How to monitor and influence the EU decision-making process from a trade union perspective

A guide for trade unions
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Foreword

Judith Kirton-Darling
Confederal Secretary, ETUC

There are 50,000 professional lobbyists active around the EU institutions. To put it in perspective 90% of all contacts that the European Commission’s Directorate-General for Enterprise and Industry has with external actors are industry contacts or business representatives. It shows that until now, trade union contacts have been effectively blocked from having access to DG Enterprise and we need to find a way of getting a seat at the negotiating table.

This manual aims to provide trade union representatives with the necessary information and guidelines to turn this situation around and help us be more effective in setting up meaningful contacts with decision makers at EU level, to enable us to influence the decision-making process so that our priorities are also taken into account. Lobbying is just one of a range of tools available to trade unions. However, in the current European political landscape, with a shortage of decision makers sympathetic to our cause, it is more crucial than ever that trade union organisations increase their impact on European decision making and invest in lobbying strategies and campaigns.

At the same time, it is just as important to build one trade union voice in order to be effective in defending workers’ interests also at national and international level. To do this effectively the manual stresses the importance of consulting your rank and file when developing opinions and setting up lobbying strategies. In this regard the ETUC is also building a more open culture in terms of its political work, fostering new relationships with its member organisations by constantly consulting with them, exchanging information, and coordinating to achieve common positions to promote clear alternatives to poor proposals. An improved engagement by unions at European level helps to change the political landscape in Europe, and this in turn also has a big impact on what can be achieved at national level.

The document in front of you is a lobbying training manual. Its objective is to help trade union representatives monitor and influence the EU decision-making process. Its content is based on an exchange of lobbying experiences from different stakeholders, among others, Members of the European Parliament, European Commission officials, representatives of European Trade Union Federations and NGOs. Sharing information and exchanging experiences improves your knowledge and increases the effectiveness of your work. I therefore call upon you to also share your knowledge within your union and thereby contribute to the widening and strengthening of trade union power.
Introduction

Ulisses Garrido
Director of the Education Department, ETUI

In societies undergoing austerity, and in exceptional times such as today, the importance of exerting influence over political and decision-making processes increases.

And its importance is even greater when we know that others, such as representatives of economic and financial powers, with substantial means and experienced professionals, invest heavily in exerting their influence.

The European Trade Union Confederation (ETUC) is well aware of this. In its 2011 Athens Congress, it decided to “maximise the use of a set of available measures to improve the impact of the trade union agenda at the European level.”

It is within this context, and with this in mind, that the Education Department of the ETUI (European Trade Union Institute) has developed an educational tool to answer the following questions: how can we have a greater influence over European decisions? How can we monitor the institutional decision-making process? In other words, how can we use the means of union action available to us, from demonstrations to lobbying?

An experimental seminar was held in November 2012, and others will follow. I would like to thank the diversified team who contributed to this, including MEPs, the European Commission and the European Economic and Social Committee officers, experienced trade union member representatives based in Brussels, campaigners and professional lobbyists. You will find their contributions in the annex accompanied by the teaching resources, which are part of the training guide presented here. The teaching resources and the programme are examples of how to deliver a similar training for the trade union organization. The guide has been put together by Silvana Pennella, ETUI and Koen Reynaerts, ETF. Karen Trevayne has assisted in the proof reading and editing.

This guide is not intended to be a work of reference, gathering together theoretical contributions, nor to be a compendium on the subject. It is meant as a tool for union work, for daily and necessary union action. It is based on practice, adhering to the realities and difficulties experienced, and aimed at being useful to union representatives. Conceived at the European level, it can be adapted to national or international levels.

The European Trade Union movement will thereby be provided with updated educational material to prepare their members in a subject essential to today’s societies, especially when dealing with the present and future challenges facing Europe’s unions.

The manual exists in English and French and other translations will follow.

We hope that you will find the manual useful.
What does lobbying mean for trade unions?

Fabio Ghelfi
CGIL Lombardia

Through the participation and organisations of citizens the decision process of political institutions can be influenced. This principle is an element of a well-functioning democratic system.

Representative democracy is a regime which is conceived to be realised via the expression of the opinions of women and men who share their lives within the same community. Citizens living in a society collectively allow the existence of a democratic political system, based on the election of institutional representatives and government, determined by a democratic and universal right to express orientation, opinion and the choice of its citizens via the electoral vote.

At the same time it is important to emphasise how the relationship among institutions and society should not end with the democratic vote, but can continue via proactive interaction between citizens, political institutions and policy makers. This aspect has to be based on a conception of democracy which includes a participative approach, that can be further improved with an evolution in the democratic system. This does not mean that the conception of democracy should be oriented to utopian theories of direct and collective decision-making, excluding democratically elected intermediate bodies, rather, it expresses the idea that participation and active engagement to influence political decisions can be a way for associations and citizens to maintain a direct relationship with the people who govern political institutions. In that sense the practice of influencing the decision-making process can be considered a further step towards making a stronger democratic system.

Active participation is a fundamental concept and value for the legislative, institutional, political and social framework of the European Union “house” and for European Union citizenship. This value has been enhanced in several pieces of legislation and forms the basis of the most important directives concerning the condition of workers and their rights to representation.

Taking into account that cooperation, consultation, information and co-decision are processes which involve the active participation of citizens, and specifically workers, the role of the trade union movement, as one of the social partners, is to participate in playing a strong and precise role in influencing
the institutional decision process concerning the conditions, rights and interests of workers and citizens, and of society generally.

This participative approach, as an enrichment of the institutional process, is recognised formally by the rules of the European Union as an indubitable part of the conception of the European Union. However, the institutional steps foreseen are not the only field on which the match can be played. An equally important part of the democratic process is the debate within society, which not only includes confronting politicians, but also building interaction among citizens and growing a consensus on projects, programmes and claims. Finally, influencing people about which way they should vote can be achieved by different tactics and strategies and also by using different ethical approaches.

These last steps can be considered the natural link between a wider concept of influence on the decision-making process of an institution and the lobbying activity aimed at decision makers, which can be conceived as a tekné (the old Greek concept of art), without written rules, but based on experience and by emulating good practices in networking, knowledge building, communication and project planning and management.

Therefore, effectively lobbying policy makers can be seen as an extension of the idea of social participation which is a strategic part of social action run by organised citizens.

Of course lobbying is also as much about who does the lobbying and the interests of the policy makers who are lobbied.

In the case of the European Union, the number of active lobbyists is impressive: around 50,000 Brussels-based lobbyists (consultants, lawyers, associations, corporations, NGOs etc.) seek to influence the EU’s legislative process. Some 2,600 special interest groups have a permanent office in Brussels. Their distribution is roughly as follows: European trade federations (32%), consultants (20%), companies (13%), NGOs (11%), national associations (10%), regional representations (6%), international organisations (5%) and think tanks (1%).

This is a wide, and perhaps also slightly wild world, in which different cultures, values, approaches, practices, visions and means coexist, and this encourages the trade union movement to reflect on, and to share the experiences of, the different organisations at European, national or local level.

The trade union movement in Europe is the most structured confederation and network among these social organisations. The 82 ETUC affiliates represent over 60 million citizens in the 28 Member States and more. Trade union organisations, as social partners, can establish relationships with important local and national institutions. Above all, from the European to the local level, trade union organisations, if well organised, can interact and perhaps influence stakeholders such as MEPs, members of national parliaments, members of the chamber of the regions etc., who have a role in the decision-making process of the European Union. Here it is important to reflect a moment on the
great heritage, background and experience of workers’ organisations and the nature and history of trade unionism. Workers’ organisations have to combine the necessary innovative approach of lobbying policy makers and influencing the decision-making process of the European institutions as part of their mission to defend workers’ and citizens’ rights and to work for improving the life and working conditions of society. In order to get these results our organisations have had to learn how to face challenges head on. With a strong base of values and principles, trade unionists have often become experts in negotiating, convincing, mobilising, organising, establishing alliances, disseminating knowledge, raising awareness and participation, planning campaigns, and elaborating strategies which coincide with the interests of workers and the general interests of society. This aspect is specific to trade unions and represents the potential which is at the disposal of workers’ organisations when aiming to positively influence the decisions of the European institutions.

The aim of the training programme is to foster an environment which will allow trade unionists to acquire the skills and ideas, and develop the best possible tactics and strategies, to positively influence the EU decision-making process. The challenge is to progressively build and define our own specific way of lobbying, combining lobbying activities with our wide background of social action, which is the rich inheritance unique to workers’ organisations.
In order to lobby effectively, it is important to understand the decision-making process of the European Union and the balance between the different actors. It will enable the lobbyist to identify key actors and moments in the process when decisions can be influenced and voices heard. This chapter will set out the framework and present the different institutions involved in European decision-making.

For the institutional triangle, see the annexe 4 (pag. 57) ‘The Introduction of the EU Institutions and the Ordinary Legislative Procedure’

**European Parliament**

The European Parliament represents and defends the interests of European citizens. At the time of writing, it has 766 elected members from 7 political groups and the next elections will take place in 2014. Martin Schultz, from the Group of the Progressive Alliance of Socialists and Democrats (S&D) and the German political group Sozialdemokratische Partei Deutschlands is currently the President of the European Parliament. The plenary sessions of the European Parliament are organised in Strasbourg, the Parliamentary Committees and meetings of political groups take place in Brussels, as well as the “mini-sessions”.

23 **Parliamentary Committees** prepare the plenary sessions and have different areas of activity (internal market, agriculture, employment, industry, transport, culture, constitutional and legal affairs etc.). The main function of the standing committees is to debate proposals for new legislation put forward by the European Commission and to draw up own-initiative reports.

For any legislative proposal or other initiatives, a **rapporteur** is nominated in

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1 All figures mentioned in this manual refer to the situation at the time of writing and are subject to change
agreement with the political groups that make up the European Parliament. His or her report is discussed, amended and voted on within the relevant parliamentary committee and is then placed before the plenary assembly, which meets once a month in Strasbourg, and debates and votes on the basis of this report.

The European Parliament has **legislative and budgetary power and power of control** over the Union’s institutions, in particular the Commission. The Lisbon Treaty has strengthened the role of the European Parliament by placing it on an equal footing with the Council of Ministers.


**European Commission**

The European Commission is the driver of the European Union’s policy. Its main function is to propose and implement Community policies adopted by the Council and the Parliament. It is currently composed of one President and European Commissioners (total 28) who act in the general interest of the Union with complete independence from national governments. It has 43 Directorates General and 38,000 officials and agents. The European Commission submits proposals for directives and regulations.

The Commission **oversees the application of Union law** under the control of the Court of Justice of the European Union. It executes the budget and manages the programmes. It exercises coordination, executive and management functions, as laid down in the Treaties and has the **right of legislative initiative** in certain areas such as budget and structural funds. It has an almost exclusive right of initiative in matters where the Community method applies (matters where Member States have transferred a significant part of their responsibilities, such as the Common Agricultural Policy, the Customs Union, the internal market, the Euro, etc.)


