

*"Analytical examination of the
"acquis communautaire"*

Social dialogue at European level

Treaty establishing the European Community

Article 138

Article 139

Article 138

- 1. The Commission shall have the task of promoting the **consultation** of management and labour at Community level and shall take any relevant measure to facilitate their **dialogue** by ensuring balanced support for the parties.*
- 2. To this end, before submitting proposals in the social policy field, the Commission shall consult management and labour on the **possible direction** of Community action.*

Article 138

- 3. If, after such consultation, the Commission considers Community action advisable, it shall consult management and labour **on the content** of the envisaged proposal. Management and labour shall forward to the Commission an opinion or, where appropriate, a recommendation.*
- 4. On the occasion of such consultation, management and labour may inform the Commission of their wish to **initiate the process provided for in Article 139**. The duration of the procedure shall not exceed nine months, unless the management and labour concerned and the Commission decide jointly to extend it.*

Article 139

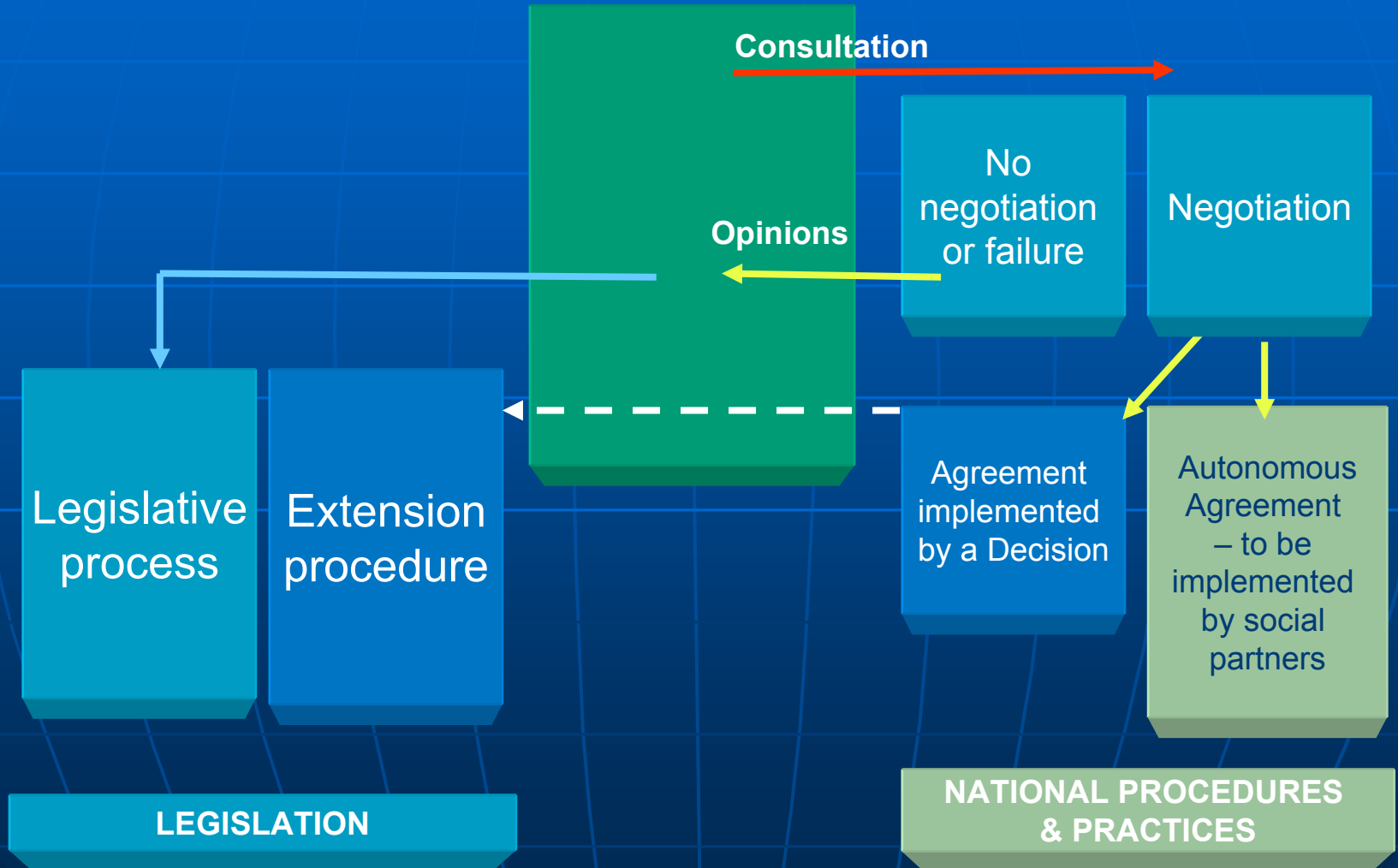
1. *Should management and labour **so desire**, the dialogue between them at Community level may lead to contractual relations, including **agreements**.*
2. *Agreements concluded at Community level shall be **implemented** either in accordance with the procedures and practices specific to management and labour and the Member States or, in matters covered by Article 137, at the joint request of the signatory parties, by a **Council decision** on a proposal from the Commission.*

