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**THE EUROPEAN SECTORAL SOCIAL
DIALOGUE COMMITTEES**

**Working document drafted by
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INTRODUCTION

For many years, the European sectoral social dialogue was the object of little attention from political, union and company leaders as well as from researchers in social sciences, to the extent that it was sometimes presented as a neglected aspect of professional relations in Europe (Keller, 2003). Indeed, the cross-industry European social dialogue seemed – since the Val Duchesse meetings organized under the impulse of Jacques Delors and the signing on October 31st 1991 of an agreement between social partners, later integrated to the protocol on social policy, itself annexed to the Maastricht Treaty – as the more promising level for the development of professional relations at the Community level.

Today, this lack of interest for the sectoral social dialogue seems to belong to the past. During the conference on transnational collective bargaining of February 2008, the representative of the Directorate General Employment of the Commission insisted on the importance of the sectoral social dialogue and indicated that the Commission wished in the future to feed the discussion on transnational negotiations by leaning “very strongly on the sectoral social dialogue committees”, of which he underlined the “vitality”¹. Different studies were otherwise published over the last five years that show an increasing interest raised by the sectoral dialogue among the specialists of Community social policy and professional relations².

The conference, organized on October 16th and 17th 2008 by Europe et Société, bringing together many actors and observers of the social dialogue, constitutes an occasion to bring a contribution to the work of promotion of the sectoral social dialogue and to the reflection on its future. Ten years after the 1998 reform of sectoral social dialogue impulsed by the European Commission, its objective is to draw a balance of the organization and functioning of the sectoral social dialogue committees, to evaluate the results they have obtained and to explore possible paths for the development of this dialogue in the future. The goal of this working document is to prepare the discussions that will take place during the conference, first by giving a panorama of the sectoral social dialogue committees (SSDC) based on a synthesis of existing literature. Without hoping to give a full perception of the very numerous activities of the social partners in these committees, the aim is to give a global vision of the sectoral social dialogue to help put into perspective the different interventions of the conference.

After a historical overview seeking to recount the institutionalization process of the sectoral dialogue (1), we shall draw up a first global panorama of the SSDC and of their

¹ “*The considerations of the European Commission to strengthen transnational social dialogue*”, intervention by Jackie Morin, Head of unit Social dialogue and industrial relations (European Commission, Directorate General Employment, Social affairs and Equal opportunities) at the conference on “*Transnational collective bargaining: The current situation, the problems, the perspectives?*” (February 5th and 6th 2008), published in Europe and Society “*Transnational collective bargaining: The current situation, the problems, the perspectives?*” *Les Cahiers de la Fondation*, n°69-70, Octobre 2007 - September 2008, p. 152.

² We can quote, for instance, the report of the team of the Amsterdam Institute for Advanced Labour Studies of 2002 (Benedictus and alii, 2002), the publications of Professor Dr Berndt Keller (University of Constance), the reports and works of the team of the Observatoire Social Européen (OSE, 2004) (Pochet, Degryse, Dufresne, 2006), the special number of the Quarterly of the ETUI-REHS on sectoral social dialogue of 2005, or the researches conducted by the Mixed Research Unit “*Institutions et Dynamiques Historiques de l'Économie*” of French CNRS (National Center for Scientific Research) (Didry, Bethoux, Mias, 2005) (Mias, 2008).

activities under the angle of the texts produced by these committees (2). Finally, we shall give an outline of the diversity of the existing dynamics in the different sectors where a SSDC exists (3).

1. LOOKING BACK ON THE HISTORY OF THE EUROPEAN SECTORAL SOCIAL DIALOGUE

The term “Social dialogue” was originally created to designate the Val Duchesse meetings that involved cross-industry organisations (ETUC, CEEP, UNICE) (Freyssinet, 1998). Nevertheless, the meetings between government officials from the Commission, representatives of employers and union activists at the sectoral level go back to the 1950’s in the framework of the Consultative Committee of the European Coal and Steel Community (ECSC).

The first part of this work document will recount the history of the progressive institutionalization of the European sectoral social dialogue, from its origins to the 1998 reform instituting the sectoral social dialogue committees. First of all, we will deal with the period starting at the creation of the ECSC in 1952 till the end of the 1970’s, before describing the initiatives of the actors of the social dialogue in the 1980-1990’s, marked by the extension of common policies to new sectors and the implementation of the inter-professional social dialogue³. Finally, we will make a first assessment of the sectoral social dialogue (SSD) on the eve of the 1998 reform that sets the opening of a new period of this dialogue’s history.

1.1. FROM THE ORIGINS TO THE 1970’S

In this first period, one can differentiate the case of the advisory committee of the ECSC and that of the first joint committees.

1.1.1. The European Coal and Steel Community’s Consultative Committee

The first experience of meetings involving representatives from the unions and the employers at a Community level goes back to the creation of the European Coal and Steel Community in 1952.

Article 18 of the Paris Treaty instituting the ECSC did, indeed, anticipate the implementation of a Consultative Committee for the High Authority (that corresponded to the European executive) and included “*equal numbers of producers, of workers, and of consumers and dealers*”. Concerning the producers and workers, the members of the

³ Unless otherwise mentioned, the information and analysis provided in the first two sections of this first part come from the chapter “The Evolution of Sectoral Industrial Relations Structures in Europe” written by Anne Dufresne in (Dufresne, Degryse, Pochet, 2006).

committees were named personally by the Council of Ministers⁴ from a list established by the representative organisations that it had previously designated. The High Authority had to submit its objectives and programs to the advisory Committee and keep it informed of its guidelines and actions⁵.

In 1955, the High Authority instituted two mixed joint committees (one for coal, the other for steel) for the “*harmonization of the working conditions and the standard of living*”. With the institution of these committees, the unions wanted to take initiative again in the social political field with the hope of being able to negotiate collective agreements directly with the employers so as to harmonize the working conditions for the miners and metal workers⁶. In reality, this objective was never really reached. Thus the implementation of a “miner status” failed, opposed by the member states and the employers that put into question the competence of the High Authority in this field. More generally, these disappointing results can be explained by the employer’s firm belief that social harmonization automatically comes from the process of economic integration.

Despite the difficulties encountered by these committees, it is interesting to notice that, looking back, their members are very satisfied with the functioning of the dialogue⁷. Moreover, we can notice that after a first phase when the Consultative Committee played a key part in the introduction of the industrial policy and management of the social consequences of this policy, mixed committees were set that prefigure in certain aspects the future joint committees that will be implemented in other sectors.

1.1.2. The 1960-1970’s: the birth of joint committees in sectors of common policy

The joint committees created in the 1960’s and 1970’s and classified by Anne Dufresne in the group of “*first-generation joint committees*” have in common the fact that they were created in relation with the implementation of common sectoral policies: it is the case with agriculture, but also road transport, inland waterways, sea fisheries or railroads. To describe this period, she relies on the distinction established by G. Lyon-Caen (Lyon-Caen, 1972) between “institutional” and “semi-institutional” joint committees; difference based on how formal and active in negotiation the committees are.

⁴ The attributions of this Council of Ministers are detailed in Title II, Chapter II of the ECSC Treaty. Its role is to harmonize the actions of the High Authority and of the governments responsible for the general economic policy of their country, and it can ask for the High Authority to proceed to a study of the propositions and measures that it thinks appropriate or necessary for the realization of common objectives (art. 26). It is formed by representatives of the member states; each State sends a member of its government. The presidency of the Council is successively exerted by each member of the Council for a period of three months following the alphabetical order of the member States (art. 27). The Council meets when summoned by its president on the initiative of a member State or the High Authority (art. 28).

⁵ This consultation was mandatory for the High Authority. It dealt with the general objectives and the programs established according to article 46 and on the initiatives taken by the High Authority according to articles 54 (on the realization of investment programs), 65 and 66 (on cartels and mergers).

⁶ Gobin C. (1996), *Consultation et concertation sociales à l’échelle de la CEE. Etudes des positions et stratégies de la confédération européenne des syndicats (1958-1991)*, PhD Thesis, Université libre de Brussels, quoted in (Dufresne, 2006a, p.51).

⁷ In a Memorandum voted practically unanimously in 1995, the members of the Consultative committee consider, indeed, that the rules, procedures and institutions of social dialogue produced very satisfying results and call out for them to still be applied until the expiration of the ECSC Treaty in 2002 (Dufresne, 2006a, p.52).

The first category – the institutional committees – includes the first three joint advisory committees of different sub-sectors of transport that were the object of common policies and whose establishment was mandatory by virtue of article 83 of the EEC Treaty: road transport (1965), inland waterways (1967) and railroads (1972). These first three committees were of very “institutional and official” nature. The “road transport” committee was thereby consulted during the preparation of the March 25th 1969 regulation concerning the work conditions in road transport⁸, but the consultation process initiated by the Commission revealed a division between the two groups of actors; some of its members only wanted to reach the elimination of distortions of competition while others aimed to align working conditions on the most favourable ones (Lyon-Caen, 1972 quoted by Dufresne, 2006a). More generally, it seems that the results obtained by these committees can only be explained by the incorporation of the common transport policy in the Treaty: their original goal was to establish community standards, but their in reality their role stayed strictly advisory.

The second category – the “semi-institutional” committees – includes the sectors of agriculture (1963) and sea fisheries (1968). Based on a general program, the goal of the committee leaders was to install a negotiation process that would allow tackling different aspects of the workers’ status in the sector, when ready for it (Lyon-Caen, *ibid.*). Contrary to the “institutional committees” of the transport sector, the Community authorities had no intention to act unilaterally. These committees thus took their own initiative by developing activities similar to an autonomous European collective negotiation, leading, for instance, to the signing of joint documents on working time in agriculture (see box n°1) or to a “*Joint declaration of the professional organizations of sea fisheries concerning the social harmonization in the progress of living and working conditions*” of 1972.

⁸ Regulation (EEC) No 543/69 of the Council of 25 March 1969 *on the harmonisation of certain social legislation relating to road transport*.

Box n°1

The first joint texts on working time signed in the agricultural sector

The objective of the joint advisory Committee for the social issues of agricultural workers, created in 1963⁹, was to explore possibilities of harmonizing the standards of living and the work conditions in the sector. Even if this objective existed in other sectors, the agriculture case is very specific: the Common Agricultural Policy pushed to define a European price level on the main agricultural products, the need for harmonization of work conditions in the Community being more urgent in this sector than in others (Lyon-Caen, *ibid.*).

The work group established to examine the issue of working time led to the conclusion that harmonisation in this field should be followed by collective negotiation, as in the national level. For want of any proper collective agreements at the Community level, the social partners wrote a recommendation in the form of an “entente”, signed in 1968, and establishing the 45 hours week for the agricultural workers of the arable farming sub-sector that was extended in 1972 to the sub-sector of livestock farming. On July 25th 1974, the committee was transformed into a joint committee whose main task was to renegotiate the texts in order to settle the 40 hours week. This objective was reached with the signing of two new texts in 1978 and 1980.

These texts have often been presented as the first major outcome of the collective negotiation at the European level. To qualify this point of view, it is nevertheless interesting to examine the balance E. Klöcker, general secretary of EFA (European Federation of Agricultural Workers' Union), made of the period in an interview given to Corinne Gobin in the mid-1990's. He considers that the social partners at that time played the part of pioneers for preserving jobs, but that the objective was not reached and that advances in the social field are running late. He criticizes the fact that the Commission was very slow in the early 1960's: “*we were an integral part of the Commission, we were a body of the Commission. [...]. Now, we just want it to confine itself to maintaining this joint committee and we, those of us who sit on it, we have to gain the upper hand to force a change of direction.*”¹⁰

More recently, and without there necessarily being a relation between the interview quoted earlier, the dynamism of the social dialogue in the sector enabled the signing of three recommendation framework agreements in the fields of improvement of paid employment in agriculture in the EU member states (1997), training (2002), and health and safety at work (2005). These agreements signed by the European social partners will be implemented on a voluntary basis. In 2000, the Commission felt that the 1997 agreement was the “first voluntary agreement at the European level that did not result from a preliminary consultation of the Commission, in accordance with article 138 of the Treaty. [The signing of this text proves] that, at the European level, the social partners can develop, if they have political will, a true autonomous contractual space.” (CCE, 2000, p.21 et 22).

Source : Dufresne, 2006a, p.55 et 56

⁹ Decision of the Commission n° 63/326/CEE of May 17th 1963, *setting up a joint advisory committee on social questions affecting the paid agricultural workers*, OJ of 29/05/1963.

¹⁰ (Gobin, 1996, p.163-165) quoted in (Dufresne 2006, p. 55 et 56).

1.2. THE 1980-1990's

The 1980-1990's were marked by an important increase of the number of sectors that decided to initiate a dialogue on social matters at the European level. But this social dialogue has not always been organized in the framework of joint committees. Indeed, at that time, several sectors decided to create a "more pragmatic and more flexible" form of social dialogue through informal working parties. The period was also marked by the development of the inter-professional social dialogue, whose influence on the sectoral social dialogue is important, following the signing of the social protocol of Maastricht in 1992.

1.2.1. Second generation joint committees: sectors confronted with the process of liberalization

The joint committees of the 1980's and 1990's were all created so as to try to implement sectoral regulations in the sectors confronted with a process of liberalization or deregulation. Hence the creation of joint committees in sea transport (1987), civil aviation (1990), telecommunications (1990) and postal services (1994). Despite belonging to the first generation of joint committees, the railroads were also, in that period, confronted with a policy of opening up to competition in their sector; this explains the rise in activity of the social dialogue committee and the adoption of the status of joint committee in 1984¹¹ after a period of inactivity in the mid-1970's and the beginning of the 1980's (Vauclare, 1991).

Just as the first generation committees, the objective of these committees is to assist the Commission to put together and implement the community policy aiming at "*improving and harmonizing living and working conditions*" in the sector. Nevertheless, it is interesting to note that the four decisions constituting the second generation joint committees add to this first objective the aim of "*improving the economic and competitive position*" of these sectors (Dufresne, 2006a, p. 57)¹².

The activities of the joint committees in the transport sectors were stimulated by liberalization policies, yet their case is uncharacteristic given that an important part of their activities in the 1990's were directly linked to the Directive 93/104/CE *concerning certain aspects of the organization of working time* of which the transport sector was excluded (see box n°5, p. 34).

The joint committee for telecommunication was created in June 1990, time when two directives¹³ were passed – marking the first step towards opening up to the competition in the sector – with the strong support of the French government (that held the Presidency of the Council during the second semester of 1989) and the employers. A few company managers from the major national operators started to long for an expansion both on the national and international market. This ambition is what explains their support to the Commission's

¹¹ Decision n°85/13/EEC of the Commission *relating to the setting up of a joint committee on railways*, JO n° L8 on 10/01/85.

¹² Decisions 87/467/EEC for sea transport, 90/450/EEC for telecommunications, 90/449/EEC for civil aviation and 94/595/EEC for postal services. Yet, the mention of this economic objective does not appear in the decision instituting joint committees in railways, settled two years prior to the decision installing the first second-generation joint committee in sea transport.

¹³ Council Directive 90/387/EEC of 28 June 1990 *on the establishment of the internal market for telecommunications services through the implementation of open network provision* and Commission Directive 90/388/EEC of 28 June 1990 *on competition in the markets for telecommunications services*.

initiatives and the commitment of these operators in the social dialogue (Mias, 2008). Between 1992 and 1999, the committee passed 30 common positions on the directions given to the European economic policy, thus becoming the most productive committee of the period, all sectors included. From 1999 on, the debates' nature will deeply change, leading to a negotiation in the full sense of the word (for more detail see 3.3 for the presentation of recent evolutions in this sector, page 44).

The status of the joint committee in the postal services, created in 1994, took the telecommunication sector as a model. Starting in 1997, the liberalization process of this sector accelerated¹⁴ and the traditional national operators had to face the competition of private operators on the parts of the market with high value added (small parcels, express mail). The social partners secured a follow-up of the evolutions of the competitive situation of the sector and expressed themselves by signing an important amount of common positions. Yet, as the liberalization has a very different rhythm according to the country - it became harder for the social partners to speak in unison: there was no cohesion concerning the project to define European social regulations for the sector and the social dialogue committee quickly faced difficulties to go beyond the exchanges of good practice¹⁵.

In the end, the evolution of the dialogue shown in the telecommunication and postal service sector is quite representative of the general dynamic of the evolution of the social dialogue in the second generation joint committees. After a first period when the work of the committees was focused on the writing of joint positions – often critical – on the measures suggested by the Commission concerning the sector, the sectoral social dialogue committees sought to take on a more proactive part by working on topics such as employment, health and safety at work, training or equal opportunities. During the first period, the drive of the social dialogue was to look into the fears shared by the social partners facing the liberalization process. The involvement in the European social dialogue can partially be explained for the employers and the union representatives by the entry into the process of elaboration of common policies that the joint committees offered to its members (de Boer *et al*, 2005).

1.2.2. Development of the social dialogue in informal working parties

During the 1980's, as the perspective of the development of a collective European negotiation became less likely, a new form of dialogue appeared – less formal and “*more pragmatic and more flexible*”¹⁶ : the “informal working parties”. They established themselves in 14 sectors¹⁷ between 1983 and 1999, with the support of the Commission, following the example set by the work group in the sugar sector in 1969¹⁸. Their objective is to “*create links*

¹⁴ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service, *OJL 15, 21.1.1998*.

¹⁵ Source : Interview with a French representative of employers (2004), quoted in (Dufresne 2006).

¹⁶ CEC, *Dialogue social, le bilan communautaire en 1995*, Directorate General Employment, Social affairs and Equal opportunities, Luxembourg, 1995.

¹⁷ The concerned sectors are : Horeca (catering, hostels, restaurants, cafés, canteens, short stay accommodation...) in 1983, retailing (1985) and wholesale (1987) commerce, banking (1990), footwear (1991), construction (1992), textile and clothing (1992), cleaning industry (1992), private security (1993), woodworking (1994), electricity (1996), personal services (1998) and tanning and leather (1999).

¹⁸ This working party was created in 1969 by a voluntary contact between social partners, without the intervention of an intermediate, in a context where the economic change had deeply affected the sector since the early 1960's. The sector had focused on a thorough exchange of information but rejected any kind of

*based on trust and mutual understanding*¹⁹ between the social actors linked with the reluctance of the employers to create representative organisations at the European level (see box n°2 for the examples of the construction and textile and clothing sectors). They developed on the base of subjects of common interest for both social partners, such as the employment situation or training.

negotiation. A study was undertaken in 1969 on the length of the working week in the collective labour agreements, on overtime hours, mergers and concentrations and their social consequences.

¹⁹ CEC, op. cit.