**European Council**

The European Council defines the general political direction and priorities of the European Union. With the entry into force of the Treaty of Lisbon on 1 December 2009, it has become an official institution. It does not exercise legislative functions.

The European Council consists of the Heads of State or Government of the Member States, together with its President and the President of the Commission. The High Representative of the Union for Foreign Affairs and Security Policy takes part in its work.

The European Council meets twice every six months, convened by its President.
When the situation so requires, the President will convene a special meeting of the European Council. Except where the Treaties provide otherwise, decisions of the European Council are taken by consensus. In some cases, it adopts decisions by unanimity or by qualified majority, depending on what the Treaty provides for. The European Council elects its President by qualified majority. The President’s term of office is two and a half years, renewable once.


**Council of Ministers**

The Council of Ministers is composed of the Member States’ government representatives, namely the ministers of each Member State with responsibility for a given area. Together with the permanent ambassadors they represent the Member States and defend their interests. Every six months, the presidency of the Council of Ministers rotates.

**The Council of Ministers** has 150 workgroups and committees, 3650 officials and 10 different configurations, arranged in thematic groups:

- The Council
- General Affairs
- Foreign Affairs
- Economic and Financial Affairs
- Justice and Home Affairs (JHA)
- Employment, Social Policy, Health and Consumer Affairs
- Competitiveness (internal market, industry, research and space)
- Transport, Telecommunications and Energy
- Agriculture and Fisheries
- Environment
- Education, Youth, Culture and Sport

**The competences** of the Council of Ministers includes:

- adopting legislative acts, often in co-decision with the European Parliament,
- helps coordinate Member States’ policies,
- develops common policies based on the guidelines set by the European Council,
- concludes international agreements on behalf of the European Union,
- adopts the European Union’s budget together with the European Parliament
Antoine Cochet

The Permanent Representatives Committee or Coreper (Article 240 of the Treaty on the Functioning of the European Union – TFEU) is responsible for preparing the work of the Council of the European Union. It consists of representatives from the Member States with the rank of Member States’ ambassadors to the European Union and is chaired by the Member State which holds the Council Presidency.

There are two Corepers:

- Coreper I consists of the deputy permanent representatives and deals with technical matters: domestic market, consumption, tourism, transport
- Coreper II consists of the permanent representatives or ambassadors and deals with policy matters: international, institutional, economic, financial, judicial and domestic issues


The European Economic and Social Committee (EESC)

The European Economic and Social Committee (EESC) is an advisory body that represents the interests of the various economic and social groups. It was set up to give voice to civil society, e.g. employers, workers and particular types of activity (such as farmers, craftsmen, small businesses and industry, the professions, consumer representatives, scientists and teachers, cooperatives, families, environmental movements).

The Council appoints the 353 representatives for a term of 5 years. The EESC may be consulted by the European Parliament, the Council and the Commission in the cases envisaged by the Treaties. It may also issue opinions on its own initiative. Like the Committee of the Regions, the EESC is structured in specialised committees/sections which prepare its opinions to be adopted at the plenary meetings.


The Committee of the Regions (CoR)

The Committee of the Regions (CoR) is an advisory body that allows local and regional authorities to make their voices heard in the decision-making process of the European Union. It is currently composed of 353 representatives from local and regional authorities, appointed by the Council for five years, and has the power to draw up opinions on its own initiative.

It is consulted by the Council, the Parliament and the Commission in areas
that affect local or regional interests: economic and social cohesion, employment, social policy, trans-European transport networks, energy and telecommunications, education and youth, vocational training, culture, the environment, public health and transport. The specialised committees prepare the CoR opinions to be voted at the plenary meetings.

The EU decision-making process

Antoine Cochet
consultant

The legislative procedure of the European Union contains several steps, and lobbying is possible before, during or after each stage. In order to lobby in a timely and effective manner, it is therefore important to understand the procedures and to know who plays which role and when. This chapter gives a brief overview of each step and the existing options after each stage.

It is usually the European Commission that makes proposals for a legislative act. However, the European Parliament (EP) may also adopt legislative initiatives. In the case of the Area of Freedom, Security and Justice, ¼ of the Member States may present a proposal for a legislative act as well.


1. It is possible that the European Commission will publish a Green Paper before drafting legislative proposals to stimulate discussion on given topics at European level for which relevant parties are invited to participate in a consultation process.

2. The publication of a White Paper can also precede the presentation of legislative proposals.

3. When the European Commission puts forward a proposal, it is:
   3. a. presented to the European Parliament
   3. b. presented to the European Council
   3. c. made available to the Committee of the Regions and the European Economic and Social Committee for consultation as appropriate
   3. d. made available to the parliaments of the Member States. Within eight weeks the national parliaments may send a reasoned opinion to the Presidents of the Euro

2 Commission White Papers are documents containing proposals for Community action in a specific area. In some cases they follow a Green Paper published to launch a consultation process at European level. When a White Paper is favourably received by the Council, it can lead to an action programme for the Union in the area concerned.

pean Parliament, the Council and the Commission on whether a draft legislative act complies with the principle of subsidiarity 3.

4. **When the EP starts** the First Reading on the Commission’s proposal:
   4. a. the political groups decide who will take the role of the rapporteur 4
   4. b. the EP’s rapporteur prepares a draft report, which is:
      4. b. i. discussed within the political groups of the EP
      4. b. ii. amended in the relevant European Parliament’s Committee(s).

4. c. **The EP adopts its position in the Plenary meeting** by a simple majority.  
   Three options emerge:
   4. c. i. The EP’s position *does not contain any amendments* + the Council accepts the original proposal.
      4. c. i. 1. The Council adopts the act by qualified majority.
      4. c. i. 2. The President of the EP and the Council sign the act.
      4. c. i. 3. The act is published in the Official Journal.

   4. c. ii. The EP’s position *does contain amendments* + the Council approves all amendments.
      4. c. ii. 1. The Council adopts the act by qualified majority.
      4. c. ii. 2. The President of the EP and the Council sign the act.
      4. c. ii. 3. The act is published in the Official Journal.

   4. c. iii. The **Council rejects** all or part of the amendments.
      4. c. iii. 1. The Council adopts its position by a qualified majority.
      4. c. iii. 2. The Council’s position together with a full explanation of its reasons for adopting it is forwarded to the EP for the Second Reading.
      4. c. iii. 3. The European Commission informs the EP of its position.

5. **When the Commission’s proposal** enters the Second Reading, the EP examines the Council position within 3-4 months. 
   Three options emerge:
   5. a. the EP approves the Council position OR does not take a decision before

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3 Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if, and in so far as, the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. 
(source: http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/subsidiarity.htm)

4 Other political groups may appoint shadow rapporteurs who follow the file more closely and thus are priority contacts.
The EU decision-making process

the deadline → the act is adopted, signed and published

5. b. the EP rejects the Council position by an absolute majority of its Members → it ends the legislative procedure, the act is abandoned

5. c. the EP proposes amendments to the Council position by an absolute majority of its members.
   5. c. i. The EP’s position is submitted to the Commission.
   5. c. ii. The EP’s position is submitted to the Council, which has 3-4 months to act.

Two options emerge:
5. c. ii. 1. the Council approves all EP’s amendments → the act is adopted, signed and published;
5. c. ii. 2. the Council does not accept all EP’s amendments →
   ● the Council informs the EP
   ● the Conciliation procedure is launched within a 6 week deadline.

6. When the Conciliation procedure starts:
   6. a. a Conciliation Committee is convened. It is composed of representatives of the 28 Member States and 28 MEPs. The composition respects the relative strength of the political groups.
   6. b. The Conciliation Committee considers the Council position and EP’s amendments from the second reading. A compromise has to be found within 6-8 weeks and a joint text drawn up.

Two options emerge:
6. b. i. the Conciliation committee does not agree on a joint text within the set time limits → it ends the legislative procedure, the act is abandoned;
6. b. ii. the Conciliation committee approves the joint text.
   6. b. ii. 1. The text is presented to the Council and the EP.
   6. b. ii. 2. A 6-8 week time limit exists for approval of the text by the Council (qualified majority) and the EP (majority).
   6. b. ii. 3. When both institutions approve the text, it is signed and published. If one of the institutions does not approve the text, it ends the legislative procedure and the act is abandoned.

7. After the adoption of the proposal in the Conciliation Committee, the Council and the European Parliament confirm the result in a Third Reading.

How to monitor and influence the EU decision-making process from a trade union perspective

The ETF and the Port Packages

Eduardo Chagas
General Secretary, ETF

In 1997, the European Commission published a Green Paper 5 (documents published by the European Commission to stimulate discussion on given topics at European level for which relevant parties are invited to participate in a consultation process) on port policy and access to the port market. Within the framework of the consultation process, the ETF drafted a position paper which was sent to the European Commission’s services.

In 2000 the ETF received, as did all the stakeholders in the port sector, a questionnaire on port work from the European Commission. When reading the questions, it became clear in which direction the European Commission was heading. For example, the issue of self-handling in ports, where a port user would be able to provide certain port services for itself, was one of the investigated topics in the questionnaire on which the European Commission was seeking the sector’s opinion. At that time, the port sector was still a relatively stable sector on a social level. The ETF Secretariat met with its affiliates to discuss the questionnaire and the ETF affiliates agreed on the position to give a clear “no” to self-handling in ports: in principle, only registered dockers are allowed to do dock work. The ETF response was drafted by a university professor who knew very well what issues were at stake in the consultation and this was then endorsed by the ETF Dockers’ Section.

In early January 2001, the ETF had access to a leaked draft 6 version of the Commission proposal which was very alarming: compulsory authorisation of self-handling was one of the issues included in the proposal. The ETF immediately asked for a meeting with the European Commission services to express its con-

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6 Before formally adopting a proposal, the Commission services are consulted internally for several weeks. It is thus important to build up a network of contacts who may have access to those draft versions at an early stage, when changes can still be introduced before the proposal is formally adopted.
cerns. Although the Commission officers refused to comment on “a paper that does not exist”, it was made very clear on that occasion that if the official proposal were to be similar it would be strongly opposed by the ETF and its affiliates.

This time the European Commission did not publish a White Paper and immediately came with a proposal for a directive, known as the Port Package. The European Commission sent its proposal to the Council, the European Parliament, the Committee of the Regions and the European Economic and Social Committee.

It was clear that the proposal received support from the ship-owners who claimed that calling at European ports and using their facilities was too expensive, even though it is cheaper than e.g. in Singapore. Contrary to what the European Parliament had asked for in its report on the Green Paper, the proposed directive did not focus on inter-port competition, but rather addressed intra-port competition, requiring that for every single service provided within each port, regardless of whether they were commercial or safety related, at least two different service providers were required “in order to boost competition and to make prices go down”. At this stage, the ETF Secretariat set up meetings on a regular basis with its affiliates to discuss the proposal and to define the ETF position as the file was progressing within the different EU institutions. Key affiliates representing the major ports were invited to attend the meeting of the Port Section Steering Committee.