Understanding Art. 138 & 139

Council

Commission

Social Partners



Social dialogue at European level

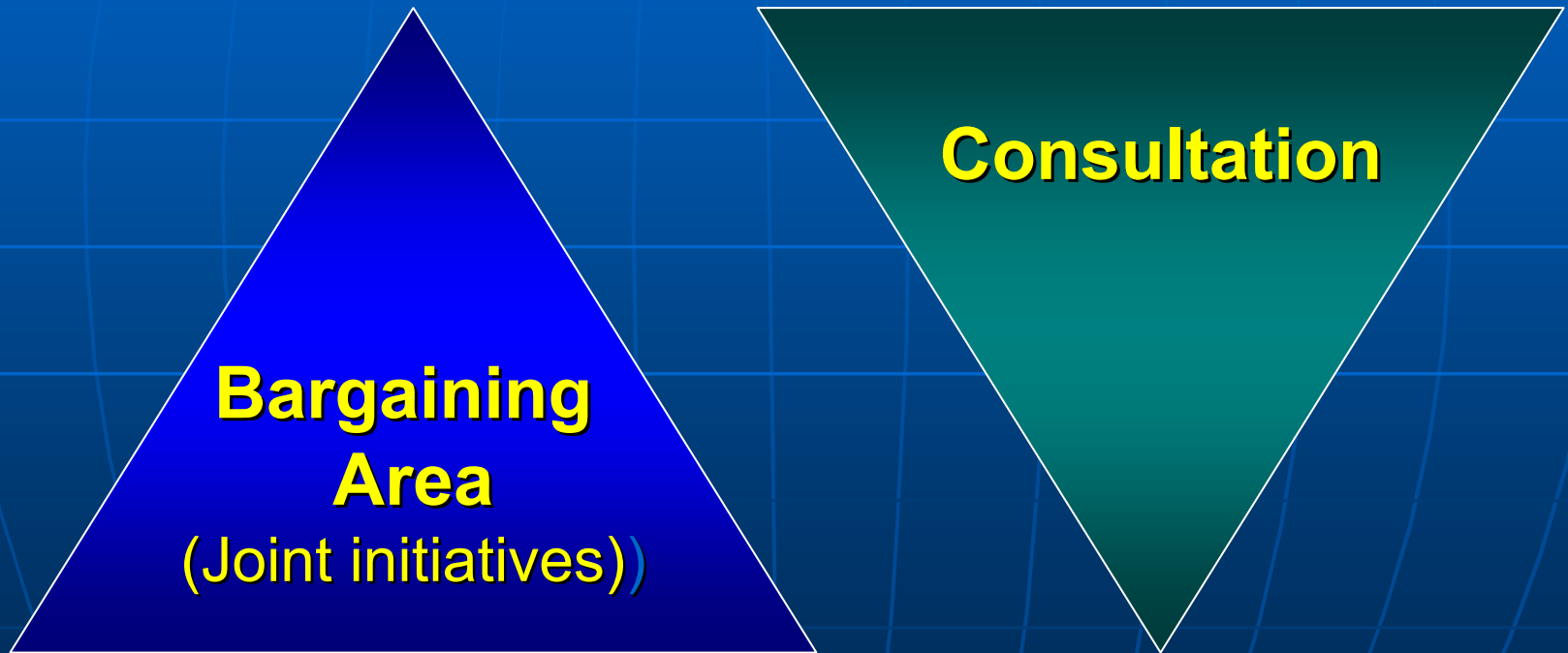
Commission Decision of 20th May
1998

*Social dialogue committees are established in those sectors where the social partners make a **joint request** to take part in a dialogue at European level, and where the organisations representing both sides of industry fulfil the following criteria:*

Commission Decision of 20th May 1998

1. *they shall relate to specific sectors or categories and be organised at European level*
2. *they shall consist of organisations which are themselves an integral and recognized part of Member States' social partners structures and have the **capacity to negotiate agreements**, and which are **representative** of several Members states*
3. *they shall have adequate **structures** to ensure their effective participation in the work of the Committees*

