running into difficulties. The OECD leading indicator for the euro area, which foreruns actual industrial production with a time delay of about 6 months, reached a turning point in December 2003. If this trend is confirmed, it means that the recovery may once again have to be postponed in future. This turnaround is not observed in the US or the UK, where the OECD indicator on industrial production continues to strengthen (graph VII).

Finally, capacity utilisation rates in industry in the last quarter of 2003 have fallen back and remain under the long-term average, thereby minimizing the hope that industrial investments would give the recovery a helping hand.

What needs to be done to secure the recovery?

With no or limited support coming from the external side because of the impact of the euro appreciation, the first line of defence is to make sure that domestic demand takes over.

■ There remains scope for monetary policy to support recovery by reducing interest rates. The policy rate in the euro area is still 100 basic points higher when compared to the US. Reducing this interest rate difference would discourage savings and stimulate domestic consumption. It would also discourage speculative flows from low interest bearing dollars into higher interest bearing euros, thereby slowing down somewhat the process of euro appreciation. With the danger of inflation having completely disappeared, there is no reason for the ECB not to pursue its second Treaty mandate, which is to contribute to growth.

■ Restrictive fiscal policies would break the already uncertain recovery and must be avoided. The Stability Pact, which in its present form has already proved to be unworkable, must receive

an intelligent and flexible reading. The Spring Council should break the deadlock that now exists between European Commission and Finance Ministers on the Stability Pact and should signal the need for ministers to discuss the functioning of the Stability Pact is functioning. In its December 2003 Resolution, the ETUC Executive Committee made several practical proposals on how to make the Pact a stability and growth pact.

■ Avoiding restrictive policies is one thing, having fiscal policies stimulate the recovery in the short run and contribute to the Lisbon's innovation agenda in the medium run is another thing. With a private savings surplus of almost 4% of GDP and an overall savings surplus of 1% of GDP, there is no reason why Europe should not use this savings surplus to invest in its productive base by strengthening research and development efforts and innovation. The Ecofin ministerial council itself claims that an extra investment of 1% of GDP in research and development would add each year an additional growth of _ % from 2010 onwards. This would mean strong financial return effects in the longer run. In particular, the Spring Council should launch a coordinated and major investment programme of 1% of European GDP in order to make Europe the world leader in the sector of sustainable development by creating a market that promotes innovation and research into sustainable energy sources, clean and safe production techniques, sustainable housing and environmentally friendly transport systems. This investment programme should be excluded from the definition of the public deficit in the Stability Pact.

■ In addition, the quick start programme, covering 54 'ready-to-go' cross border investment projects in cooperation with the EIB, should get a 'green light' from the Ecofin council. The second line of defence is to control and slow down the rate of appreciation of the euro. From its historic low at the end of 2000, the effective exchange rate of the euro has now risen to 28%. Further appreciation in the short run has to be avoided or, at least, slowed down.

■ Here again, the ECB plays an important role. The ECB can stabilise the euro/dollar exchange rate by buying up the dollars that are being sold on the exchange markets, thereby increasing

its foreign currency reserves. With the ECB 'printing' its own euro money, there are no technical constraints.

■ In any case, the ECB should stop its 2003 policy of selling foreign currency reserves, thereby pushing the euro even higher. Over 2003, the ECB has been selling about one fifth of its currency reserves, thereby adding upwards pressure on the euro.

■ The management of the euro exchange rate is a shared responsibility. Acting on a proposal from the Commission, the Ecofin Ministerial Council can decide on exchange rate guidelines which, provided there is no threat to price stability, the ECB has to respect. If necessary, the Commission has to exert the responsibility it has been given by the European Treaty.

UNLEASHING SOCIAL EUROPE'S EMPLOYMENT AND PRODUCTIVITY POTENTIAL TRENDS IN LABOUR PRODUCTIVITY ARE DISAPPOINTING...

Part I described how Europe, and the euro area in particular, is grappling with the demand management of its business cycle. But Europe is also doing a poor job on that other issue of the Lisbon agenda, which is the achievement of innovation and high labour productivity outcomes.

Labour productivity over recent years has shown a pronounced tendency to slow down. Seen over a longer time period, the rate of increase in labour productivity has been falling in almost all countries, with particularly sharp falls in Italy and Spain. Only Ireland, Sweden and Greece have seen a rising productivity trend. In Germany, Denmark, Austria and Finland, the slowdown in labour productivity growth (compared with the decade of the 1980s) has been more moderate. In some countries (Italy and the Netherlands), hourly labour productivity did not only slow down, it actually fell in 2003.

| | 81-90 | 91-95 | 96-00 | 01-02 | 2003 |
|--------------------|-------|-------|-------|-------|------|
| Belgium | 2.5 | 1.7 | 2.6 | 1.6 | 0.9 |
| Denmark | 1.8 | 1.9 | 1.4 | 1.6 | 2.3 |
| Germany | 1.9 | 0.7 | 1.8 | 1.6 | 1.2 |
| Greece | 0.1 | 0.6 | 2.8 | 3.1 | 4.2 |
| Spain | 2.8 | 1.9 | 0.8 | 0.8 | 0.7 |
| France | 3 | 1.5 | 1.4 | 1.5 | 0.4 |
| Ireland | 4.2 | 3.6 | 5.4 | 5.1 | 4.6 |
| Italy | 2 | 2.3 | 1 | 0.7 | -1 |
| Netherlands | 2.2 | 1.5 | 1.2 | 1 | -0.5 |
| Austria | 2.6 | 3.4 | 2.7 | 2.1 | 1.4 |
| Portugal | 3.3 | 2.9 | 3.1 | 2.3 | 0.3 |
| Finland | 3 | 3 | 3.1 | 2.7 | 1.4 |
| Sweden | 1.1 | 2.5 | 2.3 | 2.1 | 3.1 |
| UK | 2.3 | 3.1 | 1.7 | 1.6 | 1.1 |
| EU 15 | 2.2 | 2.4 | 1.6 | 1.4 | 0.6 |

Source: European Economy Review 2003, Joint Employment Report 2003

...and are also related to policy choices in Europe

To a certain extent, the deceleration of productivity growth is driven by the slowdown of economic activity, which is inducing corporations to maintain their labour force hoping that the recovery might be around the corner. It might also have to do with the fact that the structure of the European economy has changed and that services (where employment restructuring might be less prone to cyclical downturn) now represent a higher share of GDP.

But other factors are also at work. They have to do with explicit policy choices that have been made in Europe:

Table II

| | 91-95 | 96-2000 | Difference between the two periods |
|------------------------------------|--------------|----------------|---|
| US Labour productivity | 1 | 1.6 | +0.6 |
| Of which total factor productivity | 0.8 | 1.2 | +0.4 |
| Of which capital deepening | 0.2 | 0.4 | +0.2 |
| EU – 15 labour productivity | 2.4 | 1.6 | -0.8 |
| Of which total factor productivity | 1.4 | 1.2 | - 0.2 |
| Of which capital deepening | 1 | 0.4 | - 0.6 |

Source: European Economy review 2003

■ Overall wage moderation in Europe over the 1990s has gone very far. Not only did this result in increased investment profitability, it has also made labour relatively cheaper in comparison with capital. Hence, a process of substituting capital by labour has been triggered. With relatively less capital available for workers to work with in the production process, labour productivity has suffered.

The Commission documents this in two recent studies⁶. These studies split up the growth in labour productivity in the impact of capital deepening on the one hand, and the way the production factor of labour is used in the production process on the other hand. This last component is called 'total factor productivity' and represents the accumulation of knowledge and the use of innovative concepts of work. Comparing the first half of the nineties with the second half delivers the conclusion that the slowdown in labour productivity in Europe (- 0.8 percentage point) can be mainly explained by the fact that wage moderation has made workers cheaper and has triggered this process of substituting capital with labour. Two thirds (0.6) of the overall productivity slowdown in Europe can be explained by this. The remaining third (-0.2) has to do with a slowdown in the growth of total factor productivity, implying that Europe has lost out somewhat in its capacity to introduce productivity, increasing innovations in the production process.

Table II allows a comparison with the US. The US has relied on the opposite mechanism of increasing labour productivity by inserting relatively more capital in the production process. But the main contribution to increasing labour productivity in the US comes from total factor productivity, pointing to the possibility that the US somehow has improved its use of new technologies and innovation in the work organisation. Nevertheless, table II also shows a striking convergence between the US and Europe in the second part of the nineties. The US and EU – 15 figures are similar and overlap each other completely! This qualifies somewhat the popular statement that the US, in particular through its flexible (labour) markets, is a more innovative economy....

■ Overall wage moderation has been accompanied by a pressure for decentralised bargaining, for example through uncontrolled opening clauses in sectoral bargaining. Saving employment in firms where productivity is relatively low, has accentuated the economy wide process of substitution of capital by labour.

⁶ European Commission (2002). 'Drivers of productivity growth' in the EU European Economy Review 2003 and European Commission (2003), 'Growth, productivity and employment' in the EU Competitiveness report 2003.

■ In addition, several countries have taken the path of building a low wage/low productivity sector by cutting employer's contributions on low wages ('opening the wage distribution by the bottom') or by other means of subsidising low wage/low productive employment ('services cheques' for example). Again, this has changed the structure of the economy, giving low productive sectors a higher share in the overall economy and thereby dragging the average productivity level down.

As a result, growth has indeed been made more labour intensive, thereby providing a certain relief in the face of the poor growth record. Some of these measures remain valid for those workers for which retraining is not a feasible option. But when applied on a massive scale over all the sectors of the economy, the long-term effects of such measures come into question:

■ Incentives for investment in education are distorted. Cuts in employers' contributions on overall low pay scales will stimulate employers to review pay scales and keep as many workers as possible into the subsidised low wage category. Workers with qualifications will tend to find themselves more and more within the lower pay scales, thereby seeing the return to schooling reduced. Also, the existence of abundant job opportunities in low productivity sectors may send the perverse signal to young people that there is not much need to invest in education since many (low productive) jobs are readily available.

■ With firms knowing that they will be 'bailed out' by workers in case of difficulties, incentives to invest in innovation and productivity are also distorted.

■ Ultimately, competition on the basis of a low wage/low productive strategy is doomed to fail in a globalising world.

THE ROLE OF SOCIAL EUROPE IN INCREASING PRODUCTIVITY: CLOSING DOWN THE LOW ROAD

The picture that is emerging is one in which Europe has produced low growth as well as low productivity outcomes, whilst creating

enough employment to keep unemployment from rising rapidly. Europe needs to do better. Europe needs high growth, which, combined with high productivity, would result in substantial job creation.

Social Europe is an indispensable part of this agenda. Social Europe does not only have beneficial effects on social inclusion. By limiting perverse competition on the basis of low wages and bad working conditions, social standards force market forces and corporations to compete on the basis of productivity and innovation. The upcoming Spring Council must acknowledge this. The European social agenda can strengthen the productive forces of the economy on the following issues:

LIFELONG LEARNING AND COMPETITION RULES

One area where free competition does not function concerns investment in training of workers in order to avoid shortages of qualified labour.

The need for workers to have access to such training is well established. Studies tell us that increasing the number of workers that have access to training by 1%, results in an increase in productivity of 0.3%. At present, 50% of workers do not have access to training. The gap is particularly wide for low skilled and elderly people, where respectively only 2.3% and 3.3% participate in training. Due to their over representation in atypical work, many women are also excluded from training. There are many negative knock-on effects of this, such as reinforcing the gender pay gap, gender segregation at work, as well as under utilisation of skills and competencies.

Unfortunately, there is an important market failure here. As the recent Kok report of the special task force on employment states, 'business has to break out of the vicious circle of systematically under-investing in training'. When left to operate freely, individual firms will be victim of the 'prisoner's dilemma'. They will inevitably refrain from investing in workers' training, hoping to 'steal' them away by overbidding wages in order to attract workers from other employers that do invest in training. Of course, when every firm does so, investment in training becomes sub-optimal and shortages of skilled labour make wages and inflation rise when unemployment is still high.

One way to break out of this vicious circle is through collective negotiations on the sectoral/intersectoral level. In a number of European countries (Belgium, the Netherlands and others) social partners negotiate sectoral collective agreements that force all employers to pay into a sectoral fund that provides training for all sectoral workers, but also for lower skilled unemployed. Such schemes correct this typical market failure and contribute to the Lisbon agenda of high productivity and non-inflationary growth. Statistics confirm the positive role that such collective negotiations can play. In 2000, more than half of the workers in firms that are covered by collective agreements, participated in training programmes. In firms that are not covered by collective negotiations, the share of workers having access to training was much lower, only one third. The number of training hours is twice as high in firms that engage in collective bargaining. It is also important to note that collective bargaining provides improved access to training for lower skilled workers.

Despite the wide consensus on the positive role that collective negotiations can play, the Commission's competition rules target such sectoral bargained outcomes. In particular, the Commission Competition directorate argues that employer contributions, which result from a legally extended sectoral collective agreement, constitute public funds, which are to be considered as illegal state aid when these funds are recycled in the specific sector. The Spring Council has to provide a political signal that the objective of investing in workers' training and lifelong learning takes precedence over competition rules. Instead, such schemes must be supported, for example by providing support from the European Social Fund for such bargaining agreements.

FLEXICURITY

Competition between the unemployed may also result in excessive flexibility in the form of atypical labour contracts. Although part time, fixed term and temporary agency work provide firms with flexibility and may be presented as a 'spring board' to better working conditions, these contracts may also constitute 'low productivity' or 'inactivity' traps, hereby affecting female workers in a disproportionate way :

- Workers with these contracts have a lower probability of getting a full time job and a higher probability of becoming unemployed.

39% of workers on a fixed term contract remain in the same situation after one year, whereas 22% of these workers regress to a state of inactivity.

■ Access to training is limited for these workers, thereby preventing upwards job mobility.

■ Temporary agency work is concentrated in sectors with a high record of work accidents. Adequate control of agency permits or even exclusion of selected high-risk sectors from temporary agency work is therefore necessary.

■ Different forms of discrimination, e.g. social security systems, human resource management, make a – typical contracts less attractive, inciting workers to remain in or to go back to a state of inactivity.

■ The artificial promotion of part time work (for example by awarding cuts in employers' contributions irrespective of the number of hours worked) results in a situation in which these workers are systematically refused any access to full-time jobs. Obviously, this is a waste of human capital that eventually may worsen the problem of shortages for skilled workers. It is also a way of cultivating the working poor culture. Again, there is an important gender aspect here with female workers being more at risk. Instead, part time work can be made attractive for workers on the basis of an equal rights approach that strengthens and reinforces the rights and working conditions of these workers.

■ In general, employment security is a key determinant of job satisfaction and of a productive work force. Introducing flexibility as such while neglecting security, may well turn out to be counter-productive for the productivity of the workforce.

In order to avoid these perverse effects, flexibility must be accompanied by security. This implies the following 'checks and balances':

■ Broadening security to themes such as decent pay, quality of work and access to lifelong learning but also protection against discrimination and unfair dismissal.

■ Paying attention to the interplay with social protection and active labour market measures. Denmark for example has no strong employment protection legislation but does have high unemployment benefits. Denmark is also characterised by the fact that corporations do not spend much resources on workers' training. Instead, the government has to step in and provide training and other active labour market measures.

■ Involvement of and negotiation by the Social Partners on the balance between flexibility and security.

■ Avoiding a dual labour market where 'excessive flexibility' rules in the disadvantaged segment by giving all workers equivalent rights (social protection, access to training, and access to promotion).

■ Flexibility in terms of reconciling work and family life may also be beneficial to workers. This involves an agenda of better (child) care facilities as well as paid parental leave in order to allow both men and women to combine professional and family life. It also means curbing long working hours.

The European Council has to respect this approach and cannot simply call for removing obstacles on flexible forms of work organisation without paying full and complete attention to the proper implementation of security dimension. Likewise, with the aim of providing agency workers with a set of guaranteed rights, the directive on temporary agency work must be put back on the political agenda.

RAISING THE VOICE OF WORKERS: WORKERS' INFORMATION AND PARTICIPATION RIGHTS

'Enronitis' is not limited to the US. European companies are contaminated with the same disease. The recent scandals in Europe have shown that it is working people and savers who pay the price of poor and dishonest management. Therefore, it is unacceptable that all the last-generation Directives of the European Commission are seriously weakening the rights of participation of workers and their representatives.

Experience shows that companies with solid participation struc-

tures are able to manage effectively any negative social and economic consequences triggered off by restructuring. Moreover, and in contrast to the short-term interests of financial markets, workers and their trade unions have long-term expectations, which represent an added value due to an increase in company policy stability. Participation represents a factor for competitiveness and not a burden to the company.

Therefore, we call for a profound revision of the present Communication on Corporate Governance. In this communication it appears that workers do not exist and that instruments for information and consultation are superfluous in order to ensure that a company is being well governed.

Moreover, the 10th Directive on mergers is even more dangerous as it cancels out the European Company Statute (SE) provisions. This proposal in fact contains a provision that severely undermines the result reached with the SE Directive by allowing negotiations only in cases where no participation exists at all. Taking into account the very different systems of participation in the EU Member States, this means that the lowest level could be chosen for the merger of companies. Reducing the level of workers' participation clearly contradicts the fundamental EC Treaty provision calling for improved working conditions, in order to make possible their harmonisation, whilst also maintaining improvements. Consequently, the ETUC demands that the provisions in the SE Directive be maintained in cases of cross-border mergers.

For the same reasons, the ETUC is calling urgently for the revision of the European Works Council (EWC) Directive, already delayed for five years by the Commission, which is aimed at improving information and consultation rights at international level.

Finally, the ETUC stresses that these proposals, both for the 10th Directive and the Communication on Corporate Governance, have been carried out without any prior consultation with the Social Partners. Consequently, not only workers' rights are weakened, but also the role of the Social Partners and the provisions of Article 137-138 of the Treaty are seriously undermined.

WORKING TIME

Working time is another area where common social standards can lead to a better social and economic outcome. Having workers compete on the basis of long working hours will lead in the longer run to an abused and exhausted labour force, undermining the concept of active ageing.

There is also a more short-term relationship between working hours and productivity. Experience with labour time shortening, for example in France and Germany, shows that shorter working hours does boost productivity. In fact, France (35 hour week) is one of the few countries that did not experience a fall in hourly labour productivity over the 1990s.

Therefore, Europe should seriously the directive on working time and bring an end to the opt-out regime.

INDUSTRIAL POLICY AND SOCIAL RESTRUCTURING

Europe is confronted with a significant trend of de-industrialisation. This trend needs to be addressed. A core of industrial activity needs to be retained in Europe. Industrial production, even if it is capital intensive and no longer directly creates massive industrial employment, remains important for its links with the rest of the economy, in particular for the sector that is delivering services to industry. One job in industry represents a multifold of jobs in other parts of the economy.

At the same time, industry in Europe must choose the road of quality and innovation. Low labour costs and low social/environmental standards are not a (long term) solution. To push through this agenda of innovation and industrial policy, workers and trade unions must be consulted. The Commission, in cooperation with social partners must develop sectoral reconversion plans with the aim of safeguarding the most important industrial activities in Europe. This is linked to the major investment plan in sustainable development (see above).

The wave of employment restructuring that is hitting Europe must also be dealt with. Here, the Social Partners at the European level need to start discussions on industrial restructuring. These discussions have to be supported by the Commission and the Council, for

example by setting up a European Restructuring Fund that provides financial input to collective agreements on employment restructuring that provide training and active labour market measures for retrenched workers.

INNOVATION, THE KNOWLEDGE SOCIETY AND SOCIAL DIALOGUE: SOCIAL CAPITAL INSTEAD OF AN ECONOMIC SUPERVISOR

Several Heads of State are making a plea for a ‘super-Commissioner’, responsible for economic reform, who would coordinate and ‘have a voice’ in the work of other Commissioners. At the same time, proposals are made to assess legislation, including social and environmental, on its impact on competitiveness.

Such an approach threatens to turn things upside down. Again, we repeat that Lisbon has several and equally important pillars: growth and competitiveness, but also good quality jobs/high productivity as well as social inclusion. And while growth might provide more means to increase social inclusion, the opposite is also true, for example through training and adequate social benefits, increased social inclusion can provide the basis for higher growth. Creating a ‘super economic reform’ Commissioner does not respect the equilibrium in the Lisbon strategy. Making employment and environmental initiatives dependent on the dictate of ‘economic reform’ will block the social, as well as the sustainability, dimension of Europe.

Instead of following a model that is based on ‘systematic distrust’ by those actors that are responsible for economic reform, policy makers should defend and promote the building of ‘social capital’. Indeed, the ability to work with and trust each other is crucial for a ‘knowledge society’. Learning from others and competence building is difficult, if not impossible, when groups of workers are extremely divided or where rigid hierarchical structures and corruption are present. For example, workers that are insecure about their job and regard their fellow workers as competitors for their job place will not share their ‘knowledge’ about the production process and the firm’s products, but will guard it for themselves. Also, structural dialogue between social partners on reforms and their social implications will increase the perception that costs and benefits are more equally

shared, thereby increasing the willingness for change.

Therefore, combating social segmentation, preventing the widening of income inequalities and social dialogue are essential conditions for stimulating innovation processes. This is the right innovation agenda that should be pursued by policy makers.

A SPECIAL ACTION PLAN ON GENDER

Achieving the Lisbon objectives will depend to an important extent on the success of a strategy that seeks to increase the employment rate of women. Therefore, a special gender action plan is needed, that combines different policy axes:

- The reconciliation of work and family life, for both male and female workers, in areas such as child and elderly care, *paid parental leave, maintained social security rights* and *improved working conditions and working organisation*, such as reasonable working hours.
- Special attention to the implementation of the existing directives on equal treatment and initiating new proposals for directives.
- Increasing access to training for workers in atypical statuses (where women are over-represented *and which has detrimental effects on the gender wage gap*).
- An action programme *with objectives, targets, timetable to tackle the gender wage gap*.
- Negotiations on a framework of action for gender equality
- *Special focus on improving the quality of work and on multiple discrimination (young, old, migrant, ethnic female workers)*.

TAX COMPETITION AND THE SAVINGS DIRECTIVE

Building a competitive and innovative economy implies a key role for government, but government cannot function without resources. When confronting the enormous range of challenges raised by the

Lisbon agenda, European governments just cannot afford another round of competitive tax dumping. The savings taxation directive, which offers Europe the opportunity to shift some of the tax burden from workers to the factor of capital, should not be allowed to become blocked on the issue of some small third countries that refuse to cooperate. In the field of company taxation, a minimum tax tariff on profits has to be decided upon in order to avoid that different governments would be played out against each other by the interests of international capital.

ENLARGEMENT

On 1st May 2004, 10 new member states will enter the European Union. This will increase the relevance of this paper's proposals even more:

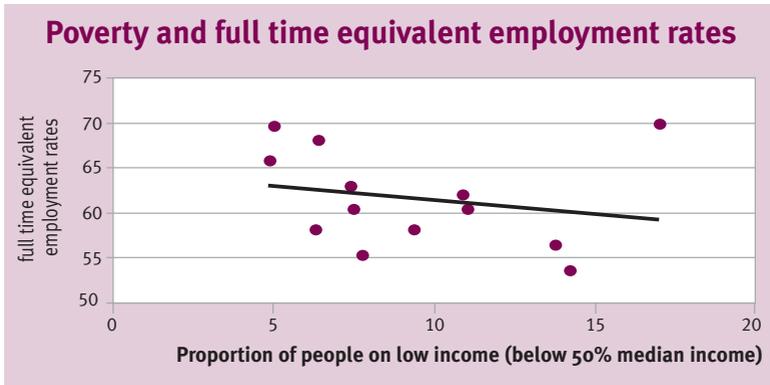
- The making of an enlarged European market will increase productivity, adding to disinflationary forces and stressing even more the need for expansionary aggregate demand policies. If workers lose their jobs due to the relocation of production, then macro policies have to make sure that the rest of the economy is sufficiently dynamic to take displaced workers back on board.
- The absence of social Europe will lead to competition, not only between the EU – 15 and the accession countries but also and importantly between the accession countries themselves.
- Rules to limit tax competition on capital income and business profits will be particularly necessary to prevent accession countries from being drawn in a downwards spiral that ends in a 'tax-free lunch' for business and high taxes/low social protection for workers.

SOCIAL COHESION

Employment is important to combat social exclusion and poverty. But the link between job creation and reducing poverty is not always guaranteed. The following graph (which includes EU countries except Spain and Portugal and includes US) illustrates this clearly. Poverty at work does exist and narrow 'making work pay' policies may well

reduce ‘poverty traps’ while at the same time resulting in higher poverty rates.

Social Europe can certainly reinforce the Lisbon’s employment



Source: EC, OECD

and productivity agenda. But if the goal of social cohesion is to be reached, specific social policies are needed. Economic policies are no substitute for social policies.

III. IN WHICH DIRECTION IS THE MARCH SPRING COUNCIL GOING?

(Summary of draft conclusions of the Spring Council)

The central message is to ‘speed up significantly the pace of reform’ and ‘to pursue reform across all areas’. At the same time, the Spring Council selects ‘sustainable growth’ and ‘more and better jobs’ as the two priorities that need special attention.

On ‘growth’, the draft conclusions acknowledge that the main challenge facing Europe is to realise its growth potential. This is indeed a radical change from previous messages that systematically considered the issue of raising the growth potential of Europe and stayed rather quite on effective growth itself. Unfortunately, the measures being considered (budgetary consolidation in line with the Stability Pact, structural reforms to boost confidence), will not be effective and may even be counterproductive in supporting effective growth in the short term.

On ‘jobs’, obstacles on ‘flexible’ work are to be eliminated (while ‘ensuring adequate security’), tax/benefits to be reconsidered in

order to make work pay and gender pay gaps to be addressed. The process of employment guidelines should be tightened by making country specific recommendations. Disturbing is the fact that the paper assumes that there is a strong, automatic link between higher employment rates and social inclusion.

However, the draft also puts forward a third issue. In fact, 'competitiveness is receiving more attention than growth or jobs.

- Strengthen the structure and the role of the Competitiveness Council in the next Commission.
- More competition in services. General agreement on the services package by the 2005 Spring Council.
- Political agreement on the mutual recognition of professional qualifications by June 2004 (!)
- Compliment the 'regulation' letter of the four presidencies with a follow-up programme.
- Increase business investment in research and development by providing specific incentives and secure a greater leverage of private funds in public sector investment.

Finally, countries should build national Reform Partnerships (with social partners and civil society), to be complimented by a 'European Partnership for Change' (a commitment by the European social partners!). Another high-level group must identify measures to strengthen the Lisbon agenda (in the context of the mid-term review).

Comparing the Council draft with the Commission's initial Spring Council Report reveals that a number of proposals have disappeared into the background:

- The reinforcement of training and life long learning by the private sector and the reference to the Social Partners' framework for action on lifelong learning.
- The call on Social Partners to discuss an agreement on industrial restructuring.
- Access to training for all and improving the quality of work.



ETUC'S POSITION ON THE COMMUNICATION FROM THE COMMISSION OF 30-12-2003 concerning the re-examination of Directive 93/104/ EC concerning certain aspects of the organisation of working time (Working Time Directive)

Executive Committee, 17-18 March 2004

INTRODUCTION

“Whereas this Directive is a practical contribution towards creating the social dimension of the internal market”¹

Civilization in the workplace has started with the regulation of maximum working hours.

The very first international Convention on working conditions, adopted at the coming into being of the International Labour Organisation in 1919, established the 8-hour working day, and the 48-hour working week.

