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**TRANSNATIONAL COLLECTIVE BARGAINING
IN EUROPE:
DEVELOPMENT AND ISSUES
AT COMPANY LEVEL**

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**TRANSNATIONAL COLLECTIVE BARGAINING IN EUROPE:
THE CURRENT SITUATION, THE PROBLEMS, THE
PERSPECTIVES?**

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INTRODUCTION

EUROPE ET SOCIÉTÉ organised a previous Symposium on transnational collective bargaining on 14th March 2006 in Paris. A summary of the Symposium papers and discussions is given in: EUROPE ET SOCIÉTÉ, «Transnational Collective Bargaining. A tool for the Lisbon Strategy», *Les Cahiers de la Fondation*, No. 65-66, March-September 2006.

Scope of the study

As with the Symposium, the scope of the study is mainly concerned with **transnational negotiations carried out at the company level**. Although the role of sectoral federations in company transnational negotiations is emphasised, cross-sector and sectoral transnational collective bargaining are not studied in-depth. It should be noted, however, that European cross-sector and sectoral negotiations are separate from company transnational negotiation in that they are overseen by community law, whereas company transnational negotiation is currently developing without any legal framework. Similarly, negotiations observed at the national level are only mentioned in as far as they are linked to a particular company transnational negotiation (for instance, in the preparation or application phase).

Furthermore, emphasis is placed on those negotiations **that are truly European in scope**. Hence, international framework agreements, frequently worldwide in their scope, and that for the most part deal with corporate social responsibility are not the core subject here. However, examining such agreements raises a number of issues that prove to be essential for understanding the development of company transnational collective bargaining in Europe.

Similarly, we study the development of negotiation practices **between employers and employee representatives**, and not unilateral approaches undertaken by one or other of the parties – adoption of codes of conduct or of company charters; trade union coordination of collective bargaining, for instance (Schulten, 2005). However, in contrast, or as subjects to be explored, these elements could throw light on various European developments affecting the transnational negotiation processes discussed here.

Plan

The document is organised in four parts:

- The first part presents a brief summary of **the history of company transnational collective bargaining**; initial attempts go back to the period from the 1960s to the 1970s. The following are described: the characteristics of these first experiences of transnational negotiation, the obstacles encountered, and the debates they gave rise to on the part of the public authorities and of the social partners.

- The second part presents **an inventory of company transnational agreements in Europe**, from the various censuses available and particularly those carried out by the European Commission, since it monitors these events closely. The body of agreements is presented according to the characteristics of the agreements signed: nationality and activity of the company, date of the agreement and signatory parties, subjects discussed and scope. This is a means for highlighting the main dynamics at work in company transnational collective bargaining.

- On the basis of this inventory, the third part examines the **issues raised by the development of transnational collective bargaining** and the debates that ensue. We shall present both the elements that provoke debate and the various positions defended. This will show that the lines of opposition do not just pit company management against employee representatives, but that there are various tensions evident among the employee and trade union representatives themselves.

- Finally, we shall review the proposal put forward by the European Commission in 2005 to define an **optional European framework for transnational collective bargaining**, in order to present the discussion this has generated. In particular, we shall review the responses provided by the European and national institutional actors and social partners, together with the recommendations set out by the group of European experts that met to discuss the issue.

- At the end of the document, a general bibliography lists the institutional and academic references mentioned in the text.

1. REVIEW OF THE HISTORY OF COMPANY TRANSNATIONAL COLLECTIVE BARGAINING

«As far as we know, there were unsuccessful attempts to set up negotiations in the field of metallurgy [...], chemicals [...], shoe-making [...], and in the food sector [...]. Discussions remained limited to exchanges of views and occasionally specific instances of conflict or local interests were settled. In fact, after some initial openings early in the 1970s, there was a slide backwards, with companies systematically refusing group negotiations. [...] Collective agreements, or agreements that settle employment issues at the group level and that progressively seek forms of harmonisation relating to social guarantees for employees - these still lie in the future»

E. Descamps et B. Descamps, 1985, *Les sociétés multinationales. Pouvoirs et contre-pouvoirs*, Lyon, Chronique sociale, p. 142.

Transnational company agreements are not a new phenomenon, even though they have recently become widespread and are arousing the interest of a growing number of players – European, national¹ and local public authorities, employers, trade union representatives, representatives of associations, etc.

It is useful to review the historical background in order to place current developments in perspective and be able to highlight specific aspects.

¹ See for instance, in France, the latest record of collective bargaining edited by the French Ministry of Labour. For the first time, in its initial chapter «on collective bargaining developments in 2006», the Ministry devotes a few pages to «social dialogue in Europe». In the column «company social dialogue», company transnational negotiation is mentioned through reference to «an example of European company agreement on equal opportunities set up by the Areva group», signed on 16th November 2006 between the group and the EMF. See Ministère du travail, des relations sociales et de la solidarité/DGT, DARES, 2007, *La négociation collective en 2006*, Paris, p. 45.

1.1. Early debates and attempts 1960s-1970s

The 1960s and the 1970s correspond to an initial period during which numerous theoretical and practical debates and questions were crystallised. This was a period when the multinational company was observed, it was both an object of study and a theatre of action. The question was how to respond to the growth of multinational companies and the challenges they represented concerning the regulation of work and employment, the organisation of employee representation and the expression of collective action.

This was the context in which the issue of possible transnational company collective bargaining took form.

A body of literature, both academic and union-based, mainly in English (and, in particular, American) reviewed the consequences of the growing internationalisation of companies on industrial relations, examined union strategies, either developed or applied, in response to these developments and raised the issue of a possible internationalisation of protest actions, claims and collective bargaining². Job security, transparency and location of decision-making, transposition of foreign practices where human resource management and social relations were concerned, risks of relocation, pressure on remuneration, these were some of the issues that weighed on union strategies. Studies carried out mainly analysed two types of initiative:

- on the one hand, attempts to **regulate multinational companies on the part of international organisations**, such as the OECD, ILO, UN³ ;

- on the other hand, **trade union experiences implemented in a few multinational groups, with the support of International Trade Secretariats (ITS)**.

These last, particularly where the metal (mainly in the automotive section), chemicals and food sectors were concerned – three sectors in which internationalisation was relatively far advanced – attracted the attention of observers and commentators. In order to favour exchanges of information between the employee representatives of a particular international company and be better able to coordinate union activity, the International Trade Secretariats recommended the set up of **World Works Councils** within a number of multinationals (da Costa, Rehfeldt, 2006). The idea, put forward in the 1950s by the American automotive union, was relayed by the International Metalworkers' Federation (IMF) – at the time, Canadian citizen Charles LEVINSON was the Under-Secretary-General. It led to the set up of the first automotive «company world councils» in 1966 (at Ford, General Motors, Chrysler-Simca-Roos and Volkswagen/Daimler-Benz). In the chemicals sector, a first «Permanent Council» was set up at Saint-Gobain, with the help of the International Federation of Chemical and General Workers' Unions (ICF), in 1969. Despite the set up of some fifty «world group councils» during the period, the experience was a failure from the point of view of the total number of multinational companies, because of the conflicting interests and ideological divisions inherent to these bodies, and also because of their way of operating that was frequently rather unstable (Rehfeldt, 1993).

² For an overview of the literature, apart from books and articles of the time, see the recent review presented by R. BOURQUE within the framework of his report for the ILO «International framework agreements and international collective bargaining in the globalisation era» (Bourque, 2005).

³ See in particular: *Principes directeurs pour les entreprises multinationales* adopted by the OECD in 1976 (revised in 2000) and the *Déclaration Tripartite sur les principes concernant les entreprises multinationales et la politique sociale* of the ILO in 1977 (revised in 2001).

In particular, the experience failed to give rise to the «international collective bargaining» its promoters hoped to summon. C. LEVINSON, who had become Secretary-General of the ICF in 1964, was the most ardent defender of these initiatives; in 1972 he published a book analysing the events that has become a major reference. As he sees it, union action has to become international, as happened with companies, «in stages» that is, in three successive phases: an action involving **support** and solidarity between national unions representing the various employees of a single multinational, should give rise to **coordinated** action, that is, collective bargaining per branch of industry, within the company, leading finally to **negotiations** that are integrated at the multinational company level, for all its branches. As concerns the first phase described by Levinson, various social conflicts with a transnational dimension attracted a lot of attention from observers of the time: the following conflicts were very frequently quoted - Akzo, Michelin, Saint-Gobain and, particularly, Philips, this last experience was the one that most closely resembled an example of transnational company negotiation.

Concerning these first experiences, there are several points to be made:

* First of all, the issue of possible company transnational collective bargaining arose on the **world scale** – particularly because it was driven by North American players – before investing the more specifically *European* area.

One of the issues is that of the scale on which these transnational actions were to be promoted: there was the shift from a search for international regulation – borne, on the one hand, by international organisations and, on the other, by international union organisations – to the promotion of specifically European regulation, in which both community public authorities and European social partners invested, though to differing degrees.

* Next, it is important to stress the close link between the perspective of this transnational company negotiation and **the set up of transnational employee representation structures** – in this case, the world works councils, then the European works councils.

* It is also important to note the link between the negotiation attempts observed and the **restructuring and conflict situations** that gave rise to them: industrial restructuring is by no means a new thing, both as the subject of company transnational negotiation and the engine for it.

* Finally, from the start there was **tension** between **action** that remained specifically **trade union-based** (in particular, via coordination) **and** the channel concerned with **negotiation between social partners**.

1.2. The first transnational negotiation experiences, 1980s-1990s

The **first European agreements** were **concluded in the mid-1980s** (di Ruzza *et al.*, 1995), essentially within the **BSN-Danone** group, whose pioneering experience is worth reviewing.

From 1986 on, European meetings were organised between the the International Union of Food and Allied Workers' Association (IUF) and group management, at the initiative of the international trade union federation. These annual meetings, organised at the headquarters of the ILO in Geneva, led to the adoption of a **first «Joint opinion» in 1988** that listed four «themes on which BSN management and IUF members agreed to work on together»: promotion of relevant social and economic

information, professional equality between men and women, training and right of association within the companies making up the group.