The 2 pillars of social Dialogue



Art. 138 Consultations

1. *European Works Councils*
2. *Reconciling work and family life*
3. *Adaptation of the burden of proof*
4. *Working time flexibility and workers' security*
5. *Prevention of sexual harassment*
6. *Worker information and consultation*
7. *Protecting workers against employers' insolvency*
8. *Modernisation of employment relations*
9. *Exposure to asbestos at work*
10. *Economically dependent workers*
11. *Data protection*
12. *Corporate restructuring*
13. *Supplementary pensions*
14. *Stress at work*
15. *Carcinogen substances*
16. *Revision of the working time directive*
17. *Revision of EWC directive*
18. *Musculoskeletal disorders*
19. *Violence at the workplace*
20. *Simplification of "health and safety" directives*



Directives

European Work Councils
Burden of proof
Working Information and consultation
Sexual harassment
Insolvency
Asbestos
Data protection
Working time

Negotiated agreements

Parental leave
Part-time work
Fixed-term work
Telework
Work-related stress
MST in agriculture

In progress

Carcinogen substances
Musculoskeletal disorders

Bargaining Area of Social Dialogue

Agreements
establishing standards
Article 139 (2) EC Treaty

Agreements implemented by Council decision

Autonomous agreements

Recommendations
concerning standards
and principles

Frameworks of action

Guidelines and Codes of conduct

Policy orientations

Exchange of
information

Joint opinions

Declarations

Tools

Procedural texts

Rules of procedure

Agreements establishing minimum standards implemented by Council decision

- Framework agreement on parental leave, 1995
- Framework agreement on part-time work, 1997
- European agreement on the organisation of working time of seafarers, 1998
- Framework agreement on fixed-term work, 1999
- European agreement on the organisation of working time of mobile workers in civil aviation, 2000
- Agreement on certain aspects of the working conditions of mobile workers assigned to interoperable cross-border services, 2005

Council Decision of 6 March 2003 establishing a Tripartite Social Summit for Growth and Employment

*The task of the Summit shall be to ensure, in compliance with the Treaty and with due regard for the powers of the institutions and bodies of the Community, that there is a **continuous concertation between the Council, the Commission and the social partners.***

*It will enable the social partners at European level to contribute, in the context of their **social dialogue**, to the various components of the integrated economic and social strategy, including the sustainable development dimension as launched at the Lisbon European Council in March 2000 and supplemented by the Göteborg European Council in June 2001.*

Council Decision of 6 March 2003 establishing a Tripartite Social Summit for Growth and Employment

- *The Summit shall consist of the Council Presidency and the two subsequent Presidencies, the Commission and the social partners, represented at the highest level.*
- *The ministers from those three Presidencies and the Commissioner, responsible for Labour and Social Affairs shall also be present.*
- *Depending on the agenda, other ministers from these three Presidencies and other Commissioners may also be invited to take part.*

Council Decision of 6 March 2003 establishing a Tripartite Social Summit for Growth and Employment

Tripartite Social Summit

(before Spring European Council each year)

