



Capacity building for social dialogue at sectoral and company level

Malta

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Introduction

The system of social dialogue, in the form of collective bargaining, is well established in Malta and has been practised since the Second World War. In fact, trade unions and employers' associations had already been in existence for more than half a century earlier. But it was the resolve of the workers and their leaders to avoid at all costs a repetition of the widespread unemployment and misery which had followed the First World War that transformed the industrial relations scenario. From then onwards, the search for negotiated settlements of trade disputes within a pluralist framework became established as the most efficient way to maintain harmonious industrial relations. This requires a rough balance of power among the main protagonists, particularly between the workers' organisations on the one hand and the employers' organisations on the other. In this paper, the actual capacity of these organisations for effective social dialogue in Malta is assessed, particularly at the sectoral and enterprise levels.¹

Apart from the public sector, the system of *formal* sectoral dialogue is not commonly practised in Malta. In fact there is only one collective agreement in the private sector which may be realistically classified as sectoral. This agreement is between the General Workers' Union and a group of leading motor car garage owners. It dates back to the 1970s and has been renewed periodically since then. Apart from this isolated case, however, there is no real interest among Malta's social partners in further developing sectoral dialogue and the general feeling is that they are well served through the current system of enterprise based bargaining.

Nevertheless, it can still be argued that sectoral dialogue is widely practised on an *informal* level for the following reasons:

- The two main trade unions in Malta,² which between them comprise 84% of all unionised workers, are organised in a number of trade sections. Each section has its own executive committee while a small number of full time, central staff administers each section.
- In the course of negotiations between the social partners at the enterprise level, usually regarding the establishment or renewal of a collective agreement, both the employer representatives and the trade union officials, keep in mind the settlements reached in other enterprises within their own sectors. In most cases, each side aims *informally* at applying the same standards, rates and procedures as much as possible within each sector.
- Simultaneously, the present system offers the possibility of reaching customised solutions, through negotiations, which fit the special circumstances prevailing in each enterprise. If a particular enterprise is doing well, it can offer better employment conditions than another which may be facing difficulties. In the latter case, unrealistic demands may jeopardise jobs. For example, in the hotels and hospitality sectors, an informal agreement exists whereby employers do not pay additional remuneration to their workers when a public holiday happens to coincide with their day of rest.
- Malta's small size and its high social cohesion facilitate the attainment of customised solutions as described above.
- In addition, there are other mechanisms, namely the Malta Council for Economic and Social Development (MCESD) and the Employment Relations' Board (ERB), both of which are established by law on a tripartite basis, to establish minimum standards of employment at the national level and at the sectoral levels (where applicable).

¹ This paper complements another paper, by the same author, entitled *Social Dialogue Capacity Building in Malta* (European Foundation, Prague, April 2005), dealing mainly with dialogue at the national level.

² Namely the General Workers' Union (GWU), and the United Workers' Union (UHM).

Social dialogue at sectoral level

Main actors

There are five central employer organisations in Malta³ and all are legally constituted bodies. To some extent, all may be said to be involved in social dialogue, particularly at the national level. They perform a representative role on behalf of their members in their specific business sectors at the national level and in international bodies and fora. They lobby with the government of the day in the formulation of national policies, organise social and educational activities for their members, participate on various boards, including the MCESD, and promote the viewpoints of their organisations on the local media. However, only one of these, namely the MEA, is directly involved in collective bargaining.⁴ Hence, this paper focuses on the role played by the MEA in social dialogue at the sectoral and the local enterprise levels.

The MEA has nine sectoral groups, as follows:

- General manufacturing
- Travel and tourism
- Banking and financial institutions
- Professional services
- Electronics and pharmaceuticals
- Parastatal organisations
- Wholesale and retail
- Food and beverages
- Construction and engineering

Each of the above groups has its own representative on the MEA's Council and, where necessary, each can set up sub-committees to deal with particular sectoral issues which emerge from time to time. It should be noted, however, that while contributing towards the formulation of the national employers' policy on the basis of their own sectoral experience, none of these groups may conduct negotiations leading to collective agreements at the sectoral or enterprise levels. Thus their contribution to social dialogue on behalf of employers - as well as the institutional role of the MEA itself - may be compared with that of employee works' councils for information and consultation.