The Working Time Directive 1993 has been a very important achievement on the European level, laying down minimum health and safety requirements for the organization of working time. It applies to

¹ Working time Directive, preamble

² Convention 1, Hours of work (industry) Convention of the ILO, 1919

minimum periods of daily rest, weekly rest, annual leave, breaks, maximum weekly working time, nightwork, shiftwork and patterns of work.

Its minimum requirements bind all Member States of the European Union, the existing 15, and the new 10. The ETUC is of the opinion that the Directive continues to be a major contribution to, and safeguard of, the social dimension of the internal market, which will see an enormous expansion eastwards after the first of May 2004.

However, the Directive knows some very far-reaching derogations, that by their very existence question the principles on which the Directive is built, because they allow for almost unlimited extension of working hours.

The first provision to be re-examined concerns the possibility to extend the reference-period for the establishment of the maximum limit of 'average' 48 hours per week up to one year in specific cases on the basis of collective bargaining (Article 17,4).

The other provision to be re-examined concerns the possibility for Member States not to apply the maximum limit of 'average' 48 hours at all, on the basis of voluntary agreements with individual workers, the so-called 'opt-out' of Article 18, 1 (b) (i).

These derogations have to be re-examined, according to the Directive, 7 years after the implementation date, which was 23 November 1996.

It is now 2004, more than 10 years after its adoption. The ETUC expects some courageous steps to be taken by the European Commission, and the other European Institutions.

Steps, that are within the logic of the legal framework on which the Directive is based, notably the obligation to limit maximum working hours of all workers in the European Union.

However, according to the ETUC, the recent Communication of the Commission on the re-examination of the Directive is very disappointing for several reasons, listed below, and explained more in detail in the attached explanatory memorandum.

Before entering the debate on the content, however, the ETUC wants to express its views on the way the Commission is dealing with the consultation of the Social Partners at the European level on this issue.

ON CONSULTATION

“ The Commission shall have the task of promoting the consultation of management and labour at Community level (...). To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the possible direction of Community action.(...)”³

The ETUC is of the opinion, that the Commission is following a faulty and confusing path in the consultation of the Social Partners:

β while in the header of the Communication the addressees are mentioned to be the Council, the Parliament, the Economic and Social Committee, and the Committee of the Regions, only in some language versions also the social partners are mentioned (notably: **not** in the FR, EN and DE web-versions; but they are for instance in the NL, DA, SV, ES and P web-versions); in explicit terms, only in the very final paragraph of the Communication it says that the Communication is also aimed at ‘the social partners at Community level’.

■ In this same final paragraph, the Communication states ‘as regards the European Social Partners, this Communication constitutes the consultation provided for in Article 138 (2) of the Treaty’.

■ At the same time, the Commission seeks to involve interested organisations at national level by inviting them to comment via the Internet. These organisations necessarily must be others than the relevant social partners (as the European social partners are representing their national affiliates).

■ The Commission furthermore announces that it will conduct a detailed examination of the various contributions received, and following this examination will draw the necessary conclusions.

The ETUC is of the opinion that this procedure is not in accordance with the Treaty, because it does not recognize the special and unique position of the Social Partners under Article 138 of the Treaty.

This special and unique position is provided for, to promote the social dialogue on the European level, to promote the possibility of management and labour to influence the direction of proposals in the social policy field in an early stage, and to allow management and

³ Treaty of Nice (2000), article 138Treaty of Nice (2000), article 138

labour to contribute to the elaboration of social policies with their own specific instruments (collective bargaining) as well as with the specific procedure of Article 138 par. 3.

The ETUC welcomes in general the use of the Internet to provide for better and more transparent information of citizens on European policies.

However, the Commission must avoid to confuse the provision of information and the gathering of relevant material on a current policy issue with the official and formal consultation procedures, which have an explicit legal base in the European Treaty, and are an important asset in the development of the European model.

Therefore, the ETUC demands that the Commission, as guardian of the Treaties, clarifies its position on the current consultation process, and explicitly takes measures to safeguard the specific and unique position of the Social Partners on the European level.

SUMMARY OF ETUC'S VIEWS WITH REGARD TO THE COMMUNICATION

1) LEGAL FRAMEWORK

The Working Time Directive is based on the principles, established in several important ILO-Conventions and EC and EU-Treaties. The ETUC is of the opinion, that the Commission does not give due consideration in its Communication to this legal framework, and its implications for the current re-examination process.

2) THE NEED FOR REVISION

The Commission is under the legal obligation, according to the Directive, to 're-examine the provisions' of article 17,4 and article 18, 1(b)(i) 'and decide what action to take'. In this respect, the ETUC is very disappointed that the Commission has come up with such a poorly documented text, and only presents a vague list of options to the addressees of the Communication, while in the list of 'main issues' to be addressed even the major point of the continuation or deletion of the individual opt-out is totally absent.

3) AIMS AND CRITERIA FOR REVISION

In the final paragraphs of the Communication, the Commission proposes four criteria that should be met ‘by whatever solution is adopted’, firstly to give workers a high level of health and safety, secondly to give firms and Member States more flexibility in the way they manage working time, thirdly to make it easier to reconcile work and family life, and fourthly to avoid imposing unreasonable constraints on firms, especially small and medium sized businesses. According to the Commission, the five main issues that need to be addressed are: reference periods, the concept of working time, the conditions of application of the opt-out, improving the reconciliation of work and family life, and ‘whether an interrelated approach to these issues would allow for a balanced solution capable of meeting the criteria set above’.

However, it is in the view of the ETUC a legal error to seek with regard to a possible revision a balanced solution capable of meeting all these criteria, as the Working Time Directive is based on the legal basis of Article 118a (protection of health and safety). Using other criteria than the protection of health and safety puts the legality of any revision of the Working time Directive at risk, and should be avoided.

Of course, this does not mean that other important issues that have a political, economic or social link with the organisation of working time cannot not be put on the agenda of the European Institutions, or could not be taken on board in discussions or negotiations by the Social Partners on the European level. These issues however will need to be carefully assessed, also in terms of the legal bases to act upon.

In that respect, the issue of ‘reconciliation of work and family life’ may be a special case, because of its direct and indirect links with the issue of health and safety of all workers with family-responsibilities.

4) REFERENCE PERIODS

The existing structure of the Directive, in which the average maximum working week can be regulated in terms of reference periods up to one year is quite complicated, to allow for a certain measure of flexibility while at the same time trying to provide for compensatory mechanisms and safeguards by way of collective bargaining.

The ETUC is therefore very disappointed, that the Commission has not been able to come up with any thorough assessment of the realities in the various Member States and in various sectors. The Communication does not make reference to any research on the issue, nor on any other relevant material.

This means, in the view of the ETUC, that it is impossible to judge – on the basis of the Communication – the actual use of the derogation, or the needs of businesses and workers, or the risks and dangers with regard to annualised working hours.

Where annualized hours at this moment exist, this is on the basis of collective bargaining. The Directive, in the view of the ETUC, should continue to ensure that, wherever long reference periods are considered, these are provided for in the context of procedural guarantees and the countervailing power of collective bargaining, which ensures that compensatory mechanisms are put in place.

The ETUC and its affiliates therefore strongly oppose any development in the direction of dropping these safeguards with regard to the extension of reference periods.

5) THE INDIVIDUAL ‘OPT-OUT’

The ETUC has always been strongly opposed to the option for Member States to opt out of the already very flexible framework of protective measures as provided for in the Working time Directive. The option for Member States not to apply article 6 (average 48 hours) at all, when the individual worker agrees, allows for the effect of unlimited extension of working hours, only balanced by the vague obligation ‘to respect the general principles of the safety and health of workers’. In our view, the individual opt-out as such is in strong contradiction to the aims and provisions of the Working time Directive itself, and the basic principles regarding the protection of health and safety!

Several research reports confirm that in the UK the opt-out has been widely used, mainly as a precautionary measure by employers. The opt-out provides a comfort zone for employers who have staff regularly working additional working hours, lest that practice should stray into becoming sustained long hours above the legal weekly working time limits.

The ETUC finds it unacceptable, that the Commission – while being

aware already for several years of the deficiencies in the way the UK has implemented the legal conditions for the opt-out, including open violations – has abstained so far from any actions to enforce these (even very minimal) conditions. It is even more incomprehensible that the Commission, on the basis of this bad practice example, in its Communication still seems to think that workers can be adequately protected from abuses in the use of the opt-out, only by improving the ‘conditions of application’ of the opt-out.

The ETUC therefore welcomes very strongly the recent report on the revision of the Working time Directive, as adopted by a great majority of the European Parliament, in which the Parliament “calls for the revision, with a view to the phasing-out, as soon as possible, of the individual opt-out”, and in the meantime calls on the Commission “to identify practical ways of tackling potential or actual abuses of the opt-out provision, including seeking views on how to best strengthen the voluntary nature of the opt-out.”⁴

6) ON-CALL WORK AND THE DEFINITION OF WORKING TIME

With regard to the implementation of the Simap- and Jaeger cases, the ETUC is of the opinion that in this stage it is impossible to judge the situation in the various Member States and sectors concerned, as the Communication of the Commission is lacking any detailed information.

In the view of the ETUC, the Commission needs to come up as soon as possible with an impact assessment of the ECJ-cases, which fully takes into account the experiences and views of the social partners in the relevant sectors. Also, the Commission should urge the Member States to refrain from introducing or extending the individual opt out as a solution for their short term problems in the health sector, offering them instead guidance on how to implement the ECJ-judgements, and providing them with a perspective of a long term and sustainable response that fully respects the basic principles of the Directive.

The ETUC does not accept a simplistic revision of the definition of working time, with a view to exclude on-call working time from the definition, as a viable solution.

Finally, the Commission should promote social dialogue as a

⁴ EP-resolution on the organisation of working time (2003/2165 INI), point 15

major means to provide for these long term and sustainable solutions, as well on the national, on the sectoral as on the intersectoral level.

7) MANAGING EXECUTIVES AND OTHER EXCLUDED GROUPS

The Directive allows for a derogation from the principles of the Directive in the case of managing executives and other persons with autonomous decision-taking powers, on the condition that there is due regard for the general principles of the protection of the health and safety of the workers concerned. This derogation is interpreted and applied very widely, which is a matter of growing concern. In the view of the ETUC, it is not acceptable that these developments leave increasing groups of workers without any protection against health and safety hazards of long working hours. The possibility to derogate should therefore be tightened and defined more accurately.

The Commission should also evaluate the way in which this derogation is currently applied, and especially ask from Member States to report on how they have implemented and monitored the obligation to give due regard to the health and safety protection of the excluded groups of workers. The Commission should also take a more proactive approach, and invite the social partners to comment on possible ways to address the specific aspects of managing working time for higher and managerial staff, with a view to come up with proposals that provide for adequate protection, while offering flexibility to enterprises and workers concerned.

Article 17 also allows for derogation with regard to ‘family workers’. The ETUC is of the opinion that this term is very vague, and potentially can be used to cover a wide range of (probably mostly female) workers. It is therefore important that the Commission evaluates the use of this derogation by Member States, to see which groups are excluded, and how these excluded groups are monitored with regard to possible health and safety risks. At the same time, the need to continue the derogation in its current form should be assessed, and if derogation is still deemed necessary a more precise and limited definition should be considered.

8) FLEXIBILITY FOR ENTERPRISES COMPATIBLE WITH FLEXIBILITY FOR WORKERS?

In the view of the ETUC, the Commission confuses several issues in its Communication, and thereby creates the false illusion of automatic joint interests of employers and workers with regard to flexibility.

Whereas the existing Directive gives ample room to provide for the flexibility needs of enterprises, the Directive lacks sufficient support and safeguards for the flexibility needs of workers, especially in regard of the increasing demands pressing upon all workers, men and women, to take up and share care-responsibilities for children and elderly parents. The issue of reconciliation of work and family life is one of the major challenges to tackle on the national as well as on the European level, for many different and important reasons, of which the protection of health and safety of workers is only one. It is therefore very disappointing that the Communication of the Commission does not offer more than one page of phraseology on this issue. Reference is made to a recent survey about the variation of measures taken in EU and EFTA-countries, which indeed show that most examples are about forms of reduction and adaptation of working hours. But no indication is given on how the Commission could envisage the revision of the Working time Directive to be used to improve the compatibility of work and family life, neither in legal terms, nor in terms of content. Moreover, where the Commission at the same time wants to offer more flexibility to enterprises and Member States, and does not propose to put an end to the individual opt-out of the 48-hour working week, there does not seem to be the genuine will on the side of the Commission to seriously pursue better conditions for the reconciliation of work and family life for workers in Europe.

CONCLUSIONS

The ETUC envisages a modern working time policy on the national and the European level that combines flexibility for employers with **real choice** for workers. The choice to have healthy working hours;

sufficient hours of work for a decent wage to earn a living; a maximum amount of hours per day and/or week that allows workers, male and female, to also take care of one's family or community, and to share this care with one's partner;

flexibility in working hours to be able to adapt working life to obligations and responsibilities outside the workplace.

The ETUC calls on the Commission to come up with proposals that challenge outmoded forms of work organisation. We look forward to proposals that stimulate modern and sustainable solutions for businesses and workers.

This means that the Commission should make a clear proposal to the Council to:

- *delete the individual opt-out of article 18, par. 1(b) (i) as soon as possible;

- maintain the general approach that flexibility in working time arrangements, and derogations of the general principles of the Directive, must be based on collective bargaining, in particular with regard to annualised working hours as foreseen in article 17 par. 4, to safeguard that appropriate working time patterns and compensatory mechanisms can be put in place that protect the health and safety of workers;

- revise the Directive in such a way, that the reference period applied to a worker can never be longer than the duration of his/her employment contract;

- re-examine the derogation of article 17, par. 1(a) with regard to 'managing executives and other persons with autonomous decision-taking powers', with a view to provide for a more precise definition, which respects the need to protect the health and safety of all workers;

- re-examine the need for other existing derogations, such as the derogation of article 17, par. 1(b) with regard to 'family workers';

- provide for better and more effective enforcement of the Directive, with a special emphasis on monitoring the enforcement of the conditions for application of derogations, such as art. 17, 1 and 18, 1 as long as these derogations still exist;

and to take proper action towards Member States, wherever and whenever the Directive is not properly implemented;

- provide for adequate and balanced solutions with regard to on-

call working time, in so far as a proper assessment of the problems arising from the implementation of the EC-judgements leads to the need for adaptation of working time regulations. These solutions could allow for a certain flexibility in applying working time regulations for a certain period of time, when compensatory mechanisms are put in place on the basis of collective bargaining. This also means, that the ETUC is strongly opposed to a more general revision of the definition of working time in the Directive itself.

■ provide for a better and more elaborate framework for discussing the introduction of provisions that enhance the flexibility and choice for workers to adapt the organisation of working time to their needs, especially with regard to the reconciliation of work and family life.

ANNEX

Directive 93/104/ EC concerning certain aspects of the organization of working time (Working Time Directive)

ETUC's position on the Communication from the Commission of 30-12-2003 concerning the re-examination of this Directive

EXPLANATORY MEMORANDUM

1) LEGAL FRAMEWORK

“The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. This process must result from an approximation of these conditions while the improvement is maintained, as regards in partic-

⁵ Community Charter 1989

ular the duration and organization of working time.”⁵

Limitation and reduction of working time is one of the fundamental issues, which are at the heart of the trade union movement from its very beginning, and continue to be at the centre of our concern until today.

The Working Time Directive refers to the ‘principles of the International Labour Organization with regard to the organization of working time, including those relating to night work’, which principles have been developed from the very first Convention of the ILO in 1919 onwards, establishing in 1919 the eight hour working day and the 48-hour working week in industry, and since then in most other areas of economic activity.

These issues have also been enshrined as fundamental principles and goals in all the treaties and charters of the Council of Europe and the European Union:

The European Social Charter of 1961, as updated in 1996, speaks in article 2 about the obligation of Member States “to provide for reasonable daily and weekly working hours, *the working week to be progressively reduced* to the extent that the increase of productivity and other relevant factors permit”.

The Community Charter of the fundamental social rights of workers of 1989 states in article 7: “the completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. This process must result from an *approximation of these conditions while the improvement is maintained*, as regards in particular the duration and organization of working time (...)”; and in article 8 about the right of every worker to a weekly rest period and to annual paid leave, the duration of which must be *progressively harmonized*.

The Treaty of Nice (2000) explicitly refers back, in article 136, to these rights and obligations, while the Charter of fundamental rights of the EU as adopted at the same time in Nice in article 31 stipulates that “*every worker has the right to limitation of maximum working hours*, to daily and weekly rest periods and to an annual period of paid leave”.

The Working time Directive 1993 refers to the Community Charter and the aims of further harmonization and approximation while

improvements shall be maintained, but in addition stipulates, *“the improvement of worker’s safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations”*.

Other important principles, laid down in the preamble, are the need to ensure the health and safety of workers by placing a maximum limit on weekly working hours, a specific limit to night work because of its potential detrimental effects, and the general principle to adapt the work to the worker.

The Directive allows for flexibility in the application of certain provisions,

“whilst ensuring compliance with the principles of protecting the safety and health of the worker”, and prescribes, as a general rule, in the event of derogation, that the workers concerned must be given equivalent compensatory rest periods (see last paragraphs of the Preamble)”.

The ETUC is of the opinion, that the Commission does not give due consideration in its Communication to this legal framework, and its implications for the current re-examination process.

2) THE NEED FOR REVISION

*“Before the expiry of a period of seven years from 23 November 1996, the Council shall, on the basis of a Commission proposal accompanied by an appraisal report, re-examine the provisions of this paragraph and decide what action to take.”*⁶

The Directive knows two far reaching derogations, that, because of their far reaching nature, are subject to a special re-examination procedure (7 years after implementation): Article 17 par.4, which, in short, allows Member States to extend the reference period for counting the average working week from 6 up to 12 months on the basis of collective agreements, and article 18,1 (b) (i) that provides Member States with the option not to apply article 6 on the maximum

⁶ Working time Directive, art. 17,4 and 18,1 (b) (i)

average working week of 48 hours, on the basis of voluntary agreement with the worker (the so called individual opt-out).

The Communication of the Commission, issued on 30 December 2003, in its introduction, says to have three aims:

- to evaluate the application of the two provisions subject to review;
- to analyse the impact of recent case law of the ECJ concerning the definition of working time and the qualification of time on call, thereby referring to the SIMAP and Jaeger cases;
- to consult the European Parliament, the Council, the European Economic and Social Committee, the Committee of the regions and the social partners on a possible revision of the text.

At the end of the Communication, the Commission lays down four criteria that should be met by whatever solution is adopted, being:

- to give workers a high level of health and safety protection in respect of working time
- to give firms and Member States more flexibility in the way they manage working time
- to make it easier to reconcile work and family life
- to avoid imposing unreasonable constraints on firms, particularly small and medium sized businesses.

The Commission asks from the addressees of this Communication to express their opinion on the need to revise the current text or introduce other initiatives, not necessarily legislative, and points at five main issues to be addressed:

- 1) reference periods
- 2) the Court of Justice's interpretation of the concept of working time
- 3) the conditions of application of article 18, 1 (b) (i) (opt out)
- 4) measures aiming at improving the reconciliation between work and family life
- 5) whether an interrelated approach to these issues would allow for a balanced solution capable of meeting the criteria set above.

According to part three of the Communication, it 'seeks to launch a wide-ranging consultation process capable of resulting in a possible amendment of the Directive'.

As regards the European social partners, the Communication ‘constitutes the consultation provided for in Article 138 (2) of the Treaty (first phase of the consultation process).’

In order ‘to involve interested organisations at national level’, the Communication will be made available on the Internet. All interested organisations can send their comments and suggestions by e-mail to the Commission, who will conduct a detailed examination of the contributions received, and following this examination will draw the necessary conclusions.

It should be noted, that the Directive is subject to general evaluation every five years, on the basis of a report on the application to be made by the Commission. The Communication of the Commission of 30 December 2003 has therefore a limited scope. This means also, that there is no reason or ground to discuss or review in this stage the basic principles and provisions of the Directive.

However, there is the legal obligation, according to the Directive, to ‘re-examine the provisions’ of article 17,4 and article 18, 1(b)(i) ‘and decide what action to take’.

In this respect, the ETUC is very disappointed that the Commission has come up with such a poorly documented text, and only presents a vague list of options to the addressees of the Communication, while in the list of ‘main issues’ to be addressed even the major point of the continuation or deletion of the individual opt-out is totally absent.

3) AIMS AND CRITERIA FOR REVISION

“Whereas article 118a of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements for encouraging improvements, especially in the working environment, to ensure a better level of protection of the safety and health of workers.”⁷

The Directive should be considered as an important part of the social acquis of the European Union. According to the relevant texts of the Treaty and the Directive itself, the Directive is a first step in the further harmonization and approximation of the working conditions of workers as regards in particular the duration and organization of

⁷ Working time directive, preamble

working time.

This would mean, in legal terms, that further steps with regard to the issue of working time regulation, need to be taken within the framework of ‘progressive harmonization, while maintaining the improvements made’.

This would also mean, in the view of the ETUC, that the Commission cannot lawfully propose that solutions with regard to the issue of working time should meet the criterion, that these would need to give **more flexibility** to firms and Member States in the way they manage working time.

There are more reasons to put some doubts on the criteria as proposed by the Commission.

The legal basis of the Directive was Article 118a (now article 137): ‘to ensure a better level of protection of the safety and health of workers’.

This means, in the view of the ETUC, that the Commission cannot lawfully seek to balance

health and safety protection against other criteria, such as mentioned in the final paragraphs of the Communication.

Health and safety protection is the sole valid criterion, and only factors bearing on health and safety are relevant to the revision of the Directive. The Directive even states that ‘the improvement of workers’ safety and health at work is an objective, which should not be subordinated to purely economic considerations’.

The only ‘condition’ that is explicitly mentioned in Article 118a (now 137) is, that the Directive ‘should avoid imposing administrative, financial and legal constraints that would hold back the creation and development of small and medium enterprises.’

It should be noted, that the Commission in its Communication speaks about the need ‘to avoid **constraints on firms**, particularly small and medium sized enterprises’, which is a much wider ranging text.

Therefore, it is in the view of the ETUC a legal error to seek with regard to a possible revision ‘a balanced solution capable of meeting all these criteria’. Using other criteria than the protection of health and safety puts the legality of any revision of the Working time Directive at risk, and should be avoided.

Of course, this does not mean that other important issues that have a political, economic or social link with the organisation of

working time cannot not be put on the agenda of the European Institutions, or could not be taken on board in discussions or negotiations by the Social Partners on the European level.

These issues however will need to be carefully assessed, also in terms of the legal bases to act upon.

A special case is the issue of ‘reconciliation of work and family life’. Also this issue – however important also according to the ETUC (see also par. 10 below) - can only be a criterion that must be met with regard to the revision of the Directive, in so far as the issue has a bearing on the health and safety of the worker concerned. This may be the case in so far as the health and/or social and psychological well-being of the worker is negatively influenced by continuous problems in coping with the combination of work and family obligations (see wide definition of ECJ of ‘health and safety’, to include social and psychological aspects, Case C-84/94, UK v. Council –1996, ECR I-5755).

In this respect, it is important to draw attention to the very elaborate recent research report on the effects of working long hours, published by the UK Department of Trade and Industry.⁸ One of the conclusions of chapter 9 is, that “long hours working seems to have a particularly negative effect on women’s health and mental well-being. Women who work long hours are much more likely than their counterparts working shorter hours to report poor health.” The findings indicate a relationship with the fact that most women, working long hours, still are the ones that have the main responsibility at home for household functions. The chapter draws as final conclusion, that “overall, the findings suggest that long hours working puts women under greater amounts of pressure and has a greater negative impact on their health, well-being and satisfaction with life, than it does for men.”

4) REFERENCE PERIODS

“Whereas (...) it appears desirable to provide for flexibility in the application of certain provisions of this Directive, whilst ensuring compliance with the principles of protecting the safety and health of

⁸ Working long hours: a review of the evidence. Volume 1 – Main report. J.Kodz et al. The Institute for Employment Studies, published by the DTI in November 2003, pages 220 –242

workers.

(...) whereas, as a general rule, in the event of a derogation, the workers concerned must be given equivalent compensatory rest periods.”⁹

The Directive has a quite complicated structure with regard to the 48-hour working week, to provide for various forms of flexibility.

- article 6 regulates an average working time, including overtime of maximum 48 hours for each seven day period;
- article 16 allows Member States to lay down a reference period of maximum four months;
- article 17, par. 2 allows for a derogation of this maximum reference period (nb: **not** of the 48 hours per se) by law or collective agreement with regard to a whole range of specific groups, such as health care workers or security guards, but up to maximum 6 months
- article 17, par. 3 allows for a more general derogation of the maximum reference period by collective agreement or ‘other agreement between the two sides of industry’ , but up to maximum 6 months
- article 17, par. 4 gives Member States the option ‘ to allow, for objective or technical reasons or reasons concerning the organization of work’ collective agreements to set reference periods of maximum 12 months (= so called annualised working hours).

It is important to note, that the derogations of article 17, par 2 and 3 are both only allowed, if the workers concerned are afforded equivalent periods of compensatory rest, or that, in exceptional cases where such equivalent rest is not possible, appropriate protection is afforded.

In case of the derogation of article 17, par. 4 however, there is only the need to ‘compliance with the general principles relating to the protection of the safety and health of workers’. In the context of this very complicated structure, in which the daily practice of workers’ protections is very much shaped and changed by the doings of social partners at various levels of bargaining, it is of particular importance to evaluate the impact of the Directive as implemented on all these

⁹ Working time directive, last two paragraphs of preamble

levels, especially with a view to assess if workers receive the protection of their health and safety that should be afforded to them in cases in which there have been extended reference periods, and in particular in the case of annualised working hours on the basis of article 17 par. 4.

It is therefore very disappointing, that the Commission has not been able to come up with any thorough assessment of the realities in the various Member States and in various sectors.

The Communication does not make reference to any research on the issue, nor on any other relevant material. This means, in the view of the ETUC, that it is impossible to judge – on the basis of the Communication – the actual use of the derogation, or the needs of businesses and workers, or the risks and dangers with regard to annualised working hours.

The ETUC has consulted its affiliates on the use of the derogation, and asked their opinions about its continuation.

Several unions have mentioned the dangers in extending the reference periods for the counting of the average working week beyond 4 months, stating that 4 months gives already a lot of flexibility.

They point at the fact, that the Directive itself does not give any additional protection in the possibilities for extending a reference period (for instance no absolute maximum to the amount of hours per seven day period, except the minimum regulations on daily and weekly rest), so theoretically it would be possible to put a full time working week of average 48 hours on annualized basis in half a year of seasonal work, which could lead to unacceptable lengthy hours for a long and uninterrupted period of time!

This is a very important reason to ensure that, wherever long reference periods are considered, these are provided for in the context of procedural guarantees and the countervailing power of collective bargaining, which ensures that compensatory mechanisms are put in place.

The ETUC and its affiliates therefore strongly oppose any development in the direction of dropping these safeguards with regard to the extension of reference periods.

Furthermore, some unions have reported about abusive practices, in which workers - employed on the basis of fixed term contracts – were confronted with the application of a reference period that far

exceeded the duration of their contract. This practice should be tackled by revising the Directive in such a way, that the reference period applied to a worker can never be longer than the duration of his/her employment contract.

Extending the reference period by collective bargaining.