Box n°2

The informal working parties in the sectors of construction and textile and clothing

The first initiatives that related to social dialogue in the construction sector go back to the 1970's (but out of any identified structure). Starting in 1990, the social partners of the sector²⁰ implemented biannual plenary meetings and meetings on topics such as health, safety at work and vocational training, that took the form of an informal working group in 1992 (then of a sectoral social dialogue committee in 1998), without having these institutional changes substantially change the quality of the dialogue (Dufresne, 2006a, p.60). The driving force of the dialogue in this sector was the issue of the posting of workers; that put much pressure on the actors of the sector insofar as they could end up in a situation where different rival legislations would be applied in one same country. After the issuing of a directive on the subject in 1996²¹, the social partners signed a joint declaration on the application of the directive in September 1997. Thereafter, the social dialogue continued on other topics such as health, safety at work, employment and training, while always concerned by the pragmatic issue of choosing subjects that interest both social partners, even though their objectives when dealing with these issues is not the same. In the case of illegal work, for instance, the unions wanted to reach a re-regulation while the employers wanted to reduce their charges. Concerning the posting of workers, the objective of the unions was to establish a harmonization of the social systems, and the employers wanted to avoid double taxation. Moreover, employers continue to reject any structured discussion on certain topics, especially salaries, and consider that this topic will be the last one to be dealt with at the European level and that the social partners are at the moment still at the stage when they are learning to know each other (Dufresne, 2006b, p.268-269).

In the textile and clothing sector, the common interest for dialogue from the social partners can be explained by the threat imposed by the competition of non-member countries on the production structures. The first round table on this topic goes back to 1963. The social partners of the sector²² engaged in the dialogue within an informal working group starting in February 1992. The addressed topics corresponded to those of the inter-professional social dialogue between the ETUC²³ and UNICE²⁴ in the cases when the social partners felt that the sectoral discussion could bring added value to the work achieved at the inter-professional level (such as employment, vocational training or economic and sectoral policies). Yet, the general objective of the informal work groups was to create links of mutual comprehension, since Euratex (comprising the national employers' organizations of the Nordic countries) refuses any form of dialogue that could lead to binding regulations or to a European interference in national social policy. In 2000, the social partners of the sector signed a text titled "*Lisbon summit : contribution of the social partners to the textile-clothing sector*". Yet, it seems that the sectoral requests of this document appear as a strict transfer of the priorities of the Portuguese presidency of the time towards the sectoral level and that more generally, the similarities between the positions of the informal working group and of the Commission are blatant (Dufresne, 2006a, p.62).

In the end, on the eve of the reform of the social dialogue in 1998, one can see the existence of a form of European social dialogue in 23 sectors taking the form of both joint committees and informal working parties (see table 1). One of the goals of the 1998 reform was to introduce a unified framework for every sector in the form of "Sectoral social dialogue committees" (SSDC). Yet, before presenting the main characteristics of this reform, another

²⁰ The European Construction Industry Federation (FIEC) and the European Federation of Building and Woodworkers (EFBWW).

²¹ Directive 96/71/EC of the European Parliament and the Council on December 16th 1996 *concerning the posting of workers in the frame of the provision of services* OJ of 21.1.1997.

²² The European Trade Union Federation: Textiles, Clothing and Leather (ETUF: THC) and Euratex (European Apparel and Textile Organisation).

²³ European Trade Union Confederation, created in 1973.

²⁴ Union des Industries de la Communauté européenne (UNICE), created in 1958, renamed Business Europe in 2007.

important modification of the legal framework of the sectoral social dialogue should be mentioned. Indeed, the integration in the Maastricht Treaty of the agreement signed in October 1991 – applicable to both the inter-professional and the sectoral levels – offered the possibility for the partners, under certain conditions, to transform the agreements negotiated at community level into laws.

Table n°1:

The active sectors at the European level before the sectoral social dialogue reform of 1998

Joint committees		Informal work groups
Steel and Coal (1952/1955)	Second generation	Sugar (1969) Footwear (1991) Hotels, restaurants, cafés (1983) Commerce (1985 and 1987) Insurance (1987) Banking (1990) Construction (1992) Cleaning industry(1992) Textile and clothing (1992) Private security (1993) Woodworking (1994) Electricity (1996) Personal services (1998)
First generation		
Agriculture (1963/1974) Road transport (1965) Inland navigation (1967/1980) Sea fisheries (1968/1974) Railroads (1972/1984)	Sea transport(1987) Civil aviation (1990) Telecoms (1990) Postal services (1994)	

Source: (Dufresne, 2006a) and for the transport sectors (Vauclare, 1994). In the case of joint committees, when two dates are indicated, the first one corresponds to the creation of an advisory committee or joint advisory committee, subsequently transformed into a joint committee (or “mixed committee” in the case of steel and coal).

1.2.3. The dispositions of the Maastricht social Protocol concerning the social dialogue and the development of negotiation possibilities for the sectoral social dialogue

The signing on October 31st 1991 of the agreement on the role of social partners by the ETUC (European Trade Union Confederation), UNICE (now called BusinessEurope) and the CEEP (European Centre of Enterprises with Public Participation and of Enterprises of General economic Interest) marks an important step in the history of European cross-industry social dialogue. Yet, this event potentially has consequences just as important on the sectoral social dialogue. The dispositions contained in the agreement - later included in the protocol on social policy annexed to the Maastricht Treaty – apply to both the cross-industry and sectoral levels.

This text makes provision for the obligation of the Commission to consult social partners before any initiative in social policy. This consultation proceeds in two stages (see graph 1) and, if the social partners agree, it can open onto a negotiation period of 9 months maximum on the subject dealt within the consultation. If the negotiation is sealed by the

signing of an agreement, the said agreement can be implemented either according to the specific procedures of the social partners and the Member States, or by a decision of the Council after proposal of the Commission. Moreover, the negotiations between social partners can be engaged on their own initiative, regardless of any solicitation by the Commission²⁵.

Subsequently, the Commission published a text *concerning the application of the Agreement on social policy* (COM (93) 600 final), that institutionalizes the consultation and negotiation process and defines the criteria required for the organizations that wish to be considered as European social partners. These organizations must:

(1) be inter-professional or relate to specific sectors or categories and be organized at the European level;

(2) comprise organizations that are recognized as part and parcel of the structure of the member States' social partners, be able to negotiate agreements and be as representative as possible of all member States;

(3) dispose of adequate structures enabling them to participate efficiently in the consultation process.

These dispositions made possible the signing of agreements on parental leave (1995), part-time work (1997), fixed term contract (1999), telework (2002), stress at work (2004) and harassment and violence at work (2007) at the inter-professional level²⁶. At the sectoral level, six agreements were signed, four of which were implemented by a decision of the Council (see box n°5, page 34).

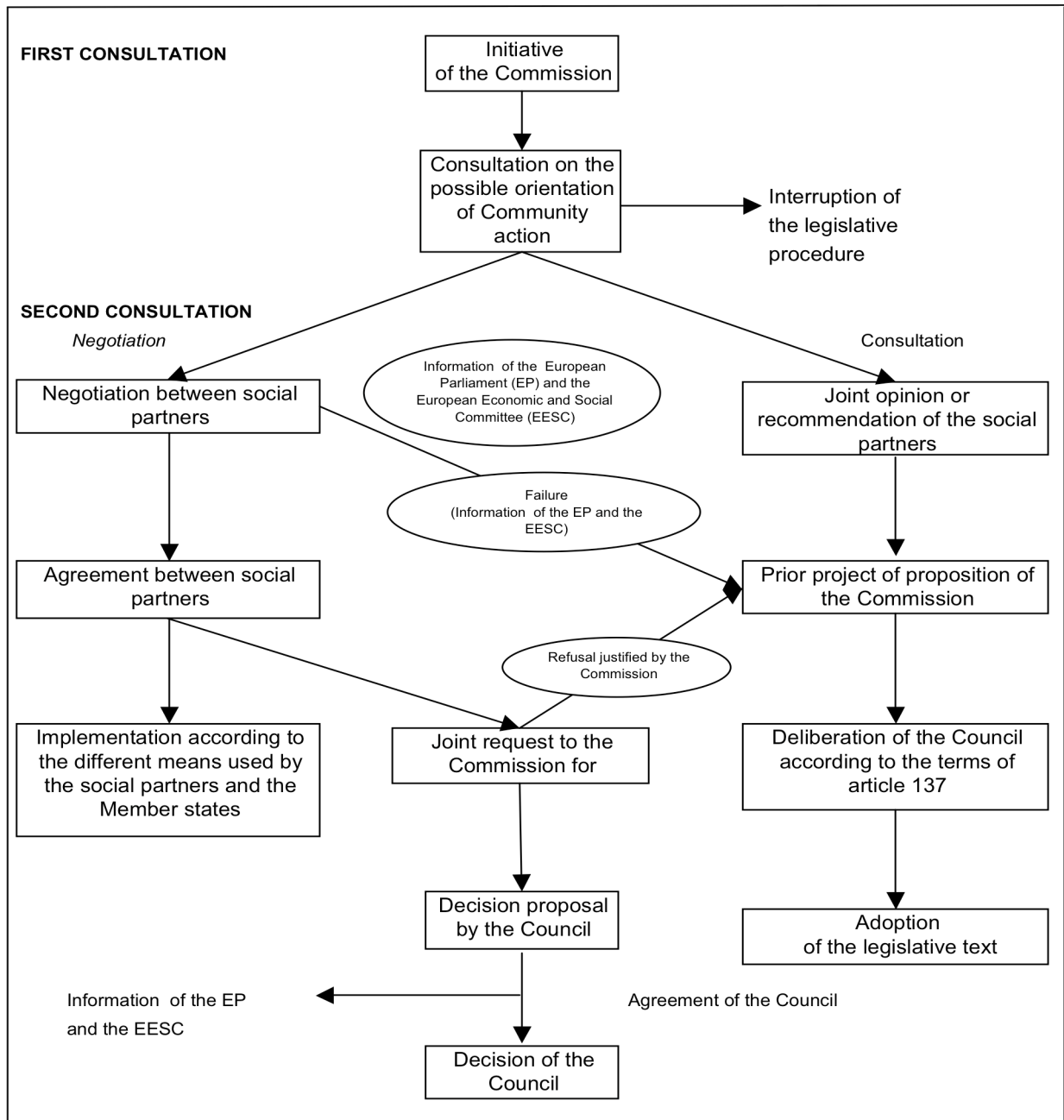
In the end, the Agreement of October 31st 1991, negotiated at the cross-industry level gives to the sectoral social partners an instrument enabling them to implement social regulations at a Community scale. Moreover, the cross-industry and sectoral social dialogues at a European level are brought closer, when they had previously stayed largely independent. This tendency of coming closer between the cross-industry social dialogue and the sectoral social dialogue will continue on in a context where Community authorities recognize an increasing importance of the social partners in the social governance of the Union. One can indeed state that the 1998 reform of the sectoral social dialogue corresponds to its institutionalization as an extension of the cross-industry dialogue (Pochet, Degryse, Dufresne, 2004).

²⁵ The treaty provides however that agreements concluded at Community level can be implemented at the joint request of the signatory parties by a Council decision on a proposal from the Commission only in matters covered by Article 137 (art. 139), i.e. in matters within the social policy field where the Community institutions "shall support and complement the activities of the member states" (art. 137).

²⁶ The first three agreements cited were implemented by a decision of the Council.

GRAPH N°1 :

The modalities of implementation of the agreement on social policy



Adapted from Berndt Keller, Bernd Sörries, "The new social dialogue : procedural structuring, first results and perspectives" in M. Terry, B. Towers (eds) *Industrial relation journal, European Annual review 1997* (Oxford Blackwell), p.81

1.3. THE 1998 REFORM OF THE SECTORAL SOCIAL DIALOGUE: THE IMPLEMENTATION OF A UNIFIED INSTITUTIONAL FRAMEWORK FOR SOCIAL DIALOGUE

In 1996, the Communication “*concerning the Development of the Social Dialogue at Community level*”²⁷ launched a large process of consultation with the social partners, which led to the writing of the Communication from the Commission “*adapting and promoting the social dialogue at Community level*”²⁸. This text marks an important step in the history of the sectoral social dialogue structures since it includes a Decision “*on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level*”²⁹.

These committees are intended to substitute themselves to the former structures that organized the sectoral dialogue and thus enable a harmonized treatment of the different sectors. Sectoral social dialogue committees are established in each sector on a joint request of the social partners to the Commission – who appreciates the representativity of the social partners - following the criteria defined in 1993. The Committees are made of a maximum of 40 representatives³⁰ (with an equal number of members of both parties). The president is either one of the representatives of the social partners or, if asked for, a representative of the Commission who, in any case, takes care of the Secretariat. Each Committee must adopt its own rules and work program. It has at least an annual plenary meeting and tackles more specific issues during expanded secretariat meetings or restricted working groups.

In the sector of activity for which they were instituted, the committees are consulted about the evolutions at the Community level that might have social repercussions.

One of the objectives of this reform was to rationalize the organization of the sectoral social dialogue by unifying the dialogue structures and reducing the number of members of each committee (point 40 of the 1996 Communication) all the while trying to tackle all the strategic sectors (point 36) and to improve the circulation of information and the cross-industry coordination (points 34 and 40). Furthermore, it increases the importance of the European organizations of social partners; each organization has a defined number of seats and decides of its delegation according to internal procedures. The members of the SSDC now sit at the committee as representatives of their European organization³¹.

1.4. THE DEVELOPMENT OF SECTORAL SOCIAL DIALOGUE AFTER 1998

The implementation of this reform rapidly led to a transformation of the existing committees and informal working parties into sectoral social dialogue committees (SSDC). In addition, we have witnessed the creation of new committees since 1998: while an active

²⁷ COM (96) 448 of September 18th 1996.

²⁸ COM (98) 322 of May 20th 1998.

²⁹ Decision 98/500/EC of May 20th 1998.

³⁰ 54 nowadays.

³¹ From a formal point of view, the members of the plenary meetings were previously appointed as individuals by the Council in the ECSC consultative committee, or by the Commission for two other types of committees.

dialogue existed in 23 sectors before 1998, there are 36 committees of sectoral social dialogue in August 2008 as well as 2 committees being constituted (see table 2).

We have thus witnessed in the past ten years a development of the European sectoral social dialogue that has extended itself to new sectors. We can nevertheless notice that the period that starts at the institution of SSDC does not establish a rupture with the previous decade: if 13 committees were created between 1998 and 2008, 14 new sectors were implicated in the sectoral dialogue during the previous decade, either in a joint committee or by the creation of an informal working party.

Table n°2

The sectoral dialogue committees: the committees officially created and submitted application (August 2008)

Sectors	Employees' organizations	Employers' organizations	Former joint committees	Informal work groups	SSD committees
Agriculture	EFFAT ³² (2000)	GEOPA/COPA (1958)	1964	-	1999
Audiovisual	UNI-MEI (1999), FIA (1952), FIM, FEJ	EBU-UER (1950), FIAPF (1933), CEPI, AER, ACT	-	-	2004
Banking	UNI-Europa ³³ (2000)	FBE (1960), ESBG(1963), EACB (1970)	-	1990	1999
Catering	EFFAT (2000)	FERCO (1990)	-	-	2007
Chemical industry	EMCEF (1996)	ECEG	-	-	2004
Civil aviation	ETF ³⁴ (1999), ECA (1991)	ACI-Europe (1991), CANSO (1998), ERA (1980), IACA (1971), AEA (1973)	1990	-	2000
Cleaning industry	UNI-Europa (2000)	EFCI(1988)	-	1992	1999
Commerce	UNI-Europa (2000)	EuroCommerce (1993)	-	1985	1999
Construction	EFBWW (1984)	FIEC (1905)	-	1992	1999
Electricity	EPSU (1978), EMCEF (1996)	Eurelectric (1999)	-	1996	2000
Extractive industry	EMCEF (1996)	APEP (1983), Euracoal (1953), Euromines (1995), IMA Europe (1993)	1952	-	2002
Footwear	ETUF :TCL (1964)	CEC (1959)	-	1982	1999
Furniture	EFBWW (1984)	UEA (1954), EFIC (2006)	-	-	2001

³² Previously EFA (1958).

³³ Previously EURO-FIET (1972) and ECF-IUF (1981).

³⁴ Previously CSTCE (1958) and FST (1993).

Gas	EPSU (1978), EMCEF (1996)	EUROGAS	-	-	2006
Horeca / Tourism	EFFAT (2000)	Hotrec (1992)	-	1983	1999
Hospitals	EPSU (1978)	HOSPEEM (2005)	-	-	2006
Inland navigation	ETF (1999)	EBU (2001), ESO (1975)	1967	-	1999
Insurance	Uni-Europa (2000)	CEA (1953), BIPAR (1937), ACME (1978)	-	1987	1999
Live performance	EEA (1999)	Pearle (1991)	-	-	1999
Local and regional government	EPSU (1978)	CEMR (1951)	-	1996	2004
Personal services	UNI-Europa (2000)	EU Coiffure (1991)	-	1998	1999
Postal services	UNI-Europa (2000)	PostEurop (1993)	1994	-	1999
Private security	UNI-Europa (2000)	CoESS (1989)	-	1993	1999
Professional football	FIFpro (1966)	EPFL	-	-	2008
Railways	ETF (1999)	CER ³⁵ (2002), EIM (2002)	1972	-	1999
Road transport	ETF (1999)	IRU (1948)	1965	-	2000
Sea fisheries	ETF (1999)	Europêche/COGECA (1959)	1974	-	1999
Sea transport	ETF (1999)	ECSA (1990)	1987	-	1999
Shipbuilding	FEM (1971)	CESA (1965)	-	-	2003
Steel	FEM (1971)	EROFER (1976)	-	-	2006
Sugar	EFFAT (2000)	CEFS (1954)	-	1969	1999
Tanning and leather	ETUF :TCL (1964)	COTANCE (1957)	-	1999	2001
Telecommunications	UNI-Europa (2000)	ETNO (1991)	1990	-	1999
Temporary agency work	UNI-Europa (2000)	EuroCIETT (1967)	-	-	1999
Textile and clothing	ETUF :TCL (1964)	Euratex (1995)	-	1992	1999
Woodworking	EFBWW (1984)	CEI-Bois (1952)	-	1994	2000
<u>Applications submitted</u>					
Automotive industry	FEM (1971)	CLEPA (1959)	-	-	-
Non-ferrous metals	FEM (1971)	EUROMETAUX (1988) ³⁶	-	-	-

Source : (Pochet, 2005) updated with the « social dialogue » pages of the DG EMPL website http://ec.europa.eu/employment_social/social_dialogue/index_fr.htm and the ESF and FEBI websites.

³⁵ Previously the CCFE (1988)

³⁶ Previously « Comité de Liaison des Industries de Métaux Non Ferreux de la Communauté Economique Européenne » (1957)

1.5. THE SPECIFICITIES OF THE SECTORAL SOCIAL DIALOGUE AT THE EUROPEAN LEVEL

After this historical overview, it appears possible to make a first balance of the specificities of the sectoral social dialogue in Europe and try to better understand the difference between this dialogue and the professional relations at the national level. Indeed, even if the period starting in 1998 is marked by important evolutions (see 2.2), many of the current characteristics of the sectoral dialogue are inherited from this first period of its history.

It seems that three points need to be underlined: the original ambiguity on the role of SSD, between consultation and negotiation, the specific place of social partners at the Community level and the place of the Commission in the social dialogue.