**Macro-
Economic
Dialogue
(DG ECFIN)**

**Concertation
on Social
Protection
(SPC)**

**Concertation
on
Employment
(EMCO)**

**Trilogue on
Education
and
Training
(DG EAC)**

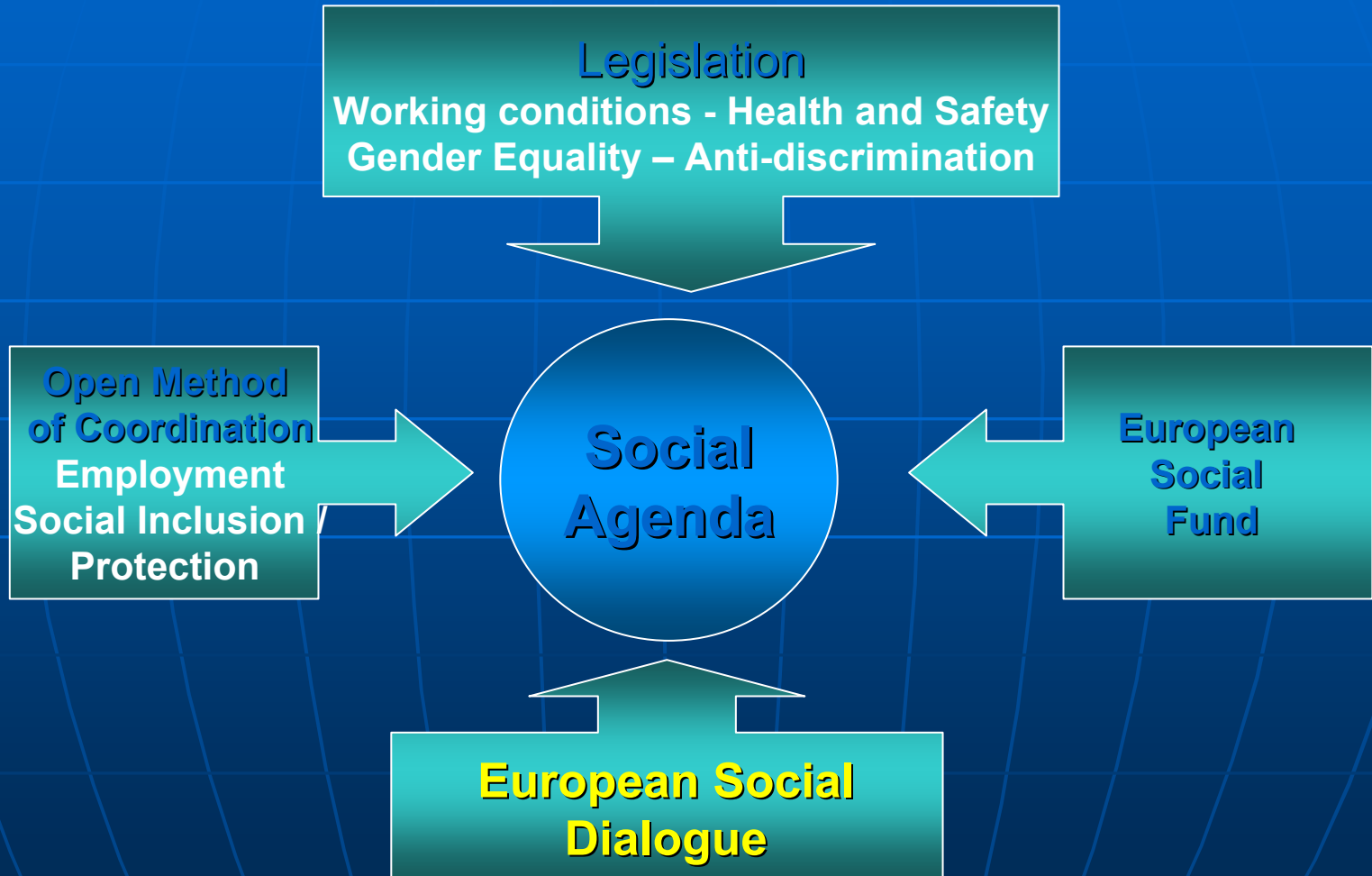
Prerequisites to participate to the European social dialogue

- *Freedom to associate or not*
- *Freedom to negotiate*
- *Ability to sign agreements*
- *Capacity to implement european social dialogue agreements through national collective bargaining*
- *Right to be consulted on any matter linked to social policies and working conditions*

Prerequisites to participate to the European social dialogue

- *Sectoral and cross sectoral dimension*
- *Corporate dimension*
- *Bipartite dimension*
- *Autonomy of social partners*
- *Representativeness of social partners*
- *Administrative capacity*
- *Reliable statistics concerning trade union membership/collective agreements coverage, etc...*

Instruments of Employment and Social Policy



Council Resolution of 6 February 2003 on Social Inclusion - Through Social Dialogue and Partnership

- *Social inclusion was established as a political objective in the Presidency Conclusions of the Nice European Council, following the Conclusions of the Lisbon European Council which set strategic goals for sustainable growth, more and better jobs and greater social cohesion, and affirmed social inclusion as fundamental to the modernisation of the European social model.*
- *The Barcelona European Council Conclusions specified **the contribution of the social partners** to the achievement of these goals, and the Council is confirming its own commitment to making serious inroads into the eradication of poverty and social exclusion.*

Council Resolution of 6 February 2003 on Social Inclusion - Through Social Dialogue and Partnership

The European council invites THE SOCIAL PARTNERS:

*to identify possible **partnership mechanisms** and approaches for specific activities conducive to increased social inclusion;*

*to consider, within their **autonomous dialogue**, initiatives for strengthening social inclusion in an enlarged Union;*

*to increase their involvement in the **open method of coordination on poverty, social exclusion and employment** with a view to promoting an inclusive society and labour market;*

COUNCIL RESOLUTION of 6 February 2003 on Corporate Social Responsibility

The European Council calls upon the Member States, while bearing in mind the principles of CSR outlined above:

- to promote CSR at national level in parallel with the development of a strategy at Community level, in particular by making companies aware of its benefits and highlighting the potential results from constructive cooperation between governments, business and other sectors of society,*
- to continue to promote the dialogue **with social partners** and civil dialogue,*