While the Council was beginning to prepare a common position, the European Parliament, the Committee of the Regions and the European Economic and Social Committee nominated their rapporteurs and started the preparation of the respective reports.

At the time when the European Economic and Social Committee (EESC) was beginning its work on the Port Package, the ETF political secretary for ports, Eduardo Chagas, was a member of the Committee. He expressed his interest in taking part in the EESC study group but strategically decided not to apply for the position of rapporteur in order to keep his “worker’s hat on” during the full process of drafting the Committee’s opinion. Instead, he made sure that the rapporteur was also a member of the worker’s group which was very supportive of the ETF positions. Even

if the rapporteur’s initial draft tends to influence the main messages of the final report, the rapporteur is expected to build on the necessary compromises in order to ensure the largest possible support of the members from all groups. It was thus important that a strong voice from the workers’ side could be heard so that the possible compromises could still be acceptable.

The opinions of both the Committee of the Regions and the European Economic and Social Committee were critical of the Commission proposal even though the ETF did not exert much influence upon the opinion of the CoR.

4 The European Parliament for its part appointed a rapporteur, a German MEP from Hamburg, who turned out to be a very inflexible person with whom it was difficult to establish a meaningful dialogue.

The ETF affiliates passed the message to the Members of the European Parliament that the ETF could not accept the Commission proposal and they should just reject it. Sympathetic MEPs advised that it would be too difficult to reject the proposal and asked the ETF to prepare amendments to the proposal instead. However, the ETF affiliates were of the opinion that the proposal was so ill-drafted that amending the text to be acceptable would be unfeasible.

The ETF organised an initial demonstration with around 200 activists in front of the European Parliament in Brussels on the occasion of the first discussion of the draft report in the TRAN Committee, stating that the EP’s amendments to the Commission proposal were unsatisfactory for workers and for trade unions. It was only when the ETF affiliates saw that the report voted by the TRAN Committee did not respond to any of the trade union concerns, that they understood how necessary it would be to act in order to avoid a damaging result.

5 At the Council there was significant support for the Commission’s proposal.

Conscious of the need to significantly change the main drive of the EP report adopted by the Transport Committee, the ETF affiliates started sending their own proposals for amendments to their national MEPs. They realised then that according to EP formal procedure it was too late to submit new amendments to the
text. A big demonstration had meanwhile been called by the Belgian and Dutch affiliates, together with some non-affiliated unions, in front of the EP in Strasbourg. A delegation was received by the President of the European Parliament, the liberal Pat Cox, who decided to accept some of the (positive) amendments which had been rejected in the Transport Committee for discussion. The President accepted the inclusion of a number of key amendments for debate, some of which were voted in favour and this made the text more acceptable for the ETF.

The Council adopted its common position, which to a large extent was in line with the Commission’s proposal. The Commission, in view of the high degree of social unrest in the port sector and the strong message sent in the EP report regarding, amongst others, the need for setting clearer criteria for granting authorisations, (including employment and social matters; a limitation on the use of self-handling; the possibility to limit the number of providers; the exclusion of pilotage from the scope of the Directive), decided to amend its own proposal, and a revised text was published before the EP started its Second Reading. The new text however, did not bring about any improvements on the main issues that the ETF and its affiliates were fighting for.

In preparation for the Second Reading in the EP, the ETF insisted on keeping the amendments adopted at the EP Plenary in the first reading. At this stage the fight against the Port Package was reaching its highest level. The ETF had mobilised a high proportion of its members and information meetings had been organised in all possible ports in Europe. A key message from the Secretariat was: industrial action must be organised in as many places as possible; if strikes are not an option, then gatherings, information meetings, leafleting at the end of shifts, etc. must be arranged. In some cases this was the way for dock workers to stop working for a few hours in a legal way. This was an important strategy since some national legislations forbid or restrict the ability to organise strikes.

Contacts with sympathetic MEPs were constant during this period, and several “non-meetings” were held with the employers’ associations in the sector.

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9 In German ports, information sessions were organised by the trade union at the beginning of each shift. The meetings were held in facilities away from the port which the port workers had to walk to, thus creating a significant disruption of services, without infringing the law...
On 5 November 2002 following intense discussions with the Commission services, a debate, funded by the EC, took place in Brussels where practically all countries represented in the ETF Dockers’ Section were present, again voicing their rejection of the Commission’s proposal in the strongest terms. Furthermore, in December 2002 the ETF organised a major seminar with representatives of the port workers, employers, the Commission and MEPs which filled the ETUC Auditorium.

The EP finally adopted its position in a Second Reading in March 2003 and a significant number of the proposals defended by the ETF were included in the report, despite the opposition of the rapporteur.

7 The European Commission rejected most of the important amendments made by the EP and so did the Council, so a Conciliation Committee was set up.

8 The fact that the President of the Conciliation Committee for the EP was a member of the Socialist Group gave the trade unions some hope for a positive outcome, despite the pressure being put on the EP by the Commission and the Italian Presidency.

Parallel initiatives and activities with employers were organised, since they were worried about the increasing social unrest. In the many “non-meetings” between the ETF and employers’ representatives an agreement was reached to jointly oppose self-handling. However, the employers did not want to sign a joint statement while industrial action was being called. Instead, a joint statement with the ETUC was issued. In preparation for the Conciliation Committee, the ETF organised its first big demonstration on 29 September 2003 in Rotterdam. The port was blocked for 24 hours by 10,000 people demonstrating on the same day that the Conciliation Committee was due to have its first meeting. Action also took place in many other countries, including in Sweden and Denmark, on that same day.

The first meeting of the Conciliation Committee ended late at night with a negative agreement for the ETF, so when the agreement was due to be presented in Plenary, the ETF again organised a demonstration in Strasbourg. This was done in conjunction with a lot of hard work lobbying MEPs during the period of the Plenary, with a number of ETF affiliates meeting their national MEPs during the days that preceded the vote. As a result,
the EP rejected the compromise by a very tight margin, 19 votes, on 20 November 2003.

It can be said that this result has made many parliamentarians aware of the real power that the EP has in influencing the way European legislation is produced. Many had told the ETF representatives that it would not be possible to stop the Directive, and afterwards admitted that they had been surprised to see that, not only had it been possible, but also that it had been the only way to avoid all the damage the proposal would have brought to the sector.

Port Package II

After the rejection of the compromise, which ended the legislative procedure for this Act, the ETF started to put pressure on the European Commission, since it was envisaged that a new proposal would be adopted by the Commission, now known as Port Package II. At that time, European elections were coming up in June 2004, which hindered fruitful cooperation, and a new composition of the European Commission was expected by the end of that year.

In September 2004, the outgoing European Commission published a new proposal which was even worse than the previous one, as the political balance in the EP had shifted further to the right.

In the meantime, the ETF was regrouping its troops. A first booklet with ETF observations (the do’s and don’ts of the fight against PP I) was produced, additional human resources were dedicated to assist with the fight, and internal differences among ETF affiliates were settled in order to fight in a concerted way. This new strategy started to bear fruit, every time a new action day was announced, more and more countries joined in the fight and bridges were built between ETF affiliates and non-affiliated dockers’ unions. They were kept informed about any new action, invited to meetings, and decisions were taken together.

When the European Commission came with the second proposal, the employers organised a wide “non-meeting” stating that the proposal was going too far and a compromise between employers’ and workers’ representatives needed to be found.

For the Port Package II campaign, the ETF set up a website with a link to an online petition and a call to send in postcards
addressed to the European Commissioner for Transport to a postal box opened by the ETF. All postcards were handed over to the Commissioner during one of the industrial actions.

At the First Reading, in the Transport Committee, rejection of the Directive was defeated, and a number of amendments were voted for, but in the end the report was rejected by a small majority. When the EP met for the plenary meeting in Strasbourg, the ETF organised, in cooperation with the IDC (International Dockworkers Council), a big and impressive demonstration with 10,000 people, including delegations from Australia, the USA and Canada. Again this was accompanied by intensive meetings with MEPs, with several affiliates staying for the whole duration of the debate in Strasbourg. Close contact with the press was also maintained, as the topic had become increasingly newsworthy. In addition employers were seen in Strasbourg lobbying for the rejection of the Directive. The outcome of the vote was a large majority in favour of the ETF positions and the rejection of the Directive.

Sources:  
Tips and techniques for lobbying at EU level

The following tips and techniques result from the presentations, panel discussions and following debates held during the ETUI seminar “How to monitor and influence the EU decisional process from a trade union perspective” which was organised on 14-15 November 2012 in Brussels. For this event, the ETUI relied on the valuable input and experience of a whole variety of stakeholders involved in the European legislative process. Among others, the ETUI was grateful for the contributions from the following guest speakers and panel members, in alphabetic order:

- E. Carmona, CCOO and President of the ETF Civil Aviation Section
- E. Chagas, ETF General Secretary
- A. Cochet, European Economic and Social Committee
- F. Ghelfi, Responsible for International Policy at CGIL Lombardia
- E. Lee, founder of the LabourStart website
- S. Lehmann, Result Group (risk and crisis management consultancy)
- T. Musu, Researcher, ETUI
- A. Patecka, Project Officer, Solidar (European network of NGOs)
- E. Regner, Member of the European Parliament (Group of the Progressive Alliance of Socialists and Democrats)
- O. Röpke, Expert at the Permanent Representation of Austria (Österreichischer Gewerkschaftsbund - OGB)
- N. Schoebel, Directorate-General Employment, Social Affairs and Inclusion
- K. Walker-Shaw, European Officer Gasworkers and General Labourers (GMB) and Member of the European Economic and Social Committee
- G. Wilmott, Member of the European Parliament (Group of the Progressive Alliance of Socialists and Democrats)

All relevant input given on this occasion has been structured in the following way:

- Timing & Procedures
- Alliances
- Lobbying targets
- Messages/positions/communication
- Credibility
- Actions/tips/techniques
1. **Timing & Procedures**

Timing and a good understanding of the legislative procedure is vital when organising lobbying campaigns. The chances of a successful lobbying campaign often depend upon acting in a timely manner and monitoring the process closely. At the same time, it is essential to keep your members informed and consult them on a regular base to come to a common position on the subject at an early stage.

- How is the political agenda determined?
  - EC & EP discuss commission work programme.
  - Announcements in the State of the Union speech.
  - EP gives EC input, requesting changes in priorities according to changes in society.
- The European institutions are obliged to consult trade unions for every initiative taken regarding social policy and impact assessments.
- Have a thorough knowledge of the decision-making process and its time line.
- Monitor the legislative initiatives.
- Be proactive.
- Consult with your members on the proposals at an early stage → information/consultation.
- The European Commission consults the social partners on the possible direction of an initiative, in the first stage, and on the content of an initiative, in the second stage.  
- Extremely important: MEPs must be lobbied as early as possible.
- Start at an early stage – as soon as the Commission wants to draft some thing + use well-founded arguments.
- The EC is choosing the recast method rather than the revision method more and more; you need to stay alert to avoid substantial changes by means of recast.
- It is very important to follow up and keep lobbying during the implementation phase.