1.5.1. The original ambiguity on the question of the SSD's role: between consultation and negotiation

In the conclusion of her historical chapter, Anne Dufresne insists on the fact that the European sectoral social dialogue corresponds to both a “set of ‘frameworks’ (joint committees, informal working parties and then SSDCs) and functions (joint action, consultation and negociation) serving to involve the social partners in the European decision-making” (Dufresne, 2006a, p71).

The functions of consultation and joint action were set since the very beginning of the European construction, and, traditionally, the Commission considers the consultations process as the founding principle of the sectoral social dialogue. Of course, it helps increase the legitimacy of the community’s social policies, but it also spreads information on these policies in different national associations implicated in social dialogue and increases their degree of expertise. On the contrary, negotiation was only considered as one of social dialogue’s functions later on. Indeed, its first mention in a treaty, before adding the social protocol to the Maastricht Treaty, was in the 1987 Single European Act (Degimbe, 1991)³⁷.

Historically, although this point is never emphasized in the European Commission’s documents, the large majority of the activities of the sectoral dialogue committees were limited to consultation. Furthermore, when negotiations took place, they mostly proceeded in the framework of a consultation process. Anne Dufresne concludes that, “*finally, the enduring potential for autonomous negotiation is largely overshadowed by the reality of consultation about community policies mainly, but not exclusively, in the field of social affairs*”. In the same way, Antoine Lyon Caen considered, in 1997, that one could not speak of collective autonomy concerning the European social dialogue: it can be, according to him first and foremost characterized as the “*integration of social actors in the public community governance*”³⁸ (Lyon Caen, 1997).

Nevertheless, one must try not to establish *a priori* an implicit hierarchy between autonomous negotiation activities and the activities of the social partners, linked to a

³⁷ Article 118B specifies that the “*the Commission shall endeavour to develop the dialogue between management and labour at European level, which could, if the two side consider it desirable, lead to relation based on agreements*”.

³⁸ “*intégration des partenaires sociaux dans la gestion publique communautaire*”

consultation process. Indeed, it seems that the European social dialogue is a place for experimenting new forms of association of the social partners so as to establish social regulations.

1.5.2. The specific place of the social partners at the Community level

The integration of the agreement signed by ETUC, UNICE and CEEP on 31st October 1991 to the Treaty instituting the EEC marked a very important increase of the potential field of action of the social partners at the Community level. From a legal perspective, these dispositions corresponded to a major innovation, insofar as they constitute an “*infringement to the traditional interpretation of the democratic principle according to which the national sovereignty is one and can only express itself through the nations elected representatives*” (Supiot, 2003). In the elaboration of these agreements, the sufficient cumulated representation of the interest groups takes the place of the electoral representativity of the European deputies.

This innovation at the Community level inscribes itself in a general tendency of transformation of the legal sources³⁹ that can be described as a will to go beyond the traditional opposition between autonomy and heteronomy. Instead of “*submitting the work relations to rules imposed by the outside or, on the contrary, leaving it to the free movement of the power struggles between employers and employees, one try to associate all the actors to the definition and implementation of the necessary rules for the proper functioning of the labour market*”. One can therefore see the distinction between law and contract, deliberation (i.e the search for general interest) and negotiation (i.e the transaction between special interests) fading, making way to the separation of the declaration of principles (the exclusive field of the legislator) and of the procedures of implementation of these principles or the creation of new rights.

According to Supiot, this evolution is symptomatic of a movement of erosion of the sovereignty of the Nation-States. For French people, this evolution reminds about France before 1789 revolution, insomuch as the “*balanced representativity of the different social entities takes over the ‘law of number’ as the mode of expression of the people’s will*”. It logically expressed itself in a particularly clear fashion in Community law, given that there is no European Nation.

From a legal point of view, the importance of the creation of these “legislating agreements” of the articles 138 and 139 of the Treaty do not prejudge of the way this device can be used by social partners to implement transnational social regulations. Yet its promotion in the Community discourse leads to giving responsibility to the social actors, who must reach consensus that would be the base of the propositions presented to the Commission. This

³⁹ We find in France, for instance, a manifestation of this transformation in the “*position commune sur les voies et les moyens de l’approfondissement de la négociation collective*” (“*joint position on the paths and means of the deepening of collective bargaining*”) of 2001. The social partners ask for a constitutional recognition of their normative attributions in front of the legislator. They differentiate the field reserved to the legislator (establishing general principles applicable to the relations between employers and employees in their professional lives), the shared field of law and regulations on the one hand, and the social representatives on the other (who should be the ones applying the general principles established by the law or the translation of Community directives), and the exclusive field of the social representatives (improvement of the public social order dispositions and creation of new rights).

throws back to the issue of the very specific place occupied by this actor in the European social dialogue.

1.5.3. The place of the Commission

Contrary to the tripartite social summit on growth and employment or to the macroeconomic dialogue, the sectoral social dialogue is - as well as the inter-professional social dialogue - one of the two forms of bipartite social dialogue⁴⁰.

Nevertheless, historically, the place of the Commission⁴¹ in the meetings between sectoral social partners at the European level has always been very specific. The joint advisory committees, ancestors of the current sectoral social dialogue committees, corresponded to a form of tripartite social dialogue. We can then observe a progressive increase in the autonomy of the sectoral social dialogue, on a very similar pattern as the one existing at cross-industrial level⁴². Lately, the European Commission, in number of recent communications, has insisted on the importance of the autonomy of the social partners (see box n°3) and all the actors of the dialogue seems to agree on the importance of this autonomy.

⁴⁰ See for example : http://ec.europa.eu/employment_social/social_dialogue/bipartite_en.htm

⁴¹ Or, in the case of the ECSC's consultative committee, the High Authority.

⁴² The cross-industry social partners have adopted their own « work program » to establish their autonomy vis-à-vis the European institutions since 2002. On this point see for exemple (Degryse, 2006) .

Box n°3

The 2002 and 2004 Communications of the Commission on social dialogue

The Agenda on social policy presented in 2000 (COM (2000) 379 of June 30th 2000) stated “*social dialogue [must contribute] at all levels [...] in an effective way to the challenges identified [and] promote competitiveness and solidarity and the balance between flexibility and security*”. In its ulterior communications on social dialogue, the Commission underlines its importance in the context of the strategy implemented by the European Council of Lisbon, who strives to make the European Union into the most competitive and dynamic knowledge-based economy in the world, capable of a lasting economic growth accompanied by a quantitative and qualitative improvement of employment and greater social cohesion.

The 2002 Communication called *The European social dialogue, a force for modernization and change* (COM (2002) 341 of June 26th 2002) underlines that the social dialogue is becoming “*a component of democratic government and also of economic and social modernisation, as set out in the Lisbon strategy, the agenda that will take us to the end of the decade*”. Moreover, it underlines that the sectoral social dialogue is “*the proper level for discussion on many issues linked to employment, working conditions, vocational training, industrial change, the knowledge society, demographic patterns, enlargement and globalisation*”. In this perspective, the Commission wishes to:

- o continue its perspective of creating new committees;
- o encourage gatherings or necessary cooperation between sectors;
- o direct the activity of the sectoral social dialogue committee only towards the activities of dialogue and negotiation;
- o prioritize the support to the committees whose work leads to concrete results in relation with the Lisbon strategy;

The Communication of 2004 *Enhancing the contribution of European social dialogue – Partnership for change in an enlarged Europe* (COM (2004) 557 of August 12th 2004) re-establishes the role of social dialogue in the Lisbon strategy and underlines its importance in the settling of partnerships for change. It also insists on the implications of enlargement and on the importance for the social dialogue of the three fields: better the capacity of adaptation of the work force, investment in the human capital and the quality of employment, and attract more people on the work market. The objective of this communication consisted in “*promoting awareness and understanding of the results of the European social dialogue, to improve their impact, and to promote further developments based on effective interaction between different levels of industrial relations*”.

The Commission underlines that the social dialogue has known an evolution towards more autonomy and notes the “*increasing adoption by the social partners of 'new generation' texts, in which they undertake certain commitments or make recommendations to their national members, and seek to actively follow-up the text at the national level*”. It insists on the necessity to develop synergies between, the national social dialogue and the inter-professional, sectoral and company levels. Finally, it encourages the social partners to make their texts clearer for actors outside the dialogue and therefore offers a typology of results of the social dialogue.

⁴⁴ Interview with a EC official in charge of sectoral social dialogue committees, 2001.

Yet, Christophe Degryse underlines the ambiguity of the autonomy claim of the social partners in the framework of inter-professional dialogue. Indeed, it is not based on the same line of thought for the employers and the unions. The former hoped that autonomy would help them avoid the pressure of the Community's institutions and any legislation threat, whereas the latter hoped that autonomy would enable them to deal with new topics of negotiation, regardless of the Community agenda, all the while benefiting from the support of the European Commission in order to balance the power struggles with the employers during negotiations (Degryse, 2006).

The government officials of the EC in charge of the sectoral social dialogue are well aware of the importance of the Community executive in the dynamics of the social dialogue:

“I'm sorry, but do you think that at the national level there is a government official that is in charge of organizing all the social dialogue meetings? It is the principle of autonomy of the social partners: they must mutually recognize each other, decide of an agenda, choose the topics... I know the Commission must be there, otherwise nothing moves. But still, the ideal would be for them to be completely autonomous. But we are far from that still. I have colleagues who say that: ‘the European social dialogue is still a baby. It needs to be taken care of like a baby. [The social partners] are not mature yet’. Of course there are differences between sectors, but the image is a good one.”⁴⁴

Yet, since this interview was made, important evolutions have taken place in the sectoral social dialogue. From now on, can we consider sectoral social partners, or at least some of them, as autonomous enough to settle the bases of professional relations at a European level? In order to bring some elements to answer this question, it seems appropriate to review the work accomplished by the social partners in the new framework of sectoral social dialogue committees (SSDC) since 1998. We will first give the elements of the global dynamics of social dialogue through the analysis of the texts produced by the social partners (2). We shall then give more thorough elements based on a more detailed analysis of the different sectoral dynamics (3).

2. ANALYSIS OF THE TEXTS PRODUCED BY THE SECTORAL SOCIAL DIALOGUE COMMITTEES

After presenting one of main *classifications* of the current texts of the sectoral social dialogue committees (2.1), this part will render Philippe Pochet's global analysis of the dynamics of the sectoral social dialogue committees, studying the topics, types and addressees of the texts signed by the sectoral social partners (2.2).

2.1. HOW TO CLASSIFY THESE TEXTS?

As seen previously, an important part of the activities of the social partners, until the late 1990's, was devoted to reacting to the orientations of the community policies affecting their sector. In its 2002 Communication on social dialogue⁴⁵, the Commission noticed that in the last few years the social partners were more and more engaged in the discussion and

⁴⁵ COM(2002) 341 final, *Communication from the Commission - The European social dialogue, a force for innovation and change* of 26.6.2002.

adoption of so-called “*new generation*” texts (charts, codes, agreements) and concrete instruments of training and support. For the first time, it insisted on the necessity for social partners to clarify the terms used to qualify their contributions and to reserve the term “*agreement*” for the texts implemented according to the procedures inscribed in article 139.2 of the Treaty.

This call to the social partners to clarify their terminology has led in 2004 to the elaboration of a “typology of the results of the European social dialogue” in the following communication dealing with social dialogue (2.1.1). At the same time, the Observatoire Social Européen was creating its own typology that will be used in ulterior studies led by the OSE team on sectoral social dialogue (2.1.2). Finally, we will present other typologies elaborated, this time, by jurists (2.1.3).

2.1.1. The European Commission’s “typology of the results of the European social dialogue”

In its 2004 communication⁴⁶, the European Commission considers that there has been “*a qualitative evolution of the European social dialogue towards greater autonomy*”. This can in particular be seen through the “*increasing adoption of ‘new generation’ texts, which are characterized by the fact that the European social partners make recommendations to their members and the social partners undertake to follow them up at the national level*”. But “*in spite of the achievements of the European social dialogue so far, in certain areas its impact could be improved. In particular, the significance and status of the European social partners’ texts is not always easy to understand to those not directly involved in their dialogue, partly because of the diversity of titles and formats employed, and the rather loose use of terminology*”.

As a consequence, the Commission proposed as annex 2 of the Communication a typology “*with a view to assisting understanding of the various social dialogue instruments and helping the social partners to improve transparency*”. It encourages them to “*to draw on this typology when drafting their texts in the future*”. This typology defines five main categories⁴⁷:

- **Agreements implemented according to article 139, paragraph 2**: the texts belonging to this category establish minimal standards and entail the implementation of certain commitments by a given deadline, either by a decision of the Council, or according to the procedures and practices specific to management and labour and the Member States (art. 139 EC Treaty).
- **Process oriented texts**: these texts are implemented in a more incremental and process oriented way and are more oriented towards the process than the agreements. They include recommendations to national members of European organizations of social partners for the follow-up and regular evaluation of the achieved progress, in order to

⁴⁶ COM (2004) 557 final of 12.08.2004 p.14.

⁴⁷ The typology of the Communication of 2004 defined four main categories, each with sub-categories. The Commission will then present a reviewed version that adds a fifth and last category of texts to the previous four: the “follow-up reports”. The last version of this typology can be found on http://ec.europa.eu/employment_social/social_dialogue/typology_en.htm.

guarantee they have a real impact. The Commission considers that they can be very useful, noticeably in sectors where the European legislation is not the most appropriate solution.

This category divides itself in: “framework of action” (definition of policy priorities that the national social partners undertake to work), “guidelines and codes of conduct” (in some cases intended to serve as principle or minimal European standards to be implemented at the national or firm level) and “policy orientations” (texts in which the social partners pursue a pro-active approach to promoting certain policies among their members).

- **Joint opinions and tools:** These texts and instruments contribute to the exchange of information, either upwards from the social partners to the European institutions and/or national authorities, or downwards, presenting the implications of the EU policies to the national members. They do not entail any implementation or follow up provision. The Commission distinguishes the **joint opinions** (destined to the European institutions and/or to the public national authorities), the **declarations** (addressed to the social partners themselves and focused on their future work and activity) and the **tools** (guides, manuals...).
- **Procedural texts:** This last category includes texts that strive to establish rules for the bipartite dialogue between parties, in this case, texts establishing rules of procedure of the sectoral social dialogue committees.
- **Follow-up reports:** this category includes the joint reports written by the social partners on the implementation and follow-up of their new generation texts.

2.1.2. The classification of the Observatoire Social Européen

This classification, presented for the first time in the 2004 report of the European Commission (OSE, 2004)⁴⁸, includes 6 main categories (a). Yet, although it has various points in common with the typology of the Commission, there are a few that differ (b).

a) Presentation : this classification organizes itself around a main opposition between the “reciprocal commitments” (agreements, recommendations, declarations, tools) mainly destined to the social partners themselves and not to the Commission, and the “common positions”, common texts mainly destined to the European institutions. The different categories are as follows:

- **The agreements** correspond to the agreements negotiated between European social partners according to article 139. They are destined to the national organizations with a follow-up that precisely defines the mechanisms and deadline of their implementation. The agreements can be transformed into directives – as seen in the case of **working time** – or not – as seen with telework.

⁴⁸ The following presentation is also based on (Pochet, 2006a), where some changes were made to the initial classification of 2004.

- **The recommendations** are texts adopted among European social partners, intended to national organizations and for which a procedure of follow-up and evaluation is laid down at the national and European level. There is deemed to be a follow-up when are set out in the text of the joint document the procedures (more or less detailed) of implementation at national level and a European level evaluation of this follow-up at a given point in time. This is therefore a procedural definition. Contrary to the follow-up, the implementation covers substantial aspects. The recommendations include two sub-categories: the “codes of conduct” and the “frames of action”.
- **The declarations** correspond to the “declarations of intends” drawn up by the European social partners, intended for national organizations or for themselves, and where no explicit follow-up procedure is anticipated or where the procedure is vague.
- **The tools** (of training and action) correspond to studies (only the studies carried out by social partners jointly and not through European and/or national consultants), manuals, glossaries or data banks.
- **The rules of procedure** are agreements of recognition among social partners. They include a series of explicit rules of functioning as well as, most of the time, the topics to be dealt with and the way to do so (consultations, joint texts, negotiations).
- **The common positions** are texts addressed to the European institutions. They can be written in various circumstances. In certain cases, their objective is very clear, but in others, it is difficult to comprehend due to the numerous issues tackled.

b) Comparison with the typology of the European Commission: we can mention two differences between this classification and the typology of the European Commission⁴⁹:

- The category “*Recommendations*” corresponds to the category “*process-oriented texts*” defined by the European Commission. The sub-category “*Political orientations*” is merged with the “*Frames of action*” in the OSE’s analysis.
- The categories “*Common positions*” and “*Declarations*” corresponds to the categories “*Joint opinion and tools*” defined by the Commission. The choice of the team of the Observatoire is explained by its will to differentiate the texts addressed to the European institutions (Common positions) and those addressed to the social partners themselves, national or European (Declarations).

2.1.3. Typology put together by jurists

In addition to the already described typologies, it is possible to mention certain typologies established by jurists. Their interest resides in that they classify the texts of the European sectoral social dialogue according to their normative impact and the degree of constraint or commitment taken on by the signer parties and their addressees and not according to their type of addressees. S. Laulom and C. Vigneau thus distinguish three categories of acts from the European social dialogue, from the one with the weakest degree of constraint and commitment to the strongest⁵⁰:

- The “**declaratory acts**” strive to assert the position of the social representatives on a given issue (joint statements and joint positions)

⁴⁹ These are explained in notes 3 and 4, p. 7-8, of the report of 2004.

⁵⁰ (Laulom and Vigneau, 2005), quoted in (Collard, 2005).

- The “**recommendatory acts**” strive to put together recommendations (guidelines and rules of procedure)
- The “**mandatory acts**” are the texts designed as prescriptive acts, meaning those whose rules are designed to link their addressees (agreements and framework agreements).

Based on this typology, another typology was elaborated by V. Collard, that draws on a study of the similarities between joint texts produced by the sectoral social partners and existing legal institutions as well as on an analysis of the possible origins of the different terminology used by the European social partners (see box n°4).

Box n°4

Typology of the instruments of the sectoral social dialogue (Collard, 2005)

In the first part of his postgraduate certificate thesis on the European sectoral social dialogue, Valérie Collard – after a study of the similarities between the “instruments” of the European social dialogue and several existing legal institutions – proposes a renewed “typology of European sectoral social dialogue instruments” organized in four main categories, inspired by the typology of (Laulom and Vigneaud, 2005).

1st category : the binding or mandatory instruments

This category targets the European agreements negotiated among the European social partners according to article 139 of the Treaty. This first category contains the agreements implemented by decision of the Council (the follow-up of which is provided by the Commission, the member States being responsible for the implementation) and the **autonomous agreements** implemented following the procedures and practices specific to the social partners and the member States (the implementation and follow-up of which are taken care of by the social partners).

