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COVER NOTE

From: General Secretariat of the Council
To: Delegations
Subject: New start for social dialogue
- State of play

Delegations will find attached a document from the Commission on the above subject with a view to the meeting of the EPSCO Council on 7 March 2016.

NEW START FOR SOCIAL DIALOGUE

ONE YEAR AFTER

In March 2015 the European Commission together with the social partners and the other EU institutions launched a new start for social dialogue, 30 years after the launch of the European Social Dialogue in 1985. Over the last twelve months, the Commission, the Council and the social partners have delivered on this new start through a number of concrete actions. This document takes stock of the significant progress made.

The promotion of dialogue between management and labour is recognised as a common objective of the Union and the Member States (Article 151 TFEU). The Union recognises and promotes the role of social partners at its level, taking into account the diversity of national systems. It shall facilitate the dialogue between the social partners, respecting their autonomy (Article 152 TFEU).

Social partners have a unique role under the Treaties to come to agreements for which implementation can be requested by EU legislation based on a proposal by the Commission. This role entails a responsibility for social partners and for the EU institutions involved to ensure that the resulting legislation is in line with the shared objective of better, simpler and less burdensome EU regulation.

Social dialogue implies industrial relations models in which social partners can autonomously exercise their practices of collective bargaining and employee participation. Social dialogue can be organised at cross-industry, sectoral or territorial level, taking place at all appropriate levels from the company to the regional, national and European level. In all cases, social dialogue requires social partners that are strong, representative, autonomous, mandated and equipped with the capacities needed. Social partners also need institutional settings which allow their dialogue to be effective.

To ensure a vigorous and sustainable recovery which fosters quality job creation, Europe needs to reinforce the competitiveness and fairness of its social market economy. This will require a sustained and coordinated effort at all levels. Successful and result-oriented social dialogue has a crucial role to play in this regard. Social dialogue forms part of the European social model and is a crucial factor for a well-functioning social market economy.

The dialogue between social partners at European level has developed gradually since its inception in the Maastricht Treaty. Their knowledge and experience of the employment and social situation, their legitimacy, representativeness, mandate and capacity to negotiate make recognized social partners essential actors to improve governance and policy-making¹.

The Member States that proved most resilient during the crisis could often rely on labour market policies that had been co-designed by workers' and employers' representatives, or on collective bargaining structures that had gradually adapted to the challenges of a changing economy. Social dialogue has directly contributed to job preservation during the crisis, notably via short term working arrangements. In the recovery, social dialogue can promote the conditions for job creation and job quality by contributing to increased competitiveness and improved working conditions, to a better matching between the demand and the supply for labour or the creation of a working environment more conducive to investment and sustainable growth. It can also facilitate the structural reforms that are needed to respond to the challenges of globalisation, technological, demographic and climate changes.

Nevertheless, over the past years, social dialogue has not been able to deliver to its full potential. It has been put particularly under strain in countries most affected by the economic crisis. Even in the countries where social dialogue was performing comparatively well, the crisis had a negative impact on its functioning. As a consequence, there is a need to further improve the functioning and effectiveness of social dialogue in a number of Member States.

¹ They must be clearly distinguished from other organisations representing civil society.

1. HIGH-LEVEL CONFERENCE OF 5th MARCH 2015

The European Union is to promote social dialogue (article 152 TFEU) while taking into account the diversity of national systems and the autonomy of social partners. Recognising the need to rebuild and strengthen the role of social partners in the policies and reforms which lead to recovery, the Commission decided to give a new impetus to social dialogue. A high level conference marking the *new start for social dialogue* took place in Brussels on 5 March 2015. It gathered the leaders of the EU institutions and of the European and national social partners at cross-industry and sectoral levels. The conference discussed the involvement of social partners in economic governance at EU and national level as well as their involvement in EU policy- and law-making.

President Juncker highlighted that the new start for social dialogue should take place both at EU and national level, and in the context of both tri-partite and bi-partite social dialogue. Social partners and the Commission agreed that the new start for social dialogue should aim for (1) a more substantial involvement of the social partners in the European Semester, (2) a stronger emphasis on capacity building of national social partners, (3) a strengthened involvement of social partners in EU policy- and law-making and (4) a clearer relation between social partners' agreements and the better regulation agenda.

2. THEMATIC GROUPS

The EU social partners and the Commission established two Thematic Groups to substantiate their respective commitments and monitor the follow-up to the *new start*. The Thematic Groups were composed of representatives from the social partners (at EU and national level and at cross-industry and sectoral level). Attachés from the past, present and future presidencies (Latvia, Luxembourg, Netherlands, Slovakia and Malta) also attended. The Thematic Groups reported back to the Social Dialogue Committee (SDC).