It should be noted that although they were informal, the IUF considered the meetings as a «stage on the way to international-level negotiations». In harmony with the programme defined in 1988, they led to the adoption of four joint texts, referred to as «**platforms**», and committed the parties, as follows: on social and economic information and professional equality in 1989, on training in 1992 and on the right to organise in 1994.

These texts aimed to deal with the difference in both social measures and employee status that existed within the subsidiaries of the company in Europe. The texts were short, and were essentially framework agreements designed to encourage or stimulate negotiation at the local level. The content of the texts is fairly wide so as to facilitate agreement between the parties. Finally, although their scope was restricted to the European space, the IUF, as an international federation, and in view of the growing internationalisation of the food company at the time, intended to open the meetings with the management to the representatives of those employees outside Europe and moreover wanted to widen the range of the texts established.

1.3. From 1994 on, negotiating the set up of European works councils

In parallel with the above, **there was the development of European works councils (EWCs)**, particularly after the adoption of the European directive dated 22nd September 1994, that in turn, contributed to the development of company transnational collective bargaining. This has been all the more important for the fact that the development of European works councils is an example of:

- **legally structured negotiation at the European level** (even though, in parallel, the social partners had a considerable extent of contractual freedom)

- that rested, with the set up of **special negotiating bodies (SNBs)**, on the existence of a new transnational negotiation agent⁴.

Studying «collective bargaining in its international dimensions», A. LYON-CAEN (1997) identified two cases: *national* collective bargaining that can under certain conditions be confronted with international problems, and directly *international* or cross-border collective bargaining, with developments that apply to the community context. This «European» collective bargaining rests on three types of practices: social dialogue that is inter-professional on the one hand, and sectoral, on the other, to which must be added the practice of collective bargaining within companies that have an international dimension. In the words of A. LYON-CAEN, of the three practices «*the one that is certain to develop is European company negotiation, designed to set up a European authority for worker representation or an information and consultation procedure*» (*ibid.*, p. 362). Now, if he predicts far-ranging success for the set up of the European works councils, it is largely because the «companies» involved «have understood the value of using the means recommended by the Directive, that is, negotiation».

The choice of priority recourse to negotiation, frequently presented as both representing the original nature and strength of the 1994 Directive, was doubly motivated: on the one hand, by the failure of the

⁴ «The Community Directive dated 22nd September 1994 should make its mark since it represents the first time the issue of setting up a European negotiating agent is tackled directly and the desired outcome, an agreement, is endowed with standardising scope in several States» (Lyon-Caen, 1997, p. 364). S. Laulom has even commented that «one of the major contributions of» the 1994 Directive is that it defined «the rules for identifying the players concerned by the negotiation and who will represent the employees of the company» (2005, p. 46).

first draft directive proposed, the so-called Vredeling Directive of 1980 and, on the other, by the success of voluntary contractual initiatives carried out in some multinationals from the mid-1980s. The aim of the 1994 Directive was, on the one hand, to **organise a framework for this transnational negotiation** and, on the other hand, to be able to **generalise the first voluntary experiences**. In order to do this, the Directive conferred on the product of the negotiation, the agreement setting up a European Works Council, a specific legal force. For A. LYON-CAEN this was «the most original aspect» of the text: «the way the Directive ensured the **legal efficiency of the agreements**» (*ibid.*, p. 361).

The latest censuses carried out list more than 900 EWC agreements negotiated in companies or groups of «Community dimension», among which, over 780 correspond to currently active European works councils (Kerckhofs, 2006). Recourse to negotiation has opened the way to **a cumulative experience of company negotiation with a European dimension**. The dynamics that underlie this negotiation of European works councils agreements are worth observing in order to learn the current facets of company transnational negotiation on a European scale. Below, we emphasise three main aspects.

* First of all, it is important to stress **the model role played by the subsidiary provisions of the 1994 Directive**, serving as a support for negotiators, without hindering the wide variability of agreements necessary to adapt them to the economic and social reality of each firm.

* Furthermore, **the implication of European trade union federations**, that back up the national negotiators and find a new theatre of action in the development of the EWCs, cross sectoral dynamics with the dynamics specific to the company. Identification of the companies concerned, by the EWC Directive, awareness of and familiarity with the agreements already signed, assistance in negotiating the agreement or the proposal of agreement models all contribute to making transnational company agreements a perspective that is also relevant to sectoral actors.

* We should add that **regular re-negotiations** of the EWC agreements feed these dynamics by presenting negotiation of the agreement not just as a moment in the life of the European council but as an achievable horizon, and that leaves it the freedom to evolve.

2. INVENTORY

This second part of the document presents a panorama of the existing agreements on the basis of the various censuses available. Although the presentation will remain general, a few agreements with exemplary negotiation dynamics will be presented in greater detail.

2.1. Company transnational collective bargaining: what is the record like for Europe?

The **census drawn up by the European Commission's DG Employment and Social Affairs at the end of 2005** lists **over 95 texts** – signed in 65 companies⁵. Thirty-eight of these texts, generally grouped under the term «International framework agreements», deal with fundamental workers' rights within the specific context of corporate social responsibility (Commission, 2006). Since the end of the 1990s, several international trade union federations have been actively promoting the set up and signature of international framework agreements⁶. In May and November 2006, DG Employment organised two study seminars on transnational agreements to discuss initial results and analyse trends⁷.

The study made the following observations.

* First of all, **most of the texts have only recently been signed**, essentially since 2000, so although this is not an emerging phenomenon, it is definitely still at the development stage (see Box No. 1).

* Furthermore, their **names** remain **varied**, whether it is a question of a «framework agreement», or an «overall agreement», of a «European agreement», of a «position statement» or a «joint declaration», of «principles» or «guidelines», of a «charter» or of a «code of conduct» for example; these are all terms that do not necessarily explicitly highlight the negotiated nature of the text.

* **The significant implication of European firms**, particularly French, German and north European in the conclusion of these texts is noticeable. Fifty-four of the 65 firms concerned have their head office in the European Union. There are also large numbers of important texts set up by American companies operating in Europe.

* **The field covered is strictly European for practically half of the texts; a third of the texts have a global application.** Some of the texts, although they are global in nature, place emphasis on specifically European problems and refer to the implication of European actors, such as European works councils and it is frequently difficult to draw a clear line between texts that are uniquely European in nature and those that have a global dimension.

* Nevertheless European texts and worldwide texts differ in their **content: Texts centred on the European space** are generally concerned with the set up of **social dialogue** or with substantial themes such as **equal opportunities, health and safety, training, management of competencies**

⁵ An exhaustive census of the texts ensuing from company transnational negotiations represents a first challenge and the idea of setting up a «*European legal deposit*» of the texts, has been suggested. Knowledge of the texts signed has an important role to play in spreading these voluntary negotiation practices.

⁶ A systematic analysis of the stakes involved by negotiating international framework agreements is presented in the article by R.-C. DROUIN (2006).

⁷ Consult the relevant documents at: http://ec.europa.eu/employment_social/labour_law/documentation_fr.htm#5

or restructuring, whereas **texts with a worldwide dimension** mostly deal with **fundamental social rights** and, particularly, union rights, with reference to the principles defined by the ILO. Moreover, there are also some texts that are best qualified as mixed⁸.

* In sectoral terms, the **metal sector** is particularly active in company transnational negotiations since it accounts both for a third of the companies concerned and for a third of the texts concluded (see Box No. 2). It is followed by the chemical and energy sectors and the food sector, and to a lesser extent, by the telecom and service sectors.

* **Where the employee representatives are concerned**, the wide **diversity of signatories** is striking: European works councils and world works councils, European and international trade union federations as well as national trade unions all participated in these transnational negotiations and signed the resulting texts; in about half the cases, they signed jointly.

- In the case of International framework agreements, the signatures of international trade union federations are strongly present. In the chemicals and energy sectors, their signature is often accompanied by those of national trade union organisations; in the metal sector, it is more often the signature of the European works councils that is found.

- Indeed, it seems that **the European works councils were implied on two thirds of the texts signed**, in particular, those centred explicitly on the European space. However, this «implication» takes a number of forms, depending, on the one hand, on whether the European council intervened «alongside» international trade union federations, or merely European and/or national trade unions, «in their name» (in two cases), or «alone», this is the case for 30 texts, mainly negotiated within American companies; and, on the other hand, whether the European authority is or is not a signatory to the text adopted.

- The study also notes that the joint implication of the EWCs and international or European federations is more frequent in the most recent texts, and also in the texts signed within French, German and American companies. On the other hand, where Scandinavian, British and southern European firms are concerned, there is generally the joint signature of the international federations and the national organisations.

* Finally, there is also the fact that though **most of the texts define procedures for implementing and following up** the proposals put forward, **few of them present the terms for settling disputes** that might occur. Follow-up is either to be ensured by an advising committee, or to be entrusted to the European works council and generally comprises yearly evaluation of text application. We should also note, along with the study authors, that several of these texts target not just the parent company and its subsidiaries but also commercial partners, subcontractors or suppliers and all these parties are also expected to comply with the provisions set out in the text.

Box No. 1. Three transnational agreements for the Suez group in 2007

Early in July 2007, the Suez group acquired three transnational agreements signed by the management, French national trade union organisations, the European Trade Union Confederation, the European Managers' Confederation and the Instance

⁸ For a more detailed presentation of the provisions in the texts on these various points, see: *Transnational texts negotiated at corporate level: facts and figures*, Study seminar «Transnational Agreements», DG Employment and Social Affairs, 17th May 2006 (drafted by É. Pichot, with the assistance of C. Vogt).

européenne de dialogue (IED), the name of the Suez European works council, within which the negotiations were carried out from 2006 onwards.

The agreement concerning «commitment to promoting equality and diversity in the company» and that concerned with forward-looking management of labour and competencies (GPEC) were signed unanimously. The first covers all the employees in the group and is concerned with three specific themes – differences linked to gender, age and disabilities – discussed within three working groups set up at the European level. The agreement provides for an annual review of the situation within the group, the set up of approaches to promote diversity, as well as specific measures targeting young people, senior employees and disabled employees. The agreement is to be backed up by specific agreements within the subsidiaries and its application will be assessed, two years after its coming into force, by the IED's «Equality and Diversity» Committee.