On the employees' side, there are three main, central trade union organisations involved in social dialogue at the national level: the CMTU, GWU and UHM. The last two are also involved at the sectoral and enterprise levels. Both of these are general unions⁵ and the other one (CMTU) is a trade union confederation of 8 independent unions.⁶ All are legally

³ The Chamber of Commerce and Enterprise (COCE), The Chamber of Small and Medium Enterprises (GRTU), The Federation of Industry (FOI), The Malta Employers' Association (MEA) and the Malta Hotels and Restaurants' association (MHRA). The MEA, GRTU and MHRA are officially registered as employers' associations in terms of EIRA.

⁴ The MHRA normally resorts to MEA when requested for assistance by their members in collective bargaining. On the other hand, the FOI has declared its intention to become involved in industrial relations in future.

⁵ The General Workers' Union (GWU) and the United Workers' Union (UHM).

⁶ The Confederation of Maltese Trade Unions (CMTU).

registered in terms of the Employment and Industrial Relations Act (EIRA) of 2002 and, like the employers' organisations, they represent their members at both the national and international levels. They participate in various tripartite bodies, notably MCESD and are actively involved in collective bargaining which, as noted above, is mainly carried out at the local enterprise levels.⁷

The GWU comprises eight trade sections, namely:

- Chemical Energy and Printing
- Hospitality and Foods
- Manufacturing and SME
- Maritime and Aviation
- Metal and Construction
- Public Sector
- Services and Media
- Technology and Electronics

Each section has its own executive committee and a small nucleus of full-time, executive staff that are also represented on the Union's National Executive Council. As noted above, it may be said that sectoral bargaining is effectively carried out at an informal level. However, each of the above sections carries out a large number of formal collective agreements with individual enterprises periodically. One notable exception is the case of the section dealing with public service employees which normally negotiates and reaches collective agreements covering a wide range of employees across different departments and other entities within the sector.

The UHM comprises the following six sections:

- Government Employees
- Health Services
- Public Entities
- Ports, Transport and Aviation
- Manufacturing Services
- Hotels, Food and Beverages

The above sections are organised along the same lines and perform similar roles to the sections of the GWU. Each section works through its executive committee and group committees, the latter being enterprise based.

⁷ In the case of CMTU, collective bargaining is done through its constituent member unions.

The CMTU includes the following eight affiliated unions:

- United Workers' Union (UHM) ⁸
- Malta Union of Teachers (MUT)
- Malta Union of Bank Employees
- Medical Association of Malta (MAM)
- Lotto Receivers' Union
- Chamber of Pharmacists
- Malta Union of Professional Psychologists
- Maltacom Graduates' Union

All the CMTU affiliates are actively involved in social dialogue.⁹ Each union carries out collective bargaining independently on behalf of the sections of employees it represents - mainly within the public sector. Due to the privatisation process which has been gaining momentum in recent years, however, these unions are now becoming increasingly involved also in the private sector. In the case of MUBE, for instance, both major banks where it enjoys recognition have been privatised. The CMTU represents these unions in national bodies, like MCESD and also in some international ones like the European Trade Union Confederation. It also serves as a rallying point and, over the years it has promoted mutual support and solidarity among its affiliates in times of crises. It should be noted, however, that the CMTU is severely hampered by a lack of adequate human and material resources.