From a legal standpoint, these agreements are *“theoretically binding for the signatory parties, unless contrary provided by their authors. In this last case, they only formalise moral commitments that can nevertheless impose themselves on the level of honor or good faith⁵¹. It might be admitted that these agreement are binding, even if this issue is controversial.”*

2nd category : the instruments with “recommendatory” impact

The texts included in this category are those adopted by the social partners, which contain recommendations destined either to themselves or to national organizations, or to a third party. Their specificity is to contain recommendations for their follow-up and evaluation of the progress accomplished to attain their objectives. This category spreads into two sub-categories, the **guidelines** (recommendations often destined to the national members) and the codes of conduct (destined to the social partners, the firms and their subcontractors situated in or outside the EU. These instruments most often seek to promote the implementation of international standards, as well as the conventions of the ILO).

From a legal point of view, these instruments are not mandatory: they do not bind the signatory parties and do not entail any obligations for the addressees. They are rather incentives to adopt, on a voluntary basis, behaviours or guidelines likely to satisfy the set goals. The forecasting of a follow-up procedure and evaluation can contribute to breed a feeling of obligation in the form of a psychological constraint (judgement by the peers is playing an important role, very similarly as in the Open Method of Coordination). Moreover, these instruments can contribute to the ulterior adoption of a binding agreement.

3rd category : the instruments with “declaratory” impact

This category targets the texts expressing a position of the European social partners on a specific problem or expressing their intentions for the future. They are addressed either to the European institutions (**“common positions or joint statements”** sub-category), to the European social partners, or to the national organizations (**“declarations”**). They generally do not include any follow-up procedure.

From a legal point of view, these texts do not have any binding effect. One can nevertheless admit that they do have some legal effects by application of ‘good faith’, if they can be considered as formalizing a mutual commitment of the social partners. The intention of these parties is, in that sense, decisive (especially concerning third parties who can only be compelled if they have given, expressly or tacitly, their consent).

4th category : tools seeking the exchange of information

This category includes all types of instruments that seek to organize an exchange of information between the European social partners or between the latter and the national social partners (studies, manuals, glossaries, data bases, seminars...). These are management tools of the sectoral social dialogue whose function is to facilitate the elaboration of instruments of other categories.

⁵¹ According to Valérie Collard, certain joint agreements of the social partners that do not include any legally binding dimension are quite similar to *“gentlemen’s agreements”*. These agreements are defined in international public law as agreements between political leaders that do not legally bind the represented States, but they must be followed based on honour and good faith. Moreover, this notion was sometimes used in national law to

2.2. ANALYSIS OF THE SECTORAL SOCIAL DIALOGUE TEXTS

The global analysis of the sectoral social dialogue presented in this section corresponds to a synthesis of different researches published by Philippe Pochet⁵². This approach, concerned with the number of texts signed, their topics, their types and addressees, enables to analyse the general dynamics of the social dialogue and to review the effects of the 1998 reform on sectoral social dialogue.

2.2.1. Number of signed texts

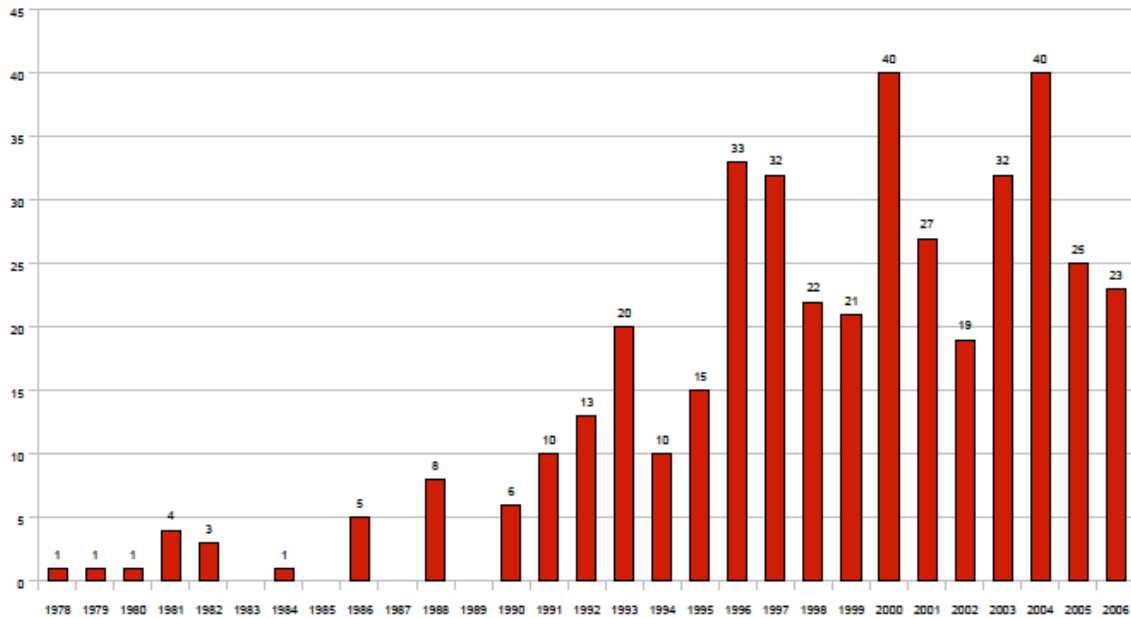
If we adopt a global quantitative perspective, we notice that the number of texts signed by the social partners has considerably increased since the mid-1990's (graph n°2). Starting in 1996, even if the production of the social partners is uneven from one year to the other (19 texts in 2002, 40 in 2004), it has maintained itself at a high level with an annual average of over 28 texts signed between 1996 and 2006. This first general remark must nevertheless be interpreted with caution.

describe collective agreements, noticeably in the United Kingdom where these agreements are binding only when integrated in working contracts. *“The connexion seems so relevant that one can wonder if the current conception of European collective agreement is not the gentlemen agreement. It is therefore possible to make the hypothesis that the current model of European collective agreement corresponds to the British one”*. (Collard, 2005, p. 37-38).

⁵² We base ourselves mainly on « *A quantitative analysis* » in (Dufresne, Degryse, Pochet, 2006), that differentiates the period prior to 1998 with the one starting from that date, and on the article « *European Social Dialogue – an empty shell or a tool for social embedding ?* » published in (Jacobi, Jespen, Keller et Weiss, 2007), that deals with the recent evolutions of the sectoral social dialogue by opposing the 1997-2001 with the 2002-2006 period. These analyses were realized with the database of texts produced by the sectoral committees constituted by the Observatoire Social Européen. It is described as quantitative because it does not include a detailed analysis (qualitative) of the content of the texts.

Graph n°2

Number of documents signed per year (1978-2006)



Source : (Pochet, 2006a and 2007)

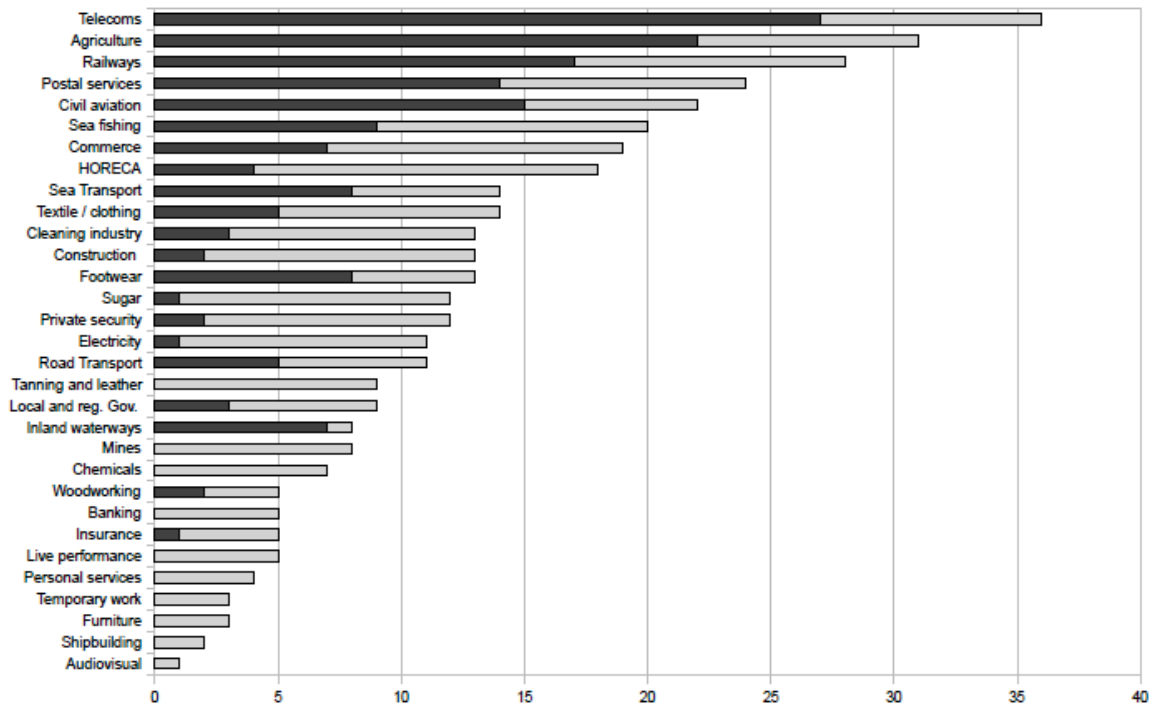
First of all, one can notice that the 1998 reform of social dialogue does not seem to have changed the number of texts annually produced by the sectoral social partners: while they had respectively signed 33 and 32 texts in 1996 and 1997, they only signed an average of 28 during the following eight years. Furthermore, the total number of texts signed in 2005 and 2006 is particularly low, especially if we take into account the increase in the number of sectors involved in the sectoral social dialogue.

Graph n°3 presents the number of texts signed by sector between 1978 and 2005 and allows us to compare the dynamics of the sectoral social dialogue before and after the 1998 reform. The differences between the sectors are clear, five of them (telecommunications, agriculture, railways, postal services and civil aviation) represent over one third of the texts signed until 2005, with over 20 texts each. We can also notice that sectors that were very productive before 1998 become much less prolific. After 1998, Horeca, Commerce, sea fisheries, construction and sugar are those producing the most texts.

Graph n°3

**Number of documents signed by sector
1978-2005 (385 documents)**

1978-1997 : 163 documents (dark gray) 1998-2005 : 222 documents (light gray)



Source : (Pochet, 2006a)

Note: The graphs presented in this working document, taken from articles published by P. Pochet, enable to respectively compare the prior and ulterior periods of the 1998 reform (graphs n°3, 5 and 7) and to analyse in detail the ulterior period of the reform all the while distinguishing two same length periods (graphs n°4, 6, 8). Since the data base of the OSE is not public, it was impossible for us to update these elements or to synthesize them in a single series of graphs.

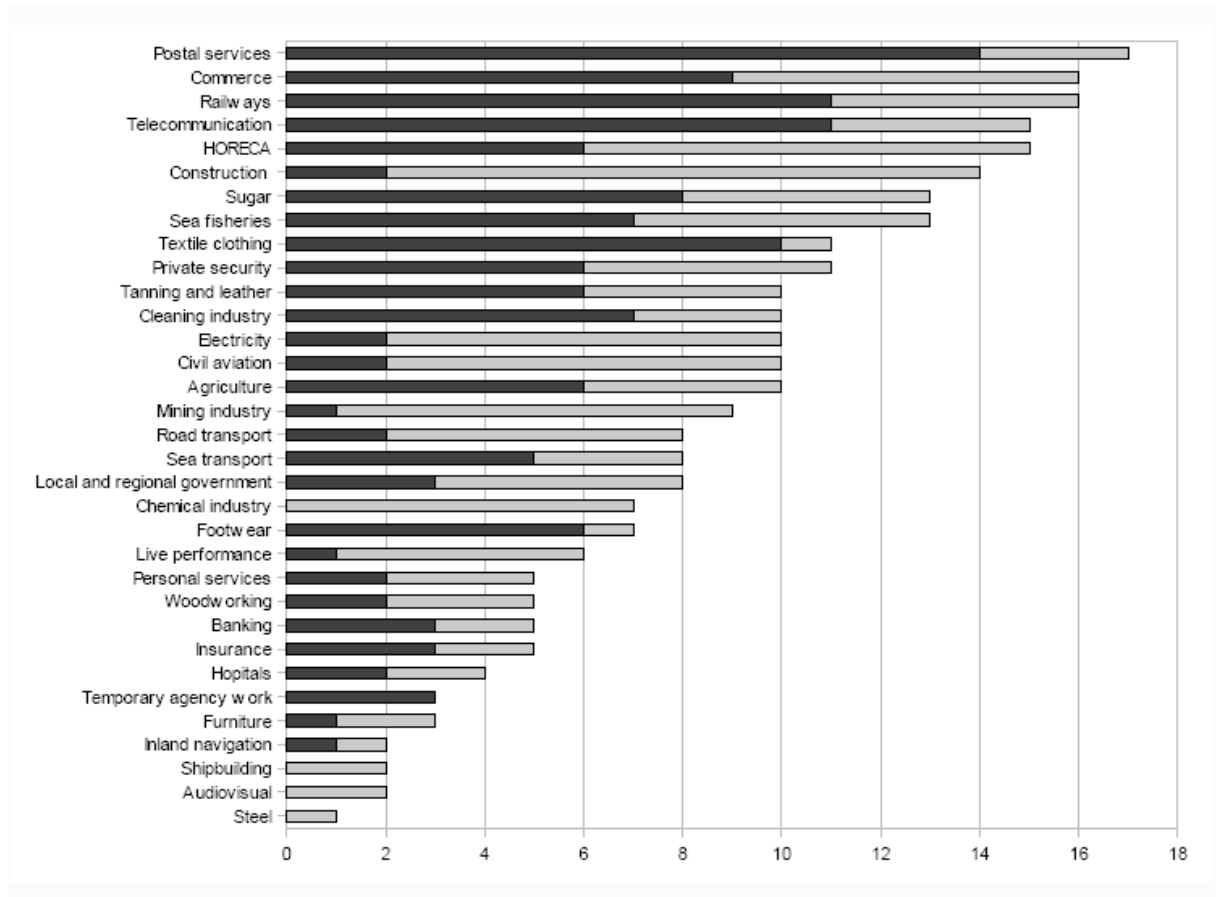
Graph n°4 presents the number of texts signed by sector between 1997 and 2006 and enables to compare the periods of 1997-2001 and 2002-2006. In addition to the appearance of new sectors⁵³, we can notice – as we can in the study over a longer period – that the productivity of the sectors has sometimes clearly evolved between 1997-2001 and 2001-2006. Among the five most productive sectors of the first period (postal services, commerce, railways, telecommunications, textile and clothing), which have signed with over 8 texts in 5 years, two of them (postal services and textile and clothing) signed under three texts in the five years that followed. On the contrary, 3 sectors who signed 2 texts or less in the first period, signed over 7 in the second (electricity, civil aviation, chemical industry).

⁵³ SSDCs “steel” and “hospitals”. It seems that certain texts were signed before 2001 in the latter sector, officially constituted as a SSDC in 2006. They are not mentioned in the original graph of (Pochet 2006a) that corresponds to graph n°3.

Graph n°4

**Number of documents by sector
1997-2006 (281 documents)**

1997-2001 : dark gray 2002-2006 : light gray



Source : (Pochet, 2007)

It is nevertheless suitable to stay cautious in the interpretation of these global elements since, as is reminded by P. Pochet, “one limitation of quantitative analysis is that, by its very nature, it focuses on figures [...]. The generation of a large number of texts says nothing about the quality of those texts [...]. Such data alone, therefore, can certainly not be considered indicative of the vitality of dialogue in sectoral committee” and a fortiori in the sectoral social dialogue in general.

2.2.2. Topics of the signed texts

The OSE team classifies the texts of the sectoral social dialogue according to the topics dealt with in 11 distinct fields. Essentially corresponding to those presented by the European Commission in the report on industrial relations of 2000⁵⁴, the topics are the following:

- a. Health – safety;
- b. Training;
- c. Employment;
- d. Working time;
- e. Social dialogue (including the SSDC’s rules of procedure);
- f. Enlargement (texts on enlargement essentially deal with the issue of extending social dialogue to the eastern European countries)
- g. Working conditions (including the texts on non standard form of work: telework, illegal employment...);
- h. Non-discrimination (including texts dealing with gender equality);
- i. Sustainable growth (including texts dealing with environmental issues);
- j. Economic and/ or sectoral policies (i.e. “industrial policies” in the broader sense);
- k. Social aspects of Community policies (i.e. social consequences of the sectoral strategies).

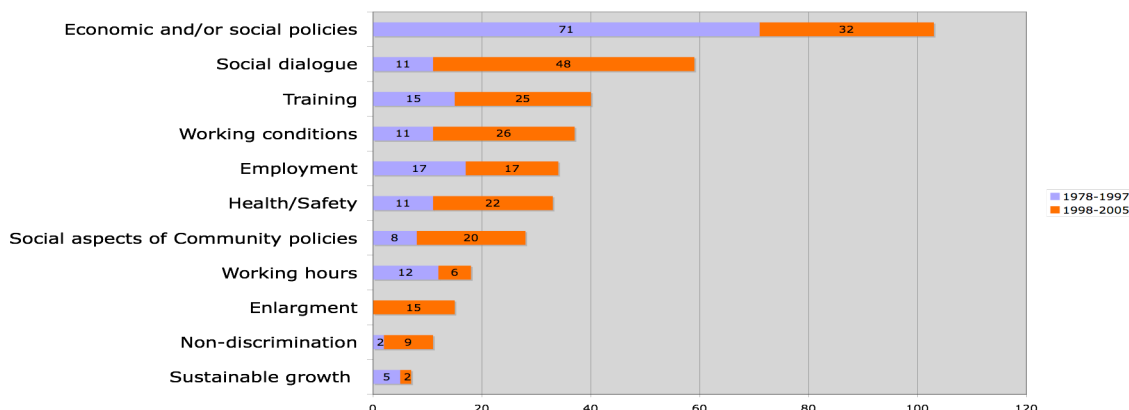
The “*Employment*” field corresponds to employment policies (contributions of the sectoral actors at the Lisbon summit) or to employment reductions (in the sectors facing restructuring processes). “*Working time*” corresponds quasi exclusively to the agreements that have been signed in relation with the Working time directive. “*Working conditions*” differentiate themselves from the “*Social aspects of Community policies*”: the former include the internal social problems of the sector, and not the social consequences of the sectoral policies.

We can underline that many joint documents are quite disorganized and deal with several different matters without being able to clearly establish the main objective, which must lead to interpret very carefully the figures obtained from this classification (Pochet, 2006a, p. 94). Nevertheless, it seems possible to make some conclusions of the study of the main fields of the joint texts (graphs n°5 and 6).

⁵⁴ The main difference between these two classifications lies in the established distinction between the field of “economic and/or sectoral policies” (that corresponds to “technical” questions of sectoral, economic, industrial or commercial strategies), and the field of “social and political aspects of Community policy” that corresponds to the social consequences of these policies. In the Commission’s classification, these texts were gathered in a field called, “Policy and economy”. Furthermore, the team of the Observatoire did not keep the field “Analysis and statistics” for which there only existed old documents. The topic “Gender equality” was renamed more broadly “Non discrimination” and a ninth field – “Sustainable growth” – was added (OSE, 2004, p. 6).