The GPEC agreement applies to Europe as a whole. The aim of the agreement is to «anticipate the foreseeable quantitative and qualitative evolution of professions (growth/regression), whatever the reasons for these evolutions: be they linked to technology, markets or strategy». To this end, the agreement provides for the set up of new authorities: a «European GPEC Committee» comprising a legal representative for each country with at least two *business units* whose duty it is to ensure transnational compliance with the agreement (two meetings per year); in parallel, a GPEC Committee to be set up in every country with at least two subsidiaries in order to ensure the missions defined at the European level are implemented, and also to serve as «observatories» noting «the evolution of jobs and competencies and effects on employment per region». The appendix includes a «European framework agreement on mobility».

The last **agreement on «association of the employees in results»** was not signed by the CGT. To be applied on a world scale, signed for a three-year period, it provides a system whereby employees are associated in company results, on the basis of group consolidated performance and not on the individual results of each company. The agreement introduces four share-out methods: uniform (principle approved in 2007 in the form of free allocation of shares), proportional to the presence in the company during the fiscal year, proportional to salaries or taking these criteria jointly into account. The IED bureau will be involved in following up the agreement.

Two first general conclusions can be drawn from this record of company transnational negotiation in Europe – from which ensue a number of issues to which the Symposium of 5th and 6th February 2008 will doubtless provide answers motivated by the experience and expertise of the speakers:

- Firstly, **the current dynamism of these negotiations**, that raises the issue, on the one hand, of *knowing the meaning the actors give to the phenomenon* and, on the other hand, of *how to consolidate the results obtained, and even encourage their further development*;
- secondly, **the wide variety in type, form, content, status and range of the texts adopted**, leading on the one hand to question the necessity, and, on the other hand, the means to *achieve greater formalisation of the negotiations and their results*, in order, in particular, to endow them with clearer legal effects.

Box No. 2. Industrial restructuring, a subject of transnational negotiations at General Motors Europe⁹

On the occasion of the alliance between GM and Fiat, an initial agreement was signed in **May 2000** between GM management and its European Works Council (EWC) that

⁹ Adapted from I. da COSTA et U. REHFELDT, 2006.

had been set up in 1996. Negotiated together with IG Metall, acting in the name of the European Metalworkers' Federation (EMF), and in coordination with the Fiat EWC, the agreement sets out protection measures for GM employees transferred to GM-Fiat *joint-ventures*. Should the alliance fail, the agreement stipulates that employees shall go back to their initial employer.

In **March 2001**, the EWC signed a second European agreement concerned with group restructuring and this time, it covered all the group's employees in Europe. The impetus for this agreement came from the announcement, made by GM management, of a restructuring programme involving the loss of 10,000 jobs around the world, among which 6,000 in Europe. Setting aside the principle of local negotiations, that generally relies on pitting the various sites against each other, together with the EMF, the European council called a «European action day» in January 2001, and this was well attended. The agreement signed after this transnational action stipulated that the management would avoid laying people off and would, instead, negotiate alternative solutions with the employee representatives on the various sites.

The announcement of further job cuts led to the signing of a third agreement in **October 2001**, whereby the EWC stated its support to the general objectives in the plan set up by the management in return for the management's commitment to implement its changes without closing down any sites and without any compulsory redundancy.

The further restructuring plans announced for Europe in 2004 led the EMF to set up a «European union coordination group» that brought together the European federation secretariat, national trade union representatives and members of the EWC. Following a further European action day, a fourth agreement was signed in **December 2004** by the group management, the EMF, national trade union organisations and the EWC: the economic difficulties facing the manufacturer together with the need to cut costs and reduce its workforce noticeably, all these were acknowledged and the principles in the previous agreements were re-affirmed. Whereas the implementation of the restructuring plan affected the various sites, and had been negotiated at this level, the EWC steering/select committee was placed in charge of supervising and following up the agreement.

Further negotiations were undertaken in 2006.

2.2. Dynamics of company transnational collective bargaining in Europe

Beyond these initial general conclusions, what are the main dynamics at work in the current development of company transnational collective bargaining in Europe? Two elements should be mentioned, one that concerns the specific European characteristic of these negotiations, and the other that is concerned with their sector-specific characteristics.

2.2.1. The European characteristics of company transnational agreements

Is it possible to talk of specifically European characteristics in the development of company transnational agreements? In order to answer this question, it must be considered from the point of view of the propensity of the employer and trade union actors to negotiate such agreements and from the point of view of the actual contents of the texts negotiated.

- ***Propensity of the companies to undertake transnational collective bargaining***

As stated, European national firms account for the majority of the companies having undertaken transnational negotiations. This observation is all the more impressive for the fact that it goes hand in

hand with another parallel development: a growing number of multinationals have adopted unilateral codes of conduct (Sobczak, 2002).

Indeed, the work of listing the texts concerned with company social responsibility undertaken over the last few years by the ILO indicates that the international organisation places the two types of texts adopted at company level under the same heading¹⁰ : codes of conduct, adopted in a unilateral and voluntary way by company managements, that account for the larger part of the texts listed so far; and international framework agreements that are the fruit of transnational negotiation between managements and unions – international, European and national. Study of the body of texts accumulated indicates that ***where agreements signed in the framework of transnational negotiation mostly concern European companies, it is mainly North American companies that sign codes of conduct***. Furthermore, beyond the way they are adopted, the actual contents of the codes of conduct transmit the image of a highly hierarchical company keeping the implication of employees and their representatives at arm's length¹¹, although others consider they represent «*an original, and specifically European, model of company governance*» (Aglietta, Rebérioux, 2004, p. 91).

Examining the role of European companies in the development of international framework agreements, Isabelle DAUGAREILH has identified various «*factors that «predispose» a company to transnational social dialogue*», among which, «*corporate culture, the level and quality of social dialogue within the group, the status of the group in the country of origin (public/private company with a tradition as a social showcase or laboratory), the personality of the company manager (training or political or religious commitments), the origin of the major investors*», for instance (Daugareilh, 2006, p. 119).

- ***Contents of texts ensuing from company transnational negotiation***

According to I. DAUGAREILH, international framework agreements «*transmit a conception of the global company and a vision of globalisation all their own in which European «traces» may be spotted.*» (*ibid.*, p. 121)

This is what the contents of the transnational agreements show, through the way various problems are treated or the way certain realities are presented. Although reference to ILO standards, and particularly to its Declaration on Fundamental Labour Rights of 1998¹², remains the main reference, ***some of these rights are presented «in a European manner***: hence issues relating to health and safety at work presented in terms of prevention, of employee awareness-raising and training, and also of dialogue with employee representatives; the issue of equal opportunities and non-discrimination that borrows from the European concept of «diversity»; or that of training that echoes the European formula of «life-long learning». However, it is above all in the way restructuring is dealt with that there is an evident continuity with the elements that make up the European social model.

Finally, it should be noted, as I. DAUGAREILH points out, that these references remain largely implicit, revealed by the use of this or that particular term; they are not explicit as are the references to international law, and to fundamental rights as put forward by the ILO, in particular.

¹⁰ See data base posted online at: <http://www.ilo.org/dyn/basi/VpiSearch.Main>.

¹¹ This is what lexical analysis of the body of codes of conduct shows, as carried out by É. BÉTHOUX, C. DIDRY and A. MIAS (2007).

¹² For a presentation and analysis of the import of this declaration, see I. Duplessis, 2004.

2.2.2. The sectoral characteristics of company transnational agreements

It has also been pointed out that the propensity to negotiate transnational texts or agreements varies significantly from one sector to the next. Such initiatives are frequent in the metal, chemical or food technology sectors and much more limited in sectors such as banking and insurance.

Such agreements are to all intents and purposes absent from the textiles and clothing sector, whereas a large number of companies and groups in the sector have adopted their own codes of conduct, within the framework of the corporate social responsibility (CSR) approach¹³. For Doug MILLER (2004), the difficulties encountered by the International Textile, Garment and Leather Workers' Federation in promoting such practices have several explanations: the particular configuration of the sector's production activities, certain employers' anti-union attitude, the unfavourable opinion of international framework agreements held by employers' organisations, or the fact that sector companies may have undertaken other voluntary regulation initiatives.

More generally, such sectoral differences must be examined in the light of both the **economic dynamics specific to each activity sector** (growth rate, production structure, degree of internationalisation, restructuring cycles, etc.), and the **social dynamics** at work therein, and, particularly, the type and state of the balance of power between the employers' parties and the union parties in a given sector. Where the national or international balance of power is non-existent, weak, or largely unequal, it will be all the more difficult to establish and ensure the development of company transnational negotiation.

3. ISSUES RAISED

Without drawing up an exhaustive list of the issues raised by the development of company transnational agreements, this third part sets out to emphasise those that are, at one and the same time, the most significant, the most complex or the most controversial – that is, those that examine in greatest depth the current transformations of European industrial relations.

In particular, these issues concern the actors involved in transnational negotiation (3.1.), its place and role (3.2.), and its type and scope (3.3.).

3.1. Company transnational collective bargaining actors

This first issue concerning the actors involved in transnational negotiation has two main dimensions, an issue that is general in nature (3.1.1.) and a more specific, but thoroughly crucial, issue relating to the role of the European works councils in the development of this negotiation (3.1.2.).

¹³ The first international framework agreement between the ITGLWF and a multinational in the textile sector (Inditex SA, world No. 2 clothing chain) was signed on 4th October 2007 and aims to ensure decent conditions in the textile, clothing and leather working industry.

See: <http://www.etuf-tcl.org/index.php?s=3&rs=home&uid=294&lg=fr&pg=1>.

3.1.1. Which union representative and which employer representative for company transnational collective bargaining?

* The first important point is that the development of company transnational development has a direct influence on **the mutual recognition of employer and unions at the transnational level**. According to I. DAUGAREILH, for international framework agreements, «*the first, and main contribution of an international framework agreement is to formalise recognition of the existence, capacity and representativity of the world union representative by the globalised company, beyond any legal obligation*» (2006, pp. 120-121)¹⁴.

