

26 March 2001

**PROTECTION OF WORKERS AGAINST RISKS LINKED TO
EXPOSURE TO ASBESTOS AT WORK**

**UNICE RESPONSE TO THE EUROPEAN COMMISSION'S SECOND CONSULTATION
OF THE SOCIAL PARTNERS**

INTRODUCTION

The Commission recently launched the second phase of the procedure for consulting the social partners on an EU measure for protection of workers against the risks linked to exposure to asbestos at work. It seeks to put in place minimum rules setting out the main measures that need to be taken to prevent or minimise exposure to asbestos, to propose measures to raise awareness among and improve information to and training of the workers concerned, and to tighten the inventory requirements for products and buildings which contain asbestos.

In this context, the Commission envisages a “modernisation” of directive 83/477/EEC to align its provisions on changes in practical arrangements for worker exposure and on progress in scientific knowledge and technology.

The Commission invites the social partners:

- ✍ to send it an opinion or, where appropriate, a recommendation on the objectives and content of the envisaged proposal;
- ✍ to inform it of their positions on other measures which might be envisaged, such as (1) steps to prevent the resale or re-use of materials containing asbestos or (2) information campaigns on the inherent risks of using asbestos;
- ✍ to inform it whether they wish to launch the negotiating procedure on the basis of the proposals described in its consultation document pursuant to articles 138.4 and 139 of the Treaty and, if so, to specify whether they wish to adopt a global approach or focus on particular features.

In this document, UNICE wishes to provide elements of a response to the questions posed by the Commission. It supplements its contribution with a number of comments on the procedures followed by the Commission on this question and the mechanisms for consulting

the social partners on EU initiatives in the field of occupational safety and health. This document complements UNICE's response to the Commission during the first consultation phase.

I. OBJECTIVES AND CONTENT OF THE PLANNED PROPOSAL

A. Preliminary remarks

The pathologies (pleural thickening, asbestosis, primitive pleural mesothelioma and cancer of the bronchial tract, where tobacco constitutes the main risk factor) which can be triggered by inhalation of asbestos fibres are broadly confirmed. Hence, employers consider it essential to ensure the best possible level of worker protection against this type of risk.

In parallel with the ban, soon to be generalised, on placing products or equipment containing asbestos on the market, application of directive 83/477/EEC has involved implementation of very strict prevention and protection measures for workers faced with the risk of exposure to asbestos at work in all Member States. Consequently, potential exposure situations have become rare and limited to particular operations.

However, UNICE shares the Commission's view that important problems remain, linked notably to:

- ✍️ medical consequences of prolonged exposure to high concentrations in the past;
- ✍️ activities involving exposure to asbestos fibres when work is carried out on certain materials or equipment already on the market.

In UNICE's view, questions linked to management of the consequences of past exposure fall within the ambit of the competent authorities in Member States and, as a general point, UNICE would like to recall that, even if this point needs to be distinguished from worker health protection, management of problems linked to asbestos is not limited to the workplace. It is also a question of public health, to which national authorities must provide an appropriate response.

By contrast, UNICE believes that the presence of asbestos, notably in much equipment and many buildings, may lead to exposure and recognises that EU action designed to adjust worker protection is justified.

In this context, UNICE would like to underline the following two points, which should be borne in mind for any EU initiative in this area.

1. It is essential to target adaptations to directive 83/477/EEC on operations, trades or tasks with potential for exposure by cataloguing activities where there is a risk of exposure to asbestos with the greatest precision possible.

In this regard, UNICE points out that particular attention must be paid to industrial sectors where asbestos is still extracted, manufactured or transformed, to work to confine, fix, box in and remove asbestos in buildings and other structures, to

maintenance activities and to removal and waste management activities where workers could be exposed to asbestos.

2. For good risk management, it is also essential to make a clear distinction between materials containing asbestos which are likely to release fibres when disturbed and those which do not (non-friable materials).

B. UNICE believes that if the Commission intends to amend directive 83/477/EEC it has to consider the aspects mentioned in the following paragraphs.

1. Occupational exposure limits

UNICE draws the Commission's attention to the problems of technical feasibility that adoption of a limit value of less than 0.3 f/ml would pose. Below this level, non-specific techniques for counting fibres which make use of optical microscopy (phase-contrast microscopy) are no longer sufficient. It may therefore be necessary to make use of specific techniques (electronic microscopy with electronic scanning or electronic microscopy with analytical transmission), whereas these techniques are costly and may not be sufficiently available in some Member States.