Graph n°5

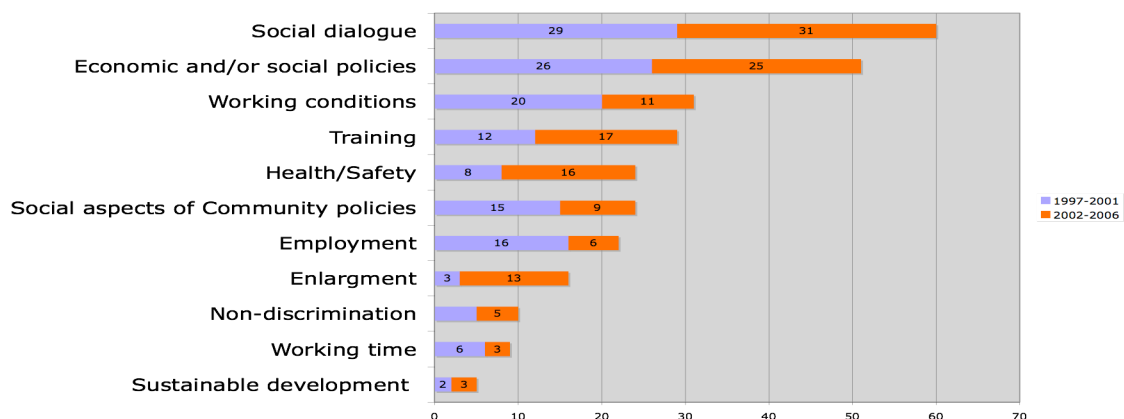
Number of documents by field (1978-2005)



Source : Pochet 2006a

Graph n°6

Number of documents by field (1997-2006)



Source : Pochet 2007

“*Social dialogue*”, “*economic and/or sectoral policy*” and “*working conditions*” are the three topics the texts deal with the most⁵⁵, whereas “*sustainable growth*”, “*non-discrimination*”, “*enlargement*” and “*working time*” (especially since the end of the 1990’s) are less dealt with. If we compare the periods 1997-2001 and 2002-2006, we realize that “*working conditions*” and “*employment*” are less dealt with in the second period, whereas “*enlargement*” and “*training*” have recently been the object of more joint texts.

The team of the Observatoire Social Européen (OSE) defined six types of joint texts: the agreements, the recommendations, the declarations, the tools, the rules of procedure and the joint positions (see 2.1.2). Even if, once again, one must be very careful, it seems that every instrument has privileged topics. Concerning the agreements, the “*working time*” is the

⁵⁵ Indeed, these are the most general fields, in which are classified many documents that also present very general objectives. In addition, the topic “*social dialogue*” includes the SSDC’s rules of procedure.

main topic. This is related to the adapting of the 1993 directive on working time in the transportation sectors, which made way to the signing of three agreements. Concerning the recommendations, the “*working conditions*” is the most recurrent topic. Once again, this result is logical since most of the documents are codes of conduct. The broad definition of the working conditions chosen by the team of the Observatoire works well with the topics dealt with by the different “*codes*”. The main topics present in the declarations are “*training*” and “*enlargement*”. The common positions mostly deal with economic and sectoral policies and the social consequences of Community policy. Here too the result was expected since these are documents addressed to Community authorities. As for the tools, most of them deal with the health – safety field.

2.2.3. Type of texts signed and their addressees

When analysing graphs n°7 and 8, it is possible to notice the importance of the common positions (60% between 1978 and 2005 and 46% between 1997 and 2006). Next come declarations, tools, recommendations, rules of procedure and agreements. If we stick to a definition of social dialogue as a negotiation of binding agreements, less than 2% of the texts signed by the European social partners at the sectoral level are “agreements” (see boxes n°5 and 6).

The great number of common positions signed is explained by the intensity of the elaboration of texts addressed to the Community institutions, that was often an essential moment of the dialogue for many sectors. One can nevertheless notice a clear decline of the number of common positions in the total of texts signed since 1998, decline confirmed by the most recent studies. It therefore appears possible to conclude that there is a transformation of the sectoral social dialogue, producing fewer texts destined to the Community institutions, and more documents addressed to the social partners’ organizations (national or European). This evolution leads to a modification of the addressees of the texts signed by the social partners⁵⁶. If most of the joint texts signed before 1998 were mainly addressed to the Community institutions, it is no longer the case. From that year on, the texts addressed to the organisations of social partners outnumber those intended to the European institutions (Pochet 2006a and 2007)⁵⁷. Furthermore, we can note the appearance of texts intended to firms⁵⁸, linked to the signing of an increasing number of codes of conduct (that are generally intended to firms, at least partially) and the important part played by the multinational firms in certain sectors.

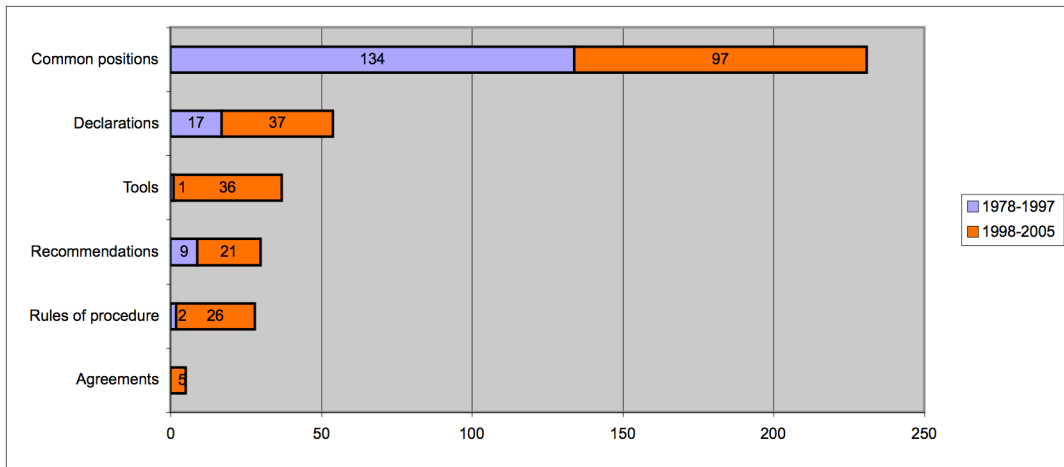
⁵⁶ The OSE team distinguishes 5 possible addressees for joint texts: European social partners, European institutions, national organizations (employee and employer’s organizations), firms, and national authorities.

⁵⁷ Texts whose main addressees are the European institutions, 1978-1997: 131, 1998-2005: 94. Texts whose main addressees are the social partner’s organizations (national and European), 1978-1997: 26, 1998-2005: 112. This trend continues in 2006.

⁵⁸ As a total, 35 texts on the 1978-2005 period were addressed to firms as main or secondary addressee.

Graph n°7

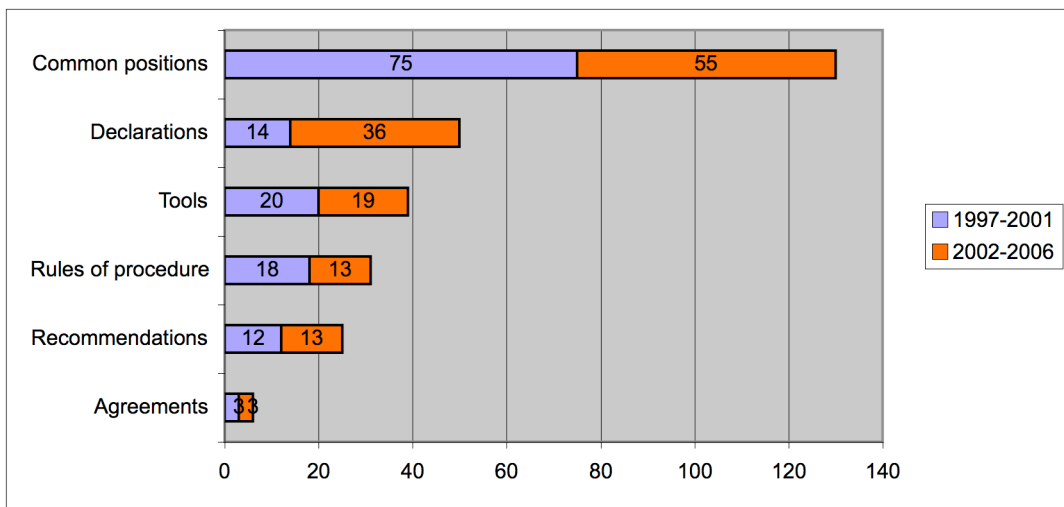
Number of documents by type (1978-2005)



Source: Pochet, 2006a

Graph n°8

Number of documents by type (1997-2006)



Source: Pochet, 2007

2.2.4. Conclusion

With this analysis, it is possible to draw certain conclusions on the general dynamics of the sectoral social dialogue. Since the 1998 reform, we have witnessed an increase in the autonomy of the sectoral social dialogue committees. They do not seek as much as they used to, to address the Community institutions. Moreover, we have witnessed the development of autonomous agreements. This autonomy is nevertheless still limited. Even if their importance tends to wane, the activities aiming to influence the policies of the Union remain an important

part of the formal activities of the sectoral social dialogue committees. Besides, the recent evolutions of the social dialogue have not led to the signing of more binding texts. Between 1997 and 2006, 6 agreements and 25 recommendations were signed: 3 agreements and 12 recommendations during the first five years of the period and 3 agreements and 13 recommendations during the following five. Concerning the recommendations, we cannot state that the numbers of signed texts tend to increase, and the problem of the verification of their implementation often remains.

All seems to indicate that, after major transformations following the 1998 social reform, the social dialogue is today at a crossroads. But in order to specify the paths that SSDCs could follow in the future, it is important to go beyond the global analysis of the texts produced by the sectoral social dialogue committees, giving an idea of the richness and diversity of the social partners activities in the frame of SSDCs.

Box n°5

The agreements signed by the sectoral social partners

The first three agreements of the European sectoral social partners were signed in the context of the implementation of the directive on working time of 1993. Indeed, the transport sectors were excluded from the scope of application of this directive. Following the issuing of this directive, which took place at the same time as the implementation of the Maastricht Treaty (November 1993), the Commission launched a consultation process among the social partners of the excluded sectors (Didry and Mias, 2005, quoted by Dufresne, 2006a). It was followed by a second wave of consultation in 1998, the objective of which was to expand the rules of the 1993 directive to the non-mobile workers of the excluded sectors, and to implement a sectoral social legislation for mobile and offshore workers.

The Commission's strategy – often used at the cross-industry level - thus consisted in using Maastricht's social protocol to exert pressure for the negotiations to achieve results in the “*shadow of the law*”. These negotiations, threatened by the legislation, led to the signing of agreements in sea transport, railways and civil aviation⁵⁹. The signing of these agreements thus comes from an initiative of the Commission and not from the social partners themselves (Keller and Bansbach, 2000, quoted by Dufresne 2006a).

In the case of both “*agreements*” signed in the railway sector in 2004⁶⁰, the autonomy of the social partners hardly seems arguable. The agreement *on certain aspects of the working conditions of railway mobile workers assigned to interoperable cross-border services* comes under article 139 of the Treaty and was implemented by a Council directive (see 3.2.2). The agreement on the *European licence for drivers carrying out a cross-border interoperability service* did not have to do with one of the fields enumerated in article 137 of the treaty, and thus could not be implemented by the procedure established in article 139. Signed by the social partners who were waiting for a text from the DG Energy and Transport, it was partly reused by the Commission for the adjustment of a European licence for the drivers in the context of the third railway package (Champin, 2004).

The agreement on the protection of the health of the workers exposed to Silica dust⁶¹, the first European multi-sectoral agreement signed in 2006, also came from an initiative of the social partners (see box n°6). The agreement signed by the social partners of the sea transport sector⁶², whose social partners ask for its application by a decision of the Council proposed by the Commission, seeks to implement an ILO convention (Maritime Labour Convention, 2006). It includes as annex 1, a modification of the “*agreement on the organisation of working time of seafarers*” of 1998, in order to make it compatible with the dispositions of this convention.

⁵⁹ “*European agreement on the organisation of working time of seafarers*” of September 30th 1998, “*Agreement on some aspects of the organisation of working time in the rail transport sector*” of September 30th 1998 and “*European agreement on the organisation of working time of mobile staff in civil aviation*” of March 22nd 2000.

⁶⁰ “*Agreement on certain aspects of the working conditions of railway mobile workers assigned to interoperable cross-border services*” and “*Agreement on the European licence for drivers carrying out a cross-border interoperability service*” signed on January 27th 2004.

⁶¹ “*Agreement on Workers Health Protection through the Good Handling and use of Crystalline Silica and Products containing it*” on April 25th 2006.

⁶² « *Agreement concluded by ECSA and ETF on the Maritime Labour Convention 2006* » on May 19th 2008.

Box n°6

The “Crystalline Silica” agreement

The Silica, or silicone dioxide (SiO₂) exists in a crystalline and non-crystalline (amorphous) form. The inhalation of crystalline silica can cause irreversible and often deadly lung diseases; silicosis also plays a part in the appearance of cancer. There are measures at the level of national legislation, such as the elaboration of occupational exposure limit values. In certain EU countries, the crystalline silica is classified among the carcinogenic substances for man, but it does not appear in annex 1 of the directive 67/548 that establishes the rules of labelling and classifying of dangerous substances.

In 2004, Eurosil (European Association of Silica Producers) started a silica platform whose goal was to explore the possibility of concluding a multi-sectoral agreement in the frame of article 139 of the treaty, on the basis of best practices of prevention as an alternative to “inappropriate” legislation. (Annual report of IMA, 2002-2003, quoted par Musu et Sapir 2006). On April 26th 2006, after several months of negotiation, a final agreement was signed by fifteen European employer organizations and two European federations of Trade Union (EMCEF, European Mine, Chemical and Energy Workers’ Federation and EMF, European Metalworkers’ Federation).

The main goal of the agreement was to improve the knowledge of the potential effects Crystalline Silica could have on health, the minimization of exposure to alveolar crystalline silica in the workplace by applying good practices as well as the evaluation of their efficiency. These good practices, which concern evaluation and control of risks for the workers exposed to silica, the surveillance of the efficiency of adopted measures, of the workers’ health and safety and of the workers’ training, will be regularly updated. The agreement also plans that employers and employees as well as worker representatives will do their best to apply the best practices in the workplace. For every location where there is alveolar crystalline silica, a system of surveillance of the application or non-application of the good practices will be set up. A follow-up committee (the Council), counting the equal number of representatives of employers and workers, will be in charge of writing one report per sector on the application of the agreement, which will be submitted to the social partners and the national and Community authorities.

At the European level, this agreement can be considered a “first” on many levels: it is the first multi-sectoral agreement and, contrary to the other types of signed texts at the cross-industry level (telework, stress), no reference is made to an initiative of the Commission. At the trade union’s level, opinions differ on the outreach of this agreement.

By demonstrating its will to adopt good practices, the sector probably hopes to avoid or delay the classification of crystalline silica as carcinogenic and the possible adoption of a an occupational exposure limit value to this substance at the Community level, which would include obligations that would increase prices and complicate production, transformation or industrial use of products containing silica. The two union federations who signed (EMCEF, EMF) hope that this agreement will enable the quick implementation of practical measures to reduce the exposure of workers to crystalline silica dust, without avoiding its classification in the European list of dangerous substances or the adoption of a Community occupational exposure limit value. The EFBWW (woodworking sector) does not have the same analysis: it considered since the beginning that the issuing of an agreement could hold back the issuing of a Community legislation and thus refused to take part in the negotiations and sign the agreement.

Source : (Musu et Sapir, 2006)

3. ANALYSIS OF THE SECTORAL DYNAMICS

After exposing the SSDC typology established by the Observatoire Social Européen, this part will present more thoroughly each of the underlined categories and illustrate them by the analysis of certain committees.

3.1. TYPOLOGY OF THE OBSERVATOIRE SOCIAL EUROPÉEN

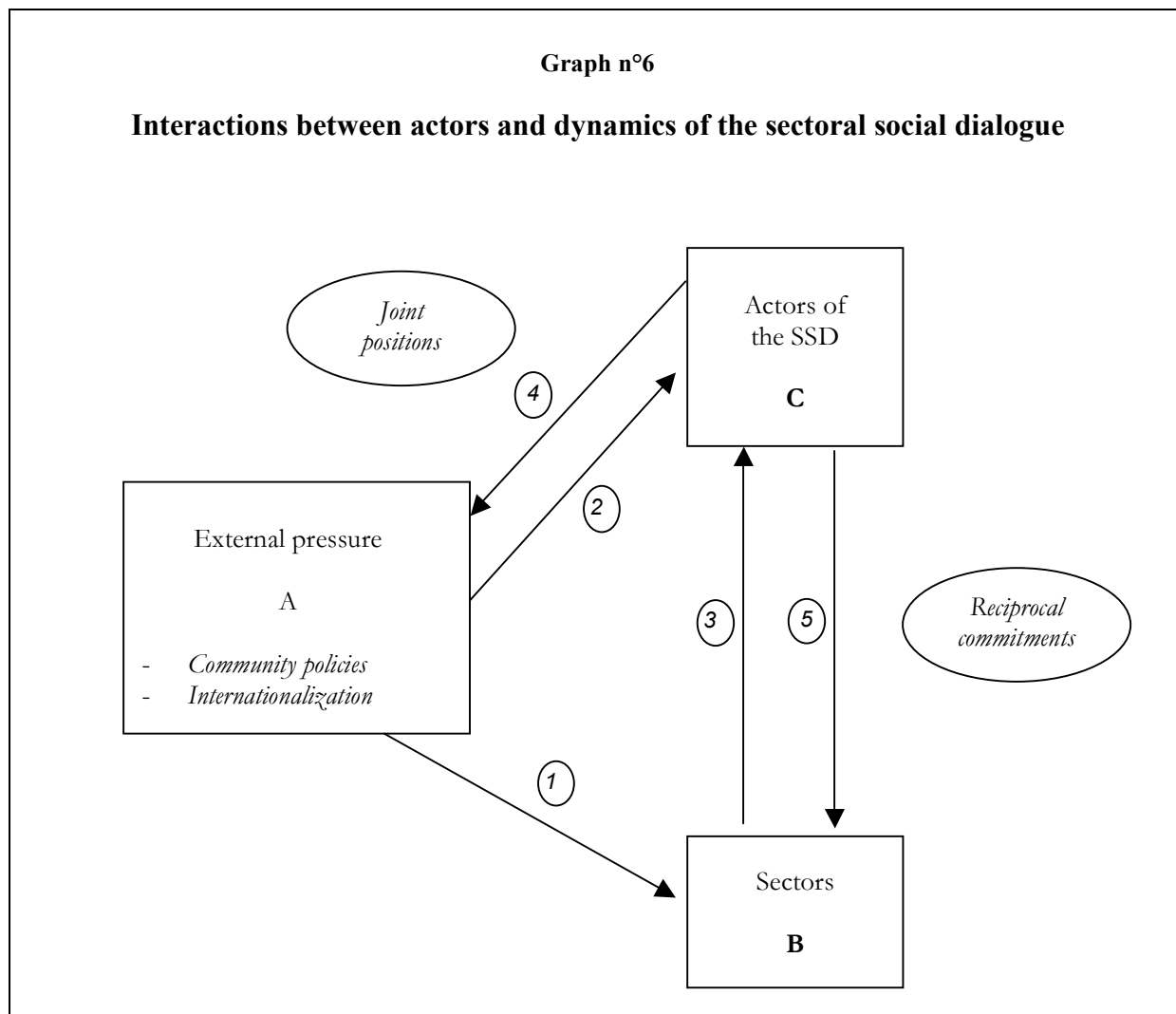
This typology was made by the OSE team based on a series of similarities between the different sectors (for instance, sectors heavily concerned by international competition such as textile, sectors without any obvious European issues at stake such as hairdressing, sectors very integrated to Community policies such as agriculture, etc.). It helps bring to light the dynamics common to different groups of sectors.