We must point out, however, that the international and European union federations do not *necessarily represent all the union organisations* present within such and such a multinational, *they only represent those organisations affiliated to them*. In some cases, the transnational agreement project put forward by an international or European federation can give rise to hesitation, or even reticence, on the part of employees and their representatives who do not identify with the federation involved. For instance, at France Télécom, the overall agreement on respect of fundamental rights signed at the end of December 2006 was negotiated by the UNI-Telecom federation¹⁵, and within the group by an *ad hoc* structure, called the “World trade union alliance”, that grouped together all the national union organisations affiliated to the UNI. In France, the CFDT, FO and, only recently, the CGT are affiliated in this manner. Representatives of the SUD union, not affiliated with the UNI and thus not represented within the World alliance (though present in the European works council that was set up in 2004) also follow the discussions and negotiations, sometimes with a rather critical eye, undertaken with a view to signing a transnational agreement¹⁶.

* Second point: the situation most frequently encountered is that of **a lack of symmetry between the partners who undertake company transnational negotiation** with:

- **collective and sectoral actors on the side of the employee representatives**, because of the strong involvement of the international and national union federations;

- and **individual actors on the side of the company management**.

On the employer side, it is necessary to note the divergence frequently observed between institutional employers – international, European or national employer organisations – that remain in part hostile to the development of company transnational agreements¹⁷, and the company management teams that actually undertake such negotiations. Hence it is on an individual, and not collective, basis that company management teams invest in these negotiations¹⁸. We should note that on this point, there is

¹⁴ We should remember that, in parallel, the European Commission defined specific criteria for recognising the representative union organisations that intervene in European sectoral and cross-sector negotiations covered by the Treaty.

¹⁵ In agreement with the general strategy of the UNI, the international service federation. See, for example: « Accords mondiaux. Multinationales et droits des travailleurs », and « Accords mondiaux. UNI en marche », *UNI Info*, 2004, n° 2, pp. 5-9. Worldwide agreements were signed by the UNI with Carrefour (2001), Telefonica (2001), OTE (2001), ISS (2003), H&M (2004), Falck (2005), Nampak (2006), Portugal Telecom (2006) and Securitas (2006).

¹⁶ For a more detailed presentation of this example, see the chapter on «Le dialogue social dans le secteur des télécommunications» in the collective work coordinated by A. JOBERT (2008).

¹⁷ See for instance the positions expressed by the International Organisation of Employers (OIE, 2004).

¹⁸ «*This lack of symmetry regarding player configuration has its origin in the reticent attitude of existing employers' organisations to transnational collective bargaining and by the fact that in some sectors there is no organisation to link up the companies*» (Drouin, 2006, p. 713).

a similar divergence to that observed in the case of the first voluntary European works councils at the end of the 1980s and early 1990s.

The divergence having been pointed out, the question arises of knowing how to «balance» the parties as they face each other. Placing union and management federations opposite each other echoes the situation of sectoral social dialogue, be it international, European or national. A. SOBCEK (2006) has noted that negotiation with the European works council makes it possible to avoid any lack of symmetry between the negotiation partners that may exist in cases where it is only the international, European or national union federations that are involved (with employee representatives organised at the sector level whereas the management only represents a single company). As he sees it, ***the joint intervention of union federations and European (or world) works councils becomes the means for «balancing» the negotiating parties.***

This leads us to examine more closely the role the EWCs can play in the development of company transnational negotiation, and the debate thereby entailed.

3.1.2. Role of the European works councils?¹⁹

Closely linked to the previous point, the issue of the place and role the European works councils can adopt and play in the development of transnational negotiation is currently both controversial and the subject of heated debate.

* Firstly, we wish to emphasise the notion of ***reciprocity*** evident ***between the development of the European works councils and the development of company transnational negotiation***, it seems important for understanding the dynamics at work in the current stage of construction of a social Europe.

To some people, development of a negotiation activity within the European works councils seems logical, and would even be interpreted as a sign of their. At the end of the 1990s, this is certainly what stands out in the report on changes in labour and labour law supervised by Alain SUPLOT :

«Multinationals and groups of undertakings are growing in importance and collective bargaining processes developed within these structures will also become more and more important. Indeed, after intense discussion, Directive 94/45/EC failed to allocate negotiation facilities to the European works councils due to be set up within the companies or groups of undertakings with a Community dimension. However, it appears obvious that where it functions as it should, the operation of such participation institutions (with their information and consultation role) will give rise to negotiation practices.» (Supiot, 1999, p. 155)

In this way, the development of company transnational collective bargaining represents the way ahead for the European works councils, a further stage in their development. In parallel, some see the European works councils as a means for furthering the «cause» of pan-European collective bargaining, in view of the new union coordination they enable:

«At first glance, the EU Directive governing EWCs appears to contain little in the way of substance. [...] Nevertheless, this institution is of particular interest since pan-European cooperation among unions is likely to be difficult. In view of the fact that they are standardized and institutionalized networks of employees across

¹⁹ We should note that the issue of the authorisation of EWCs to take part in such «international collective bargaining» took up a fair amount of time in the two-day discussion that accompanied the last Europe et Société Symposium on transnational negotiation in March 2006.

borders, the EWCs represent a new potential coordination mechanism and could operate in transnational firms as a Trojan horse for pan-European collective bargaining.» (Boeri et al., 2001, pp. 82-83)

Hence, we have the following dialectic: born of the difficulties encountered in the 1970s in directly promoting collective bargaining at the level of multinational groups, the European works councils, now «institutionalised», are in a position to become in their own turn both the locus for and the actors in this bargaining.

* The issue is the subject of wide debate. Interrogations concern ***on the one hand the capacities and, on the other hand, the legitimacy of the European Works Council, an information and consultation authority, in adopting a negotiating function.***

The initial argument calls on the idea that it is *first necessary to boost the full exercise of the information and consultation rights of the EWCs* before setting them on the path to negotiation. Numerous cases, particularly in restructuring situations, have indicated that these last few years, despite the progress achieved, employee information and consultation rights within European councils have not been fully ensured and observed, for a number of reasons – management by-passing the European body, poor communication or coordination between employee representatives, difficulty in linking up the EWC and national councils, for instance.

Furthermore, in countries that operate according to the «dual model» such as Germany or France, *defending the union prerogative for negotiation* is generally the argument most frequently put forward by people who cannot admit that European councils should be able to negotiate at the transnational level. This argument is based on two main elements:

- on the one hand, the fact that the European works councils, as an information and consultation body, are not entitled to negotiate and do not have a mandate for this;
- on the other hand, the fact that since the composition of the councils depends on the national laws and practices of the various Member states, they do not only comprise union representatives but also representatives who are not unionised.

However, in France, Germany, Italy and the U.K., «*the multiplication of representation agents*» and the «*tangling of functions*» that have become evident over the last few years are upsetting the traditional distinction between single and double representation channels and «*indicate that company collective bargaining is no longer an activity strictly reserved for unions*» (Laulom, 2005, pp. 284-287)²⁰. This is all the more noticeable for the fact that, as Annette JOBERT points out in relation to the French case, negotiation has to deal with the issue of anticipating and managing restructuring within the company (Jobert, 2007).

Furthermore, we should note that the *terms whereby European councils participate in the transnational negotiation process* actually cover a wide diversity of possible practices: they can initiate negotiation²¹, contribute information (for instance, through recourse to appraisal), participate fully in it, that is, take an active part through to the signing of the agreement or even be entrusted with

²⁰ Even though, as both S. LAULOM and the work she coordinates specify, «*questioning the union monopoly takes very different forms in the various countries*» (*ibid.*).

²¹ Within the framework of what B. TEYSSIÉ calls a «*pre-negotiation of transnational agreements*», «*to be classified along with the resolutions that this type of body [the EWC] is likely to vote*» (Teyssié, 2005, p. 986).

overseeing the implementation of the agreement (with material and financial means that should also be investigated).

* Finally, the example of negotiations that give rise to the European works councils, as defined by the Directive of 1994, fuels debate on the way company transnational negotiations could, possibly, also rest on the set up of a **special transnational negotiating body** that would be a specific negotiating agent aligned with the employee representatives. It also raises the issue of the possibility of setting up a new function for the purpose, that is, the position of **European union delegate**, that would also represent the company employees in these negotiations.

3.2. Place and role of company transnational collective bargaining

3.2.1. What linkage to define for the various negotiation levels?

This first question is concerned with the linkage between European sectoral and cross-sector negotiations and company transnational negotiations.

Some actors emphasise the **close interconnection between sectoral and company level** stating that «*it is difficult to isolate company negotiation from the other levels of negotiation, whether from the trans-sectoral or sectoral level [in as much as] company transnational dynamics also rely in part on the vision of sectoral level players.*»²². Indeed, «*the multiplication of European sectoral social dialogue committees*» (CDSS), and «*the vitality of transnational collective bargaining*» within the committees (Laulom, 2007, pp. 623-624), are strong signs indicative of healthy transnational negotiation dynamics.

However, it stands out that the sector that has so far seen the most company transnational negotiation, the metal sector, is one of the very few important sectors not to be organised within a European sectoral social dialogue committee²³.

In parallel, the question that arises is that of the **definition of the order of priority in the choice of negotiation scale**: the value of sectoral, as opposed to company, negotiation may lie in the possibility of being able to cover all the sector employees.

3.2.2. What declination for transnational agreements within national collective agreements?

The second question concerns the linkage between transnational negotiations, on the one hand, and national negotiations, on the other hand. As A. SOB CZAK (2006) observed, the way to guarantee the legal impact of transnational agreements is either to link them to legally binding standards (as with subcontracting contracts), or to **insert them into national collective agreements or into company agreements** in each of the subsidiaries of the group in question.

The value of this presentation lies in the **legal force thereby endowed on the contents of the transnational agreement**, and its limitations lie in the **potentially variable nature of the said force, depending on the various national legislations**. For some, the diversity of these national negotiations tends, in the end, to undermine the value and role of company transnational collective bargaining. For others, on the contrary, the main advantage of the latter lies precisely in the fact that it

²² Speech by B. LANDAS (FGMM-CFDT), EUROPE ET SOCIÉTÉ working group meeting of 19th June 2007.