More generally, UNICE urges the Commission to take into account all direct and indirect costs linked to a reduction in the exposure limit. In addition, UNICE believes that any proposed reduction should be justified by a cost-benefit analysis.

Lastly, UNICE draws attention to the fact that, for some activities, an exposure limit can only be met if personal protection is taken into account.

2. Inventory

As already mentioned, the main source of risk is work with friable materials containing asbestos.

UNICE recalls that, regarding the presence of asbestos in buildings and installations, cooperation between the owner and lessee is of very great importance. It should be clearly established that, on the one hand, the employer/lessee is obviously responsible for putting in place appropriate prevention measures based on the results of risk assessment but that, on the other hand, the owner is responsible for cataloguing the materials in the building which contain asbestos, with the exception of those incorporated by the lessee, and for informing the lessee(s) accordingly.

UNICE stresses that this inventory must relate only to "risk" buildings or installations (notably those containing friable asbestos) and must only be undertaken when demolition, asbestos removal and confinement, centre-fixing and shuttering or restoration, repair or maintenance work likely to involve exposure to asbestos is foreseen. These inventories must make it possible to assess the state of degradation of friable materials using a qualitative evaluation based on observation, supplemented with measurements in ambient air if need be.

UNICE welcomes the fact that the Commission recognises in its consultation document that it is also important to avoid imposing systematic and premature removal of asbestos insofar as this could generate unnecessary greater exposure risks.

3. Measurements, risk assessment and risk management

UNICE underlines that measurement should not be regarded as systematic for operations on materials containing asbestos. The average exposure levels per type of operation are known in most cases (e.g. removal of joints, dismantling of a clutch armature, removal of lagging). Systematic air measurements would appear to be costly and without real interest for risk prevention. Thus, measurements must be reserved for situations in which a preliminary qualitative analysis is inconclusive.

When air is sampled, the measurements must be representative of the weighted average exposure experienced by operators in a normal situation.

UNICE underlines the need for harmonisation of the techniques used for sampling and analysis of asbestos in Member States of the European Union, and is in favour of a harmonized European standard.

As already mentioned, any amendment to the legislation should make a distinction between friable and non-friable materials for risk management rules.

4. Means of protection

While recognising that information and training of workers exposed to asbestos represents a key point of prevention policy, that it is important for workers to be aware of the risks to which they are or may be exposed and that they know the types of products likely to contain asbestos, UNICE would like to point out that it is up to employers to choose the most appropriate means of protection, including personal protection equipment, on the basis of the results of the risk assessment for which they are responsible.

UNICE recalls that the choice of the means of protection needs to be proportionate to the risks which can be encountered.

For operations where there is potential for exposure, additional training and information for workers could be envisaged. Information and training activities could comprise detailed information on risks (for instance including the risks associated with tobacco), information on rules of good practice during operations where there is potential for exposure (markings at the work area, cleaning of the area after work, use of work techniques which avoid fibre dispersal, etc.), training on wearing personal protection equipment and the notion of personal hygiene, and appropriate waste removal, etc.

5. Packaging

In UNICE's view, the notion of closed packaging does not apply for all materials. The dimensions of materials and their propensity to release asbestos fibres must be taken into account.

6. Demolition work

UNICE supports the Commission's position that demolition or asbestos-removal work should be carried out by specialist firms.

II. OTHER POSSIBLE MEASURES

1. Resale or re-use of materials containing asbestos

The resale or re-use of materials containing asbestos are aspects falling outside the scope of a legislative initiative on protection against the risks linked to exposure to asbestos at work.

2. Information, training, awareness-raising and prevention

The existing legislative apparatus at EU level provides for application of strict prevention rules. However, employers believe that priority at EU level should be given to devising tools for implementing these rules, and to ensuring optimal deployment.

The greatest effort should focus on training, information, awareness-raising among personnel and employers and, obviously, the availability of practical prevention rules; which, in the view of employers, cannot be achieved via legislation. UNICE welcomes the fact that the Commission recognises the importance of such measures in its second consultation document. In addition, UNICE believes that, in this area, the Advisory Committee on Safety, Hygiene and Health protection at work (ACSHH) could and *should* play a determinant support and advisory role vis-à-vis the relevant Commission officials.

In its consultation document, the Commission refers to practical guides for training of workers who may be exposed to asbestos, which it would like to disseminate during the course of 2001. It would be desirable for these draft guides to be presented to ACSHH.

Following the example of a fair number of occupational safety and health directives, revision of directive 83/477/EEC could include a reference to the production of guides or guidelines linked to its application.