In this regard, it must be said, that the Communication of the Commission sends confusing messages: the only issue that the Commission is mentioning in this respect, is the fact that 'Member States are not all in the same situation with regard to the possibility of extending the reference period', because the coverage of collective bargaining varies per Member State, and is especially low for the UK.

In indirect wordings, the Commission herewith seems to suggest, that there could be a case to argue for dropping the need for collective bargaining to arrive at annualised hours, thereby suggesting that there should be a basic right for all employers to arrive at the same flexibility results with regard to working time, without having to comply to whatever safeguards.

The ETUC wants to draw attention to the fact that the introduction of the method of 'derogation by collective agreement' was a flexibility measure, meant for situations in which there is an initial clear need for legislative protection of workers, but it is considered to be helpful for both management and labour to be allowed a certain room to negotiate 'made-to-measure' solutions, provided there is a counter-vailing power on the side of the worker to ensure that the outcome is balanced and provides the worker with adequate protection.

So, the choice is either protection by legislative regulation, in which case the protection is provided in the details of the regulation itself, or protection by collectively agreed regulation in which case the protection is more in the method used, namely collective bargaining.

In all countries, in which collective bargaining is not covering 100 percent of the working population, there is a difference in outcome for employers covered by collective agreement and those not covered by collective agreement. All enterprises have the freedom to enter into collective bargaining, or to abstain from that.

If UK employers prefer not to bargain about flexibility needs, but

want them for free – as they have done until now by fiercely claiming the perpetuation of the individual opt out (see below) - they may find themselves at odds with the rest of Europe.

The European Treaty explicitly obliges the Community and Member States to promote dialogue between management and labour at all levels (article 136 and 138).

It is therefore very much part of the European model, to promote flexibility in regulation by allowing social partners at various levels to provide for alternative forms of protection by collective bargaining.

5) THE OPT OUT

“There was no sign that the extent of sustained long hours working was systematically associated with the business or financial needs of workplaces. (...)

There was a strong management consensus that sustained long hours working were undesirable and should be avoided or reduced, wherever possible. (...)

It is apparent that the opt-out is widely used, (...) mainly as a precautionary measure by employers.”¹⁰

A major part of the Communication of the Commission is dedicated to the use of article 18, par. 1 (b) (i), the so called opt out.

The amount of space used however is in the view of the ETUC not equivalent to the quality of the material and arguments presented.

In this regard, the ETUC wants to draw attention to the following points:

- Originally, this clause was negotiated by the UK government when the Directive came about, and until recently only the UK made use of the possibility offered by article 18, to not apply article 6 on the maximum average working week of 48 hours in case of voluntary agreement with the individual worker.

- With regard to the use of the opt out in the UK, the Communication refers to several government reports, and material by the CBI, but does not make any reference to relevant

¹⁰ “The business context to working long hours”, Employment relations research series no 23, Research by Warwick Institute for Employment Research, published by the Department of Trade and Industry UK, November 2003

TUC-opinions and research, nor to other sources that provide for a genuine picture of workers' concerns, thereby creating at least the image of being prejudicial to workers and trade union views on the matter;

■ This image is strengthened by the suggestive presentation of 'reasons for use of the opt out', that are presented as if there are no counter-arguments to be made on each of them;

■ With regard to the health and safety effects of the opt out, the Communication makes contradictory remarks. On the one hand it is stated, that there is a clear link between long hours and harmful effects on the health and safety of workers (which in the opinion of the ETUC is the legal basis for the existence of the Working time Directive anyway, and therefore does not need to be established again!). On the other hand it is said that the effect of the opt out on the health and safety cannot be judged, because of lacking data. However, where the opt out has led to long working hours beyond the average of 48 hours, there is a case for at least suspecting negative effects on the health and safety of workers, unless adequate compensatory mechanisms have been proved to be in place.

■ In this regard, however, the Communication shows clearly the unwillingness of the Commission to act: even though the Commission has found the UK in open violation of the minimum conditions for the use of the opt out – about the keeping of records, the impossibility to monitor compliance, etc - the Communication expresses only some wonder about how this can be possible.....

■ Paragraph 2.2.1.2 on legal evaluation ends by saying “ In fact, the way the Directive is transposed into national law, it could in practice prevent the workers in question from benefiting from certain rights laid down in the Directive, which was evidently not the intention of the Community legislature.” Full stop. No conclusion on further action. No infringement procedure. Not even the conclusion, that the opt-out has shown not to be applicable in a way that sufficiently protects the health and safety of workers, and therefore should be deleted as soon as possible.....

■ At the end of the Communication only the very soft and careful question is put if everybody would please give his opinion on the conditions of application of the opt out.

The opinion of the ETUC can be no surprise.

The ETUC has always been strongly opposed to the option for Member States to opt out of the already very flexible framework of protective measures as provided for in the Working time Directive.

The option for Member States not to apply article 6 (average 48 hours) at all, when the individual worker agrees, allows for the effect of unlimited extension of working hours, only balanced by the vague obligation ‘to respect the general principles of the safety and health of workers’.

In our view, the individual opt-out as such is in strong contradiction to the aims and provisions of the Working time Directive itself, and the basic principles regarding the protection of health and safety!

In the UK, where the individual opt out has been widely used by employers, research by the government, universities and trade unions has shown that the opt-out, rather than providing the UK with the possibility to gradually adapt its long hours culture to the prevailing average in the rest of the EU, has given employers in the UK a ‘lazy’ way out:

Four million workers work more than 48 hours per week on average, which are 700.000 more than in 1992 when the Directive did not yet apply! (Labour Force Survey, UK). Only one in three people at work know that there is a 48 hour average working week limit; the law is widely abused, one in three of those who have signed an opt-out say they were given no choice; and nearly two out of three people who say they work regularly more than 48 hours a week say they have not been asked to opt out of the working time regulations.

There is a lot of evidence suggesting that the opt-out, far from being necessary for British business, has exacerbated problems of low productivity and management incompetence, reducing the incentive for employers to modernise working practices.

Interestingly enough, a recent research-report by the Warwick Institute for Employment Research, published by the Department of Trade and Industry of the British Government, confirms these conclusions ¹¹:

■ two groups of workers are mainly working sustained long

¹¹ “The business context to working long hours”, Employment relations research series no 23, Research by Warwick Institute for Employment Research, published by the Department of Trade and Industry UK, November 2003

hours, and many of them have signed an opt-out agreement: senior managers and professionals on one hand, and manual workers on the other hand;

- for the managers and professionals, long hours are mostly related to the culture of the workplace and presenteeism, combined with the expectation that the investment in the job would carry the promise of increased future rewards;

- for the manual workers, long hours frequently reflect institutionalised overtime, i.e. a situation in which overtime working for extra pay has become so normal that working overtime has become an important element in their overall pay; this has created often a vicious circle, in which low hourly rates of pay produce a need to work overtime hours, which in turn leads to low productivity per hour worked;

- although these are initial barriers to change, the report points at evidence that resistance from unions and workforce to the execution of changes were encountered only in a minority of cases; however, there was stronger opposition when reducing working hours was proposed as a method to reduce labour costs; the report points at ample evidence, that employees are much more likely to accept changes to working practices if they are consulted about them and have an opportunity to be involved in their introduction;

- moreover, increasingly personnel managers in British firms are of the opinion that working excessively long hours was a 'bad practice', being neither good for business nor for the individual employee;

- The needs of the business and the workload, although often mentioned to be the most common barrier to reducing working hours, turned out to be not the real reasons for long hours. There was no sign that the extent of sustained long hours working was systematically associated with the business or financial needs of workplaces.

The report ends by stating “ It is apparent that the opt-out has been widely used (...), mainly as a precautionary measure by employers. (...) The opt-out provides a comfort zone for employers who had staff regularly working additional working hours, lest that practice should stray into becoming sustained long hours above the weekly working time limits of the Working Time Regulations.”

More can be said about the issue, and more reports cited.

The ETUC has chosen to put forward especially these references, because they confirm the basic criticism of the ETUC on the existence of the opt-out.

Discussing the arguments pro and contra of the opt-out is not discussing free choice of workers, or any other ideological debate. It is about level playing fields for enterprises all over Europe, and about basic protection of workers against health and safety hazards that should not be subject to unfair competition between enterprises or Member States.

Why do employers in most Member States of the EU have to apply strict working time regulations and sit at the negotiating table with unions to provide for negotiated flexibility, if and when at the same time employers in the UK can avail themselves of a situation in which no rules apply?

The answer by the EU and its institutions should be: this situation is unacceptable and has to end as soon as possible.

The ETUC therefore welcomes very strongly the recent report on the revision of the Working time Directive, as adopted by a great majority of the European Parliament, in which the Parliament “calls for the revision, with a view to the phasing-out, as soon as possible, of the individual opt-out”, and in the meantime calls on the Commission “to identify practical ways of tackling potential or actual abuses of the opt-out provision, including seeking views on how to best strengthen the voluntary nature of the opt-out.”¹²

6) ON-CALL WORK AND THE DEFINITION OF WORKING TIME (SIMAP AND JAEGER)

“ (...) the objective of the Directive is to ensure the health and safety of workers. The Court notes that (...) to exclude duty on-call from working time if physical presence is required would seriously undermine that objective.”¹³

So, there are many good reasons for the Commission to now decide to put an end to the individual opt-out.

¹² EP-resolution on the organisation of working time (2003/2165 INI), point 15

¹³ Judgement of the Court in the Simap case, 3 Oct. 2000, C-303/98, point 49

However, two recent judgments of the European Court of Justice appear to have created some difficulties in several Member States. In principle, these decisions have clarified the definition of working time, deciding that time spent ‘on-call’ (for instance by doctors being available for urgent cases in hospitals at night) is to be counted as working time if the time is spent at the workplace, regardless of the question if the worker has actually been engaged in professional activities.

These judgments in general have been welcomed by trade unions, because they confirm the basic principle that hours that are not at the free disposal of the worker because of working duties should be considered to be working time. But at the same time, there are signals that several Member States are experiencing or foreseeing acute problems in their healthcare sectors and some other sectors, if they have to apply these Court judgments. And there are some Member States, even those who on grounds of principle have never been in favour of the individual opt-out, that all of a sudden are re-thinking the need to delete article 18, 1 (b) (i) because they might need this provision in the Directive to tackle their problems with regard to on-call work. In the Communication, reference is made to changes in legislation in France, Germany, Netherlands and Spain with a view to adapt to the ECJ-judgements and incorporating some form of opt-out (mostly restricted to the health sector). Only in Luxemburg recently an opt-out arrangement was introduced for the hotel and catering sector.

Even though it should be stressed, that these opt out arrangements are only limited to specific professions and situations, and are not meant to be implemented as wide ranging as in the UK, the ETUC is very concerned about these developments.

While we appreciate the difficulties in several Member States, we do not believe that a simple introduction of the opt-out is the right way to solve these problems.

First of all, the ETUC is of the opinion that in this stage it is impossible to judge the situation in the various Member States and sectors concerned, as the Communication of the Commission lacking any detailed information.

Reference is made to the fact, that an impact assessment of the Court cases has still to be carried out both at national and at Community level. At the same time, panic stories by Member States

about the amount of extra doctors that would be needed to be able to implement the ECJ-judgements are taken at face value.

The Communication extensively explains why the definition of working time as interpreted by the ECJ causes so many problems in some Member States. But the interesting question, why not all Member States are struggling with the implementation (maybe because they are very well able to cope with them, within the framework of existing laws and regulations?) is not put forward.

Furthermore, by not questioning the Member States about the specific situations in their problematic sectors, nor asking them to specify in more detail the problems they face, it might well be that the Commission is focussing on solutions for the wrong problem.

What are the main issues, dealt with in the ECJ-cases?

Simap-case:

■ *Time spent on call by doctors in primary health care teams must be regarded in its entirety as working time, and where appropriate as overtime, if they are required to be at the health centre.* If they must merely be contactable at all times when on call, only time linked to the actual provision of health care services must be regarded as working time;

■ The consent given by trade union representatives in the context of a collective or other agreement is not equivalent to that given by the worker himself, as provided for in article 18 par. 1 (b) (i).

Jaeger-case:

■ Confirms the definition of on call working time of the Simap case;

■ Explicitly states, that the Directive precludes legislation of a Member State which classifies as rest periods an employee's periods of inactivity in the context of such on-call duty;

■ It is also not possible for a Member State to allow collective agreements to provide for such approach;

■ In order to make use of the derogation possibilities of article 17 par. 2 of the Directive (which allows derogation of the 11-hour daily rest for instance for health care workers) *'a reduction in the daily rest period of 11 consecutive hours by a period of on-call duty performed in addition to normal working time is subject to the condition that equivalent compensating rest periods be accorded to the workers concerned at times immediately following the*

corresponding periods worked.’

It is important to note, that most Member States only started to panic about the ECJ-judgements after the decision in the Jaeger case. The reason for this may be, that it is not only – or even in some situations not primarily - the working time definition that causes problems in the current organization of working time in hospitals, but the way one has to deal with the scheduling of the daily rest. Affiliates of the ETUC have reported, that especially the judgement of the Court, that the full compensatory rest of 11 hours that has to follow immediately after the on-call working time, has caused problems in collectively agreed systems, that in their view provide for adequate and balanced solutions (including time-saving systems, that allowed workers compensation in a different form).

It is therefore of major importance, that as soon as possible a full impact assessment with regard to all the relevant elements of the Court cases is carried out and presented by the Commission.

This impact assessment should also take on board the experiences and views of the social partners in the relevant sectors, especially with regard to the question, if viable solutions can be found within the framework of the existing Directive as interpreted by the ECJ.

Also the European Parliament, in its recently with great majority adopted report on the revision of the Working time Directive, regrets that the Commission has not been able to produce any reliable material on the issue, and has not given any guidance to Member States as to the implementation of the ECJ-judgements in a way that respects the basic principles of the Directive, i.e. to limit working hours and provide workers with adequate protection for reasons of health and safety. The European Parliament rightfully calls on Member States to exchange good practice solutions within the framework of the Directive, and to explore the scope for new work practices and patterns.

The ETUC is of the opinion, that only after such assessment, which cannot take place without the fully fledged involvement of the social partners in the relevant sectors, it will be possible to judge if, and in what respect, the Working time Directive would need to be revised or adapted.

In the meantime, it is of the highest importance to prevent Member States to introduce or extend the use of the opt-out to

solve their perceived short-term problems.

To that end, the Commission should provide Member States as soon as possible with a clear perspective, in which phasing out of the possibility to use the individual opt-out is combined with concrete proposals for a long term and sustainable response to the problems raised by the Simap and Jaeger judgements.

The ETUC does not accept a simplistic revision of the definition of working time, with a view to exclude on-call working time from the definition, as a viable solution. Such ‘solution’ would be in explicit violation of the judgement of the Court in the Simap-case, stating that

“ (...) the objective of the Directive is to ensure the health and safety of workers. The Court notes that (...) to exclude duty on-call from working time if physical presence is required would seriously undermine that objective.”¹⁴

Furthermore, a revision of the definition would have a far-reaching and detrimental effect on all existing regulations and agreements with regard to working time, and especially those situations in which on-call working time is already included.

A long term and sustainable response should take into account, that the short term labour market shortages especially in the health sector will become even more difficult to solve if recourse is taken to short term ‘solutions’, that continue a situation in which long working hours are combined with long on-call duties.

As several organisations of doctors and doctors-in-training recently have confirmed, there are serious problems to recruit and retain medical staff in hospitals because of the bad working conditions. Medical students give up their studies; doctors look for jobs outside hospitals or go to other countries with better working conditions. The major complaint in this regard is the long and inconvenient working hours.

The Marburger Bund¹⁵ has come up with research showing that 77 percent of doctors that resign from the job give as main reason the bad working hours, and interestingly enough 51 percent of those giving up would return if the working conditions in hospitals would improve.

¹⁴ Judgement of the Court in the Simap case, 3 Oct. 2000, C-303/98, point 49

¹⁵ see for instance letter Marburger Bund to EP, January 2004

An additional aspect of the issue is the fact, that these working hours are especially burdensome for parents and others who have to combine work with family duties. In a situation, in which in the higher professions in healthcare increasingly women are employed and will be needed to fill the vacancies, it is essential to develop innovative approaches to the scheduling of working patterns, that allow for flexibility without taking recourse to sustained long hours working, allowing for reconciliation of work and family life.

In short,

- the Commission needs to come up as soon as possible with an impact assessment of the ECJ-cases, which fully takes into account the experiences and views of the social partners in the relevant sectors;
- the Commission should urge the Member States to refrain from introducing or extending the individual opt out as a solution for their short term problems in the health sector, offering them instead guidance on how to implement the ECJ-judgements, and providing them with a perspective of a long term and sustainable response that fully respects the basic principles of the Directive;
- the Commission should not seek to solve the problem by simply changing the definition of working time, and exclude on-call working time from the definition;
- the Commission should promote social dialogue as a major means to provide for these long term and sustainable solutions, as well on the national, on the sectoral as on the intersectoral level.

7) ON OTHER DEROGATIONS

“(...) every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave”¹⁶

Article 17 par. 1 (a): managing executives; autonomy to take decisions

The directive allows for a derogation from the principles of the directive particularly in the case of managing executives or other

¹⁶ Charter of Fundamental Rights, Nice 2000, article 31

persons with autonomous decision-taking powers,

on the condition that there is due regard for the general principles of the protection of the health and safety of workers. Several countries have used this option, and excluded managerial staff and other workers whose tasks are similar to managerial work. The exclusion can also be applied to professional staff, who carry out their tasks independently enough.

This derogation possibility increasingly leads to a situation where large groups of workers are totally left outside working time protection without paying any real attention to the need to also in these cases provide for health and safety protection.

The derogation possibility in the directive is interpreted and applied very widely and is a matter of growing concern. It should be noted that the organisation of working time has changed considerably over the last years. Firstly, telework, mobility and travelling have increased and continue to do so. Secondly, the nature of work has changed and forms of semi-independent professional work have increased. This kind of work is not done under precisely predetermined time schedules, but working time is organised more flexibly. Thirdly, managing cultures have changed and allow the worker more independence when doing the job. Also a great amount of organisation of the working time has been handed over to the workers and work is more managed by results.

In the view of the ETUC, it is not acceptable, that these developments leave increasing groups of workers – who in practice work within the framework of organisations that expect them to fit in their working patterns, and therefore cannot be seen as being able to fully and autonomously decide on their working time – without any protection against health and safety hazards of long working hours.

The ETUC has received many complaints from affiliate organisations and from the Council of European Professional and Managerial Staff Eurocadres, which is associated to the ETUC, that the vague terms and potential wide scope of the derogation, and the way these are implemented by Member States, increasingly bring higher staff and people in lower management into the area of non-protection. The possibility to derogate should therefore be tightened and defined more accurately. For example, it could be considered to allow deroga-

tion only in the case of Chief Executive Officers (or comparable), senior managers directly subordinate to him/her i.e. the executive team, and/or those who have a general delegated authority to take decisions on behalf of the employer, or who are directly appointed by the board of directors.

The discussion on this derogation is directly linked to the discussion on the individual opt-out. The derogation of article 17 par. 1 (a) provides Member States with a specific option to collectively exclude managerial staff, whereas in the UK the individual opt-out is partly used for large groups of higher and lower managerial staff and other professionals.

In both situations, groups of workers are brought outside the scope of health and safety protection with regard to long working hours.

It would be of great importance to better assess the needs of businesses and workers with regard to the management of working time in these professions, and discuss proper ways to provide the workers concerned with adequate protection.

The legal obligation to do so is based on the European Social Charter which prescribes that **every** worker has a right to limitation of his/her working hours, and on the provisions of the Working time Directive regarding the derogations of article 17 and 18, which prescribe that these derogations only can be used when due regard is given to the general principles of the protection of health and safety of workers.

The Commission should evaluate the way in which the derogation of article 17, 1(a) is currently applied, and especially ask from Member States to report on how they have implemented and monitored the obligation to give due regard to the health and safety protection of the excluded groups of workers.

The Commission should also take a more active approach, and invite the social partners to comment on possible ways to address the specific aspects of managing working time for higher and managerial staff, with a view to come up with proposals that provide for adequate protection, while offering flexibility to enterprises and workers concerned.

ARTICLE 17 PAR. 1 (B) : FAMILY WORKERS

Article 17 also allows for derogation with regard to ‘family

workers'. The ETUC is of the opinion that this term is very vague, and potentially can be used to cover a wide range of (probably mostly female) workers. It is therefore important that the Commission evaluates the use of this derogation by Member States, to see which groups are excluded, and how these excluded groups are monitored with regard to possible health and safety risks.

At the same time, the need to continue the derogation in its current form should be assessed, and if derogation is still deemed necessary a more precise and limited definition should be considered.

8) FLEXIBILITY FOR ENTERPRISES: COMPATIBLE WITH RECONCILIATION OF WORK AND FAMILY LIFE?

*“The success of policies to raise employment rates will depend on the possibility for both women and men to achieve a balance between their professional career and family life”.*¹⁷

In part two of its Communication, in which the Commission presents the options to be discussed, the Commission makes the argument:

“ Making progress towards more flexible working time arrangements accords with the Social Policy Agenda, which sets out a general approach to the whole issue of employment quality, from occupational safety and health up to and including the need to reconcile work and family life and getting the right balance between flexibility and security.

Greater flexibility in the way working time is organised will meet the needs both of employers and workers. For the employers, the essential point is to be able to adapt effective working time to fluctuations in demand, whether seasonal or irregular. For the workers, greater flexibility can meet their needs in terms of making work more compatible with family commitments.”

In the view of the ETUC, the Commission confuses several issues in this presentation, and thereby creates the false illusion of

¹⁷ Report from the Commission to the Council etc. on equality between women and men, 19-2-2004 (Com 2004, 115 final)

automatic joint interests of employers and workers.

Enterprises that have fluctuations in demand and irregular changes in the workload will probably need workers that can be flexible in adapting to business needs, either in being available long hours when necessary, or working in irregular working time patterns.

Workers that have child-rearing responsibilities will probably need regular and predictable working time patterns, no excessive long hours working, temporary or long term reduction of working hours, time saving accounts and/or leave facilities, and flexibility in the scheduling of their working hours to take account of crèche or school opening times.

These interests do not automatically coincide, nor lead automatically to a certain set of solutions or working patterns.

On the contrary, without additional framework regulations or collective agreements, very often the flexibility needs of enterprises lead to a picture in which male workers are working long hours and make overtime within the framework of standard employment relationships, while female workers work reduced hours within the framework of precarious employment relationships.

In this picture, women are disadvantaged in three ways:

- it is less possible for men to share in childcare and other household obligations
- women have less possibilities to compete for more senior jobs
- women pay a high price for their flexibility needs, by accepting precarious working conditions.

Of course, it is possible to take a win-win approach, trying to 'reconcile' flexibility needs of firms with flexibility needs of workers.

These win-win approaches can be found when on the side of enterprises there is acknowledgement that also their flexibility needs are not necessarily best met by long working hours, and that it is interesting to cut on expenses for overtime working, or that reduction of working hours – either in a collective way or by allowing individuals to adapt their working time or working pattern to their individual needs – can be combined with more flexibility for the enterprise. In these situations, trade unions in many Member States have proved to be able to agree on flexible, innovative and sustainable approaches with regard to working time patterns.

In such situations of negotiated flexibility, there can indeed be positive outcomes for enterprises and workers.

The existing Directive gives ample room to provide for the flexibility needs of enterprises.

In the view of the ETUC, what is lacking in the Directive is sufficient support and safeguards for the flexibility needs of workers, especially in regard of the increasing demands pressing upon all workers, men and women, to take up and share care-responsibilities for children and elderly parents.

The issue of reconciliation of work and family life is one of the major challenges to tackle on the national as well as on the European level, for many different and important reasons, of which the protection of health and safety of workers is only one.

Working time is an important area where improvements have to be made, both in terms of the amount of hours worked, as in the scheduling of hours. Long hours may offer short-term solutions for short-term problems, but have an adverse effect on the longer term, taking into account the need for the progressive modernisation of European labour markets in line with the approach agreed at the Lisbon Council:

- increased participation of women is not served by longer working hours without any flexibility;
- the long hours culture in higher professions and managerial jobs is an obstacle for the upward mobility of women, and keeps gender segregation in place;
- long working hours on a weekly basis stand in the way of longer working lives on a lifetime base: active ageing presupposes that workers are not worn out long before the time they reach the retirement age;
- to combat ‘inactivity’ and long term unemployment there is good reason to hire additional workers instead of advocating long hours and overtime;

It is therefore very disappointing that the Communication of the Commission does not offer more than one page of phraseology on this issue. Reference is made to a recent survey about the variation of measures taken in EU and EFTA-countries, which indeed show that most examples are about forms of **reduction and adaptation** of

working hours. But no indication is given on how the Commission could envisage the revision of the Working time Directive to be used to improve the compatibility of work and family life, neither in legal terms, nor in terms of content.

Moreover, where the Commission at the same time wants to offer **more** flexibility to enterprises and Member States, and does not propose to put an end to the individual opt-out of the 48-hour working week, there does not seem to be the genuine will on the side of the Commission to seriously pursue better conditions for the reconciliation of work and family life for workers in Europe.

The Commission should therefore provide for a better and more elaborate framework for discussing the introduction of provisions that enhance the flexibility and choice for workers to adapt the organisation of working time to their needs, especially with regard to the reconciliation of work and family life.

Steering Committee - May 2004

Steering Committee, 13 May 2004

The ETUC Steering Committee meeting on 13 May, expressed their shock and abhorrence at the spiralling atrocities revealed daily in Iraq.

They underlined their utter condemnation and revulsion at the many and brutal murders in Iraq. They called for the immediate and safe release of all hostages in Iraq and for an end to the vile practice of kidnapping.

They also condemned acts of abuse and violence by coalition forces against prisoners detained in Iraq. They called for a full and open investigation of allegations of violence, humiliation and even killing of prisoners, and for any persons responsible for carrying out such extreme violations of international law to be brought to justice. They urged all parties to observe the Geneva Conventions and to cooperate fully with the investigation being undertaken by the UN Human Rights Commission (UNHRC).

Recalling that the ETUC had opposed the war and had consistently insisted that UN agreement and involvement was necessary to resolve issues arising over Iraq and provide the necessary legitimacy, they stressed that, with just 48 days before the handover of sovereignty, a strong UN role is an essential element for a successful transfer of sovereignty to the people of Iraq.

They also reiterated their call on the EU to play a commensurate role in support of the political process and in the reconstruction of Iraq. The Steering Committee called on all EU institutions to assume their responsibilities as a matter of urgency and charged the General Secretary to contact the Presidents of the Institutions to press for action in this respect, including special sessions to build a greater degree of unity and action at European level.

Executive Committee - June 2004

10

THE SOCIAL DIMENSION OF GLOBALISATION

Regarding the Communication from the Commission on 'The social dimension of globalisation - the EU's policy contribution on extending the benefits to all' COM (2004) 383 final

Executive Committee, 9-10 June 2004

1. The ETUC Executive Committee read with interest the Communication from the European Commission on the social dimension of globalisation and its assessment of the report by the ILO World Commission on the Social Dimension of Globalisation.
2. The Communication from the European Commission marks a step forward conceptually compared to its 2001 Communication on core labour standards and social governance. This new approach strives to incorporate the social dimension, decent work and sustainable development in the multilateral trade policy and the international cooperation of the Union and its Member States.
3. Nevertheless, whether this integrated policy will gain international acceptance and actually be implemented remains unanswered. In the past, EU foreign policy (WTO negotiations, agreements concluded with third countries and external regions, the Cotonou Agreement) has given priority to the development of free trade over genuine cooperation designed to foster development.
4. ETUC must be consulted shortly by the Commission to discuss the ways and means of implementing this policy perspective within its trade policy in the WTO and other international institutions, within the programmes resulting from the EU's bilateral and

regional cooperation agreements, and within the EU itself.