3.1.1. The dynamics that underlie the sectoral social dialogue

The existence of Community policies constitutes in most cases, the main impulsion to structure a European social dialogue. This impulsion, more or less strong depending on the case, will affect the concerned sectors and their actors (noticeably European) who represent those sectors by creating a new structure of opportunities and constraints. The Community policies can, for instance, affect a specific sector through more or less important protections put in place by the Union in face of international competition via its foreign commercial policy or the internal policies led by the Community institutions.

The international pressure and European impulsions affect the European actors that come from concrete sectors with their own specificities, their national history of collective bargaining, their different degrees of conflict / cooperation. When defining their strategy to face the pressure, the European actors have a breathing space both broader and narrower than that of national actors. Narrower because there is a great diversity of national practices within each sector. Broader in the sense that they are less dependant of their national “social history” and so they can explore original paths. The choice of this strategy conditions the actors’ capacity to create a “European object” of their social dialogue.

Facing the external pressure exerted on them, we notice that the actors can mainly develop two types of complementary strategies. On the one hand, act on the source of the interventions. This means contributing to influence European policies (a function that stems from the consultation function). On the other, dealing with the changes of the sector, be it the main result of Community policies or not. Graph n°6 presents these main interactions in a schematic form.



Source : (Pochet, Degryse, Dufresne, 2006)

The Community policies and/or the internationalization affect specific sectors (1), but also the actors of social dialogue who must take a stand and determine their strategy in this new context (2). Moreover, the actors of the European sectoral social dialogue act in a frame defined by the nature of the sector at a national level and its place in the economic structure (3). They try to have an influence on the supranational constraints that apply to their sector (4) and, more seldom, to jointly define a space for their bilateral relations and the means to deal with these new constraints (5). Starting from this frame of analysis, the team of the OSE elaborated a typology including six main categories of sectors that differentiate themselves through the external environment and the actors' strategy. The interaction of these two variables puts into perspective the goals assigned by the European social dialogue actors.

The stronger the external pressure, the easier it is to create a “European object” of social dialogue. It is somewhat “obvious” for the actors. The more vague the pressures, the more determining the will of the actors in order to come up with the “European object” they can dialogue about.

The situation of the actors at the Community level is asymmetrical. Indeed, the interests of the employers and employees are fundamentally different (Streeck, 1994 and Scharpf, 1999, quoted in Pochet, Degryse, Dufresne, 2006): generally speaking, the

employers seek to remove the obstacles to the mobility of capital and labour to extend the markets without the implementation of compensatory regulations, whereas the employees hope for the implementation of a supranational protection against deregulation and social dumping. The employers are in a stronger position at the Community level insofar as, to get to their goals, they can simply block institutional evolutions that would go against their interests, when the unions must build new institutions and new means of regulation to serve their goals. The employers can thus simply settle for a negative integration (suppressing obstacles to free competition) whereas the unions must achieve a positive integration and the creation of common rules.

Nevertheless, reality is more complex than what the general frame of analysis might suggest, since the employers get involved in social dialogue and in the elaboration of joint documents. But while the unions generally prefer joint documents including strong mutual obligations, it is rarely the case of employers. In the absence of collective trade union action at a transnational scale, the employers remain the ones who mainly determine the ambitions of the sectoral social dialogue.

3.1.2. The six categories of sectors

The OSE team distinguishes six categories of sectors:

1. The sectors where there exists a European level of professional relations;
2. The sectors that handle competition and interconnections of national spaces;
3. The sectors that keep pace with European developments while ensuring industrial peace;
4. The sectors that deal with changes in the context of globalization;
5. The sectors that build a European dimension (and visibility) for themselves;
6. The sectors that develop an autonomous social dialogue, independent from the cross-industry social dialogue.

The sectors of these categories have in common that they are exposed to fairly similar external pressure (integration to the Community policies and exposure to international competition) and that, as an answer, they chose comparable strategies (see table n°3). To check the coherence and strength of its typology, the OSE team sought to find out if there was a correlation between the goals of social dialogue in each of the categories of sectors and the type and topic of the produced texts. The results of this cross checking test are presented in the last two lines of table n°3, clarifying the preferences of each category of sectors concerning the types of texts and their main topics.

Of course, the OSE team insists on the relative frailty of the typology: the diversity of texts is an answer to the diversity of circumstances and motivations of the actors. To go even further, we must now present in more detail each of these categories, each time illustrated by a characteristic example chosen among the sectors that have recent available sources.

Table n°3

The OSE typology: general table

	Category 1	Category 2	Category 3	Category 4	Category 5	Category 6
External environment: degree of integration in Community policies	Strong integration to Community policies	Sectors moderately integrated to European Community policies but very exposed to European legislative activity	Sectors moderately integrated to European Community policies and mildly exposed to European legislative activity	Mild integration to Community policies	Mild integration to Community policies	Specificity of the services versus industry
Exposure to international competition	Controlled international competition	Mildly subjected to international competition	Mildly subjected to international competition	Strongly subjected to international competition	Mildly subjected to international competition	Benefits from international competitions (lower prices) or is not exposed to it
Concerned sectors	Agriculture Sea fisheries Railways Sea transport Civil aviation Road transport Internal navigation Extractive industry	Telecommunications Electricity Postal services Construction	Banks Insurance Chemical industry	Textile-clothing Tanning and leather Footwear Sugar Woodworking Furniture Shipbuilding	Private security Cleaning industry Personal services Live performance Temporary agency work Audiovisual Horeca	Commerce Local and regional governments
Actors	Union preference for legislative measures Strong implication of the social partners in the implementation of Community policies, and even in the changing of their definition.	National traditions of social partnership (public services). Action to influence the policies and conditions of competition.	National social partnership	Survival of the sector ; integration of social standards (ILO) Access to the decision-makers in the commercial field.	Desire of the employers to use the SSD to build a European dimension in the sector. Access to European decision-makers for the specificities of the sector.	Emulation with the cross-industry social dialogue. Participation to all the levels of consultation.
Objectives of the European social dialogue	Creation of a European level of industrial relations.	Facing the exposure to competition and the interconnection of national spaces.	Monitoring of European developments (mergers, concentrations...) while guaranteeing social peace	Managing reorganizations and relocations	« European » visibility, image of the sector directly at EU level.	Development of an autonomous dialogue.
Instruments	Agreements Recommendations (quasi-agreements) Joint positions	Joint positions Recommendations	Tools Declarations	Recommendations / codes of conduct (international standards). Joint positions	Recommendations / codes of conduct and label of quality Joint positions	Various instruments
Topics	Working time (for the agreements) Economic and/or sectoral policies; social aspects of community policies	Economic and/or sectoral policies Working conditions (in a broad sense)	Training	Working conditions Social dialogue Social aspects of Community policy	Reinforcement of the national social dialogue Economic and/or sectoral policies	Social dialogue Employment

Source : (Pochet, Degryse, Dufresne, 2006)

3.2. THE SECTORS THAT INCLINE TOWARDS A EUROPEAN LEVEL IN PROFESSIONAL RELATIONS

This first category includes the sectors of agriculture, sea fisheries, railways, sea transport, civil aviation, road transport, inland navigation and mining industry.

“[It] is characterized by the predominant role played by the European Union in drawing up common policies. These are for the most part policies where international competition is (potentially) fierce and which are often circumscribed by waiver agreements. Agriculture and fisheries obviously fall under this definition. Transport policy is much less clear-cut, even though it is provided for in the treaty of Rome, and not until the 1990s was there a policy – above all one of deregulation⁶³ - which affected all the various sub-sectors.

One distinctive feature of the social partners in these sectors is that they are usually involved in Union policy-making and are consulted about the numerous projects underway. Information is readily available to them and they can influence Community policies in many ways. Their ‘preference’ in terms of social dialogue outputs (at least on the trade union side) is for binding agreements [...]. [The social partners of this sector] were the only ones to express this preference in such strong terms. The explanation for this may lie in the fact that they are consulted on a regular basis, and hence already fully integrated into the Community decision-making machinery, and that, in their opinion, common positions do not necessarily have very much added value in the long term⁶⁴. The aim of the players in these sectors is to arrive at collective bargaining and binding agreements.

Having said that, the results in terms of attaining these goals differ from one sector to another. In transport, sectoral negotiations on the ‘working time’ directive were a factor which favoured the development of social dialogue, creating an opportunity to achieve a binding outcome by means of collective bargaining⁶⁵. Only agriculture and the railways really seem to be heading tentatively towards European-scale industrial relations, even though the ‘agreements’ signed are manifestly different in nature from national collective agreements.” (Dufresne, Degryse, Pochet, 2006).

⁶³ Title IV of the Treaty of Rome specifies that “taking into account the distinctive features of transport, the Council shall [...] lay down [...] : a) common rules applicable to international transport to or from the territory of a Member State or passing across the territory of one or more member state b) the conditions under which non resident carriers may operate transport services within a member state ; c) any other appropriate provisions” (art. 75, § 1). Despite these dispositions, the transport policy was for a long time a field reserved to the member States. The first turning point was 1985 with the conviction of the European Council by the Court of Justice of the European Community because they failed in the application of the Treaty. The Court’s judgment specifies that the international good and passenger transport should be opened to all Community firms without any discrimination based on the nationality of the transport undertaking or on the country where it is established. The Maastricht Treaty marks a new turning point by giving to the EU the means to implement a true Community policy in transports (title XII on the “*Trans-European Networks*”, title XV on research and technological development). Source : Marie Madeleine Damien, *La politique européenne des transports*, Que sais je, n°3498, PUF, 1999.

⁶⁴ These sectors, constituted by joint committees since the 1960’s and 1970’s, have produced number of “joint opinions” that correspond to “common positions” in the OSE classification.

⁶⁵ In the sectors of maritime transport, railways and civil aviation, see box n°5, p.35.

The example of the railway sector⁶⁶

The existence of a social dialogue at the Community level in the railway sector goes back to 1972⁶⁷. The employees are represented in the SSDC by the European Transport Workers' Federation (ETF)⁶⁸. The employers are represented by the Community of European Railway and Infrastructure Companies (CER)⁶⁹ and the European Rail Infrastructure Managers (EIM)⁷⁰. The analysis of the dynamics of the social dialogue in this sector since the 1980's has allowed to underline two clearly opposed periods around the key year of 1999, which corresponds to the year when the working program of the new the SSDC was adopted.

Between the mid-1980 and the late 1990's, the main activities of the joint committee members were to write common positions on the Commission's initiatives concerning the sector (17 "joint opinions" signed between 1986 and 1997. They express a strong joint opposition to the competition policy that the Commission imposed on the sector, of which the directive 91/440 represents the first step⁷¹. The criticism of the social partners concerned, in particular, the lack of interest of the Commission on social issues and safety, fearing there might be a "two speed" labour market (employees of national firms on the one hand and the

⁶⁶ The information and analysis presented in this section come from (Champin, 2004) and (Hilal, 2006).

⁶⁷ The creation of the "joint advisory committee on social question arising in the railway industry" dates of 1972. In 1984, the railway sector adopted the new status of joint committee thus giving a real right of initiative to the social partners and attaching the sectoral social dialogue to the DG V (now the DG EMPL) and not the DG VII in charge of transport (Vauclare, 1994). Finally, the railroads are one of the first sectors to adopt, in 1999, the new structure of sectoral social dialogue committee, implemented in the frame of the 1998 reform of social dialogue.

⁶⁸ Created in 1958, the CSTCE ("*Comité syndical des Transports dans la Communauté Européenne*", Committee of Transport Workers' Unions in the European Community), ancestor of ETF, was in an information bureau managed by the ITF (International Transport Federation), based in London. In the context of single market, the FST ("*Fédération Syndicale des Transports*", Union's Federation of the Transport sector) was created in 1993, an independent organism equipped with its own structure, and that will become the ETF (European Transport Federation) in 1999. Other than the adoption of an English acronym inspired by the International federation, ETF is now the official European sector of ITF, in charge of the continent (and no longer only the EU and the European Economic Area), a compromise between the supporters of a total independence vis-à-vis the ITF and those who wished that the European structure should only be an office of the international transport federation. Furthermore, ETF is one of the sectoral federations of ETUC. This federation is recognized as a European social partner in all the transport sectors. All the main unions of the railway sector are members of the ETF, which ensures an important coverage rate in the sector, characterized by a high unionization rate in a large majority of countries of the Union (Roberto Pedersini, *Industrial Relations in the Railway Sector*, <http://www.eurofound.europa.eu/publications/htmlfiles/ef0578.htm>).

⁶⁹ Until 1986, the employers' representation was ensured by the « group of twelve » of the UIC (International Union of Railways) that became on that year the « Community of European Railways » under the pressure of the Commission who wishes to have facing her a interlocutor structured at the European and not at the international level. This structure was renamed « Community of European Railways » (CER) in 2002. The CER, who essentially functions as a lobby for railway companies beside the authorities of Brussels, created in its framework a group of Human resources' directors.

⁷⁰ Created in 2002, this organism defends the interests of the independent infrastructure managers.

⁷¹ The 91/440/EEC directive of 29 July 1991 *on the development of the Community's railways* (OJ No L 237 of 24. 8. 1991) can be considered as the starting point of the Community policy in the railway sector. It introduces a crucial distinction between the railway undertakings and infrastructure managers that seeks to allow the separation of the transport activities and the management of infrastructures. Thus, the text theoretically sets the conditions of an intramodal competition in the sector. Starting March 15th 2003, the transport of goods was gradually opened up to competition, while the opening to the competition of international passenger traffic is settled for 2010.

new entrants on the other) and a deterioration of working conditions and employment of the railway workers. To contain these phenomena, the social partners ask for the harmonization of social regulations at the European level. The joint statements also base themselves on the claim for the levelling out of the competition conditions with the road transport. Finally, they insist on the discrepancies in the implemented policy, which could lead to a concentration of the more profitable activities of the main lines, to the expense of secondary lines, which is contrary to the declared objective of the Commission for the development of railway transport. This opposition to the orientation of the transport policy could be presented as an “alliance of fear” (Hilal, 2006) – the unions being scared of a deterioration of the working conditions and of the reconsideration of the social benefits of the railway workers, and the firms fearing the competition from the new entrants. Indeed, unions and firms needed time, in order to unite political support for the former, and to introduce internal reforms to prepare the “historical operators” to face the competition of new companies for the latter.

Since the late 1990's, this opposition front to the European Commission is cracking. The divisions between national unions start to show more and more, due to the increasing differences in their positioning facing the liberalization process. The unions of the Northern European countries, where the liberalization process is already very advanced, defend the liberalization strategy, whereas other unions stay opposed to it and advocate the reinforcement of the cooperation between national companies so as to develop international traffics. For the latter, the attitude of the German and Dutch unions was felt like a betrayal to the cause of the European trade unions. The negotiation, following the exclusion of the sector from the field of the “working time” directive, did not lead, contrary to the objectives of the European Transport Workers' Federation, to tighten the union solidarity and the authority of the European federation on its members. The German, Dutch and Scandinavian unions took very little part in the negotiation process⁷². As for the national companies, they had no interest in encouraging the implementation of binding regulations at the Community level, in a context where they sought to progressively soften number of national social standards. Finally, a minimal text – considering that the principles of the 93/104/EC directive were already integrated in existing national regulation – was rapidly signed on September 30th 1998.

Furthermore, we witnessed at the time a progressive change of strategy in the European employer's organization, leading in 1999 to the choice of “*adopting a positive attitude by defending the railway transport in general rather than companies in particular*”. The Community of European Railway and Infrastructure Companies joined the idea that the insertion of competition in the sector could increase the total volume of railway traffic and admitted that the opposition to liberalization had become a “*rear-guard battle*”⁷³.

It is in this context that, in 1999, the social partners put together a new work program that organizes itself around the guidelines of the employment policy “*Entrepreneurship adaptability in business*” and “*employability*”, to which was added later the Group “*Equal opportunities*”. The finalizing of this work program corresponds, on one hand, to a new presentation of older activities: included in the working Group “*adaptability*”, we find a sub-

⁷² They did not wish to develop European procedure **competing with** negotiation devices that existed at the national level, which they thought were more efficient to defend their members' interests. More generally, the unions were pessimistic about the success of a European harmonization implicating fifteen countries, while the evolutions at the national level consisted in a deregulation process for about ten years.

⁷³ Interview with the representative of the SNCB (Société Nationale des Chemins de Fer Belges) in the SSDC, 2002.

group on “*Interoperability*”, in charge of continuing the program initiated a long time ago, on the social aspects of the process of creation of technical standards seeking to remove the obstacles to the free circulation of trains. But except for this point, the reorientation of the dialogue is real and lasting. It corresponds to a compromise between the interests of the different actors of the dialogue, in a context where the opposition to liberalization can no longer be a base of social dialogue. With this work program, the social partners accept to take into account the will of the Commission to tightly associate the social partners with the elaboration and implementation of the Community social policy⁷⁴.

The work done in the frame of these guidelines (which have almost remained unchanged in the next yearly working programs of the Committee), made way for the realization of joint studies and the signing of three recommendations⁷⁵. Adding to that, the social partners continued their work on the social aspects of the technical specifications for interoperability (TSI) and on the impact of the ERTMS system⁷⁶ on employees. The sectoral social dialogue committee also worked on the theme of enlargement (equal information seminars on the sectoral social dialogue in the new Member states and candidates).

In parallel to these activities that still continue today, two agreements were negotiated and signed in 2003 in a few months time. Faced with the acceleration of the liberalization process of the sector, under the pressure of the European Parliament and with the creation of the first private companies competing with the historical operators, the unions of the Southern countries had realized, since 2000, the failure of the strategy of opposition to liberalization. The members of ETF therefore set for themselves a goal to limit the social consequences of the opening of the market by implementing European agreements to “*avoid the worse*”⁷⁷.

The “*Agreement on the European licence for drivers carrying out a cross-border interoperability service*”, defined minimal health standards and level of competences for the

⁷⁴ The government official of the EC in charge of the social dialogue committee of railways had indeed offered to organize a work program around these pillars, that he considered especially interesting for a sector in transformation such as the railways, in agreement with the employer representatives and the German representatives (both on the trade union and employer’s side), who were more involved from that date on in social dialogue.