2. **Alliances**

Forming alliances with stakeholders who share common interests in the topic at stake can strengthen your position. Therefore, it is useful to look for strategic cooperation and streamline your lobbying campaign with your allies in the short or longer term.

- The more actors involved, the stronger the voice you have.
- When beneficial, try to find and build bridges between you and:

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10 Source: http://ec.europa.eu/social/main.jsp?catId=329&langId=en
Tips and techniques for lobbying at EU level

- employers - build common alliances with employers and respond jointly
- former opponents or competing federations, unions
- the ETUC.

- **Cooperate with NGOs** to give more balance to your advisory group.
- There can be many differences within your own political group, try to use this to your own advantage.
- Political parties change coalitions/alliances depending on the issue, try to take advantage of this.
- Build strategic alliances, even with former political opponents.
- Change your allies according to the issue.
- Take advantage of the different interests of the different DGs involved.
- Bear in mind that those you attack today may be useful in future dossiers; be firm and determined but behave correctly and with respect.

3. **Lobbying targets**

Identify all stakeholders involved in the decision-making process and develop a lobbying strategy depending on their position, interest in the topic, and decision-making power in the legislative process.

- **The target** is key for campaigning, screen it thoroughly.
- Main people to lobby:
  - Members of the European Parliament
  - Members of the European Council, in particular those holding the Presidency and supportive countries.
- Target the right people:
  - Rapporteur
  - Shadow rapporteurs
  - Political coordinator (the person that actually knows the dossier)
  - Permanent representatives (to receive information at first hand)
  - Staff within the secretariat to try and ensure access to the right political people.
- Check: who the rapporteur, coordinator, and shadow rapporteurs are, and focus on them.
- Lobby on **different levels:**
  - in the legislative procedure
- Build up relationships with **11**:
  - the permanent representatives

---

11 It is good practice to establish contact with the permanent representatives even before lobbying for a specific file; this may open doors when the moment comes to ask for support. The same applies to the key people in the European Parliament – soon after the election of the new Parliament, affiliates should be encouraged to make themselves known to their respective national MEPs.
– the technical negotiators of the presidency, they will pass you on to the team of the next presidency.

- MEPs have a double role:
  - shaping policy via work in the committees and the European Parliament.
  - persuading their own national governments.
- Make sure you are in contact with your MEPs and make sure they take your concerns into account, do it at an early stage, and in person.
- Talk with MEPs from other groups, not only with trade union-friendly groups - approach unsympathetic MEPs, try to convince them that you are not unreasonable.
- Ensure good cooperation with MEPs’ assistants.
- Talk to the vice-presidents of Committees’, they are the coordinators for the political groups.
- As is the case within your own political group, their political groups also contain competing views, again try to use these to your advantage.
- Get to know the different interests of the different DGs and use these to your own advantage.
- The lobbying battle is also often fought within the trade union (movement(s)): try to have a wide spread of supportive organisations; also here, their early involvement in your discussions is preferable: it may be harder to get them engaged in a campaign that has been running for a long time.

4. Messages / positions / communication

It is crucial to define a position which is widely supported by your rank and file. When doing so, make sure you include as many arguments as possible that you know the lobbying target is receptive to, and try to formulate your messages in a way that makes them accessible in order to increase the likelihood that your position will be picked up and taken into account.

- Have a clear idea about what you want to achieve.
- Define a clear and shared trade union position.
- Coordination and information flow is very important (between different unions, national confederations, at European level).
- Trade unions need to pay a lot of attention to internal communication, and explain to their rank and file why things are being done, what the added value is, and gather success stories.
- Brief your members on your key comments and messages.
- The European Commission is keen to receive more facts and figures, so base your position papers on them.
- Include arguments that are relevant to the general public in your rationale and not only arguments from a trade union perspective.
- Focus on your 3 major points and only introduce yourself briefly at the first contact; come to the point at once.
- Impact studies offer important information for building up arguments and positions → calculate the costs/benefits (for the workers).
• Look for feedback from workers.
• Where possible, take concrete examples from real situations and/or add knowledgeable workers to your delegation, who can relate their own experiences.
• Make use of short briefing notes and good arguments in all your communications.
• Break down EU jargon → make sure everyone can understand you.

5. **Credibility**

You will have much more impact if your organisation speaks with authority because of wide support from its rank and file. Guarding and increasing credibility is therefore crucial for an organisation if it wants to make sure its opinion is taken into account.

• Trust between the lobbyist and the lobbied target is crucial.
• Bring EU awareness to the national level – don’t push your union away.
• Put your membership forward – **show your representativeness**.
• Make sure decision makers come to you and don’t walk away from you.
• The more actors involved, the stronger the voice you have.
• Remember to include impact studies when lobbying, make sure you know the cost/benefits.
• Remember the importance of coordinating information between the different actors at different levels.
• Facts and figures in your position papers are important to back up your arguments.
• Always rephrase texts to reflect your own situation.
• Note that impact assessments executed by the European Commission often differ significantly from the outcome of counter impact assessments (which are possibly requested by the European Commission).

6. **Actions / tips / techniques**

This chapter brings together some good practices and techniques that were mentioned during the course of the seminar.

• Organise a variety of industrial actions (not always demonstrations or strikes) to give balance.
• Use online campaigning as a **complementary** tool, not as the sole means of communication.
• Build up your position, develop a roadmap, use a template letter (and do not always send exactly the same letter), **create a brand** for the campaign.
• A permanent slow burning influence is more effective than a jet flame.
• Making phone calls to get to the right people is more useful than using the internet.
- The European political party structure is less fixed than those at the national level → use this to your own benefit.
- Lunch debates, public discussions with representatives from the regions and/or cities, employers and other key stakeholders, initiated by trade unions, help to strengthen the MEPs’ positions.
- Organise big conferences, invite industry, EC, EP, Council, Presidencies, to show the importance of the trade unions and how well prepared they are in proposing alternative solutions.
- In the case of controversial issues, where colleagues may disagree with one other, the political groups meet before the plenary to decide on the group’s main line.
- On matters where there may be some division on the sense of the vote within supportive political groups, it is possible to request a debate within the group on how to vote on that issue.
- Remember the rule about editing papers and avoid copy/paste which can devalue your message. Always adapt texts to suit your own arguments. If you only copy/paste letters under your organisations’ letterheads, the addressee will consider this as only one letter.
- Be pro-active, make use of a project management approach, a task force that monitors the process and the lobbying campaign (1 person in charge).
- Make the EU more attractive to your rank and file.
- At a local level:
  a. use your networks to get to know what’s really ‘bubbling under the surface’ locally
  b. prepare people to mobilise and give (positive) feedback
  c. don’t make yourself irreplaceable but share your knowledge within your team.
- Choose your priorities and link it to timing.
- Invite MEPs to the workplace so they are confronted with the reality of working there. They are keen to attend such activities since it allows them to get familiar with the issues at work and receive first-hand information from workers.
- Believe in what you are defending and commit yourself to it!
Concluding remarks

Eduardo Chagas
ETF General Secretary

Most European trade unions, both at sectoral and confederal level, have understood the need and value of having proper representation at European level. They are aware that **more than 70% of the legislation adopted at national level comes from decisions taken by the EU institutions.** Some have decided to open their own offices in Brussels, with their own staff, but most of them rely on the services the European Trade Union Federations and the European Trade Union Confederation (ETUC) provide.

Those services cover, among others, early information about initiatives from the European Institutions (European Commission, Council, European Parliament) and other bodies (Committee of the Regions, European Social and Economic Committee, agencies, etc.), the organisation of joint activities, the preparation of common positions, and their promotion to the relevant entities.

Despite the certain negative connotations often associated with the concept of lobbying, this is indeed one of the tasks affiliates expect their European organisations to perform on their behalf when it comes to dealing with those European institutions and bodies.

In this manual we have collected experiences, advice, hints from people who, in some way, are involved with lobbying at European level. It is clear that there is no “magic formula” that guarantees 100% effectiveness of lobbying activities, sometimes a successful campaign is decided by unforeseen events. However, we certainly need to bear in mind that lobbying is about people meeting people. New technologies are useful complementary tools, campaigning materials can assist with passing on the message, but **the human element is key for a successful lobbying strategy.**

Some of the hard fights the European Transport Workers’ Federation were involved in recently could only have been won because of two central factors: the hard work of a tireless, dedicated ETF Secretariat based in Brussels, and even more importantly, our active, well-prepared affiliates who met with their national MEPs, explained their reasons and motivation, and got them on their side to support their cause. This is why we urged our affiliates to **meet their respective national MEPs** just after the European elections of 2009, so
that they established communication links to facilitate future contacts and, hopefully, build supportive positions.

Nevertheless, we should never lose sight of the need to have a balance of power which increases the potential of our demands and ensures our credibility when lobbying at national and European level. Capacity building is a permanent concern which we need to focus on. Only strong unions will be heard.

Finally, it is important that we illustrate our proposals and positions with concrete examples from those we represent, who are confronted daily with the problems or situations in the workplace which we want to address at the legislative level.

And, believe me, all of this is far easier when those involved do it, not for personal gain, but rather because they believe in, and are passionate about, the construction of a social Europe, at the service of all its workers and citizens in general.
Annexes

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How to monitor and influence the EU decision-making process from a trade union perspective

**13 Nov 2013**

**ARRIVAL**

20.00 Dinner – Hotel Marivaux

**14 Nov 2013**

08.00 Breakfast
09.00 Welcome, U. Garrido, ETUI Director
10.15 Introduction to workshop Presentation of the course and participants
11.30 Break
12.00 EU institutions and decision making process: E. Chagas, ETF, A. Cochet, ECOSOC
12.00 Action Day
13.30 Lunch
14.30 How to campaign on line: E. Lee, Labourstart
15.15 Group activity: personal/national experiences
16.00 Report back and discussion
16.45 Break
17.00 National Trade Union officers in Brussels - case studies
18.20 Setting group activity "Questions to the round table"
18.30 End of the work
Tutors' meeting
20.00 Dinner – Hotel Marivaux

**15 Nov 2013**

09.00 Group activity "Questions to the round table"
10.00 The round table: European Parliament, DG EMPL EC, NGO Solidar, Result group, ETUI
11.30 Break
12.00 Group activity "Aspects of a trade union strategy"
13.00 Lunch
14.30 Report back and debate with ETUC Secretary, J. Kirton - Darling
16.00 Evaluation of the workshop and following steps
17.00 Departure of participants
Activity sheets
Monitor and influence the EU decision making process from a trade union perspective


**Objective**
Enable the participants to get to know each other

**Tasks**
Please reply to the following questions:
- Surname
- First name
- Organisation / country
- Position (what is your job and title?)
- Do you have any particular question?
- What do you hope to gain from this course?
### Personal lobbying examples from a Trade Union perspective

<table>
<thead>
<tr>
<th>Objective</th>
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</thead>
<tbody>
<tr>
<td>Sharing your personal experiences of influencing decisional processes in your country on a national, local, sectoral, or any other level</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Tasks</th>
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<tbody>
<tr>
<td>♦ Take some minutes yourself to identify positive or negative examples</td>
</tr>
<tr>
<td>♦ Share your experiences within the group</td>
</tr>
<tr>
<td>♦ Summarise your group result and prepare for a presentation, using the flipchart or the computer (try to cluster the different types of experiences)</td>
</tr>
<tr>
<td>♦ Nominate a spokesperson to present and share your experiences in the plenary</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Time: 45 minutes</th>
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</table>
### Preparation of questions for the 15.11 roundtable

**Objective**

To set questions which help to identify the role, the specific activity and the impact – related to decisional making process – of the speakers in the 15.11 roundtable. The speakers are representatives of the EC DG Employment, the European Parliament, an NGO, ETUI, a private Lobby company.

