The European sectoral social dialogue: an uneven record of achievement?

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Introduction[1]

After the announcement by Mr Juncker's new European Commission of its intention to 'revive' the European social dialogue in the spring of 2015, now would seem to be the right moment to attempt a detailed analysis of the development of the European sectoral social dialogue (SSD) over an extended period of time. The cross-sectoral dialogue has already been the subject of more than one assessment, in particular on the occasion of its twentieth anniversary (Clauwaert 2010; Degryse 2011; Voss 2011). The use by the new Commission of the term 'revival' is hardly innocuous insofar as it reflects the state of neglect that afflicted the social dialogue during the Barroso I and II Commissions (2004-2014). It is in this context of neglect, what is more, that the sectoral social dialogue has been presented as the new driving force of the European social dialogue, as being more dynamic, diversified, and subject to rapid development since the 1990s (Kollewe *et al.* 2003). This is one important point, among several others, that we set out to verify in this working paper.

We will begin by presenting the development of the sectoral social dialogue over the period 1978-2013 in terms of the number of 'joint texts' adopted by the social partners in different sectors and of the number of sectors in which social dialogue has taken place. The analysis is based on data collected by the European Trade Union Institute (ETUI) whose data base is in some ways similar to that of the European Commission[2] while differing from it in terms of a slightly different mode of classification of topics and types of text and also in that it does not include the follow-up reports and studies commissioned by the social partners (which we do not regard, strictly speaking, as joint texts from the standpoint of the social dialogue[3]). In spite of the greater selectiveness of the ETUI data base, it is slightly more complete than that of the Commission (734 texts over the 1978-2013 period, not counting studies and reports, as against 717 texts for the same period in the Commission data base, including studies and reports). However this may be, a quantitative analysis over such a long period definitely allows some significant developments to be perceived, even if some important distinctions undoubtedly have to be made between aggregated and sectorally differentiated developments.

1. The author would like to thank Émanuelle Perin, Stefan Clauwaert, and Philippe Pochet for their helpful comments.
2. http://ec.europa.eu/social/main.jsp?catId=521&langId=en
3. Even though they are sometimes the outcome of tense or protracted negotiations.

In its second chapter, this working paper will focus more specifically on one particular type of text, namely, the framework agreements, analysis of which – the smallest constituent part of the SSD production – we find extremely useful in that these are the only joint texts endowed with binding force of law and that they thus offer the reflection of a social dialogue regarded as a forum for reciprocal undertakings between social partners and that could evolve as an arena for a European industrial relations system. This approach also provides us with the opportunity for a more qualitative analysis of the sectoral social dialogue.

The emphasis in the third chapter is on the number of joint texts issued per sector. We shall see that, just as one would expect, some sectors are more active than others; but we shall see also that the fact that a sector may be classified as 'active' does not mean that its activity is necessarily constant or growing. Activity is linked above all to context or to specific circumstances that prompt the social partners in a given sector to use the sectoral social dialogue in the effort to solve a problem or remove a difficulty; and this consideration lends a partial corrective to the assertion that the social sectoral dialogue is becoming 'increasingly active'.

The fourth chapter of our analysis looks at the newly organised sectors. Between 2007 and 2013 the social partners in a total of nine sectors set up new European sectoral social dialogue committees (SSDC) and these sectors, with their nascent developments, are presented in this chapter.

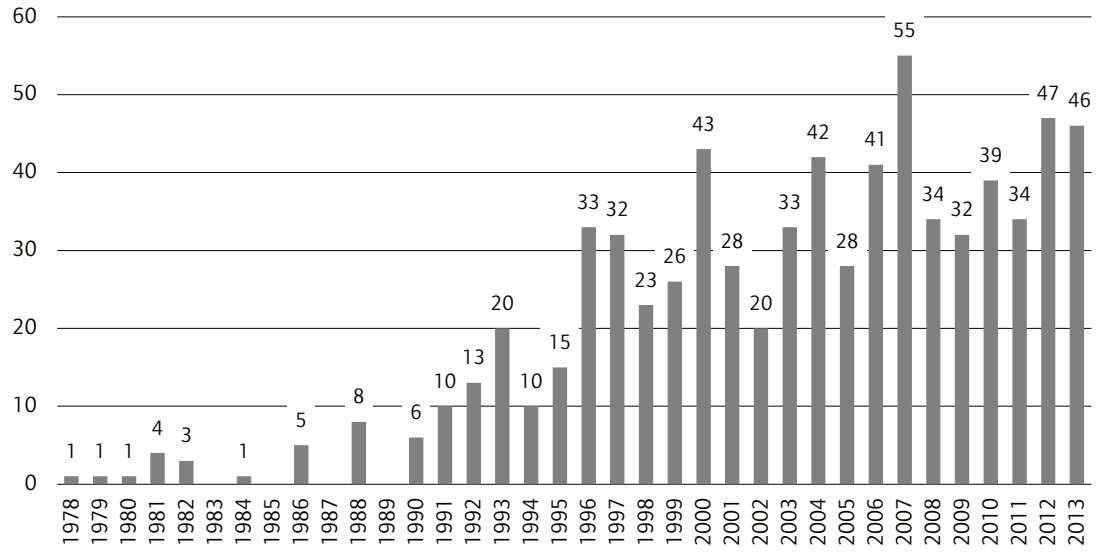
Finally, we set out to consider whether the crisis (i.e. the financial + economic + social + euro crisis) has had any particular impact on development of the SSD. It is difficult to answer this question by simply analysing the SSD production, particularly insofar as the developments in question are still so close to us in time. Even so, an astonishing development seems to have been in motion since 2010: after a slight drop in the activity of SSD in 2008 and 2009, some increase is perceptible in terms of quantity, albeit accompanied by a rather noticeable drop in the numbers of texts that are binding on the signatories with a corresponding increase in joint lobbying texts. This is a development that will call for evaluation in the years to come in order to assess whether it represents a mere coincidence or a true change of direction.