⁷⁵ Report of the “Working organization” group (early 2000), Report for the study group on « employability » of the Railway European committee of sectoral social dialogue on the theme: *Is the “employability” concept usable by European rail companies?* (November 2001), Recommendation on insecurity and feeling of insecurity in local public transport (13/11/2003), Report on “*Representation and better integration of women in the different professions of the railway sector*” (27/04/2005), “*Joint recommendations for a better representation and integration of women in the railway sector*” (12/06/2007), “*The concept of employability in the railway sector – Recommendations*” (04/10/2007), “*Joint study report on the effects of the reorganization of railway freight services on employment*” (until October 2008).

⁷⁶ Both “interoperability” directives (96/48/EC and 2001/16/EC) seek to erase the technical barriers that block the implementation of a railway space without borders (“interoperable”) in Europe. They define the essential requirements that aim for the securing of the system’s interoperability and leave the representatives of the sector to prepare a Technical Specification for Interoperability (TSI) which translates these essential requirements into mandatory technical dispositions. After much work by the social partners and the European Parliament, the directives set the consultation of the SSDC during the elaboration of the TSIs. The field of the “trans-European conventional rail system” directive was extended to the “qualifications and health and safety conditions of the staff”. The ERTMS system (European Railway Traffic Management System), a new system to control trains and to exchange information between the track and the train forms part of the technical innovations that make the system more interoperable. The SSDC’s text on the *Relation between the European Social Partners in the railway sector and the European Railway Agency* (19/05/2006) expresses the expectations of the social partners vis-à-vis the European Railway Agency who deals among other subjects with the elaboration of the TSIs.

⁷⁷ The trade unions and certain representatives of the employers were fearful, in particular, that the working conditions should come close to those existing in the road sector.

train drivers carrying out international services. The “*Agreement on certain aspects of the working conditions of railway mobile workers assigned to interoperable cross-border services*”, implemented in 2005 by a Council directive, established on his part minimal rules concerning driving time and rest of the staff in charge of cross-border driving operations⁷⁸. Both these agreements seek to establish minimal standards at European level and increase the cost of entry in the branch for new companies. The speed of the negotiation process can be explained by the will to conclude an agreement before the enlargement of May 1st 2004. Indeed, railway companies of the Western countries feared that the entrance of companies from Central and Eastern Europe would increase the heterogeneity on the employers’ side and make impossible any kind of negotiation. The national German company and its French counterpart noticeably tried to convince as best they could the more reluctant national companies. The SSDC led, until today, to a regular follow-up of the implementation of these agreements.

3.3. THE SECTORS DEALING WITH COMPETITION AND INTERCONNECTIONS IN NATIONAL SPACES

This second category includes the sectors of telecommunications, electricity, postal services and construction⁷⁹:

“What characterizes [this category] is not integration with Community policies but a high degree of exposure to the various processes of liberalization, deregulation and competition across Europe. These processes occurred throughout the 1990s: they have had a considerable impact on the utility sectors (telecommunications, postal services and electricity) and, consequently, on the nature of social dialogue. The opening up of telecommunications to competition back in the late 1980s, the gradual deregulation of postal services since 1997 [...] led, first of all, to the adoption of numerous common positions in a bid to take action upstream of Community policies: enforcement of competition rules, effects of liberalization on employment, organization of the sector, the social dimension, universal services, etc. [...]

Since then, the European social partners have undertaken to carry out a number of joint activities by way of coping, downstream, with the social consequences of liberalization. To this end they have produced not only a whole host of training and information tools (studies, glossaries, etc.), but also several recommendations or ‘frameworks of action’ (postal services, telecommunications, electricity). We distinguish here between ‘frameworks of

⁷⁸ The agreement of the railway sector regulates a) the minimum duration of daily rest (daily rest at home: 12 successive hours for every 24 hour period and daily rest away from home of 8 successive hours for every 24 hour period, as opposed to 11 hours in the cross-industry “working time” directive), b) the breaks (for drivers, 45 minutes if the duration of the work day is superior to 8:30 hours if the working hours are between 6am and 8pm), c) weekly rest (36 hours, meaning 24 hours + 12 hours of daily rest for every 7 day period), d) maximum driving time (9 hours per day and 8 hours per night, and a maximum of 80 hours per period of 2 weeks).

⁷⁹ The construction sector holds a particular place in this category. Contrary to the others, it is not a utility sector. Yet, the debates surrounding the 96/71/EC directive concerning the posting of workers in the framework of the provision of services, the provision of cross border services and the exchange of such services between companies have produced essentially the same dynamics as the other sectors of the category (in particular exposing of national space to European level competition). Nevertheless, the objective was not to handle the transition toward greater competition but to consolidate achievement already accomplished and stabilize the conditions for competition.

action', recommendations and codes of conduct in sectors undergoing change. These reciprocal commitments usually cover the following topics: training, employment, non-discriminations and health/safety.

As far as the players are concerned, trade unions are normally well represented in national enterprises and a culture of partnership prevails. Some of the employers initially contested the proposals for European liberalization on the grounds of the uniqueness of the sector, but subsequently came round to managing the Community processes, underway. [...] Exchanges with the trade unions thus relate to aspects of these changes.” (Pochet Degryse, Dufresne, 2006).

The example of the telecommunications sectors⁸⁰

The joint committee of telecommunications, created in 1990, was constituted in parallel to the implementation of the deregulation policy. Transformed in 1999 into a social dialogue committee, it encompasses communications by telephone, telegraph and telex as well as maintaining the networks. The organization representing the employers, ETNO (European Telecommunications Network Operators), was created in 1992 in reaction to the first debates engaged in the joint committee⁸¹. The employees are represented by the telecommunications branch of UNI⁸².

At first, the members of the joint committee conducted at the same time technical expertise activities, economic critic, and social dialogue in the strict meaning of the words. During that period, the telecommunications sector was extremely productive and was first in the number of produced texts, with 30 signed texts between 1992 and 1998. Since the late 1990's, it has been resolutely directing itself towards the negotiation of so-called “voluntary” agreements.

The joint statements produced between 1992 and 1998 cover the entire field of intervention of the European authorities and adopt a critical tone vis-à-vis the initiatives of the Commission, on the content⁸³ as much as on the way the different actors are consulted and weigh on the legislative procedure. The joint committee thus respects an implicit “subsidiarity” principle, which tends to give the freedom of determining the working conditions to the States and companies. The demands for harmonization in reality dealt with the harmonization of competition's conditions. The criticism deals less with the social consequences of the liberalization policy than it does with the rhythm of the policy and the maintaining and viability of the sector at the European scale, especially facing the foreign

⁸⁰ The information and analyses reproduced in this section come from the second part of the chapter written by Arnaud Mias, « La configuration européenne d'une branche : les télécommunications » in Jobert A. (dir.), 2008, *Les nouveaux cadres du dialogue social : Europe et territoires*, Brussels, P.I.E. – Peter Lang, to be published.

⁸¹ Today, ETNO is composed of over 40 companies in 34 countries, either public companies (including France Télécom before and after its privatization, and Deutsche Telekom) or private companies (the main one being British Telecom).

⁸² The Union Network International and the European Federation of Employees in Public Services organized the delegation before the creation of the telecommunications branch of UNI in 2000.

⁸³ They thus discussed a set of initiatives concerning the entire sector: the telecom equipments, the setting of prices, the mutual recognition of licences, the application of the principles of the supplying of a network open to vocal telecommunication services, the telecom infrastructures, the converging of the telecom, media and information technology sectors.

competitors. The joint committee appears as a European tribune for the historical operators, concerned about keeping their position in the domestic market⁸⁴.

Until 1995, the statements on the initiatives of the Community authorities had only dealt with the dispositions concerning competition. From that date on, the concern of employment and the threat of social dumping opened up on a request for studies on employment and measures of follow-up of the social consequences of liberalization. We progressively see a new work program coming together, more focused on the questions of social regulation.

Starting in 1998, we observe the emergence of a new form of European social dialogue that opens up to new objects beyond the mere questions of economic policy (employment, mobility of employees, professional training, health and safety, and more generally, organization of work). At the same time, the traditional social dialogue, structured by the consultations on economic policy of the European institutions, is fading. As in the railway sector and many liberalized sectors (Benedictus et alii, 2002, p. 96), the creation of a sectoral social dialogue committee (SSDC) corresponds to a period of deep transformation in the nature of the debates between social partners. From that date on, employers refused to produce joint statements on the European policy of the sector⁸⁵. The number of texts produced annually dropped (three are produced between 1999 and 2003); they are no longer of same nature (more agreements and guidelines directed to national union organizations and less joint statements and declarations intended to the European political authorities). The themes dealt with are more focused on the conditions and organization of work.

This new direction of the social dialogue results in the signing of two texts, a voluntary agreement titled “*Guidelines for telework in Europe*” in 2001 and a chart on calling centers in 2004. The “*Guidelines for telework in Europe*”, signed by UNI-Telecom with the operators represented in the Social dialogue committee⁸⁶, constitutes a text of reference that was proposed so as to be adopted by the firms on a voluntary basis. It is the first initiative that offers a frame of reference directly at a European level for the implementation of telework, before the adoption of an equivalent text in the commerce sector in May 2001 and an interprofessionnal framework agreement on telework in July 2002. The text of the telecommunication sector served as a base and reference for ulterior agreements. It was prepared by a work of expertise led since 1997 in the SSDC, under the impulsion of the

⁸⁴ Nevertheless, it has to be underlined that the common statements often reflect the different opinions of the members of the social dialogue committee. One of the first statements, in January 1993, mentioned even in its title the disagreement between two important companies of the employer’s delegation: British Telecom and PTT Telecom BV (Netherlands). Later on, the statements included a specific part in which British Telecom expressed its own opinion, often opposed to that of the joint committee, in the form of a “comment” or “statement”.

⁸⁵ The early 2000’s were marked by the refusal of the European employers’ to formulate common statements on the directives of the “*telecom package*”. The larger entry of the private operators in the employers’ delegation implies new ways of organizing the dialogue with trade unions. During the previous period, the social dialogue on the European liberalization policy was essentially pushed on the employers’ side by the major historical operators, mostly still public (BT often expressed there was a discrepancy between its positions and those of the joint committee). One of their objectives was to limit and curb the deregulation policy by formulating statements that were legitimate, all the more so as they were adopted with the agreement of the trade unions, against the private operators’ lobby which preferred the complete and quick liberalization of the sector. In the employers’ delegation, the difficulties to find a common ground on the orientations and content of the regulatory initiatives could explain why the employers nowadays refuse to formulate joint statements with the unions on the European telecom policy.

⁸⁶ BT, DT, FT, Telefonica, Sonera, Telia, TeleDanmark, Belgacom, Austria Telecom, Telecom Portugal, Eircom, KPN, OTE, Telecom Italia and Telecom Luxembourg.

European Commission and also inspired by a certain number of experiences led in the companies of the sector⁸⁷. The European agreement establishes a definition of telework⁸⁸ and sets twelve principles, including voluntary participation, equality in treatment with the other employees (concerning training, career, work evaluation, etc.), the preservation of the status and working conditions, and collective rights. These guidelines are the object of a follow-up and have already given way to a survey among the major companies of the sector⁸⁹.

The “*Guidelines on customers' contact centres*” were signed on June 15th 2004 by ETNO and UNI-Europa. It is a text listing fundamental principles, that intends to be incentive regarding the companies and calling centers, thus rendering explicit the interests that these companies can find in making the employments they offer “*attractive*” and investing in “*human resources*”. It was a response to an initiative of UNI-Europa in 2001 who had unilaterally written “*guidelines*” defining the minimal standards in calling centres that the member unions committed to include in their actions’ objectives⁹⁰. These guidelines seem to have been used as a base for the discussions with ETNO, but they appear only very partially in the final text. It seeks to encourage the centres to implement “*the principles of quality employment and a high standard of customer service*”. The main argument is that the “*Customer Contact Centres that are genuinely committed to the job satisfaction and development of their employees are the future of the business*”. The introduction is followed by the statement of thirteen “*key principles*”. The first four are turned towards the satisfaction of the “*clients*” expectations. Then they dealt with the issues of work organization and labour law. The European social partners commit to have the follow-up, within a year, in the frame of the sectoral social dialogue committee.

In 2005, the telecommunication social partners worked on musculoskeletal disorders (realization of a study and writing guidelines for their prevention) and on diversity (realization of a first audit on the practices and policies of diversity in the companies of the sector, and the setting up of an exchange of good practices program on this theme)⁹¹.

3.4. THE SECTORS THAT KEEP PACE WITH EUROPEAN DEVELOPMENTS

This third category includes the sectors of banking, insurance and chemical industry.

“The European and international pressure put on the sectors in this third category is relatively insignificant and relates mainly to the establishment of common national rules. Although these sectors are subject to extensive change, the principal factor here is to keep pace with European developments with a

⁸⁷ An important agreement on telework was concluded in 1998 at Deutsche Telekom. In Italy, telework has also been the object of initiatives. France Télécom has been experimenting telework since 1997, with the implementation of a “*mission dédiée*” which constitutes a incentive tool for workers. The direction was nevertheless opposed to the negotiation of a company agreement on this matter.

⁸⁸ Telework concerns employees that, thanks to the technologies of information and communication, undertake either their whole work activity at home or only part of it, the rest of their working time being spent in the premises of the company.

⁸⁹ Source: main page of the Telecommunications SSDC on the European Commission’s website http://ec.europa.eu/employment_social/social_dialogue/sectorial31_en.htm

⁹⁰ This union text defines the precise minimal standards, in terms of organization, of working time, health and safety, control of employees, payment, training and representation of workers.

⁹¹ Source: main page of the Telecommunications SSDC on the European Commission’s website.

view to maintaining industrial peace. [...] There have not been any major European implications for industrial relations, even though in recent years these sectors have undergone many mergers and restructuring operations, first at national then at European level. [...]

As concerns the players, trade union organizations generally have a noticeable presence in businesses in the banking and insurance sectors as well as the chemical industry; national social dialogue enables the two sides of industry to work on the basis of a trusting relationship and can be regarded as a traditional factor for industrial peace. Given that there are no major European issues at stake⁹², Community-level social dialogue in these sectors appears to mirror the partnership practices established at national level without having discovered a driving force of its own. It is not particularly dynamic, but nor are there any obvious obstacles (for example, training is a fairly consensual topic). It appears that on the employers' side there is no desire to move in the direction of binding agreements.” (Pochet, Degryse, Dufresne, 2006).

The example of the banking sector⁹³

The social partners in the banking sector have started a European social dialogue since 1990 in an informal working party. Created in November 1999, the Social dialogue committee for the banking sector includes UNI-Europa Finance (formerly Euro-Fiet) for the unions, the European Banking Federation (EBF), the European Saving Banks Group (ESBG) and the European Association of Cooperative Banks (EACB)⁹⁴. The social partners in the banking sector represent 3.6 million employees and over 4500 banks and financial institutions in Europe. The EBF, ESBG and EACB, who represent their members' interests vis-à-vis the Community institutions, are not employer organizations with a mandate in the social field. They established committees for European social affairs (BCESA, Banking Committee for European Social Affairs) composed of organizations that have a mandate in that field. Nevertheless, the problem of the mandate was not clearly solved and the EBF acts as the main interlocutor with UNI-Europa Finance in the frame of social dialogue. The European Commission, as asked for by the social partners, presides over the SSDC.

The social dialogue has slowly evolved, from the carrying out of joint studies to the establishment of “*joint conclusions*”, and the writing of “*joint declarations*” that correspond

⁹² In the chemistry sector, the context has evolved with the implementation on June 1st 2007 of REACH, the new Regulation on the recording, evaluation, authorisation and restrictions of chemical substances.

⁹³ The information and the analyses of this section come from the article by Annette Holm Mikkelsen, “*Social Dialogue committee in the banking sector*” in ETUI-REHS (2005), “*Sectoral social dialogue*”, *Transfer*, Special issue on Sectoral Social Dialogue, Vol.11, n°3, Automne 2005.

⁹⁴ UNI-Finance, which represents over 2.2 million workers, is the second most important sector in the Union Network International (UNI). UNI-Europa Finance is one of the four regional branches of UNI-Finance and counts among its members 106 trade unions in the sectors of banking and insurance, thus covering 1.5 million workers in 45 countries. The European Banking Federation represents the interests of 5000 European commercial banks in 31 countries, the total amount of which is superior to 30 billion euros and employ 2.4 million workers (source : <http://www.fbe.be>). The European Saving Banks Group, that includes mutual savings banks such as the Caisse d'Épargne in France, has 26 members in 25 European countries (source : <http://www.esbg.eu/>). The European Association of Cooperative Banks represents the cooperative banks of 23 European countries, including Central and Eastern European countries which employ 730 000 workers and represent 20% of the market at Union scale (source : <http://www.eurocoopbanks.coop/>).

to recommendations intended to the national social partners. The negotiation of collective European agreements is not part of the objectives of the sector's social partners. Since 1995, they have worked on the following themes:

- The impact of the mergers and acquisitions on the managing of human resources (1995): this question, of great importance for the sector, was the object of a joint study. Yet it was not made into a joint conclusion, both to respect the subsidiarity principle (local or company negotiations seemed more adapted) and due to the difference in the points of view of the social partners. This theme was nonetheless regularly evoked later on during plenary meetings of the SSDC. Besides, UNI-Europa Finance conducted a study on the impact of mergers and acquisitions on workers, consumers and shareholders. The three employer organizations were invited to the conference it held on the subject in 2000.
- The social partners have also written a common declaration on the green book of the European Commission "*Partnership for a new organization of work*"⁹⁵ (1998). This text, which includes precisions concerning training, equal opportunities and labour taxation, also states that the company is the best level for the implementation of changes in the work organization and that the unions have an important part to play in the identification and implementation of those changes.
- The study and the joint conclusions on "*Europe's new banks – The 'non-bank' phenomenon*" (1999) deals with the emergence of competition from non-banking players and its implications for employment.
- The project on employability and the information and communication technologies (report and joint conclusions, 2001) had to face some difficulties, especially linked to the call for external experts. The social partners nevertheless consider that the results of the project represent an important contribution to the sector. They were presented during a conference and translated into all EU languages in order to ensure their broadcast among national social partners and all interested parties.
- The declaration on « *lifelong learning* » (2002) is considered by the social partners to be an important move forward of the social dialogue in the sector. It includes the recommendations intended to the national union organizations concerning lifelong learning which were largely broadcast and debated, mainly during a new conference of social dialogue. The text does not include explicit dispositions of follow-up, but, during the conference, the social partners committed to ensure a follow-up at national level. Belgium and Denmark have since indicated that the declaration was an important source of inspiration for national collective negotiation.
- The joint declaration on employment and social aspects of companies' social responsibility in the banking sector (2005) corresponds to the conclusion of a year-long joint survey on the question, which started a year earlier. Even if the realization of this survey provoked quite important tensions in the employers' group⁹⁶, the final declaration was signed by all the organizations that participate in the social dialogue. It noticeably deals with the issue of minimal social standards in the sector, training, and conciliation between professional and personal life, internal communication and equal opportunities.