**Tasks**

In considering the complexity of the EU decisional process, the practices presented today, and the speakers background:

- prepare at least two questions for the speaker(s) you have been assigned.
- write your questions, which will be addressed during the roundtable, on a flipchart.
- nominate the person who will ask the question(s).

**Time**

From the end of the first working day till 10 am of the second working day. Back to plenary at 10.00h.
<table>
<thead>
<tr>
<th>Objective</th>
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<tbody>
<tr>
<td>To identify and brainstorm a possible trade union strategy, at local, EWC, Federation, Confederation, Department, and European levels.</td>
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<table>
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<th>Tasks</th>
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<tbody>
<tr>
<td>♦ Start with a brainstorming within your group.</td>
</tr>
<tr>
<td>♦ Write down possible strategic activities based on the practices and on the concrete examples explored during the course.</td>
</tr>
<tr>
<td>♦ Using the computer, save your presentation on a USB key.</td>
</tr>
<tr>
<td>♦ Nominate a spokesperson to present your proposal to the ETUC Secretary.</td>
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<table>
<thead>
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<th>Time</th>
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<tr>
<td>1 hour and half</td>
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<tr>
<td>Back to plenary at 14.30</td>
</tr>
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</table>
Current trade union agenda and ways of building cooperation within the ETUC

J. Kirton-Darling
ETUC Confederal Secretary
Current trade union agenda and ways of building cooperation within the ETUC

Judith Kirton-Darling
15 November 2012

ETUC political priorities linked to EU policy

• Austerity and economic governance: ensuring quality employment, collective bargaining, €-zone, 6-pack
• Sustainable growth strategy: financial market regulation and progressive taxation, job creation, climate and energy policy, training and education
• Internal market and fundamental labour rights: posting of workers, Social Progress Clause
• Quality public services: public procurement, concessions
• Equality in the workplace: gender pay gap, anti-discrimination, rights for migrant workers
• Healthy and fair working conditions: working time, health and safety, pensions
• Worker participation and social dialogue
Ways of building cooperation within the ETUC

• How to counter the increasing retrenchment of trade union action at national level?
  – Current political landscape: need to show the common trends and the value for workers of European solutions based on solidarity
  – ETUC campaign: using our limited resources as effectively as possible
  – Promoting a future alternative political landscape (EP elections 2014)
• We do not have all the answers so success depends on active engagement and a constant review of our strategy

Ways of building cooperation within the ETUC

• Strengthening our communication between affiliates and federations: anticipation not reaction
  – Renewed EP approach: creating a 2-way street
  – General Secretary engagement in transparency
  – Network of union campaigners/lobbyists (National Officers/ETUFs)
    • Regular exchanges between affiliates
    • Circulation of information – increasing our mutual trust
  – Maximising internal democratic processes to ensure common positions at the right time promoting clear alternatives to poor proposals
Strengthening our voice in the EP

- We do not have a political majority so we have to innovate
- Effective campaigns are not ‘one size fits all’ but have to be personal:
  - FTT – electronic targeted campaigning
  - Road transport working time – lorry drivers explaining their own situation to their own MEP
  - Working time directive (2009) – targeting MEPs individually to divide political groups and build a majority
- Evidence-based policy demands evidence-based union action
- Grassroots voices in the EP: our membership is our greatest asset
- Working with different political groups & using the Intergroup effectively

Building our union voice

- « Think globally – Act locally! »
- To influence EU policy, our members have to make a noise about union positions to their MEPs and governments at local/national level.
- We need to empower our members to do this effectively based on common, clear demands
- Right information at the right time to the right people
- Tools to influence (e.g. social networks, web tools, learning from others)
- Combining technical lobbying with feet in the street
- EDUCATE, AGITATE, ORGANISE
Introduction to the EU Institutions and the Ordinary Legislative Procedure.

A. Cochet  Consultant
The Ordinary Legislative Procedure

Main actors and key players

Introduction:
The Institutional Triangle

- European Economic and Social Committee
- European Central Bank
- European Investment Bank
- European Ombudsman
- Committee of the Regions
- Judicial Supervision
- Court of Justice
- General Court
- Court of Auditors

Opinions and consultations

DIRECTIVES
REGULATIONS
DECISIONS
The European Parliament

**Role:**
- Representation and defence of the interests of European citizens
- Strasbourg: Plenary sessions
- Brussels: Parliamentary Committees and meetings of political groups

**Composition:**
- 766 members
- 7 political groups
- 23 Parliamentary committees
- 7,650 civil servants and agents
The European Parliament

Role:
- Representation and defence of the interests of European citizens
- Strasbourg: Plenary sessions
- Brussels: Parliamentary Committees and meetings of political group

Composition:
- 766 members
- 7 political groups
- 23 Parliamentary committees
- 7 650 civil servants and agents

Powers:
- Legislation (codecision)
- Adoption of the budget and supervision over the other institutions

Workflow and decisional process:
- The Parliamentary Committees (regional policy, culture, agriculture, employment, etc.) prepare the decisions to be taken in the plenary sessions on the Commission’s proposals
The European Commission

**Role:**
- The driving force of EU policy
- Guardian of the Treaties and initiatives of EU policy
- Represents and defends the general interest of the EU

**Composition:**
- 28 Commissioners
- 43 Directorates-General
- 38,000 civil servants and agents

**Powers:**
- Right of legislative initiative in certain areas: budget and structural funds
- Implementing powers

**Workflow:**
- Submits proposals and draft regulations

European Council

**Role:**
- Provides overall strategic direction and general political guidance
- No formal legislative power

**Composition:**
- Heads of State or Government from each Member State

**Powers:**
- Setstle issues outstanding from discussions at a lower lever
- Leads in foreign policy
- Acts externally as a « collective Head of State »
- Formal ratification of important documents and « involvement in the negotiation of the Treaty changes »

**Workflow:**
- Two meetings during each Presidency term, held in Brussels
- Special meetings
The Council of the European Union
(Council of Ministers)

Role:
• The political institution of the EU

Composition:
• Ministers of Member States, authorised to commit their governments Permanent Ambassadors
• Presidency: taken in turns by Member States for six-month periods

• 3 650 civil servants

Powers:
• Represents and defends the EU Member States’ interests

Workflow and decisional process:
• 150 workgroups and committees composed of delegates from each Member State prepare the decisions to be taken by the COREPER and finally by the Council

The European Economic and Social Committee (EESC)

Role:
• It speaks on behalf of interests in various areas of economic and social life in EU decision-making
• Defence of the interests of civil society

Composition:
• 353 representatives for a term of 5 years, appointed by the Council

Powers:
• Established in 1957, the European Economic and Social Committee is an advisory body, similarly to the Committee of the Regions

Workflow and decisional process:
• The EESC is organized in specialized sections tasked with reviewing the proposals for which it is consulted before plenary meetings
The Committee of the Regions

**Role:**

- Speaks on behalf of regional and local authorities in the European decision-making process
- Defence of regional and local interests

**Composition:**

- 353 representatives of local/regional authorities for a term of 5 years

**Powers:**

- Established in 1991, the Committee of the Regions is an advisory body, similarly to the European Economic and Social Committee (EESC), for any proposal concerning local and/or regional interests

**Workflow and decisional process:**

- The Committee of the Regions is organized in specialized committees tasked with reviewing the proposals for which it is consulted before plenary meetings

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**Important legal act**


THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 71 and 89 thereof,

Having regard to the proposal from the Commission

Having regard to the opinion of the European Economic and Social Committee

Having regard to the opinion of the Committee of the Regions

Acting in accordance with the procedure laid down in Article 251 of the Treaty
A. Cochet
Introduction: The Institutional Triangle

European Economic and Social Committee
European Central Bank
European Investment Bank
European Ombudsman

Opinions and consultations
Committee of the Regions

Council

Institutional Triangle

Commission

Parliament

DIRECTIVES
REGULATIONS
DECISIONS

Court of Justice
General Court
Judicial Supervision
Court of Auditors

Handles complaints of maladministration
A case study: the ETF and the port packages

E. Chagas  ETF General Secretary
A case study: The ETF and the Port Packages
A case study: the ETF and the port packages

1997: Publication of the Green Paper on ports policy
ETF position paper sent to the Commission (DG TREN)

2000: Questionnaire on port work

2001: Publication of the commission proposal known as Port Package

First Reading

European Economic and Social Committee
European Parliament
Committee of the Regions
Proposals

First Reading

Committee of the Regions
European Parliament
European Economic and Social Committee

No amendments by the European Parliament or approval of all the amendments by the Council
Adoption of the act

European Council

Position of the Parliament and Opinions of the Committees

No amendments by the European Parliament or approval of all the amendments by the Council
Adoption of the act

Second Reading

European Parliament – Second Reading
A case study: the ETF and the port packages

First Reading

Commission

Proposals

European Parliament

European Economic and Social Committee

Committee of the Regions

European Parliament - First reading: Position of the Parliament and Opinions of the committees

European Council

Position of the Council

Second Reading

End of the legislative procedure

Abandonment of the act

Otherwise

Approval of the Council’s position

Amendments by a majority of members

Rejection of the Council’s position by a majority of members

Commission - Opinion on European Parliament’s amendments

Brussels, September 2001 “First European dockers’ action day”
Antwerp, 7 June 2002
A case study: the ETF and the port packages
A case study: the ETF and the port packages
E. Chagas

Rotterdam, 29 September 2003
The return of the “Port Package”...

In September 2004 new proposal is adopted by the Commission
First reading in TRAN Commission rejection was defeated but final text was rejected...