Quantitative aspects

The number of sectoral member organisations and the economic sectors in which they operate are summarised below:

| Organisation | Industrial | Services | Public | Agricultural¹⁰ | (Numbers) |
|---------------------|-------------------|-----------------|---------------|----------------------------------|------------------|
| MEA | (9) | 4 | 4 | 1 | X |
| CMTU | (8) | X | 4 | 4 | X |
| GWU | (8) | 3 | 3 | 2 | X |
| UHM | (6) | 1 | 2 | 3 | X |
| Total | (22) | 8 | 13 | 10 | X |

⁸ The UHM is also an affiliate member of CMTU. Nevertheless, in view of its size and structure as a 'general union' it has acquired representation on many national boards and fora in its own right.

⁹ Recently there is also the emergence of the Trade Union Forum which groups together a small number of other professional employees within the public sector. They are aiming at achieving national recognition through membership of MCESD, hitherto unsuccessfully. The main union within this group is the Malta Union of Midwives and Nurses (MUMN).

¹⁰ It should be noted that there are no trade unions or employer organisations operating in the small agricultural and fisheries sectors (1.7% of the total labour force). There are, however, a number of agricultural cooperatives.

The number of enterprises¹¹ and workers¹² involved in each organisation and the respective economic sectors are shown below:

| Organisation (Total) | Industrial | Services | Public | Agricultural and other ¹³ |
|----------------------|------------|----------|--------|--------------------------------------|
| MEA (300+/-) | 120 | 140 | 20 | 20 |
| CMTU (10,000+/-) | X | 3,500 | 6,500 | X |
| GWU (45,901) | 17,797 | 10,267 | 11,309 | X |
| UHM (26,018) | 5,318 | 8,268 | 10,220 | X |

The current trends are seen by each organisation as follows:

- MEA – The number of member organisations increases regularly as many companies lack an adequate HR department and require assistance regarding employment law and specific sectoral issues. Such requirements have increased following Malta’s EU membership.
- CMTU – While the overall membership has been decreasing, there are increases in the services and public sectors, reflecting the current economic restructuring.
- GWU – While there are decreases in the overall membership, particularly in the traditional manufacturing industry, there are increases in the chemicals, technological, I.T. and electronics sectors, reflecting the current economic restructuring.
- UHM – The overall membership has been increasing, particularly in the services and public sectors. Simultaneously there are decreases in the industrial sector, reflecting current economic restructuring.

Organisational and financial capacities

With the exception of the unions affiliated with CMTU,¹⁴ the other organisations utilise central facilities to supplement the officials and staff employed in the trade sections. The number of sectoral employees is as follows:

| Organisation (Total) | Males | Females |
|----------------------|-------|---------|
| MEA ¹⁵ | 1 | 2 |
| CMTU | 8 | 3 |
| GWU | 31 | 17 |
| UHM | 12 | 4 |
| Total | 52 | 26 |

¹¹ In the case of employer organisations (MEA)

¹² In the case of trade unions

¹³ The number of members in the youth and pensioners’ sections of the unions are excluded from this paper.

¹⁴ Both the MUT and MUBE employ their own staff.

¹⁵ The MEA only has a small central staff and facilities.

Most of the above officials are employed in the *services* sector (59.6%), followed by the *public* sector (23.1%) and the *industrial* sector (17.3%). This distribution clearly reflects the current shifts in the Maltese economy from traditional manufacturing industry to the services and IT sectors.

Both the employers' associations and larger trade unions are generally satisfied with the quality of their human resources for the conduct of collective bargaining which, as noted above, is mostly carried out at enterprise levels. The perception is that they have 'enough' personnel, who are adequately equipped with skills, and also possess the legal and financial backing for their tasks. This is particularly so in the case of the larger unions where:

'All the sectors have their own experienced negotiators who have the executive powers backed up by an executive committee and a central pool of lawyers, financial, research, training and public relations officers.'

(GWU Official)

In addition to their membership fees, both the employers' associations and the trade unions also utilise other sources of revenue. These include a government grant for 'EU familiarisation' purposes and, in the case of some unions the income from insurance agencies, commissions for other services, investments, and welfare funds. Despite different membership levels, there are no significant differences among the different sections within the larger unions.