5. The ETUC Executive Committee is of the opinion that the report by the ILO World Commission represents a significant stage in the ongoing struggle by trade unions and international trade union organisations to have all international organisations take responsibility for promoting fundamental labour standards, and the WTO take on board the social and environmental dimension of trade and investment with a view to promoting sustainable and fair development in all countries.

Despite the limitations inherent in such an exercise (seeking to reach a compromise between widely diverging participants), the World Commission reached a conclusion shared by ETUC: "Seen through the eyes of the vast majority of women and men, globalisation has not met their simple and legitimate aspirations for decent jobs and a better future for their children."

The report focuses on a series of well-established facts (growth in trade with no actual impact on sustainable development; liberalisation of financial markets along with social and fiscal deregulation; unfair conditions governing structural adjustments and restructuring in employment, education, health and labour law; growing inequities in all countries, including the industrialised countries). ETUC condemns the social conditions surrounding company relocations and the development of 'just-in-time manufacturing' within international outsourcing chains, the growing informal component of the economy, rising job insecurity and assaults on trade union rights and collective bargaining, a situation which is particularly worrying in export processing zones (EPZs).

The changes recommended by the World Commission are necessary: they can and must be implemented. That is the positive aspect of the report.

6. International trade can contribute to sustainable (social, economic and environmental) development, provided it is implemented within a rigorous framework -- as recommended in the World Commission's report:

- A multilateral framework to protect migrants;
- a multilateral framework to promote social protection (which

80% of the population does not enjoy);

- a multilateral framework to promote dignified and fair work as a key tool for reducing poverty;
- a multilateral framework for protecting the rights of workers, food safety, health, education, gender equality and the full autonomy of women.

ETUC would like the WTO negotiations to take the social and environmental dimension on board too. To do this, the negotiations should include components that are essential to sustainable development (enforcement of international labour standards, support for decent employment strategies, process for creating systems of social protection, preserving public services, the fair sharing of resources, measures to protect the environment, health and safety, the development of South-South trade, etc.).

7. ETUC shares the opinion of the European Commission and the ILO World Commission denouncing the obstacles placed in the way of trade in goods by developed countries in sectors where developing countries receive a comparative advantage.

Recognising that there is a particularly clear link between trade, jobs and poverty in the agricultural sector -- an area of critical concern to developing countries -- ETUC supports the recommendations of the World Commission on rapidly eliminating existing export aid in the countries of the North. Export aids create obstacles to imports from developing countries and result in unfair competition on the markets in developing countries.

In this way, ETUC reiterates its attachment to the principle of states' sovereignty in matters of food safety.

8. The WTO must operate transparently and more democratically, and must cooperate positively with other international institutions. The Communication from the European Commission suggests promoting just such an approach, although it does not give any practical details on how this might be done.

The Executive Committee calls on the European Union and its Member States to play an active role in ensuring that the World

Commission's recommendations are applied. Noting the inadequate progress made in terms of the commitments set out in the 2001 Communication on core labour standards, ETUC is of the opinion that the priority now is to take concrete action to exploit the full potential of EU policies designed to promote the social dimension of globalisation.

9. The Executive Committee shares the point of view expressed by the European Commission, which supports the adoption of multilateral regulatory solutions, augmented with and enhanced by voluntary solutions and codes of conduct negotiated between the stakeholders, as must be the case when it comes to corporate social responsibility.

10. Consultation between the public authorities and the economic and social players at national, European and global level must prevail when devising regulatory measures so as to ensure that economic activity, trade and the development of technological capabilities are given social and humane objectives.

Accordingly, under its new reference framework, the European Commission should promote information, consultation, negotiation and evaluation tools involving the social partners on globalisation-related issues.

The European Commission should seriously step up its efforts to ensure that the representative economic and social stakeholders can -- in the spirit of the Social Protocol of the Treaty – find contractual solutions to the social dialogue that is so essential at national, European and international level.

11. The Commission's Communication acknowledges the importance of the European model of social integration for improving living and working conditions, constructing a competitive European economy, and managing the social repercussions of globalisation.

But ETUC feels that although the European Union has made major headway towards integration, it is currently facing some key decisions. Europe's social heritage, the fruit of a social and political struggle as well as the policies conducted by the labour movement (collective bargaining and agreements, genuine social security systems, labour rights and social rights, public services and services

of general interest, and so on), is being seriously undermined, yet it is this same heritage that provides us with all the criteria we need to ensure that our markets are truly democratic. Yet at present the EU Member States and European institutions appear more concerned with satisfying the markets than meeting the aspirations of the public, one example being through the draft directive on services on the internal market.

With this in mind, ETUC produced a series of proposals for the Convention to ensure that the European Union changes tack, in particular by adopting a Growth and Stability Pact that includes binding social criteria, in particular covering employment and industrial policy.

12. ETUC backs regional integration processes which set out to create ways and means of underpinning regulation, social cohesion and solidarity within a given territory. It calls upon the European Commission to provide efficient frameworks for consultations and negotiations involving the social partners in the course of defining and implementing such processes.

In its talks with the EU institutions, ETUC is endeavouring to establish a genuine social dimension for its relations with Central and South America, the Mediterranean countries and the 77 ACP countries (Cotonou Agreement), as well as in its European Neighbourhood Policy, in conjunction with the international trade union movement.

13. ETUC is pleased with the prospects for an agreement between the European Commission and the ILO, and expects to see the social aspects of development better taken on board, but stresses that such an agreement must be reached in a totally transparent fashion in respect of the social partners.

ETUC'S COMMITMENTS

14. The Executive Committee of the ETUC, along with all its member organisations and in conjunction with the respective international organisations, pledges to make full use of the existing instruments:

■ **at global level:**

The core ILO standards constitute a minimum set of rules which must be applied in the world economy. Countries must be prompted to ratify and apply international labour standards (eight fundamental ILO Conventions, other operational conventions and recommendations, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy).

ETUC intends, both at European level and worldwide (on the basis of mandates from the respective countries), to promote closer cooperation and complementary action between all the relevant international institutions with a view to ensuring that integrated policies help to reduce poverty, foster universal respect for trade union and human rights and create decent jobs. It will support the action taken by the European Union to establish a Forum on Globalisation and the setting up of Policy Coherence Initiatives, in accordance with the recommendations of the report by the ILO World Commission on the Social Dimension of Globalisation.

ETUC will maintain its support for international campaigns against dictators, for instance in Burma and Belarus, and will continue lobbying the World Bank and IMF.

If globalisation is to be extended, we need new rules governing foreign direct investment which the European Union ought to support. Accordingly, ETUC backs the idea of negotiating a multilateral framework guaranteeing that a fair balance is struck between private interests, workers' interests and public interests, as well as between the rights and responsibilities of the various stakeholders.

■ **at European level:**

ETUC reiterates its call for formal procedures to be put in place to enable consultation with the social partners on all aspects of European policy pertaining to globalisation (trade, development assistance, compliance with social standards, bilateral and regional relations, investment, etc.).

ETUC reaffirms the need to ratify and apply the standards adopted by the Council of Europe (human rights, the Revised European Social Charter, European Convention on Social Security).

ETUC intends to continue promoting the use of bilateral agree-

ments by the EU to underpin trade union rights and, first and foremost, the Mercosur agreements as well as the partnership agreements and national programmes in ACP countries that are currently under negotiation.

ETUC will step up its efforts to make the globalisation process more democratic by contributing to the debate on global food safety, in a bid to boost the coherence between the objectives pursued by various key European policies (social and sustainable development policies, trade policy and the Common Agricultural Policy).

The EU must undertake to more forcefully promote the application of the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. Working in conjunction with the European industry federations, ETUC intends to develop the use of European Works Councils to ensure the effective application of core labour standards in the context of corporate social responsibility, and see to it that they become driving forces in the processes of negotiating voluntary agreements.

The European Union and its Member States must assert themselves in practice as determined, dynamic players for world peace and advocates of the globalisation of social justice, these being core elements of democracy. Action in this connection should include the drafting of joint positions by the member countries of the IMF and World Bank.

■ **at national level:**

Countries remain the appropriate entities in which to negotiate progress on social issues. Moreover, countries are representatives of international institutions, producing standards. They have established a hierarchy of such standards covering the economy, finance and trade (IMF, World Bank, WTO, OECD), these being deemed important and binding, whereas standards covering social affairs (ILO), health (WHO), education, culture (UNESCO) and the environment are considered of secondary importance and voluntary. This situation is unacceptable and must be changed so that the United Nations' environmental and social standards take priority over financial and trade-related standards.

As the report by the ILO World Commission concludes, it is essential that public and parliamentary control be exercised over the positions adopted by countries in the various international institutions so that we can impose the operational and political coherence required to substantially reform the UN system and gradually imbue it with the authority to regulate and strike a balance between international standards. This authority could be exercised within a 'World Council of Social and Economic Security'.

"Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised" (Article 28 of the Universal Declaration of Human Rights, UN 1948).

1. The resolution entitled "Industrial policy in an enlarged Europe", produced by ETUC's Executive Committee in October 2003 was a response to the Commission's Communication of the same title, welcoming the renewed interest in a European industrial policy. It referred to the horizontal function (the creation of a general framework of conditions in the fields of infrastructure, environment, training and research) and to its vertical function (specific sectoral industrial policies). At the same time ETUC had demanded further specific initiatives, in particular sectoral work programmes and both pressed for an evaluation of the industrial policy conducted by the Commission so far and proposed detailed analyses of industry's sectoral problems. An innovative European industrial policy must contribute specifically to stimulate sustainable private investments in industries and services.

2. The latest Commission Communication, entitled "Fostering structural change: an industrial policy for an enlarged Europe" (COM(2004) 274 final), dated 20 April 2004, highlights the importance of having a well-targeted industrial policy if the objectives set by the European Council in Lisbon are to be met. The conclusion reached by the Commission in the Communication is that so far – contrary to some people's fears – Europe hasn't fallen prey to deindustrialisation, even though the impact of ongoing structural change is having negative consequences for some sectors and regions. The Commission believes that the Union's enlargement will present industry in the old and new Member States with fresh opportunities. ETUC largely shares this view, provided that the restructuring process is accompanied by an innovative industrial policy, cushioned and shaped by social policy measures.

3. The Commission attaches great importance to improving the general regulatory environment in a bid to boost competitiveness. As early as 1995, ETUC advocated the elimination of superfluous regula-

tion and the streamlining of bureaucracy, which can dampen industry's ability to innovate. At the same time, ETUC concurs with the Commission's view that the lack of regulations can also constitute a handicap for industrial competitiveness. For that reason ETUC is reiterating its support for the Commission's intention to complement legislative procedures with a systematic impact assessment, in which economic, social and environmental criteria are applied to an equal extent.

4. ETUC applauds the Commission's efforts to improve the quality of legislation at Community and Member State level. The exchange of proven regulatory practices, the development of indicators of the quality of legislation and ex-post studies on the impact of planned legislation are all important measures that the Commission should immediately take in hand.

5. An innovative industrial policy must be systematically dovetailed with other areas of policy so that potential synergies between the various Community policies can be achieved and enhanced. The coordination this requires has to be guaranteed by the entire European Commission. In this connection, ETUC believes it is fundamentally important that the three pillars of the Lisbon Agenda (the economy, social aspects and the environment) are regarded as elements of equal value in a European industrial policy. A short-sighted approach of focussing on improving competitiveness will hardly be enough if more and better jobs are really to be created. In this context, ETUC reiterates its serious reservations about seeing a Competition Commissioner serve as a Vice-President of the next European Commission.

6. ETUC supports the Commission's proposals to substantially step up investment in research and development. The aim of boosting overall investment in R&D in Europe to 3% of GDP by 2010 must be attained. At the same time the quality of research needs to be markedly improved. The proposal set out in the financial forecast for 2007-2013 to double the EU's research budget, is a step in the right direction.

7. ETUC welcomes the initiative to present an action plan entitled "Innovation for a competitive Europe". However, ETUC expects such

an action plan not only to comprise measures designed to foster technical and organisational innovations; social and cultural innovation should be viewed as equally important, for they are decisive elements in the development of human resources and can also have a positive impact on competitiveness.

8. ETUC shares the Commission's view that the market, by itself, is unable to guarantee a sufficient level of investment in human capital. Consequently, the expansion of sectoral and regional training funds can make an important contribution towards modernising structures for training and education. Use should be made of the European Social Funds and future European vocational training programmes in this connection.

9. For an innovative industrial policy, sufficient financial resources are needed. The proposal to double the EU's research budget, to increase and use more systematically the structural funds and the idea to establish a "Structural Adjustment fund" are welcomed by the ETUC. In addition it is necessary to provide sufficient financial resources for industrial policies in the EU budget. At the same time we suggest that the Commission conducts a survey on the different national industrial policies, especially on the different aid programmes. Such an assessment can promote the exchange of best practise in the Union and stimulate learning processes.

10. Unlike the Commission's previous Communication on industrial policy, this one attributes greater importance to regional structural and cohesion policy. ETUC strongly supports this change of tack and the proposal to establish a 'Structural Adjustment Fund' and use it to ease the impact of economic restructuring in certain regions or sectors.

11 The emphasis on a sector-specific application of industrial policy is in keeping with demands emanating from ETUC and the European Industry Federations. Sectoral action programmes like those announced by the Commission for the mechanical engineering industry, environmental industries, the automotive sector and the new materials sector, for example, should be specified without further delay. Whenever possible, this should be done within the framework of sectoral social dialogue with the social partners.

12. ETUC welcomes the positive function allotted to social dialogue in the implementation of industrial policy. In future, European Works Councils should be more closely involved at sectoral level, since they can play a positive role in providing early warnings of restructuring and coming up with ways of dealing with it. The European Monitoring Centre on Change (EMCC) can provide valuable assistance in this connection.

1. The journey begun by the European Commission back in July 2001 with the Green Paper on Corporate Social Responsibility (CSR) which was intended to launch a debate on "how to build a partnership for the development of a new framework for the promotion of corporate social responsibility, taking account of the interests of both business and the various stakeholders", will reach an important milestone on 29 June when the Multi-Stakeholder Forum comes to an end and the key elements of its final report are presented.

2. Our priorities need, of course, to be set afresh as a result of this busy agenda.

3. In the current context of globalisation, the Executive Committee reaffirms its call for European businesses to behave with growing responsibility, in a manner that is firstly consistent with the content of the Lisbon strategy (particularly the development of the quality of work and employment, sustainable development and the European social model across the world) and secondly consistent with the Commission Communication from July 2001 on promoting core labour standards.

4. The Executive Committee confirms that CSR should complement, but in no way replace, legislation on social and environmental rights or standards set by collective bargaining. Thus, no company failing to comply with agreements, legislation or the social dialogue can be defined as socially responsible. Moreover, ETUC is demanding that social dimension be taken into account in world trade.

5. In public at every opportunity and also in the forum, ETUC has sought to clear up uncertainties or confusion surrounding the nature

of CSR and actions taken by companies in that connection. Some progress has been made on worker participation and respect for legislation and bargaining. However, the following key misconceptions need to be rectified:

1. the illusion that CSR would sweep away the balance of power, as the employer's responsibilities are diluted;

2. the illusion that all stakeholders are on an equal footing in this policy;

3. the illusion that the 'voluntary' method or other 'best practices' would be enough to assert CSR.

6. The Executive Committee stresses that, rather than being regarded as an added extra, CSR must permeate the very being of the company and its governance, colouring its ongoing production and taking on board social and environmental issues in its day-to-day management.

7. As such, ETUC rejects a philanthropic or 'public relations' approach to CSR. It believes that CSR must constitute a challenge not just globally and for developing countries, but also for an enlarged and integrated European Union of 25 Member States.

8. In this case, the prerequisite for CSR is respect for collective bargaining and laws, which means companies must act to:

- promote collective bargaining where there it is insufficient or even nonexistent;

- enhance the involvement of trade unions, workers and their representatives as well as the respect for and defence of their rights.

9. ETUC therefore affirms that one of the key components of CSR is the quality of industrial relations within a company.

In fact, it would be a contradiction in terms if a company failing to apply a collective agreement or respect an employment contract was deemed 'socially responsible'.

In other words, a company can only be responsible vis-à-vis the outside world if it is responsible internally.

The ETUC Executive Committee sees this responsibility as meaning:

- showing respect for industrial relations;
- promoting solid participation structures using ongoing consultation and information processes, particularly within European Works Councils;
- developing vocational skills and lifelong training for workers;
- respecting health and safety standards and adopting preventive policies;
- promoting gender equality;
- finding a way for the social partners to work together, enabling them to anticipate change and manage restructuring;
- promoting the social and fundamental rights of workers;
- enhancing the quality of work;
- defending and integrating the most vulnerable groups, such as youngsters, disabled people or immigrants.

10 The Executive Committee acknowledges that CSR needs to be the result of a voluntary process, and reaffirms that this voluntary commitment needs to be shaped by guidelines set at European level. Without a framework, the voluntary approach is unacceptable. When a company opts to be socially responsible, it must do so within precisely defined guidelines and with the involvement and input of the trade unions.

11. Admittedly, international reference standards already exist, being set, amongst other things, by ILO fundamental conventions, OECD guidelines and the United Nations. However, the EU's CSR model also needs to be based on European values that are consistent with the Lisbon Strategy, the European social model and the Charter of fundamental rights. Consequently, we are calling on the European Commission to set behavioural standards so that a single framework can be created that contains the criteria with which companies must comply if they choose to be socially responsible. This will prevent these companies from unilaterally setting their own criteria. The requirement that CSR go beyond the law and existing rules does not mean that companies can adopt an 'à la carte' approach to CSR focusing on certain social and environmental factors, while ignoring others.

12. Given the context of globalisation, particularly post-Cancun, an extra effort is required to impose rules of responsibility so that rights

can be extended throughout the world with a view to combating 'bad practices' or social dumping and getting to grips with companies which exploit poorly or completely unprotected regions.

13. ETUC is calling on the European Commission:

1) to set standards and precise criteria and, in particular, to insist that large companies produce an annual report on the action they have taken in terms of social and environmental impact which must be submitted to the relevant European Works Council;

2) to promote standards covering all corporate governance, not just the certification of end products, but also transparency and quality throughout the chain of production, including the traceability of products, subcontracting, supply and relocation;

3) to adopt a consistent policy for promoting CSR, setting access criteria for the use of Community funds and thereby encouraging positive selection. ETUC is calling for these criteria to specifically cover structural funds, export credits and public procurement contracts.

4) to promote a resource centre with real and active participation by the social partners and other stakeholders so as to support policies on information, training and exchanges of know-how and positive practices.

5) to have codes of conduct and/or labels or similar certificates developed by using clearly drawn up procedures and checks managed by the Commission and in conjunction with certification agencies and/or instruments, and based on contributions and input from the trade unions and NGOs. These must meet verified criteria so that their representativeness and legitimacy can be ascertained.

6) Lastly, ETUC is calling on the European Commission to set up a permanent monitoring body to verify compliance with European standards. ETUC also wants the Commission to publish an annual report measuring the progress made on CSR and submit these reports to the social partners in the forum.

14. ETUC reiterates that it is in favour of entering into a partnership with representative, legitimate and independent NGOs and stakeholders outside the company which share our values and which can play an essential complementary role in linking up internal and external corporate social responsibility in areas that are of concern to them.

15. The priorities and points stressed in this resolution not only represent our position, which will be presented at the aforementioned concluding conference, but also propose content to be included in the forum report and be taken into account in the European Commission's future activities and initiatives.

13 THE INTERGOVERNMENTAL CONFERENCE MUST EFFECTIVELY GUARANTEE THE EUROPEAN SOCIAL MODEL IN THE DRAFT CONSTITUTION

Executive Committee, 09-10 June 2004

1. The Intergovernmental Conference (IGC) is entering into its final phase and its 'culminating' point at the European Summit on June 17/18. The ETUC is concerned that the political debates about the attribution of powers in the EU institutions might result in neglecting the need to reinforce the social dimension of the constitutional process. We have featured this in demonstrations in Rome last October and on a European wide day of Action on April 2/3. The social achievements of the Convention text, which were welcomed by ETUC, are under constant attack and the IGC might end up with a compromise at the lowest common denominator - well known from former IGCs. In fact it was criticism of this process for being untransparent and undemocratic, which had led to the introduction of the Convention method to formulate the new Constitution.

2. One of the main cornerstones of the new Constitution – the Charter of Fundamental Rights (Part II) – is under attack. The intention is to render the Charter as having little more than declaratory status with no practical capacity to support and strengthen workers' rights. This strategy was observed during the Convention and has been evident in the IGC process. To continue the salami tactic activities on these lines after so many compromises which were made against the will of most members of the Convention and Governments in the Intergovernmental Conference is not acceptable.

Maintaining the Charter is therefore a primary goal for the ETUC.

3. Without re-opening the general debates on Parts I and II, the ETUC needs also to reiterate its main demands concerning Part III:

- consistency between Parts I and III in respect of the social objectives ('full employment', 'social market economy');
- recognition of the specific role of social partners and social dialogue not only in Part I but also in Part III in conjunction with effective access to the European Court of Justice;
- no regression in respect of the existing EC Treaty, in particular in the horizontal social clause introducing Part III;
- strengthening of economic governance;
- proper recognition of services of general interest.

4. These main demands have not yet been taken into account, but on the contrary several points are being changed in order to weaken the social content of the Draft Constitution in particular, (the introduction of 'price stability' as one of the predominant objectives of the Union comes before 'social market economy'). Nonetheless, some governments are aware of the crucial importance of the maintenance of the social dimension of the EU and importantly, France, has asked for a reinforcement of the Article on Social Partners. The attacks however continue.

5. Trade unionists all over Europe are deeply concerned that some Governments are currently opposing every positive European initiative in the social field. Meanwhile, trade union leaders and trade unionists who are seeking to encourage participation in the forthcoming European elections face the ground cut-away from underneath them as the social dimension of the European Union, on which trade union support in Europe has been based, appears to be under continuous attack from some Governments and from the business side too.

6. The ETUC, therefore, urges the Heads of States and of Governments to take ETUC demands into account and to fulfil them to the largest possible extent, as well as to reflect carefully on what is at stake and to understand the real frustration and growing disappointment in the European trade union world. Governments must be aware

of the risk of a strong reaction building up among the working peoples of Europe as well as pensioners if the Constitution is unsatisfactory on social questions.

The European trade union movement - and we are convinced the peoples of Europe too - will only give back enthusiastic support to a constitution that strengthens the European Social Model, balances the dynamism of the economy with solidarity, and provides protection for workers, consumers and the environment from the destructive forces that unregulated capitalism can unleash. We need to create a people's Europe not a business Europe and to strengthen the European Social Model.

The ETUC is arranging a special meeting in early July to address the outcome of the Intergovernmental Conference.

The ETUC Executive Committee today hardened its opposition towards the current Services Directive proposal.

Fresh information is arriving from individual countries which illustrates the far reaching scope of the proposed Directive and is leading to a rising tide of criticism from trade unions across Europe

The ETUC Executive Committee was also outraged by remarks last week by the spokesman of Commissioner Bolkestein who compared the opposition to the Directive being expressed in a demonstration by our Belgian trade unions to the position of racist, virulently nationalist parties. This was offensive and wrong and affects all trade unions all over Europe. The ETUC supports the call by its Belgian affiliates for an apology.

We support an EU single market in services but not at the expense of European and national social standards, labour law, services of general interest, health and safety and collective agreements. The ETUC reiterates its request for a legislative standstill until a framework Directive on Services of general interest is delivered.

The ETUC will continue its efforts to arrive at an acceptable Services Directive and urges all member states to defend the social dimension of the EU.

Executive Committee - October 2004

1. INTRODUCTION

In accordance with Article 159 of the Treaty, every three years the Commission evaluates the status of cohesion and the contribution of other policies.

The Second Report (2001) launched a debate on cohesion policy after enlargement. The Third Report (February 2004) used the conclusions of this debate as the basis for presenting the Commission's proposals for a reformed cohesion policy after 2006, and on 14 July 2004 the Commission adopted the proposals regarding the new rules for the Structural Funds for the period 2007-2013¹.

ETUC's first contribution to the debate on the future of economic and social cohesion policy in the enlarged European Union, adopted by its Executive Committee of 19-20 November 2002², emphasised the strengthening of Community structural policies in an enlarged Europe insofar as the principles of cohesion and solidarity are enshrined in the Treaty and constitute two of the most important vehicles for the integration of peoples and territories.

For ETUC, enlargement represents first and foremost a unique historical opportunity to unify the peoples of Europe on the basis of fundamental democratic values. This guarantees peace and political

¹ http://www.europa.eu.int/comm/regional_policy/sources/docoffic/official/regulation/newreglo713_en.htm

² <http://www.etuc.org/en/Decisions/ecenglish/Cohesion/15-Res-Economic%20and%20Social%20Cohesion-gb.cfm>

stability in Europe and contributes to economic and social progress and the improvement of living and working conditions. Besides the reunification of Europe, enlargement makes it possible to expand the European job market and internal market by increasing the overall volume of production and consumption level of the new Member States, and developing new and competitive products and services on the world market.

This represents an unprecedented political, economic and social challenge that will benefit the entire European Union. However, unlike previous enlargements it should be noted that this one has resulted in a widening of the economic development gap, caused a geographic shift of disparities towards the East, and made the employment situation more difficult.

Furthermore, the EU is concerned about some other major challenges that were identified at recent European Council summits, which also require joint and coordinated responses and actions.

The EU's future cohesion policy must contribute to give answers to these challenges, and in so doing help to reduce existing disparities between regions and promote a society of full employment, equal opportunities, inclusion and social cohesion, and so more widely the European Social Model.

To achieve this, the reform under way must guarantee greater complementarity between the Union's structural policies and other areas of Community policy, whilst also ensuring that all EU policies take on board the crucial aspects of economic and social cohesion and the need to boost employment of quality. In addition to the coordination of Community policies, it is of the outmost importance to coordinate taxation policies in order to avoid any social and taxation dumping.

In this respect, ETUC deems the explicit reference to the Lisbon and Göteborg Agendas in the proposed general Regulation presented by the Commission to be of vital importance. Above all, ETUC believes that cohesion policy must integrate the Lisbon and Göteborg objectives and become an essential medium for their realisation by means of national development programmes.

2. MAIN ELEMENTS OF THE REFORM

2.1. CONCENTRATION ON THREE COMMUNITY OBJECTIVES

As regards operational programmes, ETUC favourably welcomes the Commission's proposals to have a limited list of key themes; namely, innovation and the knowledge economy, the environment and risk prevention, accessibility and services of general economic interest, while specifying that these themes must refer to jobs creation and regional development.

At the same time, subject to the stipulations set out below, ETUC is in favour of focussing the implementation of priority themes on three key concepts: convergence, regional competitiveness and employment, and European territorial cooperation.

2.1.1. CONVERGENCE

ETUC believes that the least-developed regions of the enlarged Union, those which are lagging behind the Community average, must remain the priority, as is the case in the Commission's proposal. ETUC also maintains that this objective will primarily concern the regions with a per capita GDP below 75% of the Community average.