²³ With the exception of the shipyard and shipbuilding sector that has had a Sectoral Social Dialogue Committee (CDSS) since 2003.

makes it possible to «stimulate» national negotiations, in the sense that it can encourage their development. Within this perspective, the company transnational agreement, signed at the European level, plays the role of a **framework agreement** that national negotiations relay and embody.

In view of these declinations or national transpositions, the choice of signatories for a transnational agreement can be decisive. The case of the international framework agreement signed by the EDF group in 2005 is an example of an original solution with, on one side, the signature of the parent-company management, and on the other side, the signature of all the national trade unions of the countries where EDF subsidiaries have been established. The hypothesis put forward is that «*such a choice could facilitate the transposition of the framework agreement in the various countries where the group is present*» by relying on «*a principle of subsidiarity endowing the framework agreement with a role as a catalyst for decentralised negotiations in the various countries and subsidiaries of the group, while also defining a number of fundamental rights that are applicable throughout and that are guaranteed by the parent company*» (Sobczak, 2006, p. 102).

3.3. Type and scope of company transnational collective bargaining

3.3.1. What procedures for settling disputes? And what sanctions?

This issue is linked first of all to those of the **procedures for implementing** provisions in the agreements. Defining such procedures is one of the characteristics of international framework agreements, they are rare in unilateral approaches such as codes of conduct, for instance. Initially, this is connected with distributing the agreement to the employees in the company or group, and, to a lesser extent, with specific procedures such as holding annual follow-up meetings, setting up records, or holding regular evaluations or defining complaint procedures whereby employees can denounce breaches in the enforcement of the agreement. Since most of the transnational agreements are recent, the various practices have not yet been evaluated.

Furthermore, we must point out that those who argue in favour of recognising the legal value of agreements ensuing from company transnational negotiation stress that it would not only guarantee their correct application, but would also enable **defining procedures for appeal and the settling of disputes**, and even for providing for sanctions in case of failure to enforce the agreement.

As concerns legal remedy, A. SOB CZAK (2004) has noted that although **action by a magistrate** is possible, it tends to be situated more within consumer rather than labour law, thereby tending more to protection of consumers than protection of the employees themselves. Furthermore, constitution of a sector dedicated to labour problems, within the European Court of Justice in Luxembourg has been presented as a possible solution by W. CERFEDA of the European Trade Union Confederation.²⁴

3.3.2. Transnational collective bargaining, a spontaneous phenomenon?

The development of transnational collective bargaining within several multinationals is sometimes presented as a «*purely spontaneous phenomenon, a new type of collective autonomy*» (Daugareilh, 2005, p. 71). Others try rather to insist on the «*initially hidden role*», that is nevertheless present, «*of State labour regulation institutions in the negotiation of these agreements*» (Drouin, 2006, p. 703).

²⁴ Speech at the meeting of the EUROPE ET SOCIÉTÉ working group of 12th September 2007.

So far, these initiatives have been developing outside any regulatory constraint or any specific legal framework. However, we feel the «*spontaneous*» aspect of this international collective bargaining should be qualified, for two main reasons.

- Firstly, because upstream there is a set of rules or recommendations set up by international organisations that both play a role in catalysing negotiations (by creating, in the words of I. Daugareilh, «a *favourable context for internationalising collective bargaining*») and serve as a referent in the actual writing of the negotiated texts.

- Secondly, because for some of the actors involved in these international negotiations – and for trade union players in particular – these practices are developing and they are moving towards the reinforcement, or more appropriately, the creation of a legal framework that will ensure their recognition and the consolidation of their results.

International collective bargaining, as it may currently be observed in multinational groups, is not seen by all as either «spontaneous» or «autonomous» but as obliged to fit into, in the medium or long term, **a new international and social legal order**. This is the dimension within which the current community level discussions on the definition of an «optional framework for transnational collective bargaining» take place.

4. TOWARDS A «EUROPEAN OPTIONAL FRAMEWORK FOR TRANSNATIONAL COLLECTIVE BARGAINING»?

«What direction should social dialogue take in the coming twenty years?

We want to improve the means for action available to the social partners. This is what is behind the proposal on transnational collective agreements: they will provide new means for action, particularly at the transnational company level. An optional regulatory framework could prove very useful for sorting out the structural difficulties facing Europe in various fields. The example has been set by the role of the European works councils: over the last ten years they have encouraged a true transnational dialogue, in the field, between company management and employee representatives. The role of Europe has been to provide a framework and encourage progress. It is the actors who have made the framework work and sometimes they have gone further than the minimum provisions laid down by the Directive.»

V. Špidla, Commissioner for Employment and Social Affairs,
closing speech, *Conférence 20 ans de dialogue social* organised by the European
Economic and Social Council, SPEECH/O5/225, Brussels, 14th April 2005.

4.1. European Commission proposals

* In the conclusion to its **Communication *Renforcer le dialogue social européen* of August 2004** the European Commission introduced the idea of setting up a «framework» for negotiating European collective agreements, having noted the development of these practices, particularly within multinational companies. We should remember that the framework proposed by the Commission is not

limited to company transnational collective bargaining, it also includes both sectoral and cross-sector negotiation²⁵.

«The interest and importance of transnational collective bargaining have developed over the last few years, in particular, in response to globalisation and to economic and monetary union. EWCs are adopting ever more agreements within multinational companies that concern employees in several Member states. Interest is also growing in transnational agreements between the social partners of neighbouring Member states, and in agreements between social partners in particular sectors that cover more than just one Member state. Faced with this trend, the Commission is carrying out a study of transnational collective bargaining and will make its conclusions known to the social partners. Subsequently, the Commission will consult social partners on the possible development of a community framework for transnational collective bargaining»

European Commission, *Communication*, 2004, pp. 11-12.

The proposal has been included in the Commission **Social Agenda 2005**, to round off the existing Community provisions at the sectoral and cross-sector levels in order to organise and structure the whole European social dialogue. The proposal is based on the idea of an **«optional» framework**, that is, that allows the social partners the choice, the legal framework is available for their negotiations if they want it but they are not obliged to use it.

«Providing an optional framework for transnational collective bargaining at either enterprise level or sectoral level could support companies and sectors to handle challenges dealing with issues such as work organisation, employment, working conditions, training. It will give the social partners a basis for increasing their capacity to act at transnational level. It will provide an innovative tool to adapt to changing circumstances, and provide cost-effective transnational responses. Such an approach is firmly anchored in the partnership for change priority advocated by the Lisbon strategy.

The Commission plans to adopt a proposal designed to make it possible for the social partners to formalise the nature and results of transnational collective bargaining. The existence of this resource is essential, but its use will remain optional and will depend entirely on the will of the social partners.»

European Commission, *Communication*, 2005.

* The proposal then gave rise to a European study, led by a **group of European experts** coordinated by Edoardo ALES, and the results and proposals were made public in the **final report of February 2006** entitled ***Transnational Collective Bargaining. Past, present and future***²⁶.

- The first part of the report describes the existing «transnational tools» that can be used for social dialogue, at the sectoral level and at company level, in particular.

I. It is interesting to note that the study concentrates on the way European sectoral social dialogue has developed since 1998 within the sectoral social dialogue committees. Their analysis leads the experts

²⁵ Hence an issue: should the optional framework be «wide-ranging» and cover these various levels of social dialogue, or should it be rather more «restricted» and only cover the company level?

²⁶ See the French summary of the report presented by a member of the group of experts - S. LAULOM (2007).

to **draw an initial conclusion on the progress and limitations of European sectoral social dialogue.**

- As they see it, the progress is represented by the active presence of the European institutions in the organisation of the dialogue and by the fact that it is developing on a voluntary basis, and finally, on the establishment of bipartite representative structures dedicated to these exchanges.

- As they see them, the limitations lie in the fact that the legal effect of the texts signed and their impact on the working conditions of European employees remain dependent either on the initiative of Community institutions, or on the action of national social partners. As a result, the autonomy of sectoral social dialogue is limited; the impact of the provisions applying to employee working conditions is neither direct, nor necessarily homogeneous. It remains difficult to introduce more basic (or more conflictual) subjects into sectoral negotiations.

II. Discussing then the tools available at the company level, the report reviews the provisions in the Directives on the European works council (1994) and on the involvement of the workers in European society (2001), and examines, in particular, the innovation represented by the set up of a «Special Negotiating Body» (SNB). **A second conclusion reviews the strong and weak points of the Directives of 1994 and 2001.**

- The strong points lie in the transnational dimension of these negotiations and their effects: definition of a negotiation that is transnational and that leads to the establishment of a contractual relationship between management and the SNB; the signing of agreements that are truly transnational in their field of application; creation of new employee representation transnational authorities.

- The weak points lie in the fact that the purpose of the negotiations is restricted to the set up of an employee representation authority, and particularly in the fact that the actual composition of the European works councils will make it difficult for them to move from their information and consultation function towards negotiation, in particular in the absence of any official recognition of the role union players hold within the EWCs (see *above*).

III. In this first part, the report also acknowledges the existence of a number of «joint texts» signed within the European works councils²⁷, as well as international framework agreements signed between company management teams and European or international trade union federations, and sometimes with national trade union organisations. This leads to **a third conclusion relating to the transnational negotiation practices with the EWC, international or European federations and the national trade union organisations** pointing out that:

- The various actors representing the employees are in a situation where cooperation has pride of place, rather than competition, since they are frequently jointly involved in the negotiations and they are sometimes co-signatories of the texts signed, which increases the legitimacy of the texts.

- There is nevertheless some overlap (that could possibly lead to conflict) between the themes traditionally covered by European sectoral social dialogue (health and safety, full equality in practice in working life, and training, for instance) and those taken up in these new company transnational negotiations.

²⁷ Concerning these joint texts, see the study by M. CARLEY (2001).

- This situation highlights the necessity to define a general legal framework in order to clarify various points: what are the negotiation procedures, who are the negotiating agents and, finally, what are the conditions for ensuring the implementation of the agreements signed?