In the case of the CMTU, however, there is a perceived lack of human and financial resources and this is acutely felt among its smaller affiliates. The feeling is that when their experienced personnel retire, their replacements lack adequate training as well as the resources for such training. Following the recent establishment of a Reform Commission, the CMTU is currently exploring ways of rendering its organisation more effective in the new reality following Malta's EU membership.

Roles and competencies

Both the employers' and trade union organisations perform an advisory role to government in the determination of minimum conditions of employment. This is done at both national and sectoral levels mainly through their participation on the Employment Relations Board (ERB).¹⁶ Following such consultation, a national standard order is promulgated by government through which minimum conditions are established nationally or sectorally. Other than this, employment conditions are established through voluntary collective bargaining among the social partners normally at local enterprise levels.

Whereas the employers' associations normally perform an advisory and mediatory role in negotiations, the trade union sectoral organisations have the mandate to negotiate collective agreements.

The total numbers of collective agreements concluded within the different sectors in 2005 are as follows:

- industrial sector: 18
 - service sector: 30
 - public sector: 6
 - agricultural sector: 0
- (Total: 54)

¹⁶ The ERB is a tripartite body established in terms of EIRA (2002) I.1.3. It includes 4 Government representatives, 4 employers' representatives (one each from COCE, MEA, FOI and GRTU), and 4 employees' representatives (two from GWU and one each from CMTU and UHM), and an independent chairperson.

In the course of a three-year period which is the duration of most collective agreements, more than 50% of all enterprises, particularly the larger ones are covered. In the services sector, however, the majority of enterprises are not unionised.¹⁷

Both the employers' organisations and the trade unions describe the collective negotiation process as 'quite good'. Some of their comments are the following:

- 'Malta has a long established tradition in this field'.
- 'The unions are careful not to jeopardise jobs through their demands'.
- 'We succeed to find solutions around a table – especially in the private sector'.

All the social partners agree that in their view, the future of the sectoral negotiation process in Malta is likely to 'remain the same' - during the next three years. New investment is likely to continue replacing the present one, yet no major change in the economic fortunes of the country is envisaged.

Social dialogue at company level

As noted above, collective bargaining in Malta is normally carried out at the enterprise level. For this purpose, wherever there is a recognised trade union, there is normally a local shop steward who participates in negotiations, assisted by the union section and/or central organisation. One of the basic tasks of a trade union in a company is to make sure that all employees have a formal, written, contract of employment, as required by law. Likewise the MEA insists that its members do the same and is often asked to lend its assistance in this regard. Nevertheless, this is not always the case where the workers are not organised. In the normal course of events, the shop steward's task is to deal with the members' individual complaints.

The process of union registration, is governed by EIRA,¹⁸ according to which any group of seven or more employees may be registered as a trade union. But for the purpose of recognition, the established practice is that a union must demonstrate to an employer that it has a minimum of 50% +1 of the company's employees among its members. In cases of difficulty, such as where more than one trade union claims recognition, the Director of the Department of Employment and Industrial Relations is normally requested to carry out an impartial head count.¹⁹ Nevertheless, it seldom happens that several trade unions are operating in one workplace. In any case, the unions normally collaborate in the process of collective bargaining and in the defence of their members' interests.²⁰

¹⁷ The GWU conducts 200 – 250 collective agreements in the course of a 3 year period.

¹⁸ Title II.1 Sec.49 – 62.

¹⁹ On some rare occasions, the Industrial Tribunal has been requested to adjudicate issues of recognition.

²⁰ Nevertheless, it is also true that there is still no established code of practice regulating cases of poaching and inter-union relations.

Collective agreements tend to be more widespread in the larger companies. Obviously, in cases where there is no recognised union, as in the majority of companies in the service industry, there are no collective agreements. The breakdown of collective agreements may be shown below:

| Companies | % with collective agreement |
|-------------------------|-----------------------------|
| More than 250 employees | 80%+ |
| 50 – 249 employees | 50 - 60% |
| Less than 50 employees | 20 - 30% |

Both the employers' organisation and the trade unions expect the level of collective bargaining at company levels to remain the same in the near future. However, in the long term, the employers expect the level of trade union membership to decrease due to the economic shift affecting industries where traditionally unions have been weak.