Furthermore, ETUC supports the proposal to grant temporary assistance to regions with a per capita GDP below 75% of the average calculated for the EU-15 (referred to as the "statistical effect" of enlargement) and which did not become rich "suddenly". In the same way, temporary, transitional assistance should be granted to the countries receiving resources from the Cohesion Fund and which will also be affected by the "statistical effect" of enlargement.

However, ETUC reiterates its concern to avoid a two-speed cohesion policy, even if we recognise that certain priorities can differ according to whether they involve the most disadvantaged regions of the EU-15 or those of the new Member States.

Whereas the development of infrastructure has made progress in the EU-15, this has not been the case in the new Member States. Even

as we avoid the risk of fragmentation of support measures, a balance must be found between investments in infrastructure and investments in favour of human capital. At the same time the projects concerning infrastructures must integrate the objective “employment” and be linked with a human resources policy including a capacity of anticipation.

2.1.2. REGIONAL COMPETITIVENESS AND EMPLOYMENT: ANTICIPATING AND PROMOTING CHANGES

It is clear that the persistence of structural problems, unexpected shocks, processes of industrial restructuring or economic diversification, and company mergers in several regions of the EU all necessitate the continued provision of support to these areas.

ETUC believes that in the current programming, Objective 2 can indeed present difficulties at the implementation level. It is highly complex, not flexible enough, and only limited - and sometimes somewhat unreliable - statistical data are available.

Since the present objectives 2 and 3 are merged under the new key concept “regional competitiveness and employment”, the social dimension of regional development must be clearly defined. In a similar vein, it is highly important that the Member States actually ensure a link with the National Action Plans for Employment and the National Action Plans for Inclusion.

ETUC welcomes the dual approach proposed by the Commission provided that the two parts are really implemented in all the Member States. Firstly, that regional development programmes should help the regions anticipate and promote economic change by strengthening their competitiveness and attractiveness; and secondly, that programmes defined at the suitable territorial level should help people to prepare for and adapt to economic change.

However, where regions' eligibility is concerned, whilst it is true that the Member States, in close cooperation with the regions, are in the best position to identify the areas in greatest need of assistance, we feel it is important to reiterate that the Structural Funds are the Community policy whose application is based on a number of

common objectives and principles, and that this arrangement is designed to prevent any potential drift by this policy towards renationalisation. Bearing this in mind, it is vital on the one hand to define objective criteria of eligibility and on the other hand to guarantee linkage and an optimal balance between the three levels (European, national and regional) concerned.

2.1.3. EUROPEAN TERRITORIAL COOPERATION

ETUC approves the fact that, on the strength of the experience gained with the current INTERREG initiative, the Commission is proposing to create a new Objective with a view to continuing the balanced, harmonious integration of the Union's territory by supporting cooperation between its various components on issues of Community importance at the cross-border, transnational and inter-regional levels.

Cooperation and support measures at these three levels indeed need to be strengthened. The unions' positive experience associated with the actions conducted by the 41 Interregional Trade Union Councils (ITUCs), including in the border regions with the new Member States, demonstrates that this is the path to follow.

Furthermore, since enlargement the EU's external borders have shifted, likewise pushing structural problems towards these new regions. Consequently, ETUC believes that particular attention needs to be paid to these regions by optimizing the use of the New Neighbourhood Instrument, without reducing the efforts in favour of the border regions inside the E.U.

2.2 TAKING ACCOUNT OF SPECIFIC TERRITORIAL CHARACTERISTICS

ETUC believes that the outermost regions and sparsely populated peripheral regions that risk becoming deserted, merit particular attention on the part of the EU, consisting of promoting both their attractiveness and their competitiveness.

Along these lines, ETUC welcomes the Commission's proposal for a specific allocation designed to offset the particular constraints

experienced by the outermost regions as part of the 'Convergence' Objective.

By the same token, just as the Commission proposes, it is important that any allocation of resources for the "regional competitiveness and employment" Objective take account of the specific problems of accessibility and distance from major markets faced by many islands, mountain regions and sparsely populated areas.

In any case the criteria of eligibility must be clearly defined.

2.3 SIMPLIFICATION: "A STRONGER DELIVERY SYSTEM"

ETUC supports the strategic approach proposed by the Commission, and more particularly the establishment of an annual strategic dialogue with the European institutions to examine the progress as regards strategic priorities and obtained results. To be able to provide its contribution, ETUC believes the European social partners should be consulted on the overall strategic document for cohesion policy. By the same token, at national level, the social partners should be actually consulted on the National Strategic Reference Framework worked out by the Member States.

The fact is that much of the reform involves simplifying the delivery system.

First of all, ETUC welcomes the Commission's proposal to maintain the basic principles of the Community's structural policy after 2006, namely concentration, programming, additionality and partnership.

ETUC also feels that the procedures and programmes need to be further simplified and rationalised, though care should be taken to ensure that this does not impair the quality of support measures.

Similarly, ETUC can support the Commission's proposal aimed at greater decentralisation by delegating more responsibilities to the Member States and regions, whilst maintaining financial rigour, provided that the Commission guarantees consistency with European policies and objectives and linkage between the European, national

and regional levels in order to avoid any risk of disparities between and within the Member States.

Finally if the proposed system of “single Fund” may simplify the delivery system, it is necessary to ensure a comprehensive view and parallelisms between the Funds, namely in order to avoid any double use of the Funds. Moreover the efforts towards an integrated implementation of the Funds must continue.

2.4. COMMUNITY INITIATIVES

Past experience shows us that Community Initiatives play a vital role in shoring up Europe's identity, in possibilities for experimentation and in the development of partnership. In addition to this, ETUC deems the aspects related to the transnational and innovative character of these initiatives to be equally important.

Consequently, whilst emphasising the importance of the Commission's proposals aimed at ensuring equal opportunities and transnational cooperation, ETUC wishes to see the Community Initiative EQUAL maintained or explicitly included under the new Objective 2, given the positive results achieved in terms of promoting equal opportunities for everyone on a labour market that is undergoing radical change and in attempts to combat all forms of discrimination.

2.5. THE PRINCIPLE OF PARTNERSHIP

ETUC is convinced that the partnership principle is a fundamental principle in guaranteeing the successful operation of structural fund measures. High-quality partnerships should be pursued, involving the social partners in every phase of the funds' interventions.

Along these lines, ETUC would like to see the future structural funds rules set out the partnership principle clearly, rather than relying on national rules and practices, as the Commission has once again proposed.

As regards the composition of the Monitoring Committee, ETUC welcomes the Commission's proposal that the social partners be included.

Similarly, with regard to the European Social Fund, ETUC supports the Commission's proposal that under the 'Convergence' Objective, at least 2% of the ESF's resources be allocated both to developing capacity to activities undertaken jointly by the social partners. At the same time, ETUC insists that a clear reference be made to the social dialogue in accordance with the Commission Communication "Partnership for change in an enlarged Europe - Enhancing the contribution of European social dialogue" (COM(2004)557³).

However, ETUC regrets the fact that in the Commission's proposal, the European Social Fund is the only fund that depends on active participation by the social partners within its European Committee. ETUC feels that such participation constitutes important added value. Consequently, it is essential that the same type of participation be provided where the other structural funds are concerned at European and national levels.

In a similar vein, ETUC feels that in future the annual meetings between the European Commission and the social partners must entail genuine consultation and insists that other forums of debate with the Member States and the Commission be set up.

The social partners must have access to technical assistance to strengthen their capacities, more particularly in the new Member States, in order to enable them to participate more easily in the management and implementation of the projects financed by the Structural Funds.

3. FINANCIAL RESOURCES

It is a fact that the current level of investment of the Union's budget resources is relatively modest compared with the positive results obtained, notably as regards the level of improvement of the situation of the less fortunate regions and the start of genuine convergence.

³ http://europa.eu.int/eur-lex/en/com/cnc/2004/com2004_0557en01.pdf

Furthermore, bearing in mind the Member States' ambitions for the EU, compared with the objectives of enlargement and the Lisbon and Göteborg Strategies, the level of resources cannot be maintained at the present level.

Consequently, ETUC feels that if success is to be guaranteed, the efforts being made to stimulate the growth, employment, competitiveness and sustainable development of less developed regions must be stepped up.

In the light of the limit proposed by the Commission (1.24%) in the financial perspective for the 2007-2013 period, ETUC feels that the 0.41% allocated to cohesion policy is inadequate if the EU is to attain the ambitious goals proposed in the ongoing pursuit of European construction.

The Executive Committee of the ETUC,

- taking note of the recent proposals from the European Commission for revision of the Working Time Directive,
- agreeing that these proposals, if adopted, would seriously undermine fundamental rights, collective bargaining, and working time protection all over Europe,
- taking into account the enormous pressure from many Member States for speedy adoption of these proposals, and therefore the urgency of taking action,

has adopted the following plan for immediate action at its meeting in Brussels on 13-14 October 2004 :

The ETUC, at the European level:

- 1) will step up its activities towards the Council of Ministers and its working group, preparing the position of the Council to be adopted in December
- 2) will increase contacts with all political groups in the European Parliament, and closely work together with all relevant MEP's, to influence the parliamentary process and its outcomes as much as possible
- 3) will continue to work together with European industry federations and national affiliates via the informal taskforce on working time, providing a platform (via internet and regular meetings in Brussels) for exchange of information and strategic debate, within the framework of overall responsibility of the Social Policy and Legislation working group, whose next meeting is taking place on 16 November 2004
- 4) will establish contacts with all relevant NGO's and other

possible allies, with a view to mobilize support for ETUC views, and to put pressure on all European institutions

5) will explore innovative ways and actions to get public attention and support for ETUC views on modern working time policies, that provide workers with healthy and safe working time patterns, allow for a good work-life balance, and combine flexibility with security

6) will seek legal expertise to underpin the ETUC opinion, that the Commission is violating fundamental rights and obligations under the EU-Treaties, with a view to take some form of legal action.

The affiliates, at the national and/or sectoral level:

1) will take up the issue with their governments, to influence their position in the Council

2) will lobby their national MEP's from all major political groups in the EP

3) will provide the ETUC with all necessary information and material about the legal and collective bargaining situation in their country/sector with regard to working time, preferably via a contact person (minimum one per country), as requested in June '04

Action will be taken by all above mentioned actors on the basis of the political message and 4 key-points, as explained in the Annex.

ANNEX 1

POLITICAL MESSAGE

One year ago there were three obligations for the Commission, on the basis of the Working Time Directive:

- to evaluate the use of the individual opt-out with a view to its deletion

- to evaluate the derogation of the reference period from 4 months to 12 on the basis of collective bargaining, with a view to its further restriction

- to ensure implementation of the ECJ-judgements about on-call work.

Instead of coming up with balanced proposals to improve the Working Time Directive, the European Commission has come up with proposals that

- are all together totally out of proportion,
- are in clear contradiction to Community obligations and legislation (notably the obligations under the EU-Treaty to harmonize upwards, and to promote dialogue between management and labour),
- and if adopted would turn the Working Time Directive into a façade without any real content,
- while overall threatening the coming about of modern working time arrangements on the basis of collective bargaining.

Therefore the proposals on the table have to be rejected / withdrawn.

The only acceptable way forward is:

- a) keeping in place the existing provisions on reference periods
- b) phasing out of the individual opt out
- c) providing for balanced and proportional solutions for 'on-call work' (meaning being available in the workplace, ready to start work when called upon), that are consistent with Community law
- d) provide for genuine measures to reconcile work and family life

EXPLANATION OF KEY POINTS

1) Reference periods

Current provision: reference period for counting the 'average' maximum working week of 48 hours of 4 months, extension possible by collective bargaining.

Commission proposal:

- reference period stays four months
- however, MS's are free to extend the reference period to 12 months;

the only condition is, that they 'consult the interested social partners', and should promote social dialogue

Unacceptable because :

deletion of safeguard of collective bargaining, is unacceptable and may lead to working time patterns with very long working hours per week on a regular basis (up to 85!), and also to a very irregular and unpredictable working time pattern, which may make it very hard for workers to manage their working and private lives.

2) On-call work

Current situation: ECJ-judgments have defined on-call duty (of doctors in hospitals) as working time

Commission proposal:

- working time definition itself stays unchanged
- however, in addition a definition of on-call working time is introduced, and also a definition of 'inactive part of on-call time';
- only the 'active' part of on-call duty is working time in the sense of the Directive, unless Member States or collective agreements regulate otherwise
- compensatory rest does not have to be given immediately, but within a reasonable time not exceeding 72 hours

Unacceptable because:

The proposal is in clear contradiction with the fundamental objectives of the Directive and with other existing Community legislation, and has disproportionate effects.

There is a real danger that the introduction of a definition of the 'inactive part of working time' will have a disastrous effect on working time arrangements in many more sectors and jobs than only health-care.

3) Individual opt-out

Current situation: opting out of 'average 48 hour working week' is possible on basis of individual agreement with employee

PART ONE: ON THE POSSIBILITY FOR MEMBER STATES TO OPT OUT

Commission proposal:

- MS's can decide not to apply the maximum 48 hours working week only if this is explicitly allowed for by the collective agreement or the agreement by the social partners at the national, regional or

'adequate' level (nb: the consent of the individual worker is also then still needed)

- however, this condition does not apply if there is no collective agreement in force (lorsque aucune convention collective n' est en vigueur), and if there is also not a worker representation in the enterprise that is empowered to conclude an agreement between the social partners in this area, in accordance with national law and practice

Unacceptable because:

The proposal, instead of restricting the use of the opt-out, keeps the individual opt-out in place, and may lead to an increase in various forms of opting-out of maximum working time regulations, and will lead to increased pressure on trade unions at the negotiating table to accept individual opt-outs within the framework

of a collective agreement, because the employer may threaten not to agree on the collective agreement, or even not to recognize the trade union at all.....!

PART TWO: ON THE CONDITIONS FOR THE INDIVIDUAL OPT OUT

Commission proposal:

(new parts, as compared with existing text of Directive, in italic)

- prior consent by the individual worker
- agreement shall only be valid for one year
- agreement is renewable every year
- agreement, when made at time of signature of individual employment contract or during any probation period is null and void
- no victimisation
- absolute limit of 65 hours per working week, unless collective agreement provides otherwise
- employer should keep up records, and present these at their request to the competent authorities, of all workers who carry out such work, and of the numbers of hours actually worked.

Acceptable, but...

- These proposals could be welcomed as short term measures within the framework of a longer term perspective to phase-out the opt-out, as the European Parliament has asked for. Putting an end to several of the most pressing abuses in the UK has already

been the duty of the Commission for years.

- However, the proposal to introduce an absolute limit of 65 hours, but at the same time still provide for derogation by collective bargaining, is an ambiguous one. It introduces a notion of acceptability of a 65-hour working week (on a regular basis, because otherwise one would not need an opt-out!), and at the same time provides for a possibility to go even beyond that maximum on the basis of collective bargaining! This proposal should therefore be rejected.

4) **Work-life balance**

Current situation: no provisions in Working Time Directive that take account of the link between health and safety workers and (lack of) work-life balance.

Commission proposal:

- regards all its proposals and especially the ones about the opt-out as allowing for a better compatibility between work and family life
- states that reconciliation of work and family life is an essential element to allow the Union to reach the Lisbon objectives
- but refers the issue further to the Member States, stating that it is for Member States to encourage social partners to conclude agreements to ensure better compatibility between work and family life.

Unacceptable, because:

All proposals for revision lead to longer working hours, and less favourable conditions for working parents to combine work with family life and caring tasks. To present the proposals on the opt-out as providing for better compatibility is an insult to the workers of Europe. The texts as presented do not take the needs of workers and their families seriously at all!

Because of the major imbalance of the proposals, that will give trade unions many negotiating disadvantages, the chances for agreements between the social partners on the national or sectoral level that ensure better compatibility are null.

ANNEX 2

ADDITIONAL COMMENTS

(Proposals of the Commission: see annex 1)

1) on reference periods

for counting the ‘average’ maximum working week of 48 hours:

Problem as identified by the Commission:

- no problem (!)
- evaluation has shown that some employers and Member States want ‘more room for flexibility’.

Commission proposal: see annex 1

Comments ETUC:

- there is no research presented, nor a business case proven, for extending the reference period to 12 months and deleting the safeguard of collective bargaining as a precondition;
- there is loads of good practice everywhere in Europe about ‘annualized hours’ on the basis of collective bargaining (EIRO-studies) that could proof this case
- without additional safeguards, a reference period of longer than 4 months can lead to very long working weeks on a regular basis, that are totally unacceptable from a health and safety perspective (and a work-life balance perspective!)
- proposal runs counter to obligation for European Commission under the EU-Treaty to promote collective bargaining

2) on on-call work

Problem as identified by the Commission:

implementation of ECJ-judgements in SIMAP and Jaeger cases, in which the Court

- a) defined ‘on call working time’ (when the worker has to be available in the workplace) as working time for the counting of the 48 hour maximum working week
- b) decided that compensatory rest has to follow immediately on the extended period of work (day shift, followed by an on-call night shift).

Commission proposals: see annex 1

Comments ETUC:

■ the proposal would create contradictions between 2 Community instruments:

in the Directive on working time of persons performing mobile road transport activities (2002/15/EC), on-call working time (defined as ‘time during which the worker cannot dispose freely of his time, and is required to be at his workstation, ready to take up normal work) is defined as working time

■ the proposal is in clear contradiction to the fundamental objectives of the Directive: in its decisions the ECJ has explicitly stated that its interpretation of on-call work is the only interpretation which accords with the objective of the Working Time Directive, which is to secure effective protection of the safety and health of employees by allowing them to enjoy minimum periods of rest

■ the introduction of a general reversal of the definition (on-call working time is not working time, unless regulated otherwise by Member States or social partners) creates a negotiating-disadvantage for trade unions in collective bargaining, and threatens the continuation of existing agreements on the sectoral and enterprise level in a wide range of sectors, other than healthcare

■ the proposal is not based on reliable and convincing material from Member States that the ECJ-judgements cannot be implemented without causing major and unsurmountable problems. Even in Germany, a recent study by the German Hospital Institute, welcomed by the German Federal Minister of Health, has shown “that the introduction of flexible working hours, in conformity with

ECJ requirements, for hospital doctors is feasible. It can be achieved by optimizing working time and work process organization in most hospitals – contrary to all the calculations that have been presented – with the available financial and human resources” !!

■ the proposal goes far beyond what can be considered a ‘proportional’ measure: if an impact assessment in the most relevant Member States (asked for by the EP but still lacking.....) would show the need for adaptations of the legal framework, the scope of such adaptations should be limited to and be in proportionality to the problems as identified, for instance allowing for a specific derogation for specific situations or branches of activity, under certain conditions, preferably on the basis of agreements between the social partners at the European, national or sectoral level

■ the flexibilization of ‘equivalent compensatory rest’ without any further conditions seriously undermines the health and safety of workers, and does not promote the coming about, by way of negotiations, of adequate alternative schemes for dealing with the scheduling of on-call working time and compensatory rest (such as time-saving accounts etc.)

3) on the individual opt-out

Problems as identified by the Commission:

- serious problems with implementation in the UK, including abuses
- increasing recourse of other Member States to the use of the opt-out, to solve potential problems with the implementation of the ECJ-judgements on on-call work.

Proposals of the Commission: see annex 1

Comments ETUC:

On the relationship between the opt-out and collective bargaining:

■ the proposal, on first view, seems to restrict the use of the opt-out. However, on closer examination, it **does not at all lead to a restriction, and may even lead to an increase in various forms of opting-out of maximum working time regulations !**

Although written in a form that suggests restriction, what in fact is created is a very strange and contradictory dynamic: while on the one hand stating that the individual opt-out can ‘only’ be applied when allowed for by collective agreement, this seemingly restrictive clause is immediately nullified by the provision that the individual opt-out can still be applied when there is not a collective agreement ‘en vigueur’, and when there does not exist within the enterprise a worker representation that ‘can’ conclude an agreement about this issue with the employer.

■ So, first of all, the individual opt-out would continue to exist in the area of non-coverage of collective bargaining, just as the situation is at this moment. But in addition, the proposal would introduce the possibility of allowing for opt-outs by collective agreement, in a way which will lead to increased pressure on trade unions at the negotiating table to accept individual opt-outs within the framework of a collective agreement, because otherwise the employer will not agree on the collective agreement, or will not recognize the trade union that wants to negotiate at all!

■ the ETUC in general is in favour of providing for flexibility in the **application** of working time regulations by collective bargaining. However, offering the social partners the option to allow for opt outs by collective agreement, is not something the ETUC is waiting for!

Also the social partners in their role as collective bargaining partners will have to respect the fundamental right enshrined in European law, that each and every worker has a right to limitation of his working hours.

■ the ETUC is very concerned, that this option would even threaten existing good practice with regard to collective bargaining on flexible working time patterns and annualised working hours, because it could be seen by employers and their

organisations as an easy way out of working time limitations.

On the tightened conditions of use for the individual opt-out:

■ These proposals could in general be welcomed as short term measures within the framework of a longer term perspective to phase-out the opt-out, as the European Parliament has asked for. Putting an end to several of the most pressing abuses in the UK has already been the duty of the Commission for years.

■ However, it is not very realistic to expect real improvements in the level of protection of workers against abuses by for instance separating the moment of consent from the moment of the signature of an employment contract, or an obligation to review regularly the individual consent given by the employee. Also under these conditions, it would be very easy to make renewal of a fixed term contract, or a next step in one's career, dependent on agreeing to the opt-out. Moreover, if the previous very limited conditions were already not implemented and enforced properly in the only Member State that made extensive use of it, why would one expect any better performance with regard to additional conditions?

The proposal to on the one hand introduce an absolute limit of 65 hours, but at the same time still provide for derogation by collective bargaining however is an ambiguous one, introducing a notion of acceptability of a 65-hour working week (on a regular basis, because otherwise one would not need an opt-out!), and at the same time providing for a possibility to go even beyond that maximum on the basis of collective bargaining, which is not to be seen as a positive development.

STRENGTHENING ECONOMIC GOVERNANCE AND CLARIFYING THE IMPLEMENTATION OF THE STABILITY AND GROWTH PACT

Executive Committee, 13-14 October 2004

THE CURRENT DEBATE

1. While recognising the need to coordinate fiscal policy within European Monetary Union (EMU) and prevent unsustainable fiscal policies, the ETUC has been consistently critical of the Stability and Growth Pact (SGP), established in 1997 with the aim of ensuring fiscal discipline under the specific conditions of monetary union¹. ETUC has taken the view – an opinion increasingly accepted in both policy-making and academic circles – that the Pact, whatever its contribution to deficit reduction, lacks a convincing economic rationale and has unnecessarily constrained the economic growth of the European economy. Consequently it is a barrier to the achievement of the Lisbon Strategy and especially the employment targets. In response to criticism, changes were made at the end of 2002 to the implementation of the Pact², notably to focus more on cyclically adjusted, rather than current budget deficits.

2. As the economic downturn at the start of the new millennium continued, more and more countries exceeded the 3% deficit threshold. In the light of the economic situation, attempts by the Commission to enforce the excessive deficit procedure were rejected by the Council. In December 2003 the political conflicts resulting from

¹ Most recently in the Resolution on the Lisbon Strategy, Executive Committee, 4-5 December 2003.

² Strengthening the co-ordination of budgetary policies, COM(2002) 668 final.

the inappropriate fiscal rules of the Pact and the failure to ensure adequate economic growth in line with the potential of the European economy finally resulted in the de facto suspension of the SGP.

3. In response to this crisis (and specifically to a call from the June European Council), in September 2004 the Commission issued a Communication³ setting out a number of proposals for reforms of the Pact's implementation. These were discussed at the following EcFin Council meeting, without any concrete policy initiatives being taken. The public debate on these proposals and on the reform of the SGP more generally, is intensifying. The Commission proposals have been heavily criticised by the ECB and by some commentators, claiming that they will remove the needed discipline on national fiscal policy within EMU. It is timely for the ETUC to clearly state its position.

THE LATEST COMMISSION COMMUNICATION – A STEP IN THE RIGHT DIRECTION

4. The Commission Communication calls for measures to 'refocus' the SGP in the following areas:

- Giving more weight to government debt and sustainability in monitoring budgetary positions.
- Greater allowance for 'country-specific circumstances' in defining the medium-term objective of close-to balance or in surplus.
- Greater allowance for 'country-specific circumstances' implementing the excessive deficit procedure (EDP).
- Clearer focus on budgetary developments in 'good times'.
- Improved coordination between the SGP, the Broad Economic Policy Guidelines (BEPGs) and national budget processes.
- Better enforcement using direct 'early warnings' by the Commission, improving fiscal statistics and increasing peer pressure, improving the link to national budgetary timetables

³ Strengthening economic governance and clarifying the implementation of the Stability and Growth Pact, COM(2004) 581 final, 3.9.2004.

5. The Commission has not specified these recommendations in great detail. A number of important indications are given, however. ‘Periods of sluggish growth’ are explicitly mentioned as constituting an ‘exceptional circumstance’ justifying temporarily exceeding the 3% limit. ‘Economic conditions and debt levels’ should be used to determine how quickly a deficit over 3% should be corrected, bearing in mind the ‘reasons behind the excessive deficits’. Factors mentioned in evaluating the medium-term requirement for each country include ‘potential economic growth, inflation, liabilities relating to ageing populations, the impact of structural reforms or the need for net investment’. Importantly, the Communication makes repeated reference to the need to prepare for ageing societies. These points are taken up below.

ETUC POSITIONS AND REFORM PERSPECTIVES

6. In an immediate press release the ETUC gave a cautious welcome to the proposals as marking long-overdue recognition that the Pact has become unworkable and is in urgent need of reform. The reforms proposed which remain somewhat vague and need to be developed and concretised, address some of the most important shortcomings of the Pact. By improving the economic rationale behind the coordination of fiscal policy, reforms enacted on the basis of this Communication can indeed, as the Commission argues, improve Member State ‘ownership’ of the Pact and thus improve the coordination of national fiscal policy. Under such circumstances, Commission ‘early warnings’ will carry greater weight. The ETUC rejects the argument, raised notably by the ECB, that such reforms merely dilute the rules and thus pose a danger to responsible fiscal policies in Europe. On the contrary, a more flexible and economically rational application of the principles can only enhance the credibility of the macro-economic framework, producing better outcomes in terms of both growth and stability. Coupled with the ideas for improving the link with domestic policy-making put forward by the Commission – which would also need to be developed – there is a real opportunity for improved and more effective policy coordination.

7. The Commission’s call for a symmetrical fiscal policy that also addresses spending and taxation policies in good times is in accor-

dance with long-standing ETUC demands and is to be welcomed. The ETUC December 2003 resolution called for measures to ensure that the SGP ‘bites’ with effective sanctions when there is an economic upturn.

8. The ETUC also welcomes the greater attention paid to longer-run fiscal sustainability, especially regarding government debt. Government debt levels vary considerably between the EMU member countries (and are, for example, generally much lower among the New Member States, where the need for investment is also even greater). The ETUC cautions, though, that if pension liabilities are incorporated into the analysis of government debt, a much more sophisticated analysis is required than is commonly proposed. Precisely with a view to ageing societies, individuals and pension funds want to hold secure assets like government debt. Yet the application of the SGP will constrain, and ultimately dry up completely, the supply of government debt. More fundamentally, societies as a whole cannot ‘save for retirement’ by cutting debt levels in the present. The best contribution that fiscal policy can make to addressing the demographic challenges facing our societies is to promote investment, economic growth, and employment, directly addressing the problems posed by high dependency ratios. Cutting public spending in these areas – childcare provision is a case in point – is not merely an inappropriate solution; it will seriously exacerbate the demographic problem.