IV. This first part continues with an examination of transnational negotiation in situations of industrial restructuring and the specific practices that apply in this field. **The fourth conclusion relating to transnational negotiations in a restructuring context** reveals that:

- So far, these negotiations have been more reactive than proactive.
- The existence of a European legal framework could allow these agreements to distribute the social risks associated with restructuring projects more fairly and could also involve a larger number of employees and sites in the company or group.
- The example of various national legislations could lead to defining and implementing «*transnational social plans*» whose application would then be implemented nationally.

V. This first part concludes finally by reviewing the **other European Directives that could have a transnational impact** (directives relating to mass lay-offs, transfer of undertakings, the general information-consultation framework, work time, etc.) **The fifth conclusion emphasises** the fact that such impacts are «potential» only and are likely to be so many «missed occasions» for developing negotiations «at the appropriate level», in this case the transnational level, in the absence of any suitably encouraging framework.

- On the basis of these five main conclusions, the group of experts drew up a set of recommendations for defining a European framework for transnational negotiation explaining why this is desirable.

The report firstly explains the **reasons, general and specific**, for which it is important to define a legal framework for transnational negotiation.

- General reasons are largely concerned with the weak points and limitations already described. However, the authors add an important fact: the existence of a stimulating framework to define transnational negotiations would be a means for reducing intra-European competition based on differences in terms of labour law and social rights (*social dumping*).
- Among the specific reasons listed, the framework would endow transnational agreements with a legal, and not just physical, existence and would also clarify the bases that support transnational collective bargaining (that has so far been dependent on the operation of specific institutions such as the EWCs or the SSDC); it would also formally approve the right of European works councils to enter in such negotiations and make clear the relationship between the various negotiation and decision-making levels; finally, it would consolidate the scope and legal consequences of signed transnational agreements.

The report finally sets forth **recommendations for establishing an optional framework for transnational collective bargaining** that would enable the set up of a «**European Union Transnational Collective Bargaining System**».

- Definition of the optional framework should be instated by means of a *European Directive*, and its transposition in the various national legislations should be coordinated through an *advising committee*.

- The Directive should mention the following points: the *complementary* nature of transnational collective bargaining with respect to national negotiations; the conditions under which transnational negotiation could be undertaken (providing details relating to the entity able to *initiate* the approach); the required set up of a sectoral or company «*joint negotiating body*» within which negotiations will take place; the need to ensure *written agreements* systematically *recorded and made public by the Commission*; procedures for implementing the agreement through managerial decisions taken by the companies either in the group concerned or in the relevant sector; set up of a bipartite system for ensuring the agreement is enforced.

* Since Spring 2006, European social partners have had to express their opinion both on the need and on the possibility of setting up an «*optional regulatory framework for transnational collective bargaining*».

Thus, we can present the statements the project has produced so far.

4.2. Responses to the proposals made by the Commission

* The opinion of the **European Economic and Social Committee** of 13th July 2005 relating to the Commission Communication on Social Agenda²⁸ (Rapporteur: Mrs U. ENGELEN-KEFER; adopted with 60 votes in favour, 1 against and 3 abstentions) mentions the proposal for an optional framework put forward by the Commission and stresses two points:

- firstly, the support of the European Economic and Social Committee for «*the objective expressed in this initiative that aims to promote social dialogue at the company level and at the sectoral level and to take in greater consideration than hitherto company transnational activities and the transnational scope of their voluntary agreements.*»

- Second, the recommendation sent to the Commission stipulates to «*examine the proposal for framework-legislation with the European social partners as soon as possible and collect and take into consideration their opinion on the issue.*»

It soon appeared that the opinions were mixed.

* In its responses to the communication of 2004 and to the Social Agenda of 2005, the Union of Industrial and Employers' Confederations of Europe, **UNICE**, now *BusinessEurope*, expresses its disagreement, as concerns the need to set up such a framework, in the name of the principles of «*subsidiarity*» and «*social partners' autonomy*» that it stands for (UNICE, 2004, 2005). It also bases its argument for rejecting «*a further level in European collective bargaining*», on the very type of transnational organisations observed within various groups, not to be confused with those carried out at the national level, and considers they could not comply with the same requirements.

«*UNICE does not believe that devising a more extensive framework for the European social dialogue is necessary and would have the strongest objections to the Commission preparing such a framework itself. Furthermore, presenting this as*

²⁸ See the opinion of the European Economic and Social Committee of 13th July 2005 (SOC/200 «Social Agenda») at:
<http://eescopinions.eesc.europa.eu/eescopiniondocument.aspx?language=fr&docnr=846&year=2005>

“a Community framework for transnational collective bargaining” is unacceptable and misleading as European negotiations and the resulting framework agreements which establish broad principles are fundamentally different from collective agreements resulting from bargaining on wages and working conditions in the Member States.» (UNICE, 2004, point 7).

* The **European Trade Union Confederation**, for its part, put forward a more developed response that emphasised both *«the relevance»* and the necessity for the initiative taken by the Commission, and regretted that the social partners had not been consulted first, that is, before the group of experts and European lawyers, together with the elements it considers should be processed and written into the future *«framework»* (CES, 2005).

Thus, we find the main points raised in the previous section on the issues raised by the development of company transnational negotiation, that is:

- identification of the actors competent to negotiate and sign an agreement,
- validity of the agreements and their extension,
- procedures for legal remedy where the agreements are not enforced and for settlement of disputes,
- finally, explicit insertion of a non-regression clause in comparison with existing legislation and collective agreements in the Member states.

On this point, we should note that the European trade union organisation reaffirms that the *«power [to negotiate] should remain solely a right for trade unions in view of their representativeness that has long been recognised by the Commission»* and that consequently *«the EWCs, and it is important to remember that their only power lies in information and consultation; as the law currently stands, are not an appropriate negotiating body»*. However, recognising the role that European works councils play in the development of company transnational negotiation, discussions on a possible European optional framework give the ETUC the chance to reaffirm its wish to have the Directive of 1994 on European works councils revised as soon as possible so that the Community text specifically acknowledges the place and role of trade union players in the set up and operation of EWCs.

4.3. European trade union federation initiatives, while waiting for the optional framework

While discussion on the need for a European optional framework and the form it should take continues, it should be noted that some European trade union federations have undertaken to define their own framework for company transnational negotiation for application in their particular sector. There are several objectives involved: the unions wish to make the practices more formal and thereby encourage them, and they also wish to ensure the presence of the sectoral trade union players within the negotiations.

In its Memorandum and articles of association the EMF has defined a mandate in order to represent affiliated organisations in a negotiation carried out at the European level, initially at the sector and sub-sector levels but also at the company level. The EMF, by its signature, commits its organisations as a whole.

« 27) *The Executive Committee shall take decisions with a two-thirds majority, on the basis of a recommendation made by the «Collective Bargaining Policy» Committee and/or the «Company Policy» Committee, in matters relating to the preparation, execution and signing of European sectoral and subsectoral framework agreements. This comprises:*

- *A negotiation mandate*
- *The constitution of a negotiating group*
- *Evaluation rules for the end result of the negotiations*

The outcomes of the negotiations shall be approved by the Executive Committee. All the trade union organisations shall signify their agreement for the implementation of the agreement signed. The agreement shall be implemented in compliance with the national practices of the countries concerned. Implementation shall comply with the legal framework and the collective bargaining system in force in the country.

Internal procedure as approved by the Executive Committee shall be used for negotiations within companies at the European level.»

Memorandum and Articles of Association, EMF, 2007.

The same impulse to «*promote and develop negotiation within European companies*» appears in the 2007-2011 Work Programme of the European Metalworkers' Federation:

« 171) *For the EMF, extending good practices within multinationals aiming to improve and harmonise working conditions involves developing European company framework agreements. **The EMF shall encourage the negotiation of European company framework agreements by relying on the mandate procedure specific to the EMF. There shall be regular monitoring and evaluation of the use made of the said mandate.** It is important to ensure the EMF coordinators and the EWC Secretaries are fully aware of the importance of these European framework agreements.»*

There are two elements to be noted here. Firstly, the appeal made to EMF coordinators and to the Secretaries of the European works councils to work together to develop these transnational negotiations makes it possible to draw attention to, and emphasise, the role that employee representatives must play in initiating such negotiations. Next, it is noticeable that these transnational agreements are clearly presented as «*European framework agreements*», and that this suggests that their adoption is to be followed by the negotiation of collective agreements at the national level: their application is not spontaneous and immediate but must be ensured through recourse to national negotiations.

Finally, it strikes us as important to stress that this commitment on the part of the European Trade Union Federation, and the formalisation of negotiations it promotes, are not foreign to the reflection on an optional European framework for transnational collective bargaining, nor are they a substitute for it. To the contrary, they appear as both a complement and as support to community initiatives in this direction:

« 172) *Recent progress made by the European Commission in favour of a legal framework for transnational collective bargaining in multinationals should be perceived as an important element in a future European industrial relations system. The initiative should clarify the respective roles of the EWCs and trade unions (including European industrial federations). For the EMF, the negotiation of collective agreements should remain the prerogative of the trade unions. Furthermore, such a framework should cover all three levels, that is, company, sector and cross-sector. The policy and activities of the EMF concerning this issue should be envisaged together with the «Collective bargaining» Committee. EWC*

Secretaires and EMF coordinators should be implicated in the development of our strategy for this legal framework. The EMF and its affiliates should promote this legal framework and work actively in order to ensure satisfactory results.»

Through the interventions of representatives of the EFFAT, EMCEF or the ETUF-TCL, for instance, the EUROPE ET SOCIÉTÉ Symposium of 5th and 6th February 2008 will be a chance to present the initiatives undertaken within this perspective by other European trade union federations, revealing both the similarities in common and also the characteristics specific to each of these sectors.

CONCLUSION

Company transnational collective bargaining is currently developing in Europe as a result of a twofold movement that simultaneously involves

- **bottom-up initiatives**, through voluntary transnational negotiation experiences observed in a growing number of multinationals, particularly under the strong impulsion of various sectoral actors, that is, European or international trade union federations, and

- **top-down proposals**, through initiatives undertaken by the European Commission to recognise and encourage such approaches and endow them with a firmer legal basis.

In this respect, there is a twofold movement not dissimilar to that observed from the mid-1980s onwards in the case of the European works councils and that led to the adoption of the European Directive of 1994²⁹.