10,000 demonstrated in Strasbourg on 16 January 2006

Port Package II Campaign starts: Website
www.stopPP2.org
-Online petition + 20,500 signatures
-Postcards addressed to J. Barrot +14,000
A case study: the ETF and the port packages

Plenary voted for rejection on 18 January 2006 - Strasbourg

To be continued…
On-line campaigning

E. Lee
Director Labour Start
Online campaigning and the LabourStart experience

E. Lee
Director Labour Start

Online campaigning in general

Unions have been campaigning online since the 1980s
But only in the last decade have we gotten any good at it
The purpose of an online campaign is to pressure a government or company
to change what it is doing
We measure success, therefore, not in terms of how many people participated,
but in whether change took place
The best models of online campaigning are Avaaz (global), 38 degrees (UK),
MoveOn (USA), and change.org (global)
But none of these are specifically trade union campaigns

The LabourStart experience

LS was founded in 1998 as a news website which sometimes linked to existing
union campaigns
About a decade ago, we created our own software to do online campaigns
Those campaigns are always initiated by unions, who provide us with the text
and the targets (email addresses for the company or government)
We work in partnership with those unions, particularly GUFs, on these cam-
paigns
Our campaigns last 3 months at most, and typically get 5,000 - 10,000 mes-
sages sent
Everyone who signs up to a campaign, unless they specifically opt out, is add-
ed to our mailing list
We currently have over 100,000 addresses on our list, which grows with every
new campaign
The mailing list is the best way to promote a campaign, though we also use
social media (Twitter and Facebook)
So, does it work?

Yes, it does
We have many examples of companies backing down due to campaign pressure
One example: the closing of the Sydney Hilton hotel, when the union asked LabourStart to bring international pressure to bear
This led to a great victory for the union and established online trade union campaigning as a force to be reckoned with

Example of a current campaign

Campaign launched by the Education International on LabourStart on 29.10.12 demanding the release of jailed Bahraini teachers’ trade union leaders Mahdi Abu Dheeb and Jalila al-Salman - see here: http://www.labourstartcampaigns.net/show_campaign.cgi?c=1613
Generated 5,000 messages within 24 hours to Bahraini gov’t and embassies around the world
Promoted extensively by unions -- not only teachers unions
Went live in five languages with more to come
This is a followup to a campaign earlier in the year on the same subject
What will success look like? A dropping of the charges and freeing of the two trade unionists from jail

Our “secret agenda”

Of course our goal is to release the two trade unionists (in the example above)
But in addition, we have another clear goal:
To create for the first time ever a global network of trade union activists who can be mobilized quickly and no cost to support our fellow workers in need
This has never existed before -- and contrasts sharply with how we would campaign in the past

Problems and obstacles

The online campaign alone cannot win -- it must be backed by all the other tactics that we have (e.g., publicity, street actions, boycotts, strikes, etc)
We are trying to overcome a culture in unions where this sort of thing -- international solidarity -- is “outsourced” to professionals; we must make it the concern of every union member, at every level of the union
Language is a very big obstacle -- we do campaigns typically in about 12 languages, but this is only the tip of the iceberg -- we should be doing many more
We face the problem of campaign fatigue, as people get overwhelmed, and
have to learn to pick and choose which campaigns to promote
We also face a problem of increasing employer/government resistance -- it is no longer enough to send 5,000 messages; we need to send many more

Clever employers are also hitting back by sending back to every participant in a campaign their side of the story, which can confuse, disorient and divide our forces -- we must anticipate this and be able to react to what they are likely to do

**What you need to do**

Take a moment to participate in a LabourStart campaign -- see how quick and easy it can be

Then go home and get your union involved in this great adventure
A sectoral approach to influencing EU legislation

E. Carmona
Brussels Office, CCOO
ETF Strategic Assessment

First Decision: Launch a campaign to voice our demands and set up a task force to manage the strategy and propose measures to the GSC to be adopted and implemented.

ETF Position Towards the Revision

ETF Strategy

Before EC Proposal:
- Meetings with EC
- Letter to Kallas by unions
- Meetings with workers
- Communication tools (posters and leaflet in 14 languages)
- Soft and cordial tone

After EC Proposal:
- Initiatives towards EE&G and Members of the European Parliament
- Meetings with political groups in EP
- Tone adapted to the EC proposal

ETF's actions after the EC communication

1. Proposal from Commission
2. First reading by LP position
3. Amended proposal from Commission
4. First reading by Council
A sectoral approach to influencing EU legislation

ETF STRATEGIC ASSESSMENT

1. Before legislative proposal: EC public consultation & drafting period
2. After legislative proposal (communication): EESC, CoREPER & EP
3. Clear and shared strategy with few but strong social demands
4. Communication tools became key: websites & campaign image
5. Alliances with stakeholders help building “hold lines”

Seek ETUC involvement & support

KEY CAMPAIGN MESSAGE
“The ETF has always stated that quality is at odds with the current kind of competition, where labour costs are the main driver to cut costs, and the only way to achieve really high standards is to avoid staff turnover and continually retrain.”

ETF STRATEGIC ASSESSMENT

SUMMARY

• Be neat in the campaign messages, but be ready to be at the sharp end of social demands
• An agreed strategy is essential to success….but be able to adapt to circumstances!!
• Prepare political position in advance
• Set-up a task-force group of no more than 4-5 people
• Make your members become active and involved in the campaign
• Spread news of your activities, proposals and political positions
• Communication and information to members is key
• Look for alliances and support within TU structures
• The wider the trade union involvement, the stronger the pressure on EU institutions
• Don’t be shy in front of EC (technocrats) when defending social grounds
• Build “hold lines” in the EP with the support of the ETUC
• Keep a record of everything in your archives

AND REMEMBER...

TOGETHER WE STAND!!
Examples of publicity material

E. Carmona
Brussels Office, CCOO
STOP!

DON’T MESS WITH GROUND HANDLING JOBS!

NO TO MORE Deregulation IN THE GROUND HANDLING INDUSTRY

YES TO BETTER QUALITY JOBS AND SOCIAL RIGHTS

A CAMPAIGN OF THE EUROPEAN TRANSPORT WORKERS’ FEDERATION

www.etf-groundhandling.org
Examples of publicity material
DON’T MESS WITH GROUND HANDLING JOBS!

THIS TICKET DOES NOT INCLUDE QUALITY GROUND HANDLING SERVICES

BOARDING TIME: RIGHT NOW!

REMARKS: TOGETHER WE STAND FOR BETTER QUALITY JOBS!

STOP!
ETF DEMONSTRATION ON 5 NOVEMBER 2012

FOR A SOCIAL EUROPEAN GROUND HANDLING REGULATION

JOIN THE DEMONSTRATION! DEMAND THE INCLUSION OF A STRONG SOCIAL PROVISION IN THE GROUND HANDLING REGULATION!

Why this demonstration?

- **No** to more deregulation in the ground handling industry.
  The EU does not need more ground handling operators in airports.
- **No** to competition via wage dumping
- **No** to subcontracting
- **Yes** to better quality jobs and social rights.
  The ETF demands equitable European legislation on transfer of staff for all ground handling workers, which will allow them to keep their jobs, wages and working conditions.
- **Yes** to collective agreements.
  Companies are only permitted to provide services if they honour a representative collective agreement of the concerned European region.
- **Yes** to guarantee service quality.
  The Regulation must contain provisions defining quality standards.

THE EUROPEAN PARLIAMENT, THE VOICE OF THE EUROPEAN CITIZENS, WILL VOTE ON THIS DOSSIER ON 6 NOVEMBER 2012

Where and when?

In Brussels, on 5 November 2012

11.30: Gathering Rond-Point Schuman
12.30: Departure of the demonstration
From 13.00 to 15.00: Place du Luxembourg

TOGETHER WE STAND!
THE ETF CANNOT ACCEPT FURTHER MARKET OPENING WITHOUT A BINDING SOCIAL PROVISION THAT PROTECTS JOB STABILITY!
Influencing EU legislation

K. Walker Shaw,
GMB
Trade unions influencing the EU decision-making process
ETUI Session 14 Nov 2012

Public Procurement Directives
Revision 2011
By Kathleen Walker Shaw
GMB Trade union and EESC Member

What is public procurement?

- Basically it is how public authorities at every level (local, regional, national) spend tax payers’ money on services, works and supplies

- You can see therefore why trade unionists might have something to say about this!
Are these EU rules new?

- No, EU procurement rules go back to the early 1970s and have been through a series of revisions since then.
- The last revision was 2004. Progress on environmental issues less on social.
- We are currently working on the latest revision.
- The rules come under the Internal Market policy legal base.

The context of the Procurement Directives

- Freedom of public contracting authorities to choose how they organise and provide services – supported in EU Treaties
- Wide discretion to provide through own resources – in-house and public-public co-operation outside of the scope of EU Directives
- Directives apply when a contracting authority decides to go out to market
Fundamental principles

- Is the aim of the Single Market:
  - to promote unscrupulous employers over responsible employers?
  - To fuel social dumping of workers across the EU and globally?
  - To undermine the value of and respect for quality?
- If the answer to these questions is “no” then we need strong provisions in the Public Procurement Directives to counter this.

Key Principles

- Public Contracting involves the use of public money, taxpayers’ money – our money.
- Use of public money comes with responsibilities.
- Public money should not fund practices which undercut wages, working conditions and social and employment rights.
How did we go about influencing these proposals?

- From the previous revision established sustainable procurement network involving EU trade union federations and social and environmental NGOs

continued...

- EU Commission hinted at revision upcoming as early as 2009.
- Network was revitalised so that social and environmental dimensions wouldn’t be set against each other as in the past.
- We responded jointly and separately to informal early consultations then to more formal Green/White papers.
Effect of early influencing

- EU Commissioner acknowledged the force of our network.
- Encouraged meeting with staff prior to proposals being published.
- Some valuable points of principle determined around sustainable development, 2020 jobs and growth and significance of EU Public procurement as tool to deliver.
- Kept in regular contact with key MEPs.

And when proposals came out?

- Some progress but far short of aspirations.
- Clear Barnier had been forced to step back.
- Trade unions with ETUC and network colleagues working on amendments.
- Need to work very closely with key MEPs and political groups and secretariat of Parliament committees.
Amending the proposals

- Work in progress!
- Main committee Internal market – difficult.
- Some success with opinions in other Committees (+ - 10 dealt with proposals).
- Problems with consistency on wording in amendments – see our footprint but wording not right eg collective agreements.
- Difficult compromises to get support for amendments.

Key priorities for trade unions

- Include ILO Convention C94 Labour Clauses in public contracts.
- Ensuring adherence to employment rights and conditions including collective agreements.
priorities continued...

- Removal of lowest price award criterion.
- Strengthen exclusions and abnormally low tenders to stop social dumping.
- Prevent abuse in subcontracting – joint and several liability and limiting chain.
- Life-cycle characteristics implicitly include socially sustainable production processes. More emphasis on sustainable procurement needed.

Next stages

- 29 November vote in Committee
- Feb 2013 Plenary vote
- Expect 2 years to national implementation – need to be vigilant at this stage too

- Lesson? Life is easier when you have more MEPs in Parliament who are sympathetic to unions – thought for 2014 EU elections!
Thank You
Network for sustainable development in public procurement (NSPP):
Assessment of the European Commission’s proposal for the revision of Public Procurement Directives, 27 February 2012
Network for sustainable development in public procurement (NSPP): Assessment of the European Commission’s proposal for the revision of Public Procurement Directives, 27 February 2012

Introduction

1. The Network for sustainable development in public procurement (NSPP) is a group of social, environmental NGOs and trade union organisations united by their joint aim to achieve progress in sustainable development, including through EU public procurement legislation and policies. The Network has recently contributed to the European Commission’s (EC) evaluation of the public procurement Directives\(^1\), put forward key proposals to strengthen the current EU legal framework\(^2\), and developed other educational materials. The Network’s aims are consistent with provisions in the EU Treaties (see Annex).