9. As the Commission has now explicitly recognised, any policy recommendations under the SGP must be based on sound economic reasoning and full recognition of broader fiscal and economic circumstances in the country in question. In operationalising the country-specific circumstances, on which the Commission has given some broad indication, a number of points need to be borne in mind. The mention of ‘net investment’ needs to be developed into practical proposals based on the fundamental insight that it is not rational to finance public investment – which generates returns for future generations – out of current taxation. Europe needs to invest more in its human and physical capital: government spending in these areas should be treated differently from consumption-oriented spending. Countries in which debt levels are sustainable should be allowed to follow a ‘golden rule’, effectively excluding investment spending from the deficit. The Pact must be formulated in such a way that coordi-

nated packages of public investment – such as the Growth Initiative recently proposed by the Commission, or the ETUC’s call for a public investment programme in education, research, innovation and social services representing 1% of GDP (December 2003 resolution) – are feasible.

10. Similarly, the mention of ‘inflation’ by the Commission needs to be developed to take account of the fact that those countries in the EDP have tended to also be low-inflation countries where the principal rationale of the SGP – to prevent the externalisation of the costs of expansionary policies in the form of higher inflation, and thus interest rates – simply does not apply. At the same time the higher real interest rate resulting from the lower inflation rate places an additional burden on the growth dynamic in the low-inflation countries. Consequently, a low inflation rate is an important indicator that fiscal policy is not excessively expansionary and that the country in question should not be forced to tighten policy pro-cyclically.

11. Alongside the need for further concretisation of the proposals made by the Commission, the ETUC emphasises that they also leave a number of serious concerns unaddressed. A fully functioning fiscal coordination system in the EMU, as part of an economic governance system that maximises sustainable growth and employment and thus contributes fully to attaining the goals of the European Union will also need consideration of, and reforms in, the following areas in particular:

- There is inadequate recognition of the role of private-sector savings in the assessment of fiscal policy. The Pact focuses solely on public debt and ignores the savings or indebtedness of the private sector. High savings countries, such as Germany, not only can afford a larger budget deficit, they are obliged to run one (or to expand their export surplus) in order to bring overall savings and investment into balance. Overall such countries exert a downward pressure on the common interest rate. Conversely, during the 1990s the USA brought down its fiscal deficits, but at the same time private-sector debt exploded. The problem of sectoral balances - the need for a balance between savings and investment in the private, public and foreign sector in any economy - is a key issue that is ignored not only by the Pact itself, but also by most of the contributions to the debate on its reform.

■ The role played by fiscal policy in adjusting national competitiveness within a currency area is a key issue that must be addressed if the EMU is to function smoothly. National fiscal policies, ideally in close cooperation with wage and productivity strategies, need to be given appropriate scope to bring about the necessary adjustments while ruling out beggar-thy-neighbour strategies of real currency depreciation.

■ The impact of a fiscal deficit on other countries in a monetary union – its ‘external effects’ – are not just negative, via higher interest rates, as the construction of the SGP implies; there are also positive effects through the boost that fiscal expansion give to the exports of other countries. Similarly, fiscal tightening in one country also has negative demand effects, constraining the scope for economic growth in other countries.

■ These points also need to be seen in the context of the overall EMU fiscal deficit (which is currently substantially below 3%).

12. The concerns in Para. 11 will need to be addressed in a medium-term perspective. For now the ETUC calls for a broad public debate, to which all the relevant political actors should contribute, on the recent reform proposals of the Commission. The aim of such a debate must be to further concretise the reform proposals so that they can be implemented as soon as possible. The ETUC firmly believes that they mark a step forward and the European trade union movement stands ready to contribute to the on-going debate. In cooperation with the European Trade Union Institute a more detailed set of proposals will be presented in due course.

1. FOREWORD

The Council¹ of Europe admitted Turkey as a full member in August 1949, just a few months after the signature of the Treaty of London.

In 1951, Turkey joined the North Atlantic Treaty Organisation (NATO) and became one of the cornerstones of the Euro-Atlantic defence system. Turkey also joined the Organisation for European Economic Cooperation (the OEEC, later to become the OECD), the Conference on Security and Cooperation in Europe (later to become the OSCE) and the European Bank for Reconstruction and Development (EBRD). Today, Turkey is a fully-fledged member of all leading European institutions except the European Union.

In 1959, Turkey applied for associate member status of the European Economic Community (EEC), but a military coup in 1960 meant that the Ankara Association Agreement ended up only being signed in 1963.

Article 28 of this agreement contains a carefully worded reference to future membership: "As soon as the operation of this Agreement has advanced far enough to justify envisaging full acceptance by Turkey of the obligations arising out of the Treaty establishing the Community, the Contracting Parties shall examine the possibility of the accession of Turkey to the Community."

The main emphasis of the agreement lay in the gradual implementation of a customs union which, in accordance with the points contained in the additional protocol of 1970, would be finalised at the end of a 22-year period. An Association Council² would be respon-

¹ The Council of Europe is the oldest intergovernmental organisation in Europe. Its aims are to protect human rights, shore up pluralist democracy, underpin the rule of law, promote Europe's diverse cultural identity and find solutions to major social problems (re minorities, xenophobia, intolerance, protection of the environment, drugs, organised crime etc.).

² As set down in the Ankara Agreement of 1963, the Association Council comprises representatives from Turkey, the EU Member States, the Council of Ministers and the European Commission.

sible for regularly analysing the progress made in implementing the Ankara agreement. After several postponements, the Customs Union finally entered into force in 1996.

Meanwhile, on 14 April 1987, Turkey applied for membership of the European Community (EC). The European Commission only issued its opinion on this in December 1989. That opinion, approved by the European Council two months later, set out the reasons why the Commission did not consider it appropriate to launch immediate negotiations with Turkey. The two main reasons given were:

- The Community was undergoing major changes following the adoption of the Single European Act, and it would have been inappropriate at that stage to launch a new round of membership talks;
- Turkey's economic and political situation, in particular "the negative consequences of the dispute between Turkey and one Member State of the Community, and also the situation in Cyprus", meant that the time was not right for such a development.

On that occasion, the Commission recommended a series of measures to assist Turkey, "without casting doubt on its eligibility for membership of the Community".

Over the ensuing decade, Turkey's eligibility was confirmed on numerous occasions by the European Council, the General Affairs Council and the Association Council.

At the same time, it was repeatedly stressed that Turkey's economic and political problems, especially regarding human rights, constituted hurdles to the opening of negotiations. In particular this was stated at the European Council summit in Luxembourg, which saw the launch of the accession process for the countries of Central and Eastern Europe and Cyprus, but from which Turkey was excluded.

Nonetheless, the European Council held in Helsinki on 10 and 11 December 1999 was to conclude: "Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States."

The upshot of this was the establishment of an Accession Partnership, the drafting of regular annual reports by the Commission on the progress made by Turkey, and a preliminary procedure for examining the *acquis communautaire* in a bid to encourage and support Turkey's reform efforts.

In December 2002, the Copenhagen European Council acknowl-

edged the considerable progress made by Turkey towards meeting the accession criteria, but noted that a great deal remained to be done, especially with regard to the implementation of reforms.

The European Council resolved to examine in December 2004 whether Turkey met the political criteria set in Copenhagen and, if so, to launch accession negotiations. To help Turkey down the path to membership, the Partnership received financial assistance in the form of 'pre-accession aid'. On that occasion, the customs union between the European Union and Turkey was expanded and consolidated.

Since the start of 2003, the Turkish government has considerably accelerated and intensified its efforts at reform, thereby demonstrating its determination to meet the conditions laid down by the European Council.

The Commission submitted its report in favour of Turkey's accession to the European Union on 6 October 2004. In December 2004, the Council should confirm the Commission's proposals and set out a timetable for negotiations with Turkey.

2. RESOLUTION

1. ETUC's Executive Committee confirms the terms of its Resolution dated 16 December 1997, underlining Turkey's place in the European economic and political space and its European vocation.

Since 1985, ETUC has numbered Turkish trade unions among its members and has always supported its affiliates in the fight for democracy and trade union rights. It will step up its efforts and cooperation with the aim of guaranteeing trade union rights and the rights of Turkish workers in the private and public sectors.

2. ETUC's Executive Committee reiterates its approval of Article I-1 of the draft Constitutional Treaty: "The Union shall be open to all European States which respect its values and are committed to promoting them together". These values are set out in Article I-2: "respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights".

3. ETUC's Executive Committee emphasises that the inclusion of the Charter of Fundamental Rights in Part II of the draft Constitutional Treaty serves as a reference and a basis for respecting social rights in the EU Member States and the candidate countries.

4. ETUC's Executive Committee recognises that Turkey and its governments have made great efforts. It regards Turkey as a devel-

oping democracy that has made considerable progress since December 2002 towards meeting the political criteria laid down in Copenhagen.

The Executive Committee recognises that tangible progress has been made with respect to the role of the army in political life and the treatment of minorities, amongst other things.

5. ETUC's Executive Committee points out that the opening of negotiations after the Council of December 2004 should consolidate the efforts already being made to make further headway by guaranteeing full respect for human rights, and particularly the rights of minorities.

The Committee also stresses that regional development aid supported by the European Union would enable the peoples in question to take part in the social development of their region.

6. In accordance with Part II of the draft Constitutional Treaty, the Turkish government should use the period of accession negotiations to ensure full compliance with the *acquis communautaire* and more particularly to bring its social legislation into line with ILO Conventions 87 and 98 by recognising the role of the social partners, their ability to negotiate, their independence, the main rights of trade unions and associated fundamental freedoms and to accept the Articles 5 and 6 of the European Social Charter.

7. The duration of the negotiations and their outcome will depend on the progress made, which should not be limited to the economic domain alone. The successful end of these negotiations must go hand in hand with a furthering of the values and objectives mentioned in Parts I and II of the draft Constitutional Treaty.

8. While the efforts made by the Turkish government to meet the political criteria laid down at Copenhagen both reflect its genuine determination and have also proved effective, it is now vital that they be stepped up with regard to social rights, trade union rights and the laws governing associations.

The headway made on social policy issues remains insufficient, bearing in mind the Commission's Accession Partnership document, which highlights the following major areas for improvement:

- Labour law, public and private sector;

- gender equality;
- health and safety at work;
- the fight against discrimination;
- public health;
- developing the role of the social partners in social, cross-sectoral, sectoral and corporate dialogue;
- promoting employment.

9. Turkey's accession is one of the greatest challenges facing Europe in the years to come. It will confirm the ability of the European Union, based on its common values of peace, freedom, democracy, the primacy of law and respect for human rights, to extend its influence and draw strength from the diversity of its members and respect for the philosophical views and religious beliefs of all its citizens.

10. The strength of the European social model can only lie in its capacity to prove that there are alternative responses to the immense challenges facing our generation. ETUC reaffirms that nurturing a multi-ethnic, multicultural Europe is one way of responding to international terrorism, since the very nature of such a Union challenges the notion of a 'clash of civilisations'.

1. The new European Constitution is a clear improvement over the present Treaties which have established the European Union. It is less ambitious and effective than the ETUC proposed and also less than the European Convention put forward in its report. Nonetheless despite these reservations and weaknesses, the new Treaty is a move forward towards an improved European framework and, clearly while not the final step, deserves and requires the support of the ETUC.

BACKGROUND

2. Immediately after the agreement on the Treaty of Nice in December 2000, the European Parliament criticised that compromise and proposed the establishment of second Convention (the first had drafted the Charter of Fundamental Rights) to move European integration forward. One year later, in December 2001, the *European Council in Laeken* convened the European Convention on the future of Europe. The Heads of State and Government asked this second Convention to elaborate new rules for the unified Europe with the objective to increase democracy, transparency and efficiency within the enlarged European Union by simplifying the decision-making processes and structures, and by reorganising the existing treaties.

3. The (second) European Convention – with the active involvement of the ETUC - held discussions from February 2002 to June 2003 and prepared a Draft Treaty establishing a Constitution for Europe. A broad consensus was reached at the plenary session on 13 June 2003 and it was submitted to the European Council Meeting in Thessaloniki on 20th June 2003: Part I contains values, objectives, responsibilities, decision-making procedures, instruments and institutions; Part II the Charter of Fundamental Rights; Part III the policies and Part IV the methods for revision and mechanisms for leaving EU.

4. There was a failure to agree at the European Summit in December 2003 but on 18th June 2004, the Heads of Government and State came

finally to an agreement on the first European Constitution the European Union has ever had. The Constitution will enter into force when all Member States have ratified it. They have two years in which to complete this process.

5. This agreement is important given the new situation after the reunification of Europe as marked by the accession of the 10 new states to the EU in May 2004. As a result of the compromises of the Nice treaty in terms of helping member states organise blocking capacities, the European Union was under the permanent threat of paralysis. The danger of a transformation of the European Union into a free-trade zone, with few common rules, turning its back on closer integration and political, economic and social union, was very real. It was this that prompted the European Parliament and, a year later, the European Council to establish the Convention to draft the Constitution.

ASSESSING THE RESULTS

6. There are several ways to assess the new Constitution. Assessed against the background of the ETUC demands, it is clear that not all of these were fulfilled. Secondly it is possible to compare the final version with the draft of the European Convention. Again it is clear that regressions and restrictions were introduced and that the Intergovernmental Conference (IGC) stepped back. But thirdly when compared to the now valid EC/EU-Treaties in the “Nice Treaty”, the ETUC is convinced that the new Constitution is better and support is the only pragmatic and realistic approach for Trade Unions.

7. The ETUC welcomed the outcome of the European Convention. The Convention proposed the integration of the Charter of Fundamental Rights into the Constitution and also made progress on social issues. The Intergovernmental Conference however, did not follow and has delivered only a second best solution. This outcome shows the limits of the intergovernmental method compared to the more open, more democratic and transparent process of the European Convention.

8. The Executive Committee of 9-10th June 2004 reinforced pressure on the governments to move forward, and on the eve of the European Council, the ETUC issued a last appeal to the Heads of State and Government to make more progress on social issues. Small improve-

ments were made (e.g. a reference was included to the Tripartite Social Summit) but finally, the Heads of Government and State agreed to a lower common denominator than the Convention's document. A national veto in tax policy, even for the fight against cross-border fiscal fraud, was re-established.

9. The most innovative part of the new Constitution is Part I, which was under intense discussion for 18 months giving a new framework of action to the European Union after the unification of Europe. *Generally speaking*, a number of achievements were reached:

- Important objectives, principles and values (such as solidarity, equality, non-discrimination, equality between men and women etc.) will be reinforced;
- the blocking capacities will be reduced by abolishing the national veto in some areas;
- co-decision (between Council of Ministers and the Parliament on an equal basis) will become the ordinary legislative procedure;
- new powers will be given to the European Parliament over legislation and the annual EU budget (including agriculture);
- the EU acquires a single legal personality;
- the new President of the European Council will be elected for two and a half years making the role more visible and ensuring a bigger coordination role;
- 18 month team presidencies will replace the 6 month rotation presidency hopefully ensuring more coherence in activities;
- the post of a European Foreign Minister will be created so that the EU can speak with one voice and play a more visible role in world affairs;
- a new “double majority” voting system (States and population) will be introduced (the Convention proposed 50% of the Member States and 60% of the population, but the IGC increased the figures to 55 respectively 65 %, adding, unfortunately, a large number of complementary provisions, emergency brakes and exemptions partly compensated by the opportunity to establish enhanced cooperation among willing Member States);
- European symbols (such as the flag, the anthem Ode to Joy, the slogan “United in Diversity”, and the euro – which is more than a symbol) will be anchored;
- a simplified set of legal instruments: European Laws and European framework laws will replace directives and regulations; etc.

10. Compared to the Nice Treaty and *considered from a more specific social perspective*, the new European Constitution is a step forward:

- The new Constitution will recognise specifically the role of the Social Partners and of the Tripartite Social Summit;
- “*Social Market Economy*” and “*Full Employment*” will be anchored amongst the Union’s objectives (in the Nice Treaty the terms are “open market economy” and “high employment”) as well as the promotion of “social justice” and “solidarity between generations” and the combat against “social exclusion and discrimination”;
- *gender equality* will become a value of the Union;
- social policy will be expressly recognised as “shared competence” and not only “complementary” competence;
- the Constitution will incorporate the *Charter of fundamental rights (with important social rights)*, which thereby acquires legally binding force and is judiciable in the European Court of Justice; the Charter strengthens fundamental rights and makes them more visible including social and Trade Union rights;
- a horizontal policy provision on environment, consumer protection and gender mainstreaming and also a social clause will be part of the Constitution;
- a *legal base for Services of General Economic Interest* will be created;
- new possibilities of *economic coordination inside the Euro zone* including the possibility to implement common tax policies, for instance “green” taxes by qualified majority voting, will be incorporated;
- social security of migrant workers no longer requires unanimity;
- open coordination will be recognised as a tool for social and industrial policy; the Commission can propose guidelines particularly in matters relating to employment, labour law, working conditions, social security, industrial policy;
- the right of initiative for Citizens will be provided: if they manage to collect one million signatures in a significant number of Member States, they may ask the Commission to submit an appropriated proposal to the legislator on matters where citizens consider that a legal act is required.

11. It is clear that the ETUC and its affiliates did not achieve all our goals. But nevertheless, we achieved the maximum possible in the

given political, social and economic situation during the 18 months of the Convention and the 12 months of the IGC. Therefore the ETUC supports the Constitution – despite its limits - because the advantages the Constitution brings for working people and citizens are real and certainly an improvement over the present provisions. During the ratification process, the ETUC and its affiliates will continue to stress the importance of progress by reinforcing and modernising the European Social Model and by strengthening Social Europe. Rejection would have the effect of paralysis of the EU for an indeterminate period ahead and so play into the hands of the many opponents of the EU who would love to see it flounder into irrelevance. Globalisation, the power of multinational capital, and the need to combat neo-liberalism mean that trade unions and civil society need a developing EU with strong social values. The new Constitution is imperfect, some areas are weak, but it is the only one on the table and needs to be seen as a starting point of a long process, certainly not the end of the story. The ETUC and its affiliates will do its best to ensure that this first step is not the last and that Social Europe in particular can make strong progress in future.

12. In view of the next revision of the treaties, the ETUC is ready to take its place in a future (third) Convention and to submit concrete proposals to strengthen social Europe, transnational trade union rights, to improve the provision on economic co-ordination and governance, to introduce qualified majority voting in social policy and taxation, to align Part III with Part I in respect of the commitment to full employment, to the social market economy and the horizontal clause, and to update old provisions.

13. In the next period, the ETUC will be campaigning for:
- Full employment, economic growth, sustainable development and social justice;
 - Transnational rights for workers and trade unions;
 - Acceptable social dialogue systems in all EU countries;
 - Decent public services and high quality welfare states;
 - Labour standards in services based on the principle of country of destination rather than origin;
 - Equality;
 - Further constitutional steps which develop social Europe.

Executive Committee - December 2004

“PARTNERSHIP FOR CHANGE IN AN ENLARGED EUROPE : ENHANCING THE CONTRIBUTION OF EUROPEAN SOCIAL DIALOGUE”

Executive Committee, 1 December 2004

1. SOCIAL DIALOGUE – AN INSTRUMENT FOR BETTER GOVERNANCE AND INNOVATION

1.1. The ETUC welcomes with great interest the Communication from the Commission on “Partnership for change in an enlarged EU: enhancing the contribution of European social dialogue”. The title in itself is significant since it touches upon two important aspects: the challenges posed to social partners and to social dialogue at all levels by the Partnership for Change, agreed upon by the 2004 Spring European Council as a means to promote more innovation, more productivity, more social cohesion through more and better social dialogue; but also the challenge linked to the recent enlargement of the EU and consequently to the collective engagement to support social partner organisations in the new Member States to be able to fully contribute to the European social dialogue.

1.2. The Communication acknowledges the importance of social dialogue as an indispensable instrument for Europe to face with success the current and future economic and social challenges and especially to support the implementation of the Lisbon strategy. It also acknowledges the role of autonomous social dialogue and the importance of developing it in both quantitative and qualitative terms, accepting that it must play a pivotal role in anticipating

change. However, it forgets to mention that the Constitutional Treaty recently signed by the EU Member States officially recognises the (co-regulatory) role of the social partners and of autonomous social dialogue.

1.3. Social dialogue at all levels must be seen as a key element of the European social model as well as a force for innovation in its capacity to implement reforms that seek to balance workers' aspirations and the human factor with the need for economic and social modernisation associated with globalisation within the context of a growing need for social partners to fully play their autonomous role, leading to more important joint commitments that will have to be acted upon, followed-up and evaluated. In order to achieve this, social partners at all levels will need to reinforce their capacities not only in administrative terms but also in the promotion of the competences required to deliver such results.

1.4. While reaffirming its support to the success of the Lisbon strategy and willing to contribute in the areas that are of the responsibility of the social partners, the ETUC would like to state that the social dialogue cannot be used as a conveyor belt to implement the Partnership for change and also to remind that the lack of political willingness to act from the part of Member States, together with the lack of synergy between different policies, especially in terms of economic and social governance, are at the heart of the delivery gap identified.

1.5. At the European level, it is undeniable that in a short period of time the social dialogue has seen considerable progress. After accepting the challenge put by President Delors in 1985, the European social partners, both at the interprofessional and at the sectoral level, have made considerable steps to build a European industrial relations system, that is not the copy of the respective national systems but that lives up to the challenges present by the European integration process. It has not always been an easy process.

1.6. The ETUC also considers that at a moment when the social dialogue has entered into its adult age, it is necessary to opt to a more qualitative approach and to analyse the strong and the weaker points of the European social dialogue at all levels.

1.7. However, the ETUC is convinced that a strong European social dialogue is the best way to strike the right balance between the new challenges the European labour market is confronted within its quantitative – more jobs – and qualitative dimensions – better jobs.

1.8. In the future, the European social partners will have to identify the topics of common concern to be dealt with bearing in mind that the instruments resulting from the social dialogue can also be multiple. The ETUC favours the negotiation of European framework agreements resulting from an initiative from the European Commission or from the autonomous decision of the social partners themselves. Furthermore and given the complexity of labour market and societal developments, the European social partners must also be in the position to play a more proactive role, discussing between themselves strategic issues of common interest and presenting the results of those discussions to the European institutions and public authorities at all levels to be acted upon by them where relevant and necessary.

2. THE RESULTS AND THE INSTRUMENTS OF THE EUROPEAN SOCIAL DIALOGUE

2.1. In any case the social partners' agenda must necessarily be linked to the overall European agenda and priorities, especially those related to the implementation of the Lisbon strategy and of the European Social Policy Agenda. The ETUC expects that the social partners will be privileged partners in the implementation of the future SPA.

2.2. Besides identifying issues of common concern, the European social partners must also identify the instruments that will allow them to deal better with such issues both at the interprofessional and sectoral levels.

2.3. The current work programme of the European social partners is a first step in this direction and the ETUC must express its surprise to the silence made on this by the Commission's Communication. In our opinion, efforts should also be made at the sectoral level in order to establish a comprehensive work programme for each sectoral social dialogue committee. Furthermore, ETUC considers that the

Commission should guarantee the necessary conditions for the optimal functioning of European social dialogue.

2.4. The ETUC recognises that the instruments resulting from the European social dialogue have over the years become more diverse and complex and thus there is the need to clarify the “rights and obligations” attached to each instrument in terms of its implementation, follow-up and evaluation. The nature of the instruments is different, depending on the issues under discussion and on the objectives pursued. Furthermore, in the future the European social partners will necessarily have to use more the peer review, inspired by the OMC and setting benchmarks, not just to monitor the implementation of autonomous social dialogue agreements but also other instruments that relate to the OMC.

2.5. In this respect, the ETUC regrets the difficulties encountered in some Member States in relation to the interpretation of the European framework agreement on telework. We feel that the use of the word “voluntary” may lead to confusion at the national level; in any case, for the trade union movement the only voluntary aspect in a negotiation is the fact that the social partners agree to negotiate. This is not applicable to the implementation of the results, since they engage the social partners and their member organisations at all levels! Thus, the attempt made by the Commission to eliminate the ambiguous term “voluntary” is welcomed.

2.6. Such problems of interpretation need to be clarified so that the results of the European social dialogue may be integrated into the national industrial relations systems, according to the national practices. If this is not the case and if the results of the European social dialogue implemented by the social partners themselves are not acted upon at national level, then there is little point in arriving at framework agreements at the European level that are not incorporated into directives.

2.7. The instruments produced by the European social dialogue are diverse and the capacity of the social partners to innovate in relation to new instruments adapted to the specific circumstances around a specific issue is also big. The ETUC considers that the social partners themselves should do the classification of the different

instruments. Furthermore, ETUC intends to propose to UNICE to set up a working group to discuss the establishment of fundamental rules on European agreements and other instruments resulting from the European social dialogue, including rules on their interpretation, implementation and enforcement.

2.8. Furthermore, the ETUC considers that consideration should be given by the European social partners to the setting up of a social partner technical secretariat, with the support of the European Commission, and with adequate resources for research, training and public relations.

3. THE SYNERGIES BETWEEN DIFFERENT LEVELS AND THE NEED TO RAISE MORE AWARENESS TO THE RESULTS OF THE EUROPEAN SOCIAL DIALOGUE

3.1. The ETUC shares the analysis that the results of the European social dialogue are not widely known. This situation must change and in order to achieve a better awareness all relevant partners must play an important role.

3.2. At the European level, the ETUC would like to see the development of a decent EU social dialogue website, that brings together the results of both sectoral and interprofessional social dialogue, as well as other relevant information related to EU social policy or to the social partners' organisations.

3.3. We also consider that the promotion of the results of the European social dialogue at more decentralised levels is urgent and we welcome the proposal made to boost financial assistance for joint follow-up actions carried out by the European social partners and organising national seminars in all Member States, with special emphasis for the new Member States, in order to raise awareness of the importance of European social dialogue within national industrial relations. The existence of meaningful national social dialogues is also a pre-condition for success.

3.4. Likewise, the ETUC sees with great interest the proposal to give to the European Industrial Relations Observatory (EIRO) of the Dublin

Foundation the responsibility to elaborate the studies to assess the representativeness of European social partner organisations.

3.5. The ETUC recognises that there is still a lot of ground to be covered if we want to cross-fertilise in a more efficient way the results achieved by social partners at different levels. In this respect, the links between EWC's and social dialogue also deserves to be further improved although there are specificities that need to be taken into consideration: the sectoral social dialogue does not cover all the companies that have established EWC and in most of the cases because employers organisations have so far refused to engage into the sectoral social dialogue at European level.

3.6. It is also true that the Communication introduces an unwanted element of confusion in stating that it favours synergies between the different levels of European social dialogue by supporting unilateral initiatives by employers in the area of corporate social responsibility. Furthermore, the Commission fails to mention the necessary synergies to be developed at the regional and local levels, extremely important especially when dealing with industrial restructuring or off-shoring and outsourcing from the part of companies.

4. THE PROMOTION OF SOCIAL DIALOGUE IN THE ENLARGED EUROPEAN UNION

4.1. In the new Member States social dialogue must become one of the elements in the promotion of social cohesion. The difficulties they are facing in building a stronger and autonomous bipartite social dialogue, the absence of a satisfactory coverage by collective agreements – the current average level is of only 30% and often negotiated exclusively at company level – or the almost total absence of negotiations at the sectoral level, together with governments that often use the reduction of social rights to attract investment from multinational companies, clearly point to a great need to invest in the promotion of social dialogue and negotiations between the social partners as a means to avoid wage and social dumping and to promote high quality jobs, decent wages and the respect for workers' most fundamental rights.