UNICE believes that guides to good practice and guidelines for demolition and asbestos-removal work could be very useful. Production by the Commission of lists of materials or products (e.g. electrical equipment) which contain or used to contain asbestos might also be useful.

Whereas the use of substitutes for asbestos must involve careful risk assessment regarding worker health and the environment, and take these risks into account, UNICE would like to point out that non-regulatory measures for these substitutes should not generate distortions of competition.

III. NEGOTIATING PROCEDURE PURSUANT TO ARTICLES 138(4) AND 139 OF THE TREATY

UNICE does not want to initiate a negotiating procedure that takes the place of a proposal for amendment of directive 83/477/EEC. In the face of a scientifically recognised risk, it does not contest the legitimacy of a legislative initiative by the European Commission.

Regarding flanking measures (guides, information and awareness-raising campaigns, etc.), we believe that involvement of the social partners in the framework of ACSHH must be initiated.

IV. CONSULTATION PROCEDURES

Apart from questions of substance, UNICE considers this consultation of the social partners extremely important insofar as it represents the first application of the procedures for consultation of the social partners provided for in article 138 of the Treaty in the area of occupational safety and health, and raises the question of the interaction between these procedures and consultation of ACSHH.

In this regard, UNICE very much regrets the errors made by Commission services in the procedures followed. Yet, as long ago as April 1998, UNICE drew the Commission's attention to the importance and complexity of the procedural question, recalling that, while extremely attached to the role of ACSHH, it could not accept any limitation on the prerogatives of the social partners.

UNICE would also like to recall that, towards the end of 2000, the social partners submitted joint proposals concerning the procedure for consultation of the social partners on occupational safety and health matters to the Commission¹. UNICE invites Commission services to take note of these proposals and to launch an internal discussion with a view to taking them into account in the future.

¹ see attached position

EUROPEAN TRADE UNION CONFEDERATION
UNION OF INDUSTRIAL AND EMPLOYERS' CONFEDERATIONS OF EUROPE
EUROPEAN CENTRE OF ENTERPRISES WITH PUBLIC PARTICIPATION AND
ENTERPRISES OF GENERAL ECONOMIC INTEREST

SOCIAL/21.5/JOINTDECL24_10_00EN

**Joint proposals regarding the procedure for consultation
of the social partners on occupational safety and health**

24 October 2000

The Social Partners would like the Advisory Committee on Safety, Hygiene and Health protection at work (ACSHH) to continue to play a role in the procedure for consultation of the European Social Partners and indicate their attachment to its proper functioning. They attach to this statement their joint comments on the questions formulated by the Commission on restructuring of the advisory committees for safety and health issues.

Several situations have been envisaged:

- parallel consultation procedure (ACSHH and Social Partners);
- involvement of the advisory committee on in the second stage when the Social Partners have decided not to negotiate;
- regard the advisory committee's interest groups as representing the European Social Partners.

Each of these hypotheses poses problems.

The quest for a solution requires the following elements to be taken into account:

- occupational safety and health is protected by a set of legislation (*acquis communautaire*) but the area cannot be defined *a priori*;
- the possible orientation of EU action (art. 138) could be based on the advisory committee's earlier work (e.g. on application of a directive) and/or will have to take account of existing EU legislation in this area;
- the EU stance underpins and supplements action by Member States with a view to improvement, in particular, of the work environment and protection of worker safety and health (art. 137); Member States play a determinant role for ensuring equal treatment and guaranteeing results;
- any legal decision regarding the committee must ultimately be taken by the Council.

The proposals by the European Social Partners are based on a desire to establish channels for communication between the committee's interest groups to ensure that:

- in the first stage of consultation, when the Social Partners establish their views on the principle and scope of EU action, they have the possibility to receive clear information about the committee's work (e.g. to prevent the committee's opinions from being regarded as out of context);
- in the second stage of consultation, when the tripartite committee is consulted, all groups are well informed about the basis for the Social Partners' opinions.

Proposals

1. Social Partners hold the view that consultation of the social partners on the possible direction of EU action must be the preferred channel for the Commission.
2. In addition, Social Partners believe that the advisory committee's three interest groups must be simultaneously informed of documents submitted to the Social Partners by the Commission when they relate to questions already debated or under discussion within the committee or when they relate to directives on which the committee has given an opinion.
3. If they deem it necessary, the interest groups may formulate a contribution addressed to the social partners. Such contributions are also circulated to the other interest groups, for information.
4. At the end of the first consultation phase, the Social Partners may decide that the initiative in question does not fall within their remit and ask the Commission to refer, in the framework of the legislative process, to ACSHH for the second consultation stage (on the content)
5. As the coordinators of the Interest groups, ETUC and UNICE invite members to participate in meetings of the interest groups and of working groups ; in addition, these meetings are also open to a number of representatives of the European social partners.
6. The social partners also invite the government interest group within ACSHH to identify practical arrangements for coordinating its own work in order to ensure optimal functioning of the Committee.