The first and second meetings of the Thematic Group 1 on *Social dialogue, economic governance and capacity building* took place on 2 July and 27 October. The Thematic Group examined the involvement and positions of the national and European social partner organisations in the assessment, design, agreement and implementation of semester-related reforms and policies at national level. Participants found that while the involvement of social partners at the EU level has significantly improved in recent years via the regular exchanges between the social partners and the EU institutions in formal and informal settings, there is room for further improvement at the national level². In particular, the involvement of national social partners in the preparation of the National Reform Programmes and in the design and implementation of relevant policy reforms could be reinforced while respecting national practices³. Annexing the views of social partners to the National Reform Programmes was considered a good practice.

Thematic Group 1 also looked into the functioning of social dialogue in Member States. Participants generally shared the view that a well-functioning social dialogue requires appropriate settings for both bipartite and tripartite social dialogue. The Thematic Group discussed in particular issues related to the representativeness of the social partners (with implications in terms of membership and negotiation mandates) and the need for adequate capacities (including analytical and legal) to create strong enough organisations. It also referred to the necessary existence of a suitable institutional framework for social partners to engage in bipartite and tripartite dialogue. The group also identified the need to ensure adequate financial resources and support for capacity building activities primarily via social partners and national resources, but also possibly through the use of EU funds (in particular the ESF and the prerogative budget lines on social dialogue). The latter requires a close coordination of the relevant public authorities and social partners during the implementation phase as well as monitoring and evaluation to ensure effective outcomes.

² Eurofound presented the drafts of a study on the role of social partners in the European Semester.

³ In accordance with the new provisions of employment guideline 7 on social dialogue.

Thematic Group 2 on *Social dialogue, policy-making and law-making* held its first two meetings on 15 July and 10 November. The group discussed the involvement of social partners in policy- and law-making in the context of initiatives in the social and employment area as well as in other policy areas⁴. It was acknowledged that tripartite fora such as the *Tripartite Social Summit*, the *Macroeconomic dialogue* and the *Social Dialogue Committee*⁵ enable the EU institutions and social partners to exchange views on important new policy developments such as access of refugees to national labour markets. The functioning and impact of these fora will be enhanced, where possible. Participants emphasized the need to make use of the expertise of social partners when developing EU initiatives and started exploring common features of what constitutes a genuine involvement at European level, beyond the Treaty-based consultation of social partners. There was also agreement that social partners and the EU institutions, while respecting their respective responsibilities and autonomy, should support synergies between their work programmes in order to enhance the delivery on the goals that they share.

The group also had a first exchange on the concept of representativeness at EU level, in particular in the cases where social partners requested their agreements to be implemented by EU law. The discussion notably touched upon the existing representativeness criteria at national and at European levels and the application of the methodologies in place⁶. The Thematic Group also discussed the application of the Better Regulation Package notably in case of such agreements. The discussion recalled the need to respect the specific role of the social partners. It also stressed the need for the social partners to contribute to the building up of the evidence base sustaining their agreement while keeping the national public authorities informed of the preparation of the agreement.

The last meeting of the Thematic Groups was held as a joint meeting on 26-27 January 2016 bringing the delegations of both groups together. Most of the meeting was reserved for group and bilateral discussions of the social partners. Based on the discussions in the Thematic Groups, the EU social partners have negotiated a proposal for a joint Declaration on the new start for social dialogue.

⁴ Not falling under articles 154-155 TFEU and the formal two-stage consultation procedure.

⁵ In its tripartite setting with the Commission.

⁶ Eurofound presented the draft of a study on the concept of representativeness at national and European levels.

3. FOLLOW UP BY THE COMMISSION, COUNCIL AND SOCIAL PARTNERS

The **Commission** continued and reinforced the consultation of social partners in various areas. Regarding the involvement in the European Semester, the Commission consulted the European social partners on their views on the challenges and possible priorities for the 2016 Annual Growth Survey (23 September). The Communication on "steps towards completing the Economic and Monetary Union" of 21 October 2015 announced that the Commission representations in the Member States will consult national social partners at pre-defined key milestones of the Semester. These steps are complemented by strengthened dialogue with social partners during European Semester missions at both political and technical level. The Commission aims to ensure that these consultations follow a consistent approach across the Member States to allow an appropriate and balanced involvement of national social partners while respecting national practices. In January 2016, the Commission released the new edition of the Employment and Social Developments in Europe review which examines in particular the involvement of national social partners in the European Semester and concludes that more efforts are needed to ensure a closer association of social partners in relevant policies and reforms at Member State level.