2. At present sustainable development is too often forgotten about completely, or it is tagged on as an after thought in order to mitigate the worst effects of unsustainable and unethical economic policies. The Network sees the revision of the public procurement Directives\(^3\) as an opportunity for the EC, the European Parliament and the Council to clearly indicate the (sustainable) way forward for Europe and to ensure that sustainability considerations are mainstreamed throughout the provisions. Sustainability objectives are not a distraction from the main (economic) aim of public procurement and they do not complicate the process, on the contrary, they provide for better outcomes.\(^4\) Short-term thinking is not acceptable – upfront costs on their own are seldom a sound basis for a procurement award. Further, taking a long-term perspective highlights that unsustainable practices, such as air pollution, precarious work, damaging extraction and/or inefficient use of natural resources have real costs for us as well as people in other parts of the world. The Network underlines that such horizontal objectives are of equal value to the functional objectives of what is being purchased.

3. So, to what extent do the EC proposals for a new Directive on public procurement improve or weaken the sustainability dimension of the EU rules? Below is a first assessment of key points\(^5\).

Lowest price/lowest cost/MEAT

4. At the heart of the issue is the framework within which contracting authorities (CAs) award tenders. This framework should encourage - even require – CAs to integrate ‘horizontal’ objectives into the procurement processes.

5. In Article 66(1) the proposal allows a choice between awarding a contracting on the basis of the ‘most economically advantageous tender’ (MEAT) or the new concept of ‘lowest cost’. Lowest cost may be assessed either on lowest price only or using a cost-effectiveness approach, such as life-cycle costing (LCC).

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\(^1\) NSPP contribution to the EC evaluation of the public procurement Directives [http://www.epsu.org/a/7046](http://www.epsu.org/a/7046) in English, French, German, Spanish, Swedish and Russian


\(^5\) Besides the members of the Network, also the Forest Stewardship Council has contributed to this evaluation.
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6. The inclusion of life-cycle costing does recognise that costs other than the sticker price should be evaluated, which would be a step forward. However, the equal treatment of ‘lowest price’ and ‘cost-effective’ is confusing and unhelpful. ‘Lowest price’ (i.e. without any LCC considerations) should be removed as an option as it encourages poor wages and working conditions and low environmental standards, thereby undermining the quality and sustainability of products and services.6

7. It is important that MEAT can be used to evaluate sustainability concerns. Member States should not be allowed to prevent CAs from using MEAT where they wish. The list of criteria for MEAT in the proposal remains non-exhaustive. However, valuable new additions underline the need to take certain sustainability and quality concerns into account and affirm that such concerns are linked to the subject matter. For example the qualification and experience of staff assigned to and performing a service contract may be taken into consideration, and CAs may require that they are only be replaced with the consent of the contracting authority, and by replacements ensuring equivalent organisation and quality. The proposal is a step in the right direction but needs improving: the text must clearly define a comprehensive concept of MEAT so that it gives broad and robust support and encouragement to CAs to integrate horizontal objectives into procurement, not just the indirect costs, such as after-care, that all responsible CAs should already be including. MEAT criteria should include the full range of social and quality of work considerations, e.g., decent work7, collective bargaining, equal pay for equal work, gender equality, fair trade, social cohesion, ethical financing, social integration of disadvantaged persons or members of vulnerable groups among losing the persons assigned to performing the contract.

Life-cycle costing

8. The EC proposals allow CAs to integrate the concept of life-cycle costing (LCC) into both options for awarding the contract: the most economically advantageous tender (MEAT) or the lowest cost (although this is not obligatory). However, the concept of LCC is too limited in the proposal. LCC can not only be used to calculate the total costs for the CA, it can also be applied to calculate the costs for society as a whole - including the society where the resources used for products/materials come from. The explanation does say that external environmental costs can be taken into account, provided they can be monetised and verified, but social externalities are not mentioned. This is far too narrow.

9. While LCC methodologies used should be robust and transparent, the Directive should be stimulating and endorsing continuing refinement of methodologies in more comprehensive contexts. However, by prescribing criteria for methodologies to be used, the EC proposal is unduly restrictive, e.g. it only allows the use of methodologies that "have been established for repeated or continuous application" or which have been established at Union level (Art 67.3). This will lead to "lowest common denominator" methodologies and will constrain CAs who wish to use updated data-points or more comprehensive, innovative methodologies.

Production characteristics

10. The EC proposal is more explicit than the previous Directives in allowing CAs to refer to a  

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6 Public contracts going over budget is a common occurrence across the EU, especially in Public Private Partnership (PPP) contracts. There are countless examples of contracts concluded on lowest price that fail to deliver the quality of service/goods required, and which have to be terminated and re-contracted.

7 The Commission’s Opinion on equitable wages stated that all employment shall be fairly remunerated. Together with the 10 ‘dimensions’ of job quality, and the ILO’s “decent work” concept (which add social protection) these provide a common framework for improving the quality of employment.
Network for sustainable development in public procurement (NSPP): 
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specific process of production or provision of services both in the technical specifications and in the award criteria, provided that they are linked to the subject matter of the contract. It will also be possible to refer to processes at other stages in the life-cycle. Both these developments are steps forward. However, the extent to which social elements of the production process are permissible is still far too restrictive: CAAs may only include social criteria as award criteria and not as technical specifications; and only certain social criteria are permitted (i.e., relating to the working conditions of the persons directly participating in the process of production which have immediate consequences on staff members in their working environment). This leaves the permissibility of including other social factors that are linked with the production process unclear. A clarification of the EC proposal’s definition of the scope of the production process/provision of service is therefore required, as also emphasized by the Parliament.8 Social production characteristics relating to all aspects of employment conditions should be permitted as technical specifications, including respect of ILO Conventions, decent wages, price premiums for producers; social impacts of processes on non-employees.9 Likewise specific reference to taking account of the social and biodiversity impacts of the management and exploitation of natural resources should be included.

Labels

11. Labels as well as certification schemes10 can help CAAs introduce sustainable development considerations into public procurement. This is recognised in the proposal which allows CAAs to specify labels meeting certain criteria providing that equivalents are also accepted.

12. The EC proposals seek to set requirements as regards the governance of labels and certification schemes (Art 41, 1c) and this is essential in order that they are not business dominated and specific interests (environmental, social) are safeguarded through a decisive role for citizens’ organisations representing such interests. However, instead of a prescriptive approach on which actors should be involved, it would be better to focus on requiring the process to be open to enable a wide-range of actors to input. The wording should therefore be clarified and certification schemes should be more explicitly referred to.

13. The Directives should clearly recognise the wish of public authorities, and their citizens, to have certainty that products and components of works or services are being produced in an environmentally and socially sustainable manner. The EC proposal is restrictive compared to existing policies and practices in several EU Member States. The use of labels setting out requirements other than those linked to the subject-matter of the contract and labels that relate to only some of the CA’s criteria should be clarified. There should still be scope for such labels to be used by CAAs as evidence of compliance with the requirements set in the technical specifications or award criteria. Art 41. 2 only partially clarifies the situation.

Selection stage

14. Recognising the added value of suppliers with a sustainable development ‘track record’ is not possible under the current Directives and the possibilities to exclude bidders are limited. In the new proposals there are no substantive changes to the selection stage (Art 56); therefore, CAAs still do not have the opportunity to properly assess at the selection stage the tenders’ commitment to sustainable development.

15. The selection criteria do allow CAAs to take into account the technical and professional ability’ of

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8 The European Parliament in its resolution of 25 October 2011 on modernisation of public procurement already points out “[…] the need to clarify the scope for including requirements relating to the production process in the technical specifications for all types of contract […]”
9 For example, impact of unsustainable forestry on indigenous peoples.
10 Certification schemes also cover assurance schemes that do not translate into a label on products.
Network for sustainable development in public procurement (NSPP): Assessment of the European Commission's proposal for the revision of Public Procurement Directives, 27 February 2012

tenderers (Art 56. 1). This can include the ‘necessary human and technical resources and experience to perform the contract to an appropriate quality standard,’ as well as ‘skills, efficiency, experience and reliability.’ The Directives do not allow any other additional criteria to be added by the contracting authority. The range of selection criteria that can be taken into account should be broadened to include a wide range of sustainability criteria, such as respect for applicable collective agreements, investment in skills and training, and experience with supply-chain management.

16. As under the current legislation, some exclusion criteria are mandatory and some only optional. Those most relevant to sustainability remain only optional. The exclusion provisions should be broadened and certain of them should be made mandatory. Furthermore, the new proposed procurement passport (Art 59 and Annex XIII) should be expanded to include information that would allow CAs to operate their powers to exclude tenders.

17. The exclusion of tenders for breach of substantive requirements under previous contracts is a new inclusion in the proposal (Art 55(3)(d)). It is unfortunately an optional exclusion and has been unnecessarily narrowed to relate to only previous contracts of a similar nature with the same contracting authority. There are also possibilities to exclude tenders who violate social, employment or environmental law, but only if it is Union law or certain international agreements listed in Annex XI, such as the ILO core conventions. Breach of national laws and applicable collective agreements are not referred to at all. This is an appalling omission. Further clarity is also required about the level of environmental and labour protection expected from tenders in states that are not signatories to all of these international agreements.

18. Although CAs may exclude tenders in theory, in practice the proposal would make it very difficult for them to do so. Even if the exclusion criteria apply, tenders will still have the possibility to be considered nonetheless (‘self-cleaning’). The self-cleaning provisions may be designed to create incentives for tenders with a poor track record to work on their compliance but in practice it is likely that CAs accept more self-cleaning evidence than they reject with the result that the exclusion will not have a practical dissuasive effect on businesses who may not be taking their social and environmental obligations seriously. This is because the onus is on the contracting authority to explain that the way the tenderer has resolved previous breaches (examples given are paying compensation, cooperating with the authorities and taking active measures to prevent further offences) is not sufficient to override the exclusion.

19. The Directives should clearly state that selection criteria, especially sustainability requirements, must apply all along the supply-chain. As mentioned by UEAPME in their position paper on better regulation “The objectives are clear: to create a Union which offers high standards of social, environmental and consumer protection. So, if legislation is necessary in this field it should apply to everybody.” Article 71 on subcontracting is weak, even if a step forward from the 2004 Directives. Although a CA may ask or be required by MS to ask the tenderer to indicate the share of the contract it intends to subcontract. There are no obligations or responsibility to adhere to employment protections, working conditions or environmental protection standards. It is clear that the motivation behind the information request is to get an idea of level of contracts being subcontracted to support SMEs.