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Social/21.5/position25_10_00en.doc

PROTECTION OF HEALTH AND SAFETY AT WORK
RESTRUCTURING OF THE ADVISORY COMMITTEES

CONTRIBUTION BY THE SOCIAL PARTNERS

25 October 2000

1. NEED FOR AN ADVISORY COMMITTEE IN THE FIELD OF HEALTH AND SAFETY AT WORK

Commission's proposals

- a) *Health and safety at work issues could be discussed by the existing committees in the context of the social dialogue;*
b) *An independent advisory committee for the field of health and safety at work to be maintained.*

A real improvement in occupational safety and health is based on close cooperation between all the players concerned, and at all levels. Definition and implementation of EU policy in this area must therefore involve close concertation between the EU institutions (in particular the Commission), national public authorities and the social partners.

In this context, the European social partners recall their attachment to the proper functioning of ACSHH, which is a starting point and a support for their reflections in this area. They consider that it must play a role in the framework of the Commission's new consultation procedures (see below), as well as in the framework of the process of enlargement of the EU.

However, the Treaty (article 138) confers on the European social partners a series of prerogatives for social policy, to which they are also attached.

Thus, they believe that the alternatives proposed by the Commission are not exclusive but **complementary**. Their specific proposals in this area are developed in a separate statement.

2. LEGAL BASIS FOR THE PROPOSAL

Commission's proposals

Council Decision based on Article 202.

The social partners agree that a Council **decision** is the most appropriate legislative instrument.

However, they could not accept the legal basis proposed by the Commission (article 202), which relates to the executive competences conferred on the Commission by the Council, unless express reference is made to the fact that the 28 June 1999 Council decision in relation to committee procedures **does not apply to ACSHH**. This would have the effect of enclosing the functioning of the Committee in a series of extremely strict procedures, which is incompatible with its tripartite nature.

Another solution could be to base the Council decision on **article 308** of the Treaty (formerly article 235).

In any event, the social partners would like a reference to be made to **articles 136 and 137** of the Treaty as justification for the initiative.

3. FORM OF THE PROPOSED INSTRUMENT

Commission's proposals

- a) *New instrument: the main feature of the instrument would be the proposal for a single and entirely new committee;*
- b) *Instrument amending the Council Decision establishing the Advisory Committee on Safety, Hygiene and Health Protection at Work;*
- c) *Instrument amending the Council Decision establishing the Safety and Health Commission for the Mining and Other Extractive Industries,*

The response to this question requires advance clarification by Commission services as to the reasons why it envisages a merger of the committees.

While reserving their positions pending these clarifications, the social partners would like to draw the attention of Commission services to the fact that a "straightforward" merger of the committees cannot be envisaged.

The Mine Safety and Health Commission (SCHMOEI) has competences which are quite different from those of ACSHH (notably the right of initiative and the right to make recommendations² to Member States), as well as particular expertise resources to which SCHMOEI members are very attached. This arises essentially from the specific nature and the particular features of the sector concerned.

Yet, these competences cannot be transposed to the ACSHH framework. Consequently, whatever form the "merger" might take, it would in practice mean the disappearance of SCHMOEI as such.

4. SCOPE

² In this context, a "recommendation" has a binding effect (different from a Recommendation as a Community act in the sense of article 249 of the Treaty)

Commission's proposals

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| <ul style="list-style-type: none"> a) All private or public sectors of activity: all sectors and all risks; b) All private or public sectors of activity excluding ionising radiation. |
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The social partners consider that ACSHH has a general mission in the field of occupational safety and health and that its competences must therefore cover all questions on which the European Commission can act :

- ~~☒~~ either by virtue of the Treaty on European Union or the Euratom Treaty.;
- ~~☒~~ or under an initiative by DG Empl. or another DG (e.g.) environment, public health, product safety, etc.)