⁹⁵ Communication (1997)128 final of April 16th 1997.

⁹⁶ The ESBG and EACB had indeed retired from the project during the completion of the study, underlining that even if the subject was of great importance for the sector, the definition of the concept of social responsibility of companies seemed problematic to them. Besides, both these organizations preferred to wait for the results of the works that were led at cross-industry level before starting the discussions in the frame of the SSDC.

Moreover, the enlargement and integration of the new Member States in social dialogue has been, since 1999, one of the priorities of the social partners. After a conference in Prague in 1999, they organized a series of round tables⁹⁷ allowing the exchange of information on professional relations at a national level and on European social dialogue. The outcome of these meetings seems very positive, seen through the relevance of the exchange of information they allowed as much as through the trust that was developed between the social partners. They would wish to continue the work of integration in the new Member States by the implementation of twinning between old and new Member States, in order to give a chance to the latter to observe the functioning of professional relations and collective negotiation in the old member States. Furthermore, the Western unions and employer's associations separately bring their support to the construction of systems of professional relations in the new Member States.

For over a decade, the social partners of the banking sector have tackled many subjects in the frame of their joint activities. They nonetheless agree on the idea that it is not desirable for a European collective negotiation to replace the national collective negotiation. One of the main challenges in this context is to conduct, in the frame of sectoral social dialogue, activities that are relevant for the national players of professional relations. The two parties agree on the idea that the social partners themselves are the only ones capable of evaluating the results and success of their social dialogue. But when UNI-Europa Finance considered the revision and follow-up of the agreements as part of the duties of the social partners, the BCESA was opposed to the implementation of a regular impact-evaluation of the social dialogue, as suggested by the Commission⁹⁸. Finally, one can notice the successes of social dialogue in the banking sector hide a certain amount of failures of the social partners to find a common ground enabling discussions on certain themes. Employers and unions seem to be torn between their desire to give quality work that would be useful to the national social partners and their fear to put into question the results of the national or local social dialogue.

3.5. THE SECTORS THAT DEAL WITH CHANGES IN THE CONTEXT OF GLOBALIZATION

The fourth category includes the sectors of textile-clothing, tanning, footwear, sugar, woodworking, furniture and shipbuilding, all deeply marked by the impact of globalization.

“It brings together traditional sectors of activity, all of which are experiencing outsourcing overseas and/or enhanced competition from less developed countries, and Asia in particular. [...] There is still a European level of regulation, but it is negotiated mainly within – or under pressure from – international bodies such as the World Trade Organization (WTO). What is specific about these sectors is that they are highly labour-intensive and have a strong tradition of trade unionism. These traditional industries are in fact experiencing an economic crisis of such proportions that the effects on employment can be attenuated only by introducing global measures backed by all the social partners. Under threat from the disappearance of these industries, the social dialogue is influenced by external factors (internationalization, outsourcing abroad) and internal criteria (a shared interest in managing change) which have fostered intense activity on the part of

⁹⁷ Hungary (November 2000), Czech Republic (December 2000), Poland (March 2001), Malta (October 2001), Slovakia (November 2001), Slovenia (January 2002), Cyprus (February 2003).

⁹⁸ This proposition by the Commission was considered by the BCESA as an excessively interventionist approach of social dialogue and professional relations.

the social dialogue committees, especially around codes of conduct. These texts take international conventions of the ILO (International Labour Organization) as their starting point and then attempt to graft on social rights specific to the EU. The code of conduct is a strategy aimed at reaching out to competitors located beyond Europe's borders, in companies and/or countries where the presence of trade unions is weak and even non-existent. It is also a means of gaining access to Europe's political authorities and can slow the pace of trade liberalization." (Pochet, Degryse, Dufresne, 2006).

The example of the sugar sector⁹⁹

The social dialogue committee of the sugar sector was created in the late 1990's¹⁰⁰. The employees are represented by EFFAT (European Federation of Food, Agriculture and Tourism Trade Unions)¹⁰¹, and the employers by the CEFS (Comité Européen des Fabricants de Sucre), created in 1954. On the scale of the Union, the sugar industry is very concentrated, the main producing countries being France, Germany and Poland. The competition of sugarcane, much cheaper than beet sugar, is a central question for the sector. Following a decision of the WTO, the European Commission had to drastically lower its financial aids to the producers of the sector. The stakes are to face these transformations by spreading them as long as possible in time so as to limit the economic and social consequences. The social dialogue allows to have a direct access to the deciders of the DG Trade and to adopt common positions destined to the European institutions.

The committee adopted an important amount of texts, half of which are common positions. These texts defend the issuing of rules helping to individually determine the entry conditions of sugar on the Community market according to the country of origin. On this theme, the activities of the social dialogue committee no longer limit themselves to the adoption of common positions. In June 2005, the social partners organized a conference on the regulation of the sugar sector to which beet-producers and key players of the European Commission participated. Health and safety training tools have been elaborated and largely used at national level. Moreover, the social partners adopted in 2003 a code of conduct on Corporate Social Responsibility with an especially strict follow-up procedure. The annual follow-up report includes a summary of the year's happenings and the opinions of social partners, the follow-up actions themselves and new examples of good practices. The annual report's other originality is to cover a great number of themes¹⁰² and to include subcontractors. It is quite difficult to evaluate the effects of a code of conduct such as this one, yet, it seems that it was largely broadcast and that its follow-up reports were done

⁹⁹ The information and analyses presented in this section are from Pochet P. (2006b), "*Textile and Sugar, European Social Dialogue under Pressure from International Rules*" in (Dufresne, Degryse, Pochet 2006).

¹⁰⁰ The webpage (http://ec.europa.eu/employment_social/social_dialogue/sectorial29_fr.htm) devoted to this sector on the European Commission's website specifies that if an informal social dialogue has existed since 1969, the "sugar sectoral social dialogue committee was created in 1999 when it adopted its rules of procedure". P. Pochet, he considers that the social dialogue committee was created in 1997.

¹⁰¹ The EFFAT, European Federation of Food, Agriculture and Tourism Trade Unions, was born from the merger between the two European trade union federations, SETA-UITA and EFA, on December 11th 2000. As the European federation, representing 120 national trade union organizations in 35 European countries, the EFFAT defends the interests of over 2.6 million members in front of the European institutions, the European industrial federation and enterprise management (Source : www.effat.org).

¹⁰² Human rights, learning, vocational and lifelong training, health and safety, relations between social partners, payment and working conditions, restructurings.

regularly up to now. The importance of this code of conduct is that it seems to have created a platform for both parties to continue their exchanges and to resolve individually the problems encountered in certain companies. It underlines the good practices that could appear to come for granted in Western countries, but that constitute a social progress for the countries in Central and Oriental Europe.

If we consider the impact of the European social dialogue on the sectoral economic policy, the social partners led a triple strategy. They sought to find allies among beet producers, certain Member States and the European Parliament in order to limit the scope of the reform all the while looking to gain privileged access to information on the available Community financing sources and to obtain a status and a particularly attentive follow-up from the Commission. These three objectives were reached. In the end, the social dialogue played a part to facilitate the reform of the sector. But the greatest difficulties will surely arise in the future, when the companies will have to close and dismiss their employees.

3.6. THE SECTORS THAT CREATE THEIR OWN EUROPEAN DIMENSION

The fifth category includes the service sectors: private security, cleaning industry, personal services, live performance, temporary agency work, audiovisual and Horeca (hotels, restaurants, cafés).

“[These sectors are] relatively immune to international competitions and relatively unaffected by Community policies. Unlike the other categories, there are no obvious European issues which would ‘naturally’ favour the construction of a European dimension.

The features specific to these sectors often include difficult working conditions, non-standard forms of employment (part-time or temporary) and irregular working hours (nights, week-ends), which frequently raises questions about a sector’s image. Although most of these sectors are seeing a growth in employment (above all private security, temporary work and cleaning), trade union organizations membership is low, especially among peripheral workforce.

There are no overall, indisputable European issues which could account for social dialogue in these sectors but rather partial, indirect and diffuse issues. Thus certain directives (e.g. on VAT rates in highly labour-intensive services) may indirectly have a substantial impact on industrial relations. In certain sectors, such as live performance, the social partners draw attention to what sets them apart: the directives on non-discrimination between men and women in respect of access to employment, for example, have little relevance to an opera...

The comparatively marginal impact of the European Union, and the fact that these sectors remain largely national and national enterprises are not in direct competition with one another, explain why the European social dimension has to be not so much endured than constructed. [...] And this need to construct something renders this category more susceptible than others to the players’ strategies and their interpersonal relations. The employers frequently find an element of European interest (e.g. joint training for hairdressers or theatre technicians) and invite the trade unions to share it. The same applies to ‘best

value' in the private security and cleaning industry sectors, and to VAT for Horeca. This may likewise involve codes of conduct (private security and personal services). Training is an important topic in all instances, most notably with a view to improving the image, professionalism and attractiveness of these sectors." (Pochet, Degryse, Dufresne, 2006).

The example of private security¹⁰³

The origins of social dialogue in the sector of private security go back to the creation of an informal working party in 1992. Created in 1999, the SSDC includes the CoESS (Confederation of European Security Services) and UNI-Europa¹⁰⁴.

Since the beginning of their dialogue, the social partners adopted 17 joint texts¹⁰⁵. But there is no collective negotiation. The social partners constantly reaffirm that, through their declarations and joint works, their desire is to increase professionalism in the sector through training, modernizing the work and developing a form of "fair competition". CoESS and UNI-Europa wished to erase the bad image of the sector by improving the working conditions and the health and safety standards at work. They also aim for a better harmonization of the legislations of the different Member States. The code of conduct and ethic of 2003 includes recommendations that seek to ensure a high level of professional ethic of the players of the sector.

The implementation of these declarations made way for a production of manuals and brochures, the organization of national round tables, conferences on specific topics (cash-in-transit, enlargement...), the realization of studies (organization of work...) or even the development of a European training tool-box (2006).

Adding to that, the social dialogue committee had organized a conference for the Central and Eastern European countries in April 2005 in Warsaw. On many occasions, it has

¹⁰³ The information and analyses of this section come from Sabrina de Marchi's article "European social dialogue in the private security service sector" in ETUI-REHS (2005), "Sectoral social dialogue", *Transfer*, Special issue on Sectoral Social Dialogue, Vol.11, n°3, Autumn 2005, and from the text database of social dialogue put online by the European Commission at the following address:

http://ec.europa.eu/employment_social/dsw/dspMain.do?lang=fr.

¹⁰⁴ Created in 1989 on the joint initiative of national company organizations of private security, CoESS is the main employer organization of the sector. In UNI-Europa, the social dialogue is managed by the section on property services. UNI-Europa includes 30 trade unions, thus counting around 200 000 members in the private security sector, making it the main union in the sector.

¹⁰⁵ Vocational training (1996); Licensing (1996); Agreement for the creation of a Sectoral Dialogue Committee (1998); Memorandum on the awarding of contracts made with private security companies in the public sector (1999); Mutual recognition of UNI-Europa and CoESS within the framework of Social Dialogue (1999); Enlargement of the European Union to include countries from Central and Eastern Europe (1999); Modernisation of labour organisation (2000); European harmonisation of the legislations governing the private security sector (2001); Code of conduct and ethics for the private security sector (2003); Preventing occupational hazards in the private security sector (2004); Joint declaration: Towards a European Model of Private Security (2004); UNI-Europa and CoESS joint position against undeclared work in the private security sector (2005); Appeal of social partners in the security sector of the Baltic States to the National Administrations of Estonia, Latvia and Lithuania responsible for private security issues (2006); UNI-Europa and CoESS joint position against undeclared work in the private security sector (2006); Overview of the legislation governing Cash in Transit in the 25 Member States (2006); Development of a European Educational Toolkit for three Private Security Activities / Profiles: 1. Mobile Patrolling, 2. Alarm Response Centres, 3. Airport Security (2006); Rules of procedure of the Social Dialogue committee Private Security (2006).

proven its utility by supporting the cross-border cooperation between unions, through a conference including Nordic and Baltic trade unions in 2002, through a project of negotiation of the first sectoral collective agreement in Lithuania, or through the writing of a joint text by the trade unions of the Baltic countries.

As was needed, the social dialogue committee set up working parties. Thus, the one on the cross-border aspects of the transport of valuables led to a *“frame analysis for the comparative study of legislation on cash-in-transit transport in the 25 member states of the European Union”* (2006), linked to the European Commission’s desire to legislate on this issue.

3.7. THE SECTORS THAT STRIVE TO DEVELOP AN AUTONOMOUS SOCIAL DIALOGUE, INDEPENDENT FROM THE CROSS-INDUSTRY SOCIAL DIALOGUE

The sectors of commerce and local and regional government form a separate category according to the OSE team, since the drive of their actions are specific. *“They seek to proclaim their uniqueness at all levels. In order to do so, the players have developed an all-round strategy ranging from lobbying to conducting internal social dialogue”* (Pochet, Degryse, Dufresne, 2006).

For the commerce sector, it is not about *“resisting”* international competition, but about benefiting from it so as to comfort their margins. The social dialogue is fed by the common defence of major companies and unions against the *“hard discounters”* (Wal-mart, Lidl). Besides, the social partners have the feeling that the specific interests of the sector are not sufficiently taken into account by Community authorities, who appear more sensitive to the arguments of industrial companies. Finally, there exist some tensions between the representatives of the sector and European cross-industry organizations, which partially leads to a dynamic of competition. The recommendation on telework, signed by the sector of commerce prior to the cross-industry agreement on telework, is an example of this rivalry phenomenon. The strategy developed by the union consists in making fundamental rights the base of dialogue, starting with multiple sub-themes (non-racial discrimination, fight against racism and xenophobia, violence at work, mixing of generations) (Pochet, Degryse, Dufresne, 2006 et Pochet et Degryse, 2006).

Saving the public services constitutes an important stake for the local and regional governments. This can be seen through the joint declaration of 2003 on the role of local and regional public services, and through the White book on services of general interest, as well as the common position on the protection of employment in the public sector, the quality of employment and the social dialogue (Pochet, Degryse, Dufresne, 2006). In 2006 and 2007, the social partners organized their actions around four main themes: the reinforcement of social dialogue in the new Member States and candidates, the support of a process of reform of local and regional governments, the promoting of diversity and equality and the evaluation of the acquired experience in the different forms of service provision¹⁰⁶.

¹⁰⁶ Source : http://ec.europa.eu/employment_social/social_dialogue/sectorial18_fr.htm

CONCLUSION

The goal of this work document is to propose a first synthesis of the history and activities of the SSDCs. This introductory panorama will be largely completed by the employer and employee representatives, the institutional players and experts during the conference, which will enable to better understand the different paths explored by the SSDC for the past decade and the results they have managed to attain.

It nevertheless seems already possible to underline that the sectoral social dialogue committees have played an increasing role in the progressive constitution of a European system of professional relations for the last ten years. As stated by A. Mias *“the europeanization of industrial relations, [although it is related to it], largely overflows the European arena of European social dialogue [...]. [It cannot be] assimilated to the development of a European level of industrial relations, clearly separated from the others and, in a way, autonomous from them ; it is a global movement that reconfigures, or even simply configures branches and companies [...] in a constantly increasing number of sectors. [...] In that perspective, europeanization appears to be the entire process of (a) construction, (b) dissemination and (c) institutionnalization of the rules, procedures, political paradigms, styles, ‘working habits’ and shared beliefs and norms, formal and informal, which are first defined and strengthened in the building of Community decisions, and after integrated in the logic of speeches, identities, political structures and national public policies¹⁰⁷”*. If the negotiations leading to the signing of binding texts are still few today, it is nevertheless important not to under-evaluate the importance of the other activities achieved in the SSDC. In addition to the links that these committees enabled to create among the players of industrial relations at the scale of the Union, it is possible to mention the importance of the work of information they carry out. The voluntary agreements and recommendations signed by the social partners also take part in the construction of a European system of industrial relations.

Still, the SSDC must now face many challenges if they wish to play a leading role in this European system of industrial relations under construction (Dufresne, Degryse, Pochet, 2006).

The enlargement of the EU is the first structural challenge they have to face. The entrance in the European Union of countries from Central and Eastern Europe, whose systems of industrial relations remain frail, places the social partners at a European level in a new situation. It requires them to go through an adaptation and learning process that will take time. The SSDC have taken many initiatives to deal with this problem which have, in certain cases, made the European social dialogue a reference point for the construction of a sectoral social dialogue in those countries. It goes without saying that the difficulties encountered in the new member states do not help the search for compromise among the different partners, both employers and unions, and can also make the implementation of voluntary agreements and recommendations more difficult through national organizations.

The question of the follow-up and implementation raises other questions on procedure, such as the method of approval of texts in the SSDC (many sectors work based on the principle of unanimous vote, which gives to those who do not want to adopt texts the power to block them) or that of the clarification of the status of the texts adopted by the SSDC.

¹⁰⁷ (Radaelli, 2000 : 3) quoted by (Mias, 2008)

Moreover, we can also interrogate ourselves on the future of the inter-sectoral (or multi-sectoral) negotiation activities, the first example of it being the signing of the “Crystalline Silica” agreement.

The definition of the connection between the European sectoral social dialogue, the other levels of European social dialogue (cross-industry social dialogue and European work councils) and the national industrial relations is a crucial point for years to come. Concerning its connection with the European cross-industry social dialogue, there are “*interactive dynamics that go both ways, from the cross-industry to the sectoral and from the sectoral to the cross-industry*”¹⁰⁸ (OSE 2004). But the connection is not systematic; the reflexion and the initiatives on this matter could be developed (Dufresne, Degryse, Pochet, 2006). This question is also very important regarding the European work councils¹⁰⁹. Finally, the connection between the activities of the SSDC and the national industrial relations is decisive for the future of the professional relations system in Europe. Even if one should avoid any oversimplification, it seems that the employer representatives rarely adopt a proactive attitude in the frame of the European sectoral social dialogue, and are reluctant to any activity that might lead to the development of legally binding dispositions at the Community level. As for the unions, in certain cases, there are important differences in the points of view of supporters of the development of the European trade union federations’ prerogatives and those who consider that the national level is the most relevant field for the defence of workers’ interests. The topic here is to define the competence field for the different levels of the industrial relations system under construction in Europe.

¹⁰⁸ For example, in the case of the negotiation on telework already mentioned, the signature of texts in the sectors of telecommunication (February 2001) and commerce (May 2002) preceding the cross-industry agreement signed in 2002. The framework of actions for the lifelong development of competencies and qualifications signed by the cross-industry social partners in 2002 has encouraged the creations of activities on the same topic in different SSDCs (banking, insurance, private security and sugar) (OSE, 2004)

¹⁰⁹ See Europe et Société, “Transnational collective bargaining : the current situation, the problems, the perspectives ?”, *Les Cahiers de la Fondation*, n°69-70, octobre 2007 - septembre 2008.

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