As far as capacity-building is concerned the Commission services presented the new start for social dialogue at the ESF Committee plenary meeting (3 June 2015). In particular, Member States were invited to provide more information on and ensure monitoring of the use of ESF for the capacity building of social partner organisations in the previous and current financing periods. A mapping of current ESF support to capacity-building of social partners will become available by the end of March 2016. Moreover, the Commission organised a workshop of the Open Days in October 2015 for the attention of both managing authorities and social partners on the use of the ESF for the capacity-building of the social partners. The EU prerogative budget lines devoted to social dialogue also promote transnational cooperation through projects identifying good practices and organising mutual learning activities on capacity building across European countries. The chapter on social dialogue in the new Employment and Social Developments in Europe review discussed the functioning and effectiveness of social dialogue at national level and concluded that social partners needed adequate capacities to engage in a fruitful bipartite dialogue.

Furthermore, the Commission introduced a more systematic consultation of the social partners in EU policy- and law-making (beyond the formal procedure applicable to social policy initiatives referred to in Article 153 TFEU). This has taken the form of three dedicated hearings with cross-industry and sectoral social partners on the long-term unemployment initiative, the forthcoming mobility package and the planned skills strategy. EU social partners also met with First Vice-President Timmermans on the Better Regulation package, with Vice-President Katainen on the Investment Plan, with Vice-President Ansip on the Digital Single Market and twice with Vice-President Sefcovic on the Energy Union.

The Commission launched a first stage consultation of the social partners, as foreseen by Article 154 TFEU, on "information and consultation of workers" in April 2015 and on "work-life balance" in October 2015.

The Commission adopted on 19 May 2015 the Better Regulation Package which confirms the role foreseen for social partners in the Treaty and calls for consultation of social partners in areas likely to have a social and employment impact. The package also provides guidelines recalling the procedure to be followed by the Commission in assessing social partner agreements for which implementation by Council decision has been requested by the signatory parties while inviting social partners to make their agreements public.

At **Council** level, the follow-up to the *new start* was addressed in the context of the Tripartite Social Summits (19 March and 15 October), at the Informal EPSCO in Riga dedicated to social dialogue (21-22 April) and at the October EPSCO. Regular exchanges at the key phases of the European Semester took place between the EU social partners and the **Employment Committee** and the **Social Protection Committee**. The Employment Guidelines adopted on 5 October 2015 by the Council call for the involvement of national social partners in the design and implementation of relevant reforms and policies and underline the need for support to the improvement in the functioning and effectiveness of social dialogue in the Member States. Furthermore, the need to promote capacity-building and to involve national social partners in the European Semester was discussed at a dedicated conference and at a Forum of social partners hosted by the Latvian Presidency (30 and 31 March).

EU cross-industry social partners presented on 14 July 2015 their in-depth employment analysis and their joint work programme 2015-2017. Out of their eight priorities, social partners have started their negotiations on an autonomous framework agreement on active ageing (priority 1) and have created a working group to look at the implementation by their members of their previous autonomous framework agreements with a view to promoting capacity-building and better implementation of outcomes (priority 8). EU cross-industry social partners also foresee the adoption of joint conclusions on work-life balance (priority 2). The five remaining priorities foresee exchanges of views and joint activities on mobility and migration (priority 3), investment and job creation (priority 4), digitalisation and skills (priority 5), active labour market policies (priority 6) and youth employment (priority 7).

EU sectoral social partners, active in 43 different sectoral social dialogue committees representing 75% of the work force, have continued to deliver on their respective joint work programmes including with common products such as joint opinions, declarations or projects on themes related to job creation and job matching, skills and apprenticeships, mobility and migration, energy and climate change, digitalisation and the collaborative economy. EU sectoral social partners have also signed agreements for which they have requested implementation by EU legislation in two sectors (sea-fishing in 2013 and central administrations in 2015). Two more sectors are also aiming at signing agreements in 2016 (hairdressers and maritime transport).

Important progress has been achieved in implementing the commitments made one year ago as part of the 'new start for social dialogue'. We will continue these efforts in the forthcoming years guided by the following two main principles:

- 1) EU social dialogue cannot deliver without a well-functioning and effective social dialogue and a more conducive institutional setting at the national level.
- 2) Tripartite concertation, involving public authorities, needs to build upon a strong bipartite social dialogue. This is valid at the EU level as well as in the Member States.