5. POSSIBLE LINKS BETWEEN THE NEW COMMITTEE AND THE SENIOR LABOUR INSPECTORS COMMITTEE (SLIC)

Commission's proposals

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| <ul style="list-style-type: none"> a) Separate proposal for a Council Decision establishing the Senior Labour Inspectors Committee to be presented together with the draft decision establishing the new committee to replace the existing Commission decision; b) The Senior Labour Inspectors Committee to be an integral part of the new committee while maintaining its independence; c) Maintain the status quo, i.e. keep the Commission decision. |
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At the present time, there is no link between ACSHH and SLIC. The social partners have on many occasions called on Commission services to ensure transparency and reciprocal exchange of information between the two committees. Hence, the status quo is not a solution in their view.

However, the very nature of SLIC and the focus of its work, geared more to inspection than prevention, would make integration in ACSHH extremely difficult.

For that reason, the social partners prefer the first proposal, provided that the two decisions contain **cooperation mechanisms** (e.g. regular exchanges of information on work, circulation of activity reports and work programmes, exchanges of observers, joint seminars on various themes, etc.).

6. POSSIBLE LINKS BETWEEN THE NEW COMMITTEE AND THE SCIENTIFIC COMMITTEE FOR OCCUPATIONAL EXPOSURE LIMITS TO CHEMICAL AGENTS.

Commission's proposals

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| <ul style="list-style-type: none"> a) Separate proposal for a Council decision establishing the Scientific Committee for Occupational Exposure Limits to Chemical Agents to be presented together with the draft decision establishing the new committee to replace the existing Commission decision; b) the Scientific Committee for Occupational Exposure Limits to Chemical Agents to be an integral part of the new committee while maintaining its independence; c) Maintain the status quo, i.e. maintain the Commission decision. |
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The social partners consider it essential that the discussions, and decisions, of the Commission and ACSHH on occupational exposure limits are based on rigorous scientific analyses, notably those carried out by SCOEL.

The independence of scientists is an essential element for the validity and recognition of their analyses. Hence, the social partners reject any possibility of integrating SCOEL in ACSHH.

The social partners also recall that the mandate of the ACSHH ad hoc group on occupational exposure limits has recently been modified to take account of the requirements of directive 98/24 (chemical agents), notably regarding relations between the two committees and the European Commission. They therefore believe that the Commission's first proposal is the best possible route, on condition that the two decisions lay down the rules for coordination between the two committees by integrating the relevant portions of the OEL ad hoc group's new mandate.

7. POSSIBLE LINKS WITH THE EUROPEAN AGENCY FOR HEALTH AND SAFETY AT WORK

Commission's proposals

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| <ul style="list-style-type: none"> a) <i>Adoption of opinions concerning the Agency's programmes of work (current task to be formalised);</i> b) <i>The members of the Agency's Bureau are proposed by interest groups within the new committee</i> |
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The social partners recall that an evaluation of the Bilbao Agency is in progress, the results of which should highlight a series of elements linked in part to relations between ACSHH and the Agency. The conclusions of the evaluation will be examined by members of the Agency's Administrative Board and of ACSHH. If appropriate, this exercise should lead to Commission proposals for amendments to the regulation instituting the Agency.

In this context, the social partners would like to reserve their positions pending the evaluation report. However, they point out that the European Commission's second proposal would be tantamount to abolishing the Agency's Administrative Board, which comprises ACSHH members. This point will be the subject of subsequent debate.

8. COMPETENCIES AND POWERS OF THE NEW COMMITTEE AS COMPARED WITH THE EXISTING COMMITTEES

Commission's proposals

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| <p><i>The following cumulative tasks may be vested in the new committee:</i></p> <ul style="list-style-type: none"> a) <i>consultations/adoption of opinions;</i> b) <i>submit proposals to the governments of the Member States (Article 1, paragraph 3 OP);</i> c) <i>adoption of opinions on Community research programmes;</i> d) <i>preparation of (draft) codes of good practice;</i> e) <i>dissemination of information.</i> |
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In the view of the social partners, the Commission's proposal b) is unacceptable for the reasons set out in point 3 above.

Broadly, proposal e) falls more within the remit of the European Agency than the Committee. That being the case, it is very clear that both Commission services and ACSHH members have a duty to disseminate the results of the Committee's work.

The social partners attach very great importance to consultation of ACSHH on the general orientations of the proposed research programmes.

In addition, they believe that ACSHH:

- ~~It~~ should be consulted on the Commission's **work programme** for occupational safety and health;
- ~~It~~ should be consulted on reports on practical implementation of directives (see 1999 opinion on implementation of directives).