As S. Laulom points out, the objective of the «transnational» standards thereby set up «*is not so much to harmonise national systems as to regulate aspects that escape the jurisdiction of national systems because of their transnational dimension*» (Laulom, 2007, p. 623). Hence, it appears that company transnational negotiation does not come across as an extra level of negotiation that overlays existing national negotiations, for instance, but rather it fits into and uses the established mechanisms, procedures and practices current in European industrial relations systems. At the same time, the diversity of the national negotiation systems in Europe makes it difficult to define company transnational negotiation procedures able to either «combine» the contributions of the various systems or «borrow» explicitly from one or other of them. Hence, the development of company transnational collective bargaining demands the definition of original principles and brand new rules.

It remains to stress the overall dynamic currently underway and the means by which the development of this company transnational negotiation leads to a general questioning of the current transformations of national industrial relations systems and the way the European system of industrial relations is being formed. It is legitimate to ponder the way various recent international and European developments could weigh in future over the development of company transnational negotiation itself and its eventual institutionalisation (Rehfeldt, 2007a, 2007b). It is appropriate, for example, to envisage the possible effects of a growing number of multinationals adopting the status of «European company», even though, so far, only very few have opted for the status. Another point to bear also in mind is the impact of the current reshuffling of the international trade union movement with the set up of the International Trade Union Confederation whose action in relation to multinational companies embodies a vector for change.

²⁹ In particular, this is how P. MARGINSON (2000) analysed the situation.

REFERENCES

- AGLIETTA M., REBÉRIOUX A., 2004, *Dérives du capitalisme financier*, Paris, Seuil.
- ALES E. (coord.), ENGBLOM S., JASPERS T., LAULOM S., SCIARRA S., SOBCZAK A. et VALDES DAL-RE F., *Transnational collective bargaining. Past, present and future*, Rapport final, février 2006 : http://ec.europa.eu/employment_social/labour Law/docs/transnational_agreements_ales_study_en.pdf
- ARROWSMITH J., MARGINSON P., 2006, « The European Cross-border Dimension to Collective Bargaining in Multinational Companies », *European Journal of Industrial Relations*, 12 (3), pp. 245-266.
- BÉTHOUX É., DIDRY C., MIAS A., 2007, « What Codes of Conduct Tell Us: corporate social responsibility and the nature of the multinational corporation », *Corporate Governance: an International Review*, vol. 15, n° 1, pp. 77-90.
- BOERI, T., BRUGIAVINI, A., CALMFORS, L. (eds), 2001, *The Role of Unions in the Twenty-First Century*, Oxford, Oxford University Press.
- BOURQUE R., 2005, *Les accords-cadres internationaux et la négociation collective internationale à l'ère de la mondialisation*, Institut international d'études sociales, DP/161/2005, BIT, Genève.
- BOURQUE R., 2008, « Contribution des codes de conduite et des accords cadres internationaux à la responsabilité sociale des entreprises », *Revue de l'IRES* (à paraître).
- CARLEY M., 2001, *Bargaining at European Level? Joint Texts Negotiated by European Works Councils*, Luxembourg, Office des publications officielles des communautés européennes : <http://www.eurofound.europa.eu/pubdocs/2001/52/en/1/ef0152en.pdf>
- CES, Résolution, *Coordination des négociations collectives 2006*, adoptée par le Comité exécutif lors de sa réunion des 5-6 décembre 2005, Bruxelles.
- CESE, *Avis sur la Communication de la Commission sur l'Agenda Social*, Bruxelles, 13 juillet 2005 (SOC/200).
- DA COSTA I., REHFELDT U., 2006, « La négociation collective transnationale européenne chez Ford et General Motors », *Connaissance de l'emploi*, n° 35, Centre d'Études de l'Emploi : http://www.cee-recherche.fr/fr/connaissance_emploi/negociation_collective_transnationale_europeenne_ce35.pdf
- DAUGAREILH I., 2005, « La négociation collective internationale », *Travail et emploi*, n° 104, pp. 69-84.
- DAUGAREILH I., 2005, *Mondialisation, travail et droits fondamentaux*, Bruxelles/Paris, Bruylant/LGDJ.
- DAUGAREILH I., 2006, « Les accords-cadres internationaux : une réponse européenne à la mondialisation de l'économie ? », in Descolonges M., Saincy B. (dir.), *Les nouveaux enjeux de la négociation sociale internationale*, Paris, La Découverte, pp. 116-135.
- DESCOLONGES M., SAINCY B. (dir.), 2006, *Les nouveaux enjeux de la négociation sociale internationale*, Paris, La Découverte.
- Di RUZZA R., BELLIVIER M., FERNEX A., HACQUEMAND J., 1995, « Le dialogue social dans les groupes européens », *Cahiers ISERES*, n° 151.
- DROUIN R.-C., 2006 « Les accords-cadres internationaux : enjeux et portée d'une négociation collective transnationale », *Les cahiers de droit*, 47 (4), pp. 703-753.
- EUROPE ET SOCIETE, 2006, « La négociation collective transnationale. Un outil au service de la stratégie de Lisbonne », *Les Cahiers de la Fondation*, n° 65-66.
- HAMMER N., 2005, « International Framework Agreements: Global Industrial Relations between Rights and Bargaining », *Transfer*, 11 (4), pp. 511-530.
- JOBERT A. (dir.), 2008, *Les nouveaux cadres du dialogue social : l'espace européen et les territoires*, Bruxelles, PIE-Peter Lang (à paraître).
- JOBERT A., 2007, « La négociation collective des restructurations en France : de la consultation des représentants du personnel à la négociation des accords de méthode », *Management international* (à paraître).

- KERCKHOFS P., 2006, *EWCs – Facts and Figures 2006*, ETUI-REHS, Bruxelles.
- LAULOM S., 2005, « Le cadre communautaire de la représentation des travailleurs dans l'entreprise », in Laulom S. (dir.), *Recomposition des systèmes de représentation des salariés en Europe*, Presses Universitaires de Saint-Étienne, Saint-Étienne.
- LAULOM S., 2007, « Passé, présent et futur de la négociation collective transnationale », *Droit social*, n° 5, pp. 623-629.
- LILLIE N., 2004, « Global Collective Bargaining on Flag of Convenience Shipping », *British Journal of Industrial Relations*, 42 (1), pp. 47-67.
- LYON-CAEN A., 1997, « La négociation collective dans ses dimensions internationales », *Droit social* pp. 352
- LYON-CAEN A., SCIBERRAS J.-C., 1988, « Pratiques et perspectives de la négociation collective européenne. Impressions », *Travail et emploi*, n° 42, pp. 22-28.
- MARGINSON P., 2000, « The Eurocompany and Euro Industrial Relations », *European Journal of Industrial Relations*, 6 (1), pp. 9-34.
- MARGINSON P., SISSON K., 2002, « European Dimension to Collective Bargaining : New Symetries with Assymetric Processes ? », *Industrial Relations Journal*, 33 (4), pp. 332-350.
- MILLER D., 2004, « Preparing for the Long Haul. Negotiating International Framework Agreement in the Global Textile, Garment and Footwear Sector », *Global Social Policy*, vol. 4.
- MOREAU M.-A., 2006, *Normes sociales, droit du travail et mondialisation*, Paris, Dalloz.
- OIE, 2004, *International Framework Agreements. An Employers' Guide*, Genève.
- PICHOT É., *Transnational texts negotiated at corporate level: facts and figures*, Study seminar « Transnational Agreements », DG Emploi et affaires sociales, 17 mai 2006 (rédigé avec l'aide de C. Vogt).
- REHFELDT U., 1993, « Les syndicats européens face à la transnationalisation des entreprises », *Le mouvement social*, n° 162, pp. 69-93.
- REHFELDT U., 2007a, « Lente avancée de la Société européenne », *Chronique internationale de l'IRES*, n° 101, pp. 31-41 :
<http://213.56.65.5/files/publications/chronique%20internationale/c101/c1014.pdf>
- REHFELDT U., 2007b, « Création d'une nouvelle confédération syndicale internationale », *Chronique internationale de l'IRES*, n° 104, pp. 3-10 :
<http://213.56.65.5/files/publications/chronique%20internationale/c104/c1041.pdf>
- SCHULTEN T., 2005, « Europeanisation of Collective Bargaining, Trade Union Initiatives for the Transnational Coordination of Collective Bargaining », in Keller B., Platzer H.-W., *Industrial Relations and European Integration*, Ashgate, pp. 112-136.
- SOBCZAK A., 2002, *Réseaux de sociétés et codes de conduite. Un nouveau modèle de régulation des relations de travail pour les entreprises européennes*, LGDJ, Paris.
- SOBCZAK A., 2004, « La responsabilité sociale de l'entreprise. Menace ou opportunité pour le droit du travail ? », *Relations industrielles/Industrial Relations*, 59 (1), pp. 3-28.
- SOBCZAK A., 2006, « Les enjeux juridiques des accords-cadres internationaux », in Descolonges M., Saincy B. (dir.) *Les nouveaux enjeux de la négociation sociale internationale*, La Découverte, Paris, pp. 93-115.
- TEYSSIÉ B., 2005, « La négociation internationale d'entreprise ou de groupe », *Droit social*, pp. 982-990.
- UNICE, Prise de position (S/2004/100.05.04/UNICE pp COM social Dialogue 2004 final) sur la *Communication de la Commission sur le dialogue social*, 25 novembre 2004
- UNICE, Prise de position (S/2005/100.05.01/ social policy agenda 05-03-2005-final-EN) sur la *communication de la Commission sur l'Agenda social*, 5 mars 2005.