4.2. The positive experience that exists in the majority of the EU-15 and at the European level in terms of social dialogue must be shared with social partners in the new Member States; these can support them in the construction of strong industrial relations systems, leading not just to more negotiations but also to more qualitative results that will benefit workers and companies in the enlarged EU.

4.3. The ETUC welcomes the financial support given by the European Commission to the European social partners in order to promote the development of capacities of social partners in the new Member States, including their participation in the European social dialogue.

4.4. The Commission's proposal to reinforce the administrative capacities of the national social partners through the possibilities provided by the structural funds and in particular the European Social Fund is welcomed.

4.5. However, this requires a clear respect from the part of the national public authorities vis-à-vis the autonomy of the social partners and of social dialogue.

4.6. The ETUC shares the interpretation made by the Commission of Article 139(2) of the EC Treaty in relation to some positive elements, but at the same time it stresses that autonomous agreements referring directly to Article 139 EC should be part of the community "acquis". As to the implementation of autonomous agreements, ETUC would like to highlight the primary role/obligation of the affiliates of all the signatory parties to ensure the effective implementation in accordance with the specific European and national procedures and practices. This doesn't exclude action by the public authorities in accordance with the social partners. Experience gained in some Member States on the implementation of the European framework agreement on telework is one example of the possible types of cooperation at national level.

4.7. The ETUC has always favoured the autonomy of the social partners without rejecting the cooperation with public authorities in certain situations. In fact, many of our member organisations develop a fruitful and constructive dialogue at the interregional, regional,

territorial and local levels with public authorities on matters related to the respect of services of general interest or when restructuring in certain companies harm not only the workers of that enterprise but also a region economically dependant from that company. Unfortunately, there are also reports from some of our member organisations, in the new Member States, that denounce the imposing attitude of public authorities and where the tripartite cooperation is more an empty shell and the social partners little more than simple observers. In other new Member States, the practice appears to be more positive.

4.8. Thus, ETUC considers that the roles to be played by the autonomous social dialogue and that of the public authorities in that respect must be very clear: public authorities must respect existing legislation and traditions and guarantee the implementation of the rules that regulate the effective participation of the social partners. They must also respect their role as employers and support collective bargaining and social dialogue throughout the public sector, including at EU level.

5. THE ROLE OF THE EUROPEAN COMMISSION

5.1. The ETUC respects the right of legislative initiative of the European Commission recognised by the Treaty and encourages it to use it more often with a view to promoting social cohesion and social justice. The trade union movement has always defended the right balance between social legislation and contractual relations in order to promote a more qualitative social policy.

5.2. We consider it positive that the Commission will use its right of initiative if the social partners' agreement does not succeed in meeting the Community's objectives. However, we consider that this right of initiative should not be used during the implementation period; furthermore, nothing is said on the possible criteria to be used.

5.3. ETUC also expresses its reservations in relation to the statement that "autonomous agreements are also not appropriate for the revision of previously existing directives adopted by the Council and

the European Parliament through the normal legislative procedure”; in this respect, we call for a clarification on the Commission’s position.

5.4. A final remark concerns the quality of the consultation to the social partners from the part of the European Commission. The ETUC considers that on several occasions the European social partners have not been adequately consulted by the European Commission on legislative proposals that have a direct impact on workers, their fundamental rights, their health and safety protection or their rights to information and consultation or that directly affect social policy. Examples of these are the proposals for directives under the Internal Market rules that should be subjected to the proper consultation of the European social partners. The ETUC expects from the part of the European Commission a proper interpretation from the EU Treaty on the obligation to consult the European social partners.

INTERNAL RULES OF PROCEDURE GOVERNING EUROPEAN CROSS-SECTORAL SOCIAL DIALOGUE NEGOTIATIONS

Executive Committee, 1 December 2004

1. Against the backdrop of constant change, the present rules of procedure aim
 - a) to clarify the respective roles and responsibilities of the different ETUC member organisations, confederations and European Industry Federations (EIFs) in cross-sectoral collective bargaining at European level;
 - b) to ensure a coherent approach; and
 - c) to set out the specific procedures to be applied when deciding on negotiations, determining a mandate, conducting negotiations and evaluating their results.

MANDATE

2. Member organisations shall receive all information on and details of proposals concerning the potential negotiations from the Secretariat at least six weeks before the decisions are taken in the Executive Committee.

3. Information on and details of proposals shall provide an adequate basis for consultations at national and sectoral level and shall address the following in particular:

- The cross-sectoral nature of the issue and the justification for negotiations;
- whether negotiations are appropriate on an issue jointly identified by the social partners or on which the Commission has launched consultations;

- the main objectives of the negotiations including the minimum social requirements to be attained;
- the composition of the delegation likely to take part in negotiations;
- the planned procedure for implementing and/or enforcing any framework agreement concluded, i.e. a framework agreement to be implemented directly by the member organisations or one to be extended by a Council decision;
- an agreement concluded at cross-sectoral level shall aim to respect existing social rights and standards and to secure general rights for all workers covered by the scope of the agreement, regardless of the nature of their contract and/or employment relationship, the size of their undertaking or the sector in which they are employed.

4. The mandate must be based on an in-depth knowledge of the actual situation and trends at national and sectoral level. This knowledge may be amassed using all available and appropriate structures and tools such as: consultations with member organisations, discussions in the Workers' Group within the Social Dialogue Committee and the relevant ETUC Committees and/or Working Groups, the specific separate or joint preparatory working seminars held by the social partners and/or internal surveys conducted in cooperation with the ETUC NETLEX network, ETUC institutes and/or relevant external institutions/organisations.

5. Based on such consultations and on the arguments and information gathered, the Secretariat shall submit a draft decision to the Executive Committee, which shall determine, on a case-by-case basis, the negotiating mandate and the composition of the delegation to negotiate with European employers' organisations. A cross-sectoral issue identified jointly by the social partners or proposed by the Commission may be especially pertinent to certain sectors and/or categories of work. In such cases, the negotiation mandate shall take into account the specific needs and problems of sectors and categories of workers concerned.

6. Decisions referred to in Article 5 shall be taken in accordance with the procedures set out in Article 14 of the ETUC Constitution. Moreover, as stipulated in Article 14 of the Constitution, in urgent cases decisions concerning a modification to the mandate may be

made in writing. However, in such cases there must be at least a three-week internal consultation period for member organisations.

LEADING NEGOTIATIONS

7. The Secretariat shall lead the negotiating delegation, as well as any drafting group established within the framework of the negotiations.

NEGOTIATING DELEGATIONS AND DRAFTING GROUPS

8. The negotiating delegation shall comprise representatives from both national confederations and EIFs, depending on the topic of discussion (at least one per country concerned and three EIFs). A representative of the Women's Committee and one of EUROCADRES shall also be present.

9. The drafting group shall comprise a limited number of delegates appointed from and by the negotiating delegation based on a nomination by the Secretariat. Given its nature and composition, the drafting group acts on behalf of the negotiating delegation to ensure that the priorities are reflected in the best possible way in any draft text drawn up. The drafting group reports back to the negotiation delegation.

INFORMATION DURING THE NEGOTIATION PROCESS

10. The Executive Committee, the Steering Committee and all relevant ETUC Standing Committees/Working Groups shall be kept regularly informed of progress in negotiations. All information concerning the negotiations to be sent out to these Committees/Working Groups shall be compiled by the Secretariat.

ADOPTION OF RESULTS

11. If the negotiations culminate in a joint draft agreement, the text shall be sent by the Secretariat to the member organisations, at least

six weeks before the Executive Committee takes a decision, to enable the organisations directly concerned to hold internal consultations and determine the voting mandate. Under Article 14 of the ETUC Constitution, the member organisations directly concerned shall be all member organisations in the EU and EEA countries, all EIFs and the ETUC Women's Committee.

12. The Executive Committee may adopt this text as per the procedure detailed in Article 14 of the ETUC Constitution.

13. Where, following the conclusion of a draft text, the Executive Committee's schedule of meetings is such that the former is unable to honour the six-week consultation period, the Executive Committee may, at the request of the Secretariat and provided that the draft agreement has been explained in detail, give authorisation for the framework agreement to be adopted in writing. A period of at least six weeks shall be set aside for this procedure. The Secretariat shall subsequently provide the members of the Executive Committee with a transparent overview of all replies received and shall indicate whether or not the text may be considered as adopted. In the event that the text is not adopted, the Secretariat may recommend that further discussions on it be held at the next meeting of the Executive Committee.

DECISION-MAKING IN THE EVENT OF FAILED NEGOTIATIONS

14. By contrast, if negotiations fail, the Secretariat shall inform the Executive Committee accordingly and shall make a recommendation for a decision regarding the future strategy to be developed. The Executive Committee shall decide in accordance with Article 14 of the ETUC Constitution.

MONITORING AND FOLLOWING-UP IMPLEMENTATION

15. The implementation of each agreement adopted shall be regularly monitored and followed up as per the procedures specified in the agreement in question. The ETUC Secretariat shall monitor implementation internally via regular consultations with member

organisations. The (interim) findings shall be used in discussions in all relevant ETUC Standing Committees/Working Groups and in the Social Dialogue Committee, in particular discussions with a view to any review of the relevant text.

SYNERGY BETWEEN SECTORAL AND CROSS-SECTORAL SOCIAL-DIALOGUE NEGOTIATIONS

16. Based on the cross-sectoral agreement adopted, additional sectoral negotiations may be held, the aim being to tailor the agreement and/or to improve it for particular situations and/or the different categories of workers. In accordance with article 14 of the ETUC Constitution, regular reports on European sectoral bargaining, carried out by European Industry Federations, shall be made to the Executive Committee. Its consistency with ETUC policy shall thus be ensured.

ANNUAL REPORT ON SOCIAL DIALOGUE DEVELOPMENTS

17. In cooperation with the ETUI and with the support of the EIFs, the ETUC shall compile an annual report detailing developments in both sectoral and cross-sectoral social dialogue. Reference shall be made to this report in discussions within the Executive Committee to ensure that a genuine and effective trade-union strategy towards and within European social dialogue is maintained.

ARTICLE 14:

The Executive Committee shall determine the composition and mandate of the delegation for negotiations with European employers' organisations in each individual case, in accordance with the voting procedures set out in Article 20. The decision shall have the support of at least two thirds of the member organisations directly concerned by the negotiations.

In cases of urgency, decisions concerning the mandate for composition of the delegation may be made in writing.

The Executive Committee shall establish the internal rules of procedure to be followed in the event of negotiations. The Secretariat shall supervise the bargaining delegation. The Executive Committee shall be given regular progress reports on bargaining in progress.

Decisions on the outcomes of negotiations shall be taken by the Executive Committee in accordance with the voting procedures set out in Article 20. The decision shall have the support of at least two thirds of the organisations directly concerned by the negotiations, which shall have had the opportunity to hold internal consultations.

Regular reports on European sectoral bargaining, carried out by European Industry Federations, shall be made to the Executive Committee. Its consistency with ETUC policy shall thus be ensured.

ARTICLE 20:

The Executive Committee shall endeavour to reach the widest possible measure of agreement. If a vote is necessary, decisions shall be taken by a majority of two-thirds of the votes.

At the beginning of each meeting the Secretariat will ascertain whether the Executive Committee is sufficiently representative for a vote to be taken.

The deliberations of the Executive Committee can only be valid if at least 3/4 of the full members are present or represented. The full members may be represented either by their deputies or by representatives from their organisations who have been duly delegated with a mandate in writing.

Members entitled to vote are full members and, in the event of absence, deputy members; should both be absent, another representative from the same organisation who has been duly delegated with a mandate in writing shall be entitled to vote.

Voting shall as a rule be by a show of hands, but upon request a roll call vote shall be taken. In this case, each National Trade Union Confederation, each European Industry Federation and the Women's Committee shall have a number of votes equal to the number of seats to which they are entitled on the Executive Committee.

A proposal shall be carried if it obtains at least 2/3 of the votes of the members present or represented.

Any proposal which fails to obtain at least two thirds of the votes of the members present or represented, but obtains at least half of the votes of the Executive Committee members, shall remain on the agenda and be referred back to the Secretariat for renewed examination.



SOCIAL POLICY AGENDA 2006-2010

Executive Committee, 1 December 2004

The main issue at stake in the next Social Policy Agenda will be to reply to citizens and workers' expectations vis-à-vis SOCIAL EUROPE.

MAIN CHALLENGES IN THE PERIOD COVERED BY THE SOCIAL POLICY AGENDA:

- Adoption of the Constitutional Treaty with the implementation of the Charter of Fundamental Rights through the new SPA.
- Make a success out of the recent enlargement of the EU together with the need to deepen further the European integration process;
- Preparation of future enlargements (Bulgaria, Romania, Croatia and Turkey);
- Impact of the globalisation process and the reply of the EU to it: need to address restructuring, off shoring, the changes in the nature, content, organisation and environment of work, industrial policy;
- Ageing of the population, migration;
- Growing diversity in the European society in generational terms, capacities and ethnic origin calling for the full integration of all;
- Tackle gender equality in order to ensure a better work-life balance;
- Sustainability of social protection systems;
- Increased role of the EU in the world, namely in the light of the different association and cooperation agreements;

MAIN OBJECTIVES:

- Implementation of all pillars of the Lisbon Strategy in an equally balanced way in order to achieve economic growth, full employment, social cohesion and sustainable development in view of the creation of the knowledge based society;
- To elaborate policies that take into consideration a person's life cycle and ensuring adequate protection allowing them to face the constant changes that characterise the different periods/situations (active and inactive, training, career break, leisure time and private life...) they are in or will enter into;
- To contribute to a sustainable working life through the promotion of more and better jobs;
- To strengthen economic, social and territorial cohesion through social inclusion and anti-poverty policies and measures, fully recognising the diversity of the European workforce;
- A new social contract building on the values and objectives of the EU, through the Partnership for Change, including innovation, equal opportunities, gender equality, the fight against all forms of discrimination, racism and xenophobia, high level of social protection for all, access to lifelong learning, intergenerational solidarity;

EVALUATION OF THE CURRENT SAP:

The current SPA has not yet expired; nevertheless, some aspects - positive, less positive and not yet fully acted upon - can be highlighted in a non exhaustive way:

- Positive:
 - The incorporation of the EU Charter of Fundamental Rights into the draft Constitution;
 - The adoption of the Directives 2000/43/EC and 200/78/EC on non-discrimination;
 - The SE Directive;
 - The fact that “quality of jobs” was placed at the heart of the debate on social inclusion and the European social model; this represents a shift from previous discussions on the quality of jobs merely along the lines of “productivity and employment”;

- No (full) action but where it is (rapidly) required:
 - The consultation of the EU social partners on the need to establish at EU level a voluntary mechanism on mediation, arbitration and conciliation for conflict resolution;
 - The revision of the EWC Directive;
 - A proposal for Directive on the protection of personal data in employment relationships;
 - The establishment of a technical group on the development of indicators on the quality of industrial relations;

- Negative or less positive:
 - The proposals for the revision of the working time Directive;
 - The proposals for a Directive on temporary agency workers;
 - The Bolkenstein Directive ;
 - Focussing the discussion on gender mainstreaming and equal opportunities from a mere “activation” point of view which serves to reproduce the unequal and hierarchal position of women at/in work;
 - A clear failure to reach certain quantitative objectives of the Lisbon Strategy (overall employment rates, employment rates of women and older workers) despite all actions taken and reflecting an insufficient implementation overall;
 - Although foreseen, not enough synergy between EES and BEPG’s;
 - The fact that quality of employment is mostly looked upon from adapting competences of individuals/workers rather than from the role of enterprises in this respect;

MAIN PRINCIPLES FOR THE FUTURE:

- To promote the concept of quality at all levels: content and impact of envisaged policies, processes and instruments in order to promote a better quality of life and of work for all;
- Mainstreaming of social policies in all EU policies;
- Gender mainstream in all EU policies;
- Social Partners as key actors in the implementation of this SPA;
- To promote collective bargaining and social dialogue at all levels;

MAIN INSTRUMENTS:

- Actions to be promoted under the SPA must be accompanied by a clear timetable and identify the envisaged instrument to be used;
- the choice of instruments (legislation, agreements, Structural Funds, OMC, national and EU budgets and policies...) and their eventual combination must be made with a view to giving the most appropriate reply to the objectives to be achieved;
- Monitoring and evaluation of the implementation and effectiveness of the different instruments used;
- Monitoring, enforcement and evaluation of the implementation of the current social legislation (including directives that resulted from a social partners' European framework agreement);
- Call for the active involvement of all relevant actors: public authorities and social partners at all levels, European and national Parliaments...;

MAIN THEMES:

CONSTITUTION AND FUNDAMENTAL (SOCIAL) RIGHTS

- To make the specific role of the Social Partners and the social dialogue work in practice;
- To make use of all EU competences to adopt legislation with a view to give full effect to fundamental (social) rights enshrined in the Constitution;
- To ensure that all legislation and policy measures effectively comply with the provisions of the Constitution;
- To effectively monitor the respect of the fundamental (social) rights - in particular via the Fundamental Rights Agency - in close cooperation with the social partners;
- To encourage Member States and candidate countries to ratify the Revised European Social Charter (with acceptance of all its provisions and its Collective Complaint Procedure Protocol) and all relevant ILO Conventions;

WORKERS' RIGHTS

- To introduce minimum social standards to increase the quality of work and the protection of all workers, either legally or contractually agreed; in this respect, revision of existing directives should lead to

harmonisation upwards, and in any event, not lead to lowering the achieved standards;

- To develop European measures which oblige Member States to clarify and/or adjust the scope of the employment relationships;

- To propose (legislative) measures with regard to specific forms of non-standard employment relationships (economically dependant workers, domestic and home workers...) with the active involvement of the social partners;

- To provide for legal clarity concerning the law and employment conditions applicable to cross border employment relationships, safeguarding Member States' capacity to regulate their labour markets and to prevent social dumping;

EMPLOYMENT

- Ensure that macroeconomic policies support the full employment objective of the Lisbon strategy and of the EES;

- EES and BEPG to fully reflect the quantitative and qualitative objectives of employment and growth of the Lisbon strategy;

- Employment considerations must be included in all EU level decisions concerning mergers;

- Set up, where appropriate, national EES committees, with social partner representation;

- Adoption of the National Action Plans by national parliaments;

- Both at EU and national level to further develop, among others, the following policy initiatives:

- Develop good qualitative indicators to evaluate developments in employment quality, working poverty, security aspects of jobs, stress and psychological problems at work, etc.;

- Further develop affordable and quality childcare and elderly care services to support work-life balance and the promotion of female employment; an action programme to back the necessary infrastructure investments in the context of the EU structural funds should be envisaged;

- To ensure paid parental leave;

- To continue actions aiming to close the gender employment and pay gaps;

- To promote concrete measures to avoid and eliminate the segregation of certain segments of the population (women, young workers, disabled, migrant workers in low valued occupations;

- To assure that activation policies are not generating second

segment labour markets or working poor through statistical indicators that allow to analyse the outcomes of individuals involved in activation policies;

- To create a real European labour market, namely through the promotion of solidarity between the regions and of mobility, whereby the implementation of the Commission's Action Plan for Skills and Mobility is an important instrument;

- To put forward proposals ensuring more legal clarity for cross-border employment relationships;

LIFELONG LEARNING

- Member States must implement the principles and common instruments agreed upon in the context of the Copenhagen process;

- The European institutions, Member States and the social partner, within their respective levels of responsibilities, must work towards the effective recognition of the individual right of access to education, initial and continuing vocational training and lifelong learning opportunities to all in order to promote the development of competences and qualifications of the European citizens and workers, to avoid labour market bottlenecks as demand increases and to counter social exclusion; the contribution of lifelong-learning to socio-economic development, increased productivity, skills enhancement, more adaptability and human capital development must be recognised;

- Development of benchmarks for support measures that promote vocational training arrangements;

- Measures to promote young people's choices in science and technology as well as young women/men in the so-called male/female dominated professions;

- The promotion of a new approach to learning systems, ensuring their quality and that there are opportunities for all age groups; also that they develop tailor-made measures adapted to the needs of different groups;

- Lifelong learning policies must be gender mainstreamed;

- To implement a concerted effort to prevent early school leaving, with the medium term objective of reducing to zero the number of school drop-out, and to promote smooth transition from school to work;

- To develop appropriate ICT qualifications for teachers and trainers;

- To set up a European Teacher Training Institute with, as its main

task, the promotion of mobility and co-operation between national institutes in areas such as research, as well as the exchange of good practices and supplementary training courses;

- To materialise the objective of making proficiency in at least two foreign languages at school;

- To promote educational exchanges and mobility programmes for students in the secondary level;

- Establishment of statistical indicators which measures the quality of training and, its connection with previous experience;

INTERGENERATIONAL PACT

- Prepare and launch a European debate on the content of a new intergenerational pact with the aim of providing positive future perspectives for both younger and older people;

- Measures to improve the quality of youth employment by fighting against its precarious character. Measures should include the promotion of more secure employment to young people, improvement of health and safety standards, same access to social security as other sections of the population in order to prevent young people from falling into the informal economy;

- The development of a positive programme to increase the labour market participation rates and to create the conditions to allow for older workers to work until the legal statutory retirement age:

- adapt working time (including reduced working hours with compensation)

- social infrastructure (child and elderly care)

- social and fiscal incentives (including flexibilisation of retirement with free choice for the workers and the maintenance of a legal statutory pension age)

- take into consideration the painfulness of work, for instance at the level of the sectoral social dialogue, to set an earlier retirement age;

- improve the quality of work

- protect the health and safety of workers

- adapt working conditions (including more autonomy)

- campaigns to change attitudes

- the right of access to LLL throughout life

- collective agreements that create the conditions for the transfer of knowledge to younger workers;

- Monitoring and follow-up on the Communication on active

ageing, and make sure that there is a link between the actions proposed in the EES and the OMC on pensions;

GENDER EQUALITY

- Effective measures to combat sex discrimination at work, increase women's access to the labour market and to lifelong learning improve women's working conditions;

- Explicit political will and institutional commitment at the highest level to ensure that gender mainstreaming is carried out;

- To renew the EU Framework Strategy for achieving equality between women and men covering issues such as gender mainstreaming, implementation of the "acquis", proposals for new gender equality legislation...;

- Setting up of a new Gender Equality Institute with the full involvement of the European Social Partners. The proposed institute must have sufficient funding to be able to carry out its role effectively and must not be created at the expense of other gender equality bodies or existing mechanisms;

WORKERS' RIGHTS TO INFORMATION, CONSULTATION AND PARTICIPATION, INDUSTRIAL RESTRUCTURING, DELOCALISATION

- To propose a directive that clarifies the rights to information/consultation so far differently formulated and interpreted in the directives that foresee the use of these rights;

- To ensure the extension of workers representation rights to (all is deleted) small and medium-sized enterprises, including those falling currently outside the scope of the Directive 2002/14/EC;

- To ensure better and effective sanction systems in relation to infringements of information and consultation rights embedded in the different concerned directives;

- To work towards the creation within the national context of central work councils with effective information and consultation rights;

- To continue working towards the establishment of EWC in all companies that fall under the scope of the EWC Directive;

- To develop further measures aiming at the improvement of the timing and quality of information and consultation procedures, essential in cases of restructuring and delocalisation of companies;

- To sanction companies that receive EU funds and fiscal benefits to establish themselves in a EU country and delocalise activity from

the country within the following seven years;

- To work towards the application of EU standards by the overseas subsidiaries of EU multinational companies;

- To ensure that the merger (10th) and transferral of seats (14th) directives provide for safeguarding the existing information, consultation and participation rights of workers of the company/companies concerned in a way that is fully consistent with the relevant provisions of the SE-directive;

- Corporate social responsibility must be framed by rules and guidelines fixed at the European level; these should in particular ensure that CSR at company level is the result of a negotiated process with the participation of trade unions and workers' representatives;

- On the basis of a thorough analysis of social/wage dumping, to (re)define and/or establish the legal and contractual instruments, guidelines and indicators for common action to prevent and eliminate such tendencies;

- To develop all necessary measures that contribute to the speeding up of the convergence and integration of new Member States in order to avoid an overall downwards spiral in terms of social policies and consequently of the European Social Model;

COLLECTIVE BARGAINING:

- To further promote actions that lead to an effective coordination of collective bargaining policies at the European level;

- To further reflect on instruments that may be developed in order to gradually arrive at the conclusion of cross-border collective agreements as a means to avoid wage dumping, to reflect productivity improvements in wage increases, and to help constrain inflationary pressure;

SOCIAL DIALOGUE

- The Commission should ensure a proper consultation to the European Social Partners in the framework of Article 138 EC for every (legislative) proposal that might have an impact on and/or concern social policy in general and the rights of workers and their representatives in particular;

- To support the European social partners in the promotion of capacity building of the social partners in Member States and in candidate countries;

- To (ensure deleted) facilitate/stimulate the social partners in the

process of clarifying of obstacles/problems identified in the recent Commission's Communication on the social dialogue (e.g. interaction between the different levels, typology, interaction/complementarities of different methods/instruments, definition of a framework of rules on the interpretation, implementation and enforcement of social dialogue instruments, etc);

- Invite all concerned actors to engage in a discussion for the establishment of an effective EU dispute settlement system (both non-judicial and judicial), thereby building on the preparatory research for the Commission;

- Investigate the possibility of reviewing and/or renegotiating former framework agreements with a view to fill the loopholes as well as to adjust them to changed economic, social and societal developments which occurred since the adoption of the agreements;

- To propose a social partner advisory committee to the ECB;

- To assure that the Macro-economic dialogue becomes a meaningful process of social dialogue, where the social partners are taken seriously a offered a real voice in the discussion of broader economic policy;

- To promote a better inter-action between all levels of social dialogue;

- To guarantee and safeguard adequate conditions and facilities for an efficient operation of the European sectoral social dialogue;

SOCIAL PROTECTION

- Giving priority to the production of statistics on the outcome of social protection/social policy (coverage rates, average replacement rates etc.). This should be done in a co-ordinated manner between Eurostat, OECD, and ILO;

- Promote a debate at the European level on what individualisation of social and fiscal rights would imply in the face of the new social risks and the demographic challenges;

- Promote a debate at the European level on the need for a modification/enlargement of the (fiscal) basis for the financing and the sustainability of the social security (i.e. alternative financing other than on a labour basis);

- To take care of in the implementation of the health's OMC that qualitative and not only quantitative targets are foreseen guarantying equal access for all, to high quality health care ;

- To take care of the health's OMC focuses on health care in

general as well as on the long term health care which are of particular importance ;

- In the absence of a new modification of Regulation 1408/71, to propose a specific directive for health care, whereby the question of patient's mobility is not only treated as a pure relationship between client/supplier;

- To pay specific attention to the adequate social security coverage for all non standard forms of employment and to the pension gap for vulnerable groups of workers;

- The consolidation of a EU legal framework for occupational pension schemes which would amongst others follow the principles:

- Portability of occupational pensions both in private and public sector and guarantee of portability without loss and with revaluation of the sleeping rights;

- Guarantee equal fiscal treatment of social contributions to foreign occupational pension schemes as compared to national schemes;

- Obligatory representation of the social partners in the control and investments bodies;

- Equal treatment of the right for men and women concerning the amount of the pension in all systems ("defined benefit" or "defined contribution");