9. ADDITIONAL TASKS OF THE NEW COMMITTEE BY COMPARISON WITH THE EXISTING COMMITTEES

Commission's proposals

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| <ul style="list-style-type: none"> a) collect and reflect the opinions and experiences gained at national level with a view to tasks a)-d); b) cooperate in defining and implementing Community programmes |
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In the opinion of the social partners, proposal a) falls within the framework of preparation of the Committee's work and discussions rather than that of additional tasks to be conferred on it. In this area, close cooperation with the Bilbao Agency is necessary.

Proposal b) is not very clear and needs to be explained in greater detail by Commission services.

The social partners consider that ACSHH should be consulted by Commission services on any initiative linked to occupational safety and health, whether or not they emanate from DG-Empl. Some initiatives taken by other DGs may have repercussions on occupational safety and health and should be brought to the attention of ACSHH, e.g. in the area of environment and public health. This is particularly true for the research programmes (see above) or Community initiative programmes linked to education and training. However, involvement of ACSHH in implementation of these programmes is unrealistic.

10. STRUCTURE OF THE NEW COMMITTEE

Commission's proposals

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| <ul style="list-style-type: none"> a) Committee consisting of: main Committee, Bureau, standing sub-committees, interest groups and ad hoc working groups; b) Single basic committee relying on classical working groups (Ad Hoc groups); formalisation of interest groups. |
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Generally speaking, the social partners believe that the Committee's structure must be simpler and as flexible as possible in order to allow good coordination of work and an effective response to the subjects it is called upon to tackle.

The Commission's proposal a) is **unacceptable as it stands**. The structure which it would put in place would be unnecessarily complex, very difficult to manage and would not allow the Committee to carry out its tasks effectively. In addition, from the budgetary angle, creation of three or four standing subcommittees would represent a considerable budget item, reducing the Committee's resources.

The Commission's second proposal has the merit of formalising the structure of the Committee in **interest groups**, which reflects present practice and has long been requested by the social partners.

However, regarding creation of ad hoc groups, the present practice could be improved in order to give the Committee greater flexibility in definition of the working methods it wishes to use, on a case-by-case basis and as a function of the subjects it has to deal with. Thus, the social partners believe the structure of the Committee could be as follows:

✍✍ main committee;

✍✍ three interest groups;

- ✍️ bureau (superseding the present programming group) comprising the Commission and, for each interest group, the spokesperson, the coordinator, and one member to be designated by the group;
- ✍️ working groups comprising five representatives per interest group, created by the committee on the bureau's proposal, whose mandate should clearly specify the tasks to be carried out and, if necessary, the timetable;
- ✍️ expanded working groups created by the committee on the bureau's proposal to meet specific requirements (e.g. examination of a purely sectoral issue, examination of national reports on transposition of directives, etc.) comprising up to one representative of each interest group per EU Member State; the committee's decision to create this type of working group would clearly define the mandate, and their subordination link with the committee; they could be disbanded by the committee.

The social partners' comments on the Commission's proposals take no account of the alternatives proposed by the Commission but are based on the above proposal

11. COMPOSITION OF THE MAIN COMMITTEE

Commission's proposals

Alternative 10a):

- a) 1 representative by interest group and Member State, spokesman, delegates of standing sub-committees;

Alternative 10b):

- b) 2 representatives by interest group and Member State, spokesman;
c) 2 governmental representatives, 1 representative of the workers and 1 employers' representative.

The Commission has stated clearly that the composition of the committee should be modified, notably with a view to EU enlargement, to allow only one representative of each interest group per Member State.

The social partners could accept this reduction in the number of full members on condition that :

- ✍️ it applies to all groups – proposal c) is unacceptable;
- ✍️ two alternate members are designated per interest group and per Member State, who would be invited to take full part in separate meetings of the interest groups and who would receive all the information circulated to full members; one of the alternate members also have the possibility to replace the full member in plenary meeting in case of impossibility for the latter to participate;
- ✍️ the rules for designation of bureau members of working groups (standing, ad hoc or expanded) are rendered more flexible insofar as it would be more difficult to find the expertise needed for highly specific subjects in a committee with a smaller number of members.

12. DECISION-MAKING PROCESS

Commission's proposals

Alternative 10a):

- a) central decision-making body;
b) decisions may be taken at main committee level and at sub-committee level.

In the social partners' eyes, the committee should take decisions and validate the documents prepared in the working groups. However, and in order to allow flexible functioning and

improve the committee's capacity to react to questions submitted to it, this principle could be supplemented with the following arrangements :

- ~~2.4~~ establishment of a system for decision-making by written procedure, whose rules would be clearly laid down in the committee's procedural rules;
- ~~2.4~~ possibility for the committee to delegate some decisions to expanded working groups on the basis of an ad hoc mandate.