APPENDIX

A/ List of international framework agreements signed before the end of 2006

(adapted from R. Bourque, 2008; Descolonges, Saincy, 2006; Drouin, 2006)

Companies	Country of origin	Total workforce	International union federations	Other unions or representative bodies*	Year
MERLONI-INDESIT	Italy	20 000	FIOM	FSN (3) ; CEE	2001
VOLKSWAGEN	Germany	325 000	FIOM	CME	2002
DAIMLERCHRYSLER	Germany	372 000	FIOM	FSN (1) ; CME ; CEE	2002
LEONI	Germany	18 000	FIOM	CEE	2002
GEA	Germany	14 000	FIOM	FSR (FEM) ; CEE	2003
SKF	Sweden	39 000	FIOM	FSR (FEM) ; CME	2003
RHEINMETALL	Germany	26 000	FIOM	FSR (FEM) ; CEE	2003
BOSCH	Germany	225 000	FIOM	CEE	2004
PRYM	Germany	4 000	FIOM	CEE	2004
RENAULT	France	130 000	FIOM	FSN (9) ; CEE	2004
BMW	Germany	106 000	FIOM	CEE	2005
EADS	Netherlands	110 000	FIOM	FSR (FEM) ; CEE	2005
RÖCHLING	Germany	8 000	FIOM	FSR (FEM)	2005
ARCELOR	Luxembourg	95 000	FIOM	FSR (FEM)	2005
PSA-PEUGEOT-CITROEN	France	212 000	FIOM	FSR (FEM) ; FSN	2006
IKEA	Sweden	84 000	FITBB		1998
FABER-CASTELL	Germany	6 000	FITBB	FSN (1)	1999
HOCHTIEF	Germany	37 000	FITBB	FSN (1)	2000
SKANSKA	Sweden	79 000	FITBB		2001
BALLAST NEDAM	Netherlands	7 800	FITBB	FSN (1)	2002
IMPREGILO	Italy	13 000	FITBB	FSN (3)	2004
VEIDEKKE	Norway	5 000	FITBB	FSN (2)	2005
SCHWAN-STABILO	Germany	3 000	FITBB	FSN (1) ; CEE	2005
LAFARGE	France	77 000	FITBB/ICEM	OSI (1)	2005
ROYAL BAM GROUP	Netherlands	30 000	FITBB	<i>n.r.</i>	2006
STATOIL	Norway	16 000	ICEM	FSN (1)	1998
FREUDENBERG	Germany	27 500	ICEM	FSN (1)	2000
ENDESA	Spain	13 600	ICEM	FSN (2)	2002
NORSKE SKOG	Norway	11 000	ICEM	FSN (1)	2002
ANGLOGOLD	South Africa	65 000	ICEM	FSN (1)	2002
ENI	Italy	70 000	ICEM	FSN (3)	2002
SCA	Sweden	46 000	ICEM	FSN (1) ; CEE	2004
LUKOIL	Russia	150 000	ICEM	FSN (1)	2004
EDF	France	167 000	ICEM/ISP	FSN (16); CME; OSI (2)	2005
RHODIA	France	16 000	ICEM		2005
TELEFONICA	Spain	162 000	UNI	FSN (2) ; UNI Telecom	2001
CARREFOUR	France	400 000	UNI	FSN (1)	2001
OTE	Greece	18 500	UNI	UNI Telecom	2001
ISS	Danemark	280 000	UNI		2003
H&M	Sweden	40 000	UNI	UNI Commerce	2004
NAMPAK	South Africa	<i>n.r.</i>	UNI	<i>n.r.</i>	2006
PORTUGAL TELECOM	Portugal	30 000	UNI	UNI Telecom ; FSN	2006
FRANCE TELECOM	France	200 000	UNI	UNI Telecom ; FSN	2006
SECURITAS	Sweden	215 000	UNI	FSN (1)	2006
BSN-DANONE	France	100 000	UITA		1988
ACCOR	France	147 000	UITA		1995
CHIQUITA	USA	26 000	UITA	FSR (1)	2001
FONTERRA	Australia	20 000	UITA	FSN (1)	2002
CLUB MÉDITERR.	France	20 000	UITA	FSR (1)	2004

* CEE : Comité d'entreprise européen ; CME : Comité mondial d'entreprise ; FSN : Fédération syndicale nationale ; FSR : Fédération syndicale régionale ; OSI : Organisation syndicale internationale autre que FSI ; n.r. : non renseigné.

B/ List of company transnational agreements with a European scope as inventoried by the European Commission in May 2006³⁰

Companies	Country of origin	Year	Agreement title	Subject	Signatories
AIR France	France	?	<i>Joint opinion</i>	<i>Mobility</i>	?
AIR FRANCE	France	?	<i>Joint opinion</i>	<i>Position of sales and marketing staff</i>	?
AIR FRANCE (AF/KLM)	France	2001	<i>Social charter</i>	<i>Fundamental rights, human resources policy</i>	EWC / ETF
AXA	France	2005	<i>Joint declaration. Annex to EWC agreement</i>	<i>Social dialogue and restructuring</i>	UNI / CFDT, CFTC, CGT, CGC, UNSA
BOUYGUES	France	2001	<i>European social charter</i>	<i>Corporate social responsibility</i>	EWC / GES, CEC / CG France
CLUB MED.	France	2001	<i>Joint declaration</i>	<i>Sub-contracting</i>	EWC
DANONE	France	1989	<i>Project</i>	<i>Economic and social information</i>	EWC / UITA
DANONE	France	1989	<i>Action programme</i>	<i>Equality between men and women</i>	EWC / UITA
DANONE	France	1992	<i>Framework agreement</i>	<i>Training</i>	EWC / UITA
DANONE	France	1994	<i>Joint declaration</i>	<i>Trade union rights</i>	EWC / UITA
DANONE	France	1997	<i>Joint opinion</i>	<i>Management of change</i>	EWC / UITA
DANONE	France	2001	<i>Agreement</i>	<i>Social measures in case of restructuring</i>	EWC
DEUTSCHE BANK	Germany	1999	<i>Joint position</i>	<i>New structures, job security and employability</i>	EWC
DEXIA	Belgium France	2002	<i>Principes</i>	<i>Social management</i>	EWC
DIAGEO	UK	2002	<i>Annex to the EWC agreement</i>	<i>Good restructuring practices</i>	EWC
ENI	Italy	1996	<i>Agreement</i>	<i>Health and safety</i>	
ETEX	Belgium	2002	<i>Group social charter</i>	<i>Human resources policy</i>	EWC
FORD	USA	2000	<i>Agreement</i>	<i>Sale of Visteon</i>	EWC
FORD	USA	2000	<i>Agreement</i>	<i>Joint venture</i>	EWC
FORD	USA	2003	<i>Agreed principles</i>	<i>Social rights and CSR</i>	EWC
FORD	USA	2004	<i>Agreement</i>	<i>Restructuring</i>	EWC
GENERAL ELECTRIC	USA	2002	<i>Agreement</i>	<i>Electronic communication</i>	EWC
GENERAL ELECTRIC	USA	2003	<i>Annex to the EWC agreement</i>	<i>Bargaining mechanism between the EWC and management</i>	EWC
GENERAL ELECTRIC	USA	2004	<i>Agreement</i>	<i>Recruitment data</i>	EWC
GENERAL MOTORS	USA	2000	<i>Framework agreement</i>	<i>Consequence of the GM/Fiat merger</i>	EWC / FEM
GENERAL MOTORS	USA	2001	<i>Framework agreement</i>	<i>Current restructuring</i>	EWC
GENERAL MOTORS	USA	2001	<i>Framework agreement</i>	<i>Restructuring of Opel</i>	EWC
GENERAL MOTORS	USA	2002	<i>Principles</i>	<i>CSR</i>	EWC / FEM
GENERAL MOTORS	USA	2004	<i>Framework</i>	<i>European restructuring</i>	EWC / FEM / FIOM

³⁰ See : http://ec.europa.eu/employment_social/labour Law/docs/transnational_agreements_table_en.pdf and : http://ec.europa.eu/employment_social/labour Law/docs/transnational_agreements_list_agreements_fr.pdf

KRAFT JAKOBS PHILIP MORRIS	USA	1998	<i>Code of conduct</i>	<i>Smoker/non-smoker</i>	EWC
KRAFT JAKOBS PHILIP MORRIS	USA	1999	<i>Code of conduct</i>	?	EWC
KRAFT JAKOBS PHILIP MORRIS	USA	?	<i>Principles</i>	<i>Introduction of the euro</i>	EWC
KRAFT JAKOBS PHILIP MORRIS	USA	2001	<i>Agreement</i>	<i>Data protection</i>	EWC
LAFARGE	France	2003	<i>European meetings and joint declaration</i>	<i>Health and safety</i>	?
MARAZZI	Italy	2001	<i>Declaration</i>	<i>Health and safety</i>	EWC
NORDEA	Sweden	2004	<i>Standing Nordic negotiating committee</i>	<i>Working conditions (project of SE)</i>	EWC / OS nationales
PHILIPS	Netherlands	2003	<i>Text written by management after consultation with EWC</i>	<i>Management of restructuring</i>	?
PORR	Austria	2004	<i>Agreement</i>	<i>Data protection</i>	EWC
SARA LEE Pers. Products	USA	?	?	<i>Health and safety</i>	?
SUEZ Lyonnaise des eaux	France	1998	<i>Charter</i>	<i>Fundamental rights and human resources management</i>	EWC, <i>International HR Committee</i>
SUEZ Lyonnaise des eaux	France	2002	<i>Charter</i>	<i>Health and safety</i>	<i>European consultative committee</i>
TOTAL	France	2004	<i>Agreement</i>	<i>Social dialogue, forward- looking management of jobs, restructuring</i>	EMCEF, CEC/FECCIA, FECER
TOTAL	France	2005	<i>European agreement</i>	<i>Equal opportunities</i>	EMCEF, FECCIA, FECER
TRIUMPH	Switzerland	2001	<i>Code of conduct</i>	<i>Fundamental rights</i>	EWC
UNILEVER	Netherlands UK	2001	<i>Brochure</i>	<i>Responsible restructuring</i>	
UNILEVER	Netherlands UK	2004	<i>Joint declaration</i>	<i>Data protection</i>	EWC
USINOR- ARCELOR	France	2002	<i>European Convention</i>	<i>Health and safety</i>	EWC
USINOR- ARCELOR	Luxembour g	2004	<i>European Convention with preparatory groups</i>	<i>Health and safety</i>	EWC
VIVENDI	France	1996	<i>Joint declaration</i>	<i>Fundamental social rights</i>	EWC
VIVENDI	France	1999	<i>Charter</i>	<i>Health and safety</i>	EWC