Works Councils are still relatively rare in Maltese industry. Apart from the case of Air Malta, there are five companies with European Works Councils. However, the situation is likely to change in the near future, following the recent enactment of the legal notice making national level works councils mandatory in companies of a certain size.²¹ To date, the relations between works councils and trade unions in the companies where they are found has been cooperative. In fact, most of them emerge out of the trade unions and are actively promoted by them.

The enactment of the legal notice regarding works councils has not encountered any major opposition from the social partners. However, its implementation may prove to be more difficult. In particular, the Government has up to now exempted itself from the law. In general, it is expected that the establishment of work councils will significantly contribute to increase information and consultation in workplaces.

According to the social partners, the most common conflicts at the workplace are the following:²²

| Conflicts | Trade Unions | Employers |
|-------------------------------|--------------|-----------|
| on wages | 4 | - |
| on working hours | - | 2 |
| on working conditions | 2 | - |
| on dismissals | - | - |
| on equal opportunities | - | - |
| Other issues (TU recognition) | - | - |

²¹ As from January 2006, companies with 200+ employees are under legal obligation to set up a works' council; From 2007 companies with 100+; and from 2008 companies with 50+ employees are covered.

²² Highest score indicates highest priorities.

The social partners generally agree that the existing mechanism for conflict resolution, particularly at the company level, is functioning well. Over the years, the social partners have often demonstrated their ability to sit together around a table and negotiate until realistic solutions emerge. There is, however, also room for improvement particularly at the national level, as shown in the failure of the social partners to adopt a national social pact in 2005.

Future development

The following proposals for the further development of social dialogue are made by the social partners:

Company level

- Better organised union committees at enterprises would render the work of the Sections and/or the central administration more effective. This would also enable the union officials to better deal with individual requests for advice.
- The specialised roles of the various employers' associations should be more clearly defined by them even though they might have common membership. They would also be able to render better service to their members if they find better ways of collaboration among them while each may still preserve its own identity.

Sectoral level

- There are no demands by the social partners to develop formal sectoral level dialogue. It is agreed that the present, informal system offers the possibility of customised, flexible solutions which are better adapted to the situations prevailing in particular companies.
- The DIER can be further developed and better equipped so as to be able to play a more proactive role in conflict resolution.
- A wider, advisory role should be assigned to the ERB by government and the other social partners for the development of minimum conditions which are more appropriate for each sector.