13. NUMBER AND COMPOSITION OF THE STANDING SUB-COMMITTEES

Commission's proposals

Alternative 10a):

- a) limited number (3-5) and 1 representative by interest group and Member State;
- b) depending on the number of sub-committees, fixed number of members.

The expanded working groups should be created on an ad hoc basis, and the number of their respective members decided on the same basis.

14. PROCEDURE FOR CREATING THE STANDING SUB-COMMITTEES

Commission's proposals

Alternative 10a):

- a) the sub-committees are established at the time of the decision;
- b) the sub-committees are established in the decision establishing the new committee, with Commission adaptation procedure;
- c) the sub-committees will not be enumerated in the decision establishing the committee but will be created by the committee itself.

The decision should only include the possibility of creating expanded working groups and leave it to the committee's procedural rules to specify the conditions under which such groups can be put in place.

15. COMPOSITION OF THE WORKING PARTIES

Commission's proposals

- a) classical working parties (Ad Hoc groups);
- b) working parties of a new type with a core responsible for drafting, 1 or 2 per interest group.

The composition of working groups would continue to be five members per interest group (except for the bureau and expanded groups), designated by the coordinators of each group (with no obligation to be a member of the committee). The chair, vice-chair and rapporteur of each working group would be designated by the bureau, taking account of a balanced spread of functions among the groups. The chair of each working group should be a member of ACSHH, but this obligation would no longer apply for the other two members of the bureau.

In case of need, it is up to each working group to ask one or more persons to draw up a draft opinion. In this case, the document would have to be validated by the group as a whole (by written procedure if necessary) before being submitted to the committee.

16. INTEREST GROUPS

Commission's proposals

- a) interest groups at main level only;

- b) *interest groups also at level of the standing sub -committees;*
 c) *unique interest groups covering the two levels "main" and "sub -committee".*
Tasks of the interest groups
 a) *preparation of meetings*
 b) *coordination of positions*

Organisation in working groups have proved its effectiveness. It reflects the very nature of the committee and must therefore be used at **all** levels. The social partners are extremely attached to this principle and could under no circumstances accept its modification. (In this regard, they propose that this composition be reflected in the physical arrangement of meeting rooms and that members sit as a function of their membership of an interest group rather than as a function of their nationality.)

The groups would be composed of full members, alternate members and invited experts (whose number would be defined by the bureau) and who could, for instance, comprise representatives of European social-partner organisations.

It is evident that the coherence of the committee's work depends on the capacity of each interest group to coordinate the positions of its members. Both the worker group and the employer group have demonstrated this capacity, essentially due to the coordinating role played by the European organisations. This role should be formalised.

In addition, the social partners believe that there is an urgent need for the government group to find practical solutions along the same lines, ensuring better coordination of the positions expressed.

17. COMPOSITION OF THE BUREAU

Commission's proposals

- a) *restricted group on the lines of the existing spokesman group (1 representative by interest group), chaired by the Commission;*
 b) *existing planning group chaired by the Commission;*
 c) *groups with 2 representatives by interest group chaired by the Commission.*

See point 10 above.

18. TASKS OF THE BUREAU

Commission's proposals

Cumulative

- a) *prepare the plenary meeting and procedural aspects;*
 b) *approximation of the view points of the different interest groups and preparation of compromise proposals;*
 c) *emergency decision;*
 d) *nomination of members of the working parties.*

The bureau, an emanation of the committee, would have the main task of organising the committee's work :

- ~~☞~~ setting agendas for plenary meetings;
- ~~☞~~ setting the timetable for meetings of the committee, interest groups and working groups;
- ~~☞~~ preparation of new draft procedural rules for the committee (to be adopted in plenary) and of all subsequent amendment proposals (also to be adopted in plenary);

- ✍️ preparation of the draft annual or multiannual work programme for the Committee (to be adopted in plenary);
- ✍️ proposals for creation of working groups and preparation of the corresponding draft mandates (to be adopted in plenary);
- ✍️ proposals for creation of standing or expanded working groups and preparation of the corresponding draft terms of reference (to be adopted in plenary);
- ✍️ designation of chairs, vice-chairs and rapporteurs for working groups;
- ✍️ designation of working group members (on the proposal of the coordinators).

In addition, the bureau could be given mandates by the committee, e.g. to take urgent decisions or finalise draft opinions, without the need to refer back to plenary.