11 The 2004 Directive referred to employment protection and working conditions in force at the place where the work service or supply is to be performed (Art. 55).
12 In an earlier draft of the proposal the text of Article 71 reflected this, saying “Where a contracting authority has established that a tender is abnormally low because the tender does not comply with obligations established by European Union legislation in the field of social and labour law or environmental law, including throughout the supply chain, it shall reject that tender.”
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20. The provisions on "abnormally low tenders" (Art 69) also need strengthening in order to tackle violations of social and labour laws and/or collective agreements and breaches of environmental legislation. The new proposals do require operators to explain price and costing in certain situations (50% lower than average price) but when it comes to "other reasons" they are not required to request explanations. It is positive that CAs must reject the tender where they establish that it is abnormally low because it does not comply with specified obligations relating to social and labour or environmental law (Art 69 4 para 2).

**Governance**

We welcome provisions in the Directives (A. 84-88) to support contracting authorities monitor and evaluate public procurement processes, and in particular outcomes. The draft Directive proposes, inter alia, establishing a single independent oversight body on the national level to which all contracting authorities shall be subject and which will be in charge of monitoring, implementation and control of public procurement. It shall also publish an annual report including an overview of sustainability policies and measures with explicit reference to environment protection, social inclusion and innovation (A.84.2(b)). However, we think that these provisions should not only be mandatory but could also be more proactive in promoting sustainable development, for example by:

- setting both a series of indicators based on targets and objectives for contracting authorities as well as by guidelines in order to facilitate impact assessments of effectiveness of the sustainability measures applied.
- requiring national oversight bodies to closely cooperate with, assist and draw attention to technical support structures ("knowledge centers"), providing legal and economic advice, guidance, assistance and training.
- gathering best practices of sustainable development in the oversight body's annual report and share them with relevant stakeholders in order to contribute to the creation of a specific expertise on sustainable procurement policies in the EU.
- organising regular exchanges with social partners, civil society organisations and other stakeholders on the progress made towards sustainability to encourage a positive dialogue on evidence-based examples of sustainable policies and practices.

**NSPP**

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EFTA - European Fair Trade Association
FLO - Fairlabelling Organizations International
WFTO - World Fair Trade Organization

EMF – European Metal Workers [www.emf-fem.org](http://www.emf-fem.org)
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Annex

Treaty provisions in support of sustainable public procurement

These include:

✓ Article 3.3 Treaty on the European Union, on a social market economy

✓ Article 11 Treaty on the Functioning of the European Union, known as the “integration principle”, which requires that environmental protection requirements must be integrated into EU policies and activities with a view to sustainable development. The reference to sustainable development interweaves economic, environmental and social components. The EU Council, when endorsing a new EU Biodiversity Strategy in December 2011, explicitly called to “integrate and mainstream targets on biodiversity in the development and implementation of all relevant EU and national sectoral policies”. This concept is picked up in point 19 of the European Parliament’s 2011 report on the modernisation of public procurement which: “Underlines the need to strengthen the sustainability dimension of public procurement by allowing it to be integrated at each stage of the procurement process (i.e. ability test, technical specifications, contract performance clauses).”

✓ Article 9, which states “In defining and implementing its policies and activities, the Union shall take into account requirements linked to the promotion of a high level of employment, the guarantee of adequate social protection, the fight against social exclusion, and a high level of education, training and protection of human health.” As mentioned in a paper prepared by the Belgian Presidency, the horizontal social clause “calls for an intensified focus on the social dimension of EU policies. Taking into account the social effects of all EU policies demands a structural dialogue across and within all EU institutions. It requires all strands of the Council and the Commission to benefit from the expertise inside the social strand.”

✓ Article 14 which acknowledges that Services of General Economic Interest (SGEI) are an intrinsic part of Europe’s social model and Protocol 26 which states clearly the responsibilities of Member States in the delivery of such services.

✓ The European Charter of Fundamental Rights. In the EC Communication on the strategy for the effective implementation of the Charter of Fundamental Rights the Commission recalls that all EU legal acts “must be in full conformity with the Charter.”

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15 Background paper prepared by the Belgian Presidency 2010 http://www.socialsecurity.fgov.be/eu/docs/agenda/26-27_10_10_sia_en.pdf
16 COM (2010) 573 final
Dear Ms Walker Shaw,

I would like to thank you personally and also on behalf of Commissioners Hedegaard, Potocnik and Piebalgs for your letter and accompanying background paper of 19 November 2010, sent in the name of a number of organisations active in the social and environmental sector.

My services have analysed with the utmost attention this document which provides useful feedback on the social and environmental dimension of public procurement in the context of the ongoing evaluation of the current EU public procurement Directives. Your contribution will feed into the Commission’s reflexion as to how public procurement could be better used to serve social and environmental policy objectives while safeguarding the respect of the core principles of non-discrimination and transparency.

As you may be aware, in parallel to the current evaluation of the existing EU public procurement rules, the Commission has launched on 27 January 2011 a Green Paper.

This public consultation seeks to stimulate a large public debate on the possible policy options of the future reform of the public procurement Directive. It asks in a very open way a large number of questions on how to allow a better use of public procurement in support of EU 2020 policy objectives. In particular, the Green Paper raises questions on how public procurement could better support social objectives such as social cohesion, decent work, gender equality, high quality public services, issues which are also addressed in your background paper of 19 November 2010.

Ms Kathleen Walker Shaw
European Officer
GMB Brussels Office
Rue Guimard 7
1040 Bruxelles
Therefore, I would encourage the signatory organisations of your letter, to provide us with their detailed input on the issues raised by the Green Paper. Their replies and those of all interested stakeholders will be an important element in determining the content of the future reform, together with the result of the ongoing evaluation.

In addition, the Commission services will organise a conference later this year in order to discuss, amongst other issues, stakeholders' contributions to the Green Paper. My services will contact you in order to identify the best way in which the signatory organisations of your letter could be represented at this conference.

Yours sincerely,

Michel BARNIER
The case of REACH, the EU regulation on chemicals

T. Musu
ETUI researcher
Case study: Trade union lobby on REACH, the new EU regulation on chemicals

Tony Musu
How to monitor and influence the EU decision - making process from a Trade Union perspective?
Brussels, 14-15 November 2012

Overview

- Why EU chemicals legislation is important for us?
- The former EU legislation on chemicals
- The lobbying battle(s)
- ETUC campaign on REACH
- Results of the ETUC campaign on REACH
- Conclusions
Why EU chemicals legislation is key for trade unions?

- 1.3 million workers in the EU chemical industry
- Millions of jobs in downstream sectors (building, textile, automotive, electronic, etc...)
- Chemicals contribute to the EU economic prosperity in terms of trade (~ € 500 billion/year) and jobs

But on the other hand:

- 16% of workers in Europe declare to handle hazardous products and 22% to breathe in toxic vapours (Dublin Fd, 2008)
- Around 30% of all occupational diseases recognised each year in EU are related to exposure to chemicals (ETUI, 2006) & up to 50% according to EODS harmonized figures (OSHA, 2012)
- 74,000 work-related deaths per year in EU-27 due to exposure to hazardous substances (OSHA, 2009)

Problems with the former EU legislation on chemicals

- No safety data for most of the substances on the market
- Old and complex legal framework (40 pieces of legislation)
- Burden on proof on the regulatory authorities (and not on the industry!)
- Lack of incentives for innovation and the replacement of hazardous chemicals by less hazardous ones
- Diseases / pollution of the environment
- EU old system incapable of safeguarding the health of workers, consumers and the environment

New EU regulation: Registration, Evaluation, Authorisation of Chemicals (REACH)
**REACH: basic principles**

- **Shifting the burden of proof**: Manufacturers of chemicals have to prove that their substances can be used safely.

- **No data = No market**: Manufacturers have to register their substances and provide data if they want them to stay/be on the market.

- **Substitution of Substances of Very High Concern**: Incentive to replace very hazardous substances by safer alternatives (= innovation) by costly authorisation procedures.

**REACH: how does it work?**

- **Registration**: Manufacturers of chemicals > 1 tpa will be required to register their substances to demonstrate they can be used safely (~ 30,000 substances).

- **Evaluation** of some substances by Member States / Chemical Agency.

- **Authorisation** only for substances of very high concern.

- **Restrictions** when risks are unacceptable.
The lobbying battle between pro & anti-REACH

The case of REACH, the EU regulation on chemicals

The lobbying battle.... within the Commission
The lobbying battle… within the European Parliament

MEP Guido Sacconi (PSE, IT)
Rapporteur for REACH

The lobbying battle …. within the Trade Unions

etui.
REACH: a very long decision making process at EU level

- Informal Environment Council, Chester, UK (1998)
- COM white paper (strategy for future policy) (2001)
- COM legislative proposal
  - Extended Impact Assessment
  - > 40 Impact Assessment studies
- EP first reading
- REACH entry into force (2007)
- REACH review process (2012)

……..Influenced by Cost Benefit Analysis

ETUC Campaign on REACH

- ETUC working group on REACH has been preparing the trade union position on the REACH reform (since 2002)
- ETUI booklet « REACHing the workplace » (2004)
- Regular contacts with MEP Guido Sacconi (rapporteur) and Council presidencies
- ETUC conferences on REACH (March 2005, Sept 2006)
- ETUC impact study on the REACH benefits for workers’ health (Sheffield University, 2005)
- Worker representatives involved in the Commission Further work on impact assessment (2005)
- Trade Union Priority List for REACH authorisation (2009)
Impact study on REACH benefits for EU workers’ health

- Focus on asthma, chronic obstructive pulmonary diseases & dermatitis for EU workforce (200 million people)
- Respiratory diseases: 50,000 cases/year avoided
- Skin diseases: 40,000 cases/year avoided
- €3.5 billion benefits over 10 years
- €90 billion benefits over 30 years

TU Priority List for REACH authorisation

- Constructive contribution to the choice of hazardous substances for REACH authorisation
- 334 hazardous substances widely used at the workplace and often linked to occupational diseases
- if they are included in the REACH authorisation procedures, safer alternatives will be promoted and many diseases will be avoided
- The TU list is available on line: www.etuc.org/a/6023
Results of the ETUC Campaign on REACH

- European trade unions have resisted the blackmail “New regulation = job losses”
- ETUC has a seat on the Management Board of the European Chemicals Agency (ECHA)
- ETUC is an accredited stakeholder of ECHA and has a permanent observer in all ECHA’s Committees: Member States Cttee, Risk Assessment Cttee, Socio-Economic Analysis Cttee & Forum
- ETUC continues to influence the REACH authorisation and restriction procedures

Conclusions

- ETUC had a real influence in the making of REACH
- Importance of Impact Assessment studies
- Good contacts with EP rapporteur(s) and Council Presidencies are mandatory
- Alliances with Environmental & Consumers NGOs are key
- Trade unions have gained in credibility and are key players in the REACH implementation
- REACH: test case for future Trade union involvement in industrial relations?
Thank you, further info on:

http://www.etuc.org > Our activities > REACH

http://www.etui.org/Topics/Health-Safety/Chemicals-and-REACH