National level

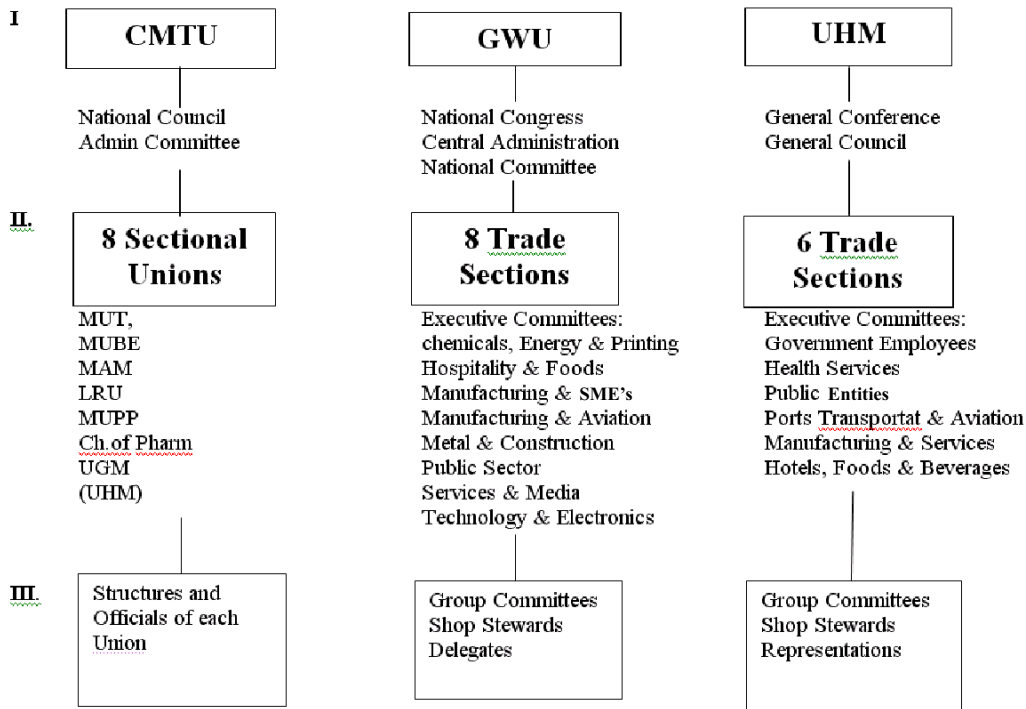
- The CMTU stresses the importance for the unions to collaborate towards the eventual formation of a Trades' Union Congress (TUC). Only after putting their own house in order can the unions effectively participate in social dialogue at the national level.
- The GWU believes that the MCESD, as an institution, needs to be further developed. The union is currently seeking to establish bi-partite dialogue with the employer organisations and the prospects seem encouraging.
- An adequate investment in professional training for all those involved in social dialogue is required. All the social partners and companies should make an investment in life long learning for collective bargaining and on EU matters. This may be done by including a specific item in their budgets for this purpose and by means of a provision for paid educational leave in collective agreements.
- Additionally, given their limited resources, both employer bodies and trade unions need technical and financial assistance in order to develop their activities and be able to meet future challenges.

Edward Zammit, University of Malta

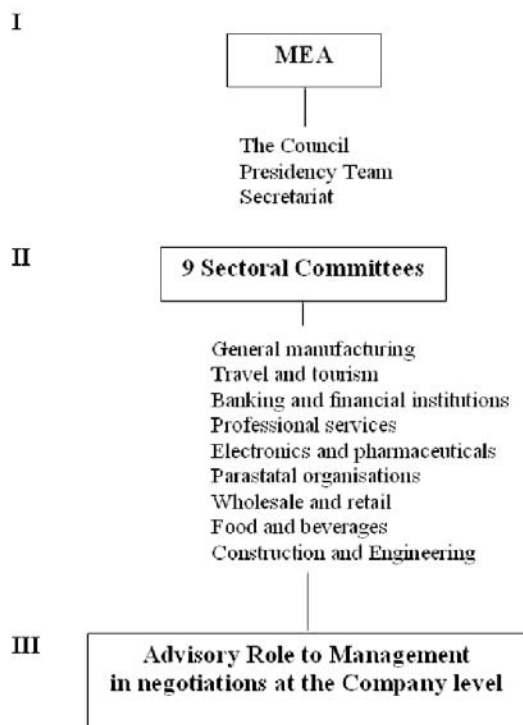
Annex

List of social dialogue central organisations

TRADE UNION ORGANISATION



EMPLOYERS' ORGANISATION



Interviews took place with the following persons:

Mr Tony Micallef Debono, Secretary General, CMTU

Mr Michael Parnis, Deputy General Secretary, GWU

Mr Joe Farrugia, Director General, MEA

Mr Jesmond Bonello, Assistant Secretary General, & Dr Romina Bartolo, Legal Consultant, UHM

List of participants

Workshop on social dialogue capacity building at sectoral and company level in Estonia, Latvia, Lithuania, Malta, and Slovakia

4 - 5 May 2006

Budapest

Hungary

Government representatives:

Anthony Azzopardi

Victor Bruno-Olivier

Employer representatives:

Tonio Farrugia

John B. Scicluna

Trade union representatives:

Anthony Micallef Debono

Michael Parnis