Bringing points of view closer together and preparation of compromises is a **natural** task for this type of body, without the need for this to be specified.

19. PROCEDURE FOR NOMINATING THE MEMBERS AND ALTERNATE MEMBERS OF THE NEW COMMITTEE

Commission's proposals

- | |
|--|
| <ul style="list-style-type: none"> a) <i>by the Council of Ministers acting on proposals from the Member States (status quo);</i> b) <i>by the Commission acting on proposals from the Member States;</i> c) <i>by the Member States which subsequently notify the nominations to the Commission.</i> |
|--|

The social partners believe that the present procedures for nomination of ACSHH members are adequate and that there is no need to change them.

In addition, the Council decision, like the decision on the standing committee on employment, should specify that the worker and employer interest groups are coordinated by ETUC and UNICE respectively.

20. DURATION OF TERM OF OFFICE

Commission's proposals

- | |
|---|
| <ul style="list-style-type: none"> a) <i>three years;</i> b) <i>five years.</i> |
|---|

A five-year mandate has the advantage of greater stability. That being the case, in the context of a smaller committee, it might also prove useful to have some rotation in nominations which is why the social partners tend to prefer a mandate limited to three years.

21. CHAIRING OF MEETINGS

Commission's proposals

- | |
|---|
| <ul style="list-style-type: none"> a) <i>the main committee is chaired by the Commissioner;</i> b) <i>the main committee is chaired by the Director-General;</i> c) <i>the sub-committees are chaired by the director, the head of unit, the advisers.</i> |
|---|

Chairmanship of the committee is one thing. Unfortunately, experience has shown that the chair's participation in meetings is another.

It is clear that the Commissioner's commitments are difficult to reconcile with participation in meetings. That being the case, it could be very useful to arrange for regular exchanges of views between the Commissioner and committee members.

The social partners attach very great importance to occupational safety and health. If the Commission shares this view, it is essential that the Director-General for Employment and Social Affairs chairs the committee and is actually present at meetings.

The bureau could be chaired by the Head of Unit in charge of occupational safety and health.

The chairs of working groups are nominated by the bureau from the list of group members, ensuring a balanced spread of functions among the interest groups.

Chairs of expanded working groups are designated by the committee on a case-by-case basis, as required (members of an interest group or representatives of the European Commission).

22. EXPERTS TO BE INVITED

Commission's proposals

- a) *the Chairman of the main committee may invite experts;*
- b) *the Chairman of the main committee and the Chairman of the standing sub-committees may invite experts to their respective meetings;*
- c) *the Chairman of the main committee, the Bureau and the Chairman of the permanent sub-committees may invite experts.*

The very nature of occupational safety and health means that it is often necessary to seek expertise beyond committee members. In the eyes of the social partners, this question should be settled by the bureau. The details of the procedure could be laid down in the committee's procedural rules.

23. OBSERVERS

Commission's proposals

- a) *open definition of observers;*
- b) *closed list of observers.*

The social partners believe that the decision itself could make provision for some observer seats:

- ~~EEA~~ representatives of EEA Member States (one per interest group per country);
- ~~MSHC~~ representatives from other committees (notably MSHC);
- ~~Agency~~ directors of the Bilbao Agency and Dublin Foundation.

In addition, the bureau could be able to invite some observers to a plenary, on a case-by-case basis and to reflect the subjects for discussion.

24. INTERNAL OPERATIONS

Commission's proposals

Certain specific features to be fleshed out in the rules of procedure, for example written procedure for decision-making and use of modern means of communication;

The social partners believe that this must be one of the committee's first tasks after the decision is adopted.

However, they believe that these procedural rules should not be adopted by the Council but by the committee itself, on the bureau's proposal

Without prejudging of the discussion within the ACSHH concerning the elaboration of Internal rules, social partners consider that the following issues should be, at least in principle, be integrated in the decision itself :

- ✍✍ role and mission of the ACSHH;
- ✍✍ organisation of the ACSHH in three interest groups
- ✍✍ role of ETUC and UNICE as coordinators of the workers'- and employers' interest groups;
- ✍✍ mechanisms for a reinforced cooperation with SLIC and SCOEL;
- ✍✍ relationship with the European Agency (Bilbao);
- ✍✍ structure of the Committee, including chairmanship;
- ✍✍ composition of the Committee, procedures for the nomination of the members, duration of their mandate.

The other issues would be better addressed in the framework of the Internal rule (especially the definition of decision making processes).