SOCIAL INCLUSION

- To propose common criteria at the European level in view of setting up in each member State minimum guaranteed income for all;

- To monitor the implementation of the objective of eradicating poverty by 2010 through the adoption of a clear guideline and target within the social inclusion OMC process; particular attention should be given to the feminisation of poverty;

- The OMC on social inclusion should follow the same principles of the one on employment: policy guidelines, peer review, recommendations and involvement of the social partners at all levels;

- To develop, upstream and downstream, accompanying policies for excluded and vulnerable persons, namely in relation to employment activation measures;

- To develop further indicators and targets that will allow for a clear analysis of results;

- To give a higher profile to the issue of social inclusion within the Social Protection Committee;

HEALTH AND SAFETY AT WORK

- Need to improve the current legislative framework in the field of health and safety as a fundamental guarantee for the same basic protection of workers' health and safety in the EU but also in order to fill in the gaps or deficiencies and to take into consideration the risks that are connected to the changes in work;

- Need for ongoing and systematic EU support actions for the correct implementation and enforcement of EU directives; these should include surveys on company practices;

- Promotion of common guidelines based on the positive experiences acquired in several Member States on what concerns the implementation of EU directives;

- In the context of the health and safety mainstreaming exercise, the Luxembourg Advisory Committee should be informed and consulted;

- Support to the promotion of coherent national prevention policies based on an overall strategy, bringing to the fore the key lessons to be learned from the transposition of the framework directive;

- To go beyond essential compliance checking of national regulations by stimulating exchanges and promoting best practices;

- To further develop the links between the “general” risk assessment foreseen in the Framework Directive and the individual directives as well as to revisit the links between workplace risk assessment and the rules on placing equipment, products and substances on the market;

- The Commission should adopt an approach leading to an effective coverage of the workforce by the basic requirements for health and safety including the access to preventive services and safety representatives; such an approach should combine legislative initiatives (such as for example the revision of the 1991 directive on health and safety of temporary workers and temporary agency workers, the inclusion of domestic workers in the scope of application of the health and safety directives) and practical initiatives;

- To progress on the revision of the Carcinogens Directive and to accelerate the adoption of indicative limit values; in particular, the inclusion of substances that are toxic for the reproduction could significantly improve the prevention of this type of risks for both sexes; attention should also be given to second-hand tobacco smoke;

- To propose the revision of the Pregnant Workers Directive; the lines agreed by the European Parliament resolution of July 2000 remain valid and should be used as a basis for such revision;

- To present a specific directive aiming to prevent musculoskeletal disorders at work; the directive should address, at least, repetitive work, postural workload, required forces and vibrations and should also cover the interaction between physical and psychological workloads;

- The REACH proposal for the reform of the EU chemical legislation regarding dangerous substances and preparations should take full account of the provisions and requirements of the health and safety directives; regarding the “duty of care” principle, the manufacturer and the importer must be responsible for documenting and communicating in an appropriate way all relevant safety information to the downstream users and the consumers;

- To develop further indicators allowing the comparison and setting up of goals with a view to reduce accidents at work, heavy lifting, psychosocial problems...;

- Need to increase the internal human and financial resources of the Commission in this field;

- Need to promote a better coordination and synergy between the different EU institutions and agencies that deal with matters related to health and safety as well as to measure the impact of the work done;

COMBATING ALL FORMS OF DISCRIMINATION

- To pursue the presentation of specific directives implementing article 13 EC Treaty in relation to all its mentioned grounds and all the areas covered; special attention should be given to the grounds not yet acted upon;

- To pay closer attention to the issue of non-discrimination in relation to immigration policy, not just from a perspective of general discrimination but also from one of labour market integration;

- To intensify action, in close cooperation with the social partners, aiming at the combat of all forms of discrimination and taking into consideration situations of multiple discrimination;

- To publicise the benefits of a policy that aims at the eradication of all forms of discrimination, from a societal, cultural, social and business point of view;

- To support social partners in their actions leading to the fight against all forms of discrimination at the workplace level;

- To monitor the implementation of non-discrimination legislation using statistics and other data;

MIGRATION AND INTEGRATION OF THIRD COUNTRY NATIONALS

- To promote integration policies, based on the principles of equal treatment and opportunities, as part of the European strategies for employment and social inclusion;

- To promote a more effective EU action in the fight for the prevention of trafficking of human beings, protection of the victims and sanctions of the traffickers ;

- Establishment of common criteria for the regularisation of undocumented immigrants;

- Call for minimum standards to ensure the access of immigrants to proper and transparent (appeal) procedures with regard to decisions on their legal status;

EXTERNAL DIMENSION

- To associate the European social partners to the different actions related to the implementation of the cooperation agreement with the ILO, especially in the areas of social policy, employment and development;

- To promote information, consultation, negotiation and evaluation tools involving the social partners on globalisation-related issues;

- In the framework of the GSP revision, mechanisms should be put in place in order to ensure not just the ratification but the effective implementation of ILO and other relevant international conventions;

- To promote core labour standards and the social dimension in all bilateral cooperation and association agreements of the EU; the social partners should be closely associated to the implementation and evaluation and such agreements in their specific areas of responsibility;

- To further develop the bilateral cooperation programmes between the EU, Japan and the USA and to further develop similar programmes with other parts of the world, notably within the ASEM relationship, with China, but also with India and Latin America; social partners should be closely associated to such programmes;

- To promote similar bilateral cooperation within the new Neighbouring strategy of the EU;

MORE EFFECTIVE IMPLEMENTATION, MONITORING AND APPLICATION OF THE ACQUIS

■ The monitoring should be more regular and not concentrate only on the formal process but also on practical experiences, clearly identifying infringements and taking the necessary measures to apply infringement procedures. The social partners should be involved in the process;

■ High level group of Member State officials will co-operate with the Commission in implementing and reviewing Community legislation and facilitating its transposition (working conditions, equal treatment between women and men, non-discrimination)

■ Networks of national labour inspectors will be developed to monitor the implementation of Community legislation, on the basis of the existing structures in the health and safety area.

1. The Resolution approved by the Executive Committee on 18-19 March 2004 underlined the importance of bolstering the coordination of collective bargaining, as indicated in the Prague Congress' Action Programme. This decision now appears even more important in the light of recent action taken in many European countries which could worsen existing contractual and working conditions for workers.

2. In fact, a clear strategy is currently being adopted aimed at: prolonging the working week, setting conditions on bargaining on flexible working hours and reducing the hourly wage, especially in those cases where companies require equal work for equal pay (and thus an increase in hours if wage increases are to be granted). At the same time, there has been an increase in the subcontracting and outsourcing of work by companies and in the precariousness of the labour market. This strategy is also designed to induce the decentralisation of collective bargaining, so as to weaken and/or replace the cover and guarantees offered by sectoral collective agreements. Similarly a growing part of the workforce, in particular professional and managerial staff or persons with so-called autonomous decision-taking powers are excluded from the scope of collective agreements on national, sectoral and company level. The fundamental aim of this attack is to reduce the cost of goods and services by reducing labour costs.

3. To this end, employers often threaten to relocate companies to countries with lower labour costs, something which would have serious consequences for jobs and for the survival of the production sites themselves. In truth, this attack is designed to get the workforce to pay for the consequences of mismanagement involving marketing strategy, delays in introducing technological innovation and/or investment policies, and uncompetitive processes and products.

4. This technique of blackmailing the workforce with the threat of relocation to new EU member states and, in particular, to future member states, is totally unacceptable for the very reason that the process of European unification has created the ideal conditions for a larger economic and social area in which the

European productive base should be allowed to expand and develop rather than narrow. Moreover, it is the new member states which are currently experiencing significant economic growth, wage increases and increased contractual cover for their workers - albeit to different degrees.

5. For this reason, we believe it is the duty of the European institutions to reject any strategy aimed at reducing the purchasing power and rights of workers. Accordingly, we cannot agree with the positions adopted by the ECB and ECOFIN whereby they simply ask workers and the unions to moderate wage claims, while asking new member states to adopt stringent Maastricht criteria, thus jeopardising the process of economic and social growth which is essential to Europe as a whole.

6. Moreover, the ETUC Executive Committee is of the opinion that any industrial strategy based on reducing labour costs and workers' rights is fundamentally mistaken since it would plunge Europe into a downward spiral characterised by the impossible pursuit of the lowest possible labour costs. This, in turn, would undermine both the quality of competition and social unity, and have a disastrous impact on the economic foundation of Europe. In fact, slowing wage rises would lead to a drop in consumption and domestic demand in the present phase of economic slowdown. Increasing working hours would lead to unbearable conflict within the labour market and run counter to an increase in the employment rate, which is contrary to the very same Lisbon objectives. Relocations designed to reduce costs and rights would risk dividing the workforce and the population as a whole, thus negating the value of both European unification and the constitutional Treaty itself.

7. For this reason, the ETUC Executive Committee supports a different line on both the economic plan for a form of competition that confirms the Lisbon strategy - and thus the quality of growth - and on

individual contractual terms. From this point of view, our main points may be summarised as follows:

8. Wages - As confirmed by the 2003 Collective Bargaining Report, real wages, and not just nominal wages, have reached the limits of their purchasing power - with very few exceptions - and in some countries they have in fact gone down. Moreover, for several months now the cost of many raw materials - and of oil in particular - has been rising, and this has had a significant impact on the cost of living. However, there has been a degree of economic growth, albeit at an unsatisfactorily slow rate, which, according to all indicators, should continue next year. The ETUC Executive Committee demands that part of this growth be earmarked for Europe's workers, not only in the form of tax measures, but also in the form of a wage policy designed to defend and bolster the purchasing power of wages in 2005. The ETUC Executive Committee stresses that real wage increases in line with productivity will not have a negative impact on the dynamics of inflation, but will, on the contrary, encourage consumption and domestic demand.

9. Working hours - The Executive Committee is fully aware that an increasingly open economy leads to company reorganisation, restructuring, mergers etc., and that market fluctuations sometimes require flexible working hours. For this reason, collective bargaining on working hours represents a consolidated practice for unions at all levels. The fundamental objective has always been to strike the right balance between company demands and workers' needs and safety. However, the problem today, especially in certain countries, is not in dealing with individual company cases, but in dealing with a generalised process designed to bring about a widespread increase in working hours. The ETUC Executive Committee reaffirms that it is totally opposed to any general increase in working hours; historically the trade union movement has always aimed to reduce working hours with the objective of improving working conditions and the employment situation. It also believes that, with few exceptions, wage policy cannot be separated from policy on working hours: in other words, any increase in working hours must be accompanied by an increase in the wages of workers. The Executive Committee once again stresses its firm opposition to any unilateral use of flexibility by companies, as would occur in the case of the extending of the periods

in question. For this reason, the Executive Committee confirms the position adopted by the ETUC with regard to the proposed change in the European directive on working hours.

10. Contractual decentralisation - As stated in the Executive Committee's resolution in March of this year, the Executive Committee confirms that, in view of an upturn in the processes leading to the lengthening and breaking-up of the productive cycle and the labour market, and given the substantial increase in SMEs, the most suitable cover in terms of worker protection is that provided by sectoral collective agreements. Of course, the Executive Committee also confirms the importance of contractual protection in the workplace, so as to be in a better position to intervene with regard to working conditions, work organisation and productivity. Under no circumstances categories of workers can be excluded from the scope of collective agreements for reasons linked with their specific function, position or role inside the company, in particular professionals and managerial functions. Consequently, the Executive Committee underscores its pledge to create and reinforce collective agreements in all countries where such agreements are few and far between. It also reiterates its pledge to extend union action to all workplaces. To this end, the Executive Committee pledges its firm opposition to any legislation regarding the collective bargaining system that could jeopardise the independence of the unions and employers' organisations. Accordingly, the Executive Committee underscores the fact that only the unions and employers' organisations may decide on any possible modifications to the collective bargaining structure in the framework of sectoral collective agreements.

11. Workers' rights - The Executive Committee reaffirms the principle of equal rights and duties for all workers. The basis of this principle is equal pay for equal work. For this reason, there is a need to promote a stronger, more consistent campaign in order to prevent the different forms of employment contracts from generating wage differentials. The wage differential between men and women continues to be substantial (on average about 15-16%) and the gap is being closed too slowly, apart from one or two exceptional cases. The Executive Committee demands, once again, that significant measures be taken in national and sectoral collective bargaining, and with

regard to reviewing the systems of classification and evaluation. It is equally important that the results of the Action Framework for gender equality be utilised within the context of the European social dialogue, in which wage parity is a fundamental issue. The same commitment is required with respect to young workers. On continuing training, it is necessary to combat the continuous underestimation of, and underinvestment in, training by companies. The important experiences of certain countries, where a portion of financial resources is earmarked for establishing special sectoral or inter-sectoral funds for continuing training, are the best direction for us, and one that we should be capable of extending and implementing across the board. These experiences are an essential element in confirming the quality of work and professional skills of workers as a prerequisite for European competition in the global framework. The same European framework agreement signed by the trade unions and employers' organisations in 2002 requires consistent action at national level for it to be implemented and for the development of workers' qualifications and professional skills.

12. Promotion of social unity - The Executive Committee confirms that European unification is an invaluable opportunity for social and economic growth for everyone. Accordingly, the key objective must be the gradual, continuous harmonisation of the rights and contents of the European social model. Where collective bargaining is concerned, the Executive Committee would like to underscore in particular the importance of reinforcing the forms and bilateral structures of unions and employers' organisations. To this end, current joint action within the framework of the European social dialogue could constitute an important benchmark in creating a stronger degree of representation of unions and employers' organisations, and thus give trade unions a greater say in collective bargaining and organisational matters. Furthermore, the Executive Committee reaffirms that we must see an increasingly consistent and coordinated European policy - involving the Federations themselves - aimed at guaranteeing the quantitative and qualitative growth of the present rate of contractual cover, and at extending contractual safeguards and guarantees to the sectoral and inter-sectoral levels. Another fundamentally important commitment is developing workers' rights and democracy at the workplace. To this end, the extension of union representation within companies, starting with the large multinational groups, is a key objective, and one that is

also designed to defeat all efforts by companies to block and/or influence our presence in the workplace. There is also a need to strengthen union coordination and monitoring, especially in cross-border areas, using the experience of the ITUCs, so as to counter all social dumping policies in an increasingly effective manner.

13. Reinforcement of, and improvements to, our action - The current attack requires an increasingly effective defensive capacity, but it also requires union action at all levels. The basis of a true union 'campaign' capable of dealing with all the daily problems we have to face, especially in certain countries, requires a stronger, more effective system of exchanging knowledge and information at all levels. From this point of view, the experience of the Doorn Group is of vital importance, as confirmed by recent action in Berlin this past October. The ETUC is fully committed to pursuing this objective, as evidenced by: the ongoing work of the Collective Bargaining Coordination Committee; the creation of special websites providing real-time access to specific issues, beginning with the one on working hours; improvements to the newsletters; the improvements in questionnaires and national reports on collective bargaining; and the commitment to a more closely coordinated form of working at both national – as for instance in the case of the countries of the Euro-zone - and sectoral levels. All of this confirms the fact that the strengthening of collective bargaining at all levels constitutes one of the fundamentally important strategic priorities for a fairer, more cooperative Europe.

MORE AND BETTER JOBS BY PUTTING SOCIAL EUROPE AT THE HEART OF THE LISBON STRATEGY

Executive Committee, 1 December 2004

The Lisbon strategy is about reaching ambitious objectives in the economic, the social and the sustainability field through a strategy of innovation and by investing in a knowledge society. Lisbon is not about wage cuts or competition on the basis of bad working conditions; instead it is about economic, social and ecological policies that are mutually strengthening each other. This is why the ETUC has welcomed the Lisbon strategy from the beginning.

The Lisbon mid term review presents an opportunity to restore this basic approach. This opportunity should not be missed. The ETUC urges the Commission and the upcoming Spring Council to take the following ETUC key demands into account when reviewing the Lisbon strategy:

1. Learn the lessons from past experience. Stop the mantra of unbalanced structural reform. Stop the mantra of stability and nothing but stability. Lisbon is about high growth, more and better jobs, social cohesion and sustainable development. In practice however, exactly the opposite is happening. The European economy is barely growing, unemployment is edging up, labour productivity trends are falling and workers feel more than ever insecure. Lisbon is not delivering because the kind of reform that is being pursued is not the right one. Too much focus is put on deregulation and flexibility instead of assisting workers to cope with change. Lisbon is also not delivering because aggregate demand policies are being distrusted and have been abandoned. Even when hit by economic shocks and downturns in demand and overall confidence, government interven-

tion in order to stabilise the economy is being distrusted and only implemented in a slow and inadequate way.

2. Get the structural policy agenda right. Put Social Europe at the heart of the Lisbon strategy. It is too simple to cry out for 'reform, more reform and even more reform' and then blame governments for non-implementation. The reality is that structural reform has become a code for deregulation and unlimited flexibility, for weakening workers' rights and wages and for the dismantlement of the social welfare state. It should come as no surprise that workers and the public at large are refusing an agenda that is in fact leading to the destruction of the European Social Model.

If acceptance and 'ownership' of structural reform policies is to be enhanced, then a radical overhaul of the current policy approach is urgently necessary. For the ETUC, the mid-term review has to acknowledge that social Europe is a powerful force for productivity and growth and that, for the Lisbon goals to be delivered, a massive investment is required in positive labour market institutions such as:

- active labour market policies with well functioning employment services that provide guidance, training and counseling
- increased access to lifelong learning for all workers
- improved social benefits regimes, supporting unemployed in their search for new jobs
- policies to reconcile working and family life
- policies to fight discrimination and gender gaps
- initiatives to promote participation of workers in developing high performance work places.
- developing new forms of security for workers while maintaining the principles of existing forms of workers' security.

By helping workers to accept and to be able to cope with the process of structural change, social Europe is not just a financial or a regulatory burden. Instead, social Europe is at the core of Europe's competitive advantage and the process of growth and job creation. This is in particular true for investments in learning capacities in general. Investing in learning capacities are essential for innovation and should become a priority in innovation policies. Also, by investing in learning for all workers, social cohesion can be promoted and inequality can be avoided. This corresponds with the original Lisbon idea: wages and productivity should be brought in line with one another, not by bringing down wages but by increasing skills and

productivity of all workers.

The ETUC urges European policy makers to draw up a European investment plan in social infrastructure. In this European Social Investment Action Plan, the focus should be on social policies that help workers to address the challenges of 'delocalisations', globalisation and restructuring. Also, special attention has to go to the urgent needs of the new member states in building labour market structures that underpin employment, productivity and social cohesion.

3. Break the taboo on active aggregate demand management. Deliver the Lisbon goals by reforming Europe's macro policy regime.

Macro-economic demand policies are an indispensable part of an agenda for growth and jobs. For growth and jobs to materialise there needs to be supply side and demand side policies. Structural policies that improve the quantity and quality of labour supply have to go hand in hand with active demand policies that support growth and create jobs. We can train as many workers as we wish, but this will not create one single extra job when firms do not offer jobs because of lack of demand.

The economic slowdown which has set in since 2001 and from which Europe in 2004/2005 still has enormous difficulty from recovering vividly illustrates the need for Europe to reform its existing regime of macro policy making. Europe can no longer continue to focus its macro economic policies exclusively on stability and leave the responsibility for growth and demand to policy makers in the rest of the world. As the second biggest economy in the world, and with a single currency at its disposal, Europe needs to act and behave as the 'master of its own economic destiny' by pursuing aggregate demand policies that support growth and make the European economy resilient against negative economic shocks.

The European Central Bank should stop looking for inflation around every corner and under every stone. When growth is endangered and inflation is nowhere in sight, the ECB should abandon its 'wait and see attitude' and support growth by reducing interest rates in a timely and substantial way. From its side, the Stability and Growth Pact should take into account the need for fiscal policy to stimulate the economy in times of economic slowdown, whereas an ambitious fall in the deficit should be reserved for economic upturns.

The 'Growth Initiative', decided upon by the 2003 December Council, should be taken up again and be strengthened. With the aim

of securing the recovery, member states should be invited to present 'national plans for economic recovery' that increase public investments in education, research, social housing, revitalisation of inner city areas, clean technologies, and renewable energy sources by 1% of GDP.

4. Sustainable development is a pillar for growth, competitiveness and social cohesion. Like Social Europe, the environment is a source of competitive advantage for Europe. Sustainable development policies force the European economy to invest in those sectors for which future world demand will grow most ('first mover' effect). Sustainable development policies also improve present European competitiveness by economising on expensive energy and materials input.

The ETUC calls upon the European Spring Council to fully integrate the Strategy for Sustainable Development with the Lisbon process. For the ETUC, this implies:

- Building a consensus between social partners on the transition towards sustainable development in order to manage potential tensions between environmental and social goals.
- Progressively include external costs in prices and removing harmful subsidies.
- Making the environment an integral part of European industrial policy programmes.
- Steer investments in European Research and Development towards innovation in the areas of energy efficiency, clean technologies and renewable energies.
- Making sure that the single European energy market recognises that energy supply has to remain a service of general interest with all consumers being entitled to access.
- Globalising sustainable development: the external dimension of sustainable development including the (non-) respect of core labour standards is an issue for Europe's competitiveness and must be addressed by the EU in its external policies.

5. Put the money where the Lisbon mouth is. Nice policy intentions are not enough. Yes, Europe needs to invest in more research and development, in more and better education, in labour market structures that help workers to engage in change. But these policies need to be financed. If European policy makers really attach the highest importance to the Lisbon agenda, they need to create the necessary budgetary room, notably indirectly through structural funds, by:

'Lisbonising' the Stability and Growth Pact'. With the Stability and Growth Pact as it exists at present, Europe is not able to engage in an agenda of innovation. Europe does not have the luxury to wait another five years or so for deficits to be eliminated before investing massively in innovation, research and development. This dead-lock needs to be broken by reforming the Stability Pact so that investments which are at the heart of the Lisbon priorities are no longer counted in the public deficit, at least for the first next years.

Putting a halt to tax competition between member states on mobile incomes. European governments just cannot afford to continue on the road of competitive tax dumping. 'Beggar-thy-neighbour strategies' that try to shift the tax base of mobile incomes between countries are only to the benefit of international capital and reduce substantially the margin for European governments to invest in the Lisbon priorities. The savings directive needs to be implemented and in the field of company taxation, the discussion on a common tax basis has to be supplemented by a minimum tax rate on profits.

Urging the European Investment Bank to make full use of its finance possibilities. With an increased ceiling on loans from 2003 onwards, the EIB can engage in additional lending. It must be assured that this additional lending room is used to a maximum extent and that the investments link up with the Lisbon agenda of innovation, research and development.

6. Do not narrow down the Lisbon agenda to a focus on competitiveness. Revise the concept of competitiveness. The ETUC urges policy makers to resist the temptation of going for a 'quick economic fix'. Achieving competitiveness and jobs on the basis of social dumping is in flagrant contradiction with the Lisbon model and will weaken the productive base and the innovative capacity of the European economy in the medium and long run. The Lisbon 'learning society' will not be reached on the basis of poverty, insecurity and sharp inequality.

No long working hours. Pressing workers to work long hours is a too easy solution. In the medium run however, it will lead to a burned out working force, to reduced job opportunities, hinder women in entering and progressing in the labour market and increase (work place) accidents. Experience from those member states that have long working hours testifies to this. Strikingly, these member states are also characterised by relative low productivity scores. The current

revision of the European working time directive should lead to more, not less control on those employers that force workers to work excessive long hours.

No general cuts in wages. Competing low wage economies on the basis of wage cuts is a dead-end street. There will always be countries where wages are still lower. Moreover, general wage cuts undermine domestic demand and reduce the incentive for firms to invest in innovation and productivity.

No to a services directive that will lead to social dumping. The present draft directive on an internal market for services (Bolkestein directive) is a recipe for social dumping and will push companies to compete with each other on the basis of poverty wages, poor social protection and unhealthy working conditions. The ETUC urges a radical overhaul of this draft directive.

Instead:

Revise the concept of competitiveness. Competitiveness should be about policies that enable the European economy to secure its place in the international division of labour by moving up the ladder of technology, innovation and productivity. This implies investing in research and development, investing in productive and secure labour markets and social dialogue that address workers' fears of structural change and investing in the development of those sectors where the jobs of the future are to be expected (sustainable development, social and personal services care sectors).

Keep and strengthen the benchmarking process on social inclusion. 'Trickle down' strategies do not work. Economic success does not automatically equal high social cohesion. Several member states benefit from high employment rates while at the same time suffer from very high poverty rates, with as much as one third of children living in poverty. Vice versa, several member states with high social cohesion already outscore the US on areas such as job creation and innovation. It needs to be kept in mind that, as the Kok reports argues, social inclusion policies are not only important to combat poverty but also to contribute to increasing labour supply and generating a productive workforce'. **Therefore, the domain of social cohesion should be added to the five policy issues the Kok report proposes to focus on.**

7. Ensure that the right set of Lisbon indicators will be used. In order for policy makers to focus on the right set of policies, statistical

indicators to monitor whether progress is being made are important. Here, the ETUC stresses that the set of indicators as presented in the Kok report may provide dubious or incomplete information. For example, using an indicator such as 'productivity per person' in fact heralds those member states that nurture a culture of long working hours while the dismal performance of these same countries in the area of productivity per hour is being concealed. Moreover, in the set of indicators selected by the Kok report, essential indicators concerning social Europe as a productive force are simply missing. This concerns statistics on lifelong learning for workers, on the number of children in households living in poverty and on the extent to which unemployed workers are being assisted in their search for jobs. The ETUC urges the Commission and the European Council to correct and broaden this set of Lisbon indicators to the social dimension. If not, there is indeed a danger of Social Europe being swept under the Lisbon carpet.

8. Implement Lisbon by involving social partners. Lisbon will not be implemented if policies are decided over the heads of workers. Implementation implies 'ownership' and 'ownership' can only be achieved on the basis of social dialogue. Here, the ETUC welcomes the fact that the Kok group is insisting on the importance of involving the social partners, both at the national as well as at the European. In particular, the ETUC welcomes the High Level Group's recommendation to make the Lisbon programme a part of the common work programme of European Social partners. At the same time, the ETUC expects a 'partnerships for change' to represent real change and not 'the business of deregulation as usual'. The ETUC cannot accept an approach where the trade union's presence or signature is used as an alibi for continuing efforts to weaken or destroy the social dimension of Europe. Also, the ETUC wants it to be clear that all other actors also have to take up their responsibility. Governments and central banks cannot leave the economy to its own device and then expect trade unions and workers to pick up the pieces. If there is a real willingness to strengthen the European social dimension as part of the Lisbon process and to reform Europe's macro economic policy framework, the ETUC is prepared to explore the possibility of a 'European framework agreement for innovation, social change and more and better jobs', within the common work programme of European social partners. The aim is to foster a consensus between European social

partners with regards to how the system of industrial relations, collective bargaining and social dialogue can alleviate workers' fears concerning ongoing 'delocalisations', and job retrenchment, by helping workers to adjust to change and to engage in the agenda of knowledge, and innovation, instead of giving up their rights and protection. This European framework, based on 'good practice examples' should then be the basis for further discussions and negotiations at the national level. Here, synergies between national innovation bargaining and the European Social Fund need to be explored.

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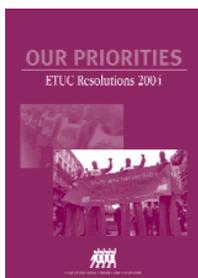
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