1. Overall quantitative analysis (1978-2013)

Embarking on this analysis, we consider the total number of joint texts adopted by the European sectoral social partners over 35 years according to the content of the ETUI data base. The texts in question are variously joint positions, framework agreements, recommendations, declarations, tools, and rules of procedure (see definitions below); the grand total is 734 texts adopted between 1978 and 2013. This first chapter represents the continuation of our earlier quantitative analyses as regards both the type of texts adopted and the topics dealt with in the context of the sectoral social dialogue. As no major structural changes are to be observed, we will not linger over this aspect, seeking to identify only the most recent trends or those which appear to be new. The only really significant observation relates to the number of framework agreements negotiated in the SSD. This will form the subject of Chapter 2.

As shown in Figure 1, the total number of joint texts adopted in the framework of the SSD has been steadily increasing since the 1990s, albeit with a few ups and downs. It is to be observed also that the year 2007, i.e. the year preceding the outbreak of the financial crisis, represents the culmination of this trend; in that year no less than 55 texts were signed.

Figure 1 **Progression in the number of SSD texts adopted (1978-2013) (total: 734)**



Source: ETUI database: European sectoral social dialogue

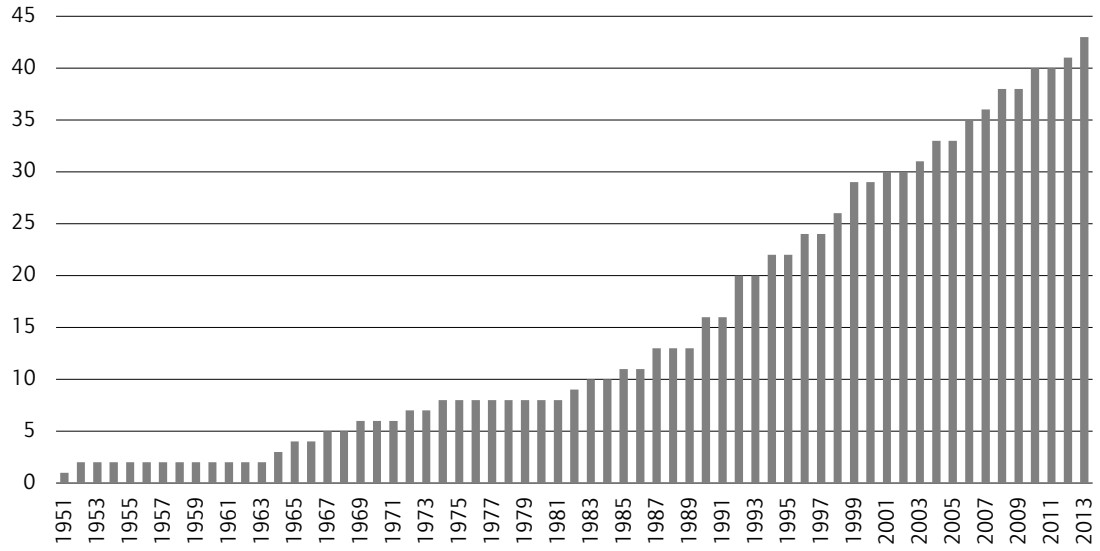
The data provided here are gross data in that they do not take account of developments in the *number* of sectors that have set up an organised European-level sectoral social dialogue. By way of reminder, it may be pointed out that these developments have seen three main phases which can be summarised as follows (for more details see Dufresne *et al.* 2006).

- The creation of 'joint committees', for the most part in the 1950s and 1960s, in the industries directly affected by the sectoral impacts of the nascent European Community[4], i.e.principally the steel industry, mining, agriculture, road transport, inland waterways and railways.
- In addition to these joint committees, some new structures were set up, above all in the 1980s and 1990s, known as 'informal working groups'. For the most part these were to be found in sectors seeking to become organised either in the run-up to completion of the internal market and the concomitant liberalisation/privatisation policies (air transport, telecommunications, banks and insurance companies, construction, electricity, commerce) or in the context of liberalisation of international trade and increasing competition on product markets (textiles, clothing, footwear, leather, etc.) and service markets (industrial cleaning, private security, catering, etc.).
- The third phase in the organisation of the sectoral social dialogue was launched by the European Commission in 1998 in an effort to rationalise the venues for this dialogue and to increase the number of sectors organised via the creation of sectoral social dialogue committees (SSDC). Between 1999 and 2010 all the former 'joint committees' and 'informal working groups' turned into SSDC and, in their wake, fourteen new sectors appeared : live performance arts, chemicals, hospitals, furniture, audiovisual, education, temporary work agencies, gas, shipbuilding, agro-food, professional football, graphical industry, paper industry, and ports.

Bringing together these three phases of SSD organisation, we gain an overview of the progression of the number of 'organised' sectors (bearing in mind that until 1998 this organisation took different forms). Thus, as can be seen in Figure 2, in 2013 some 43 European sectors were organised in SSDC.

4. A second generation of joint committees came into existence during the years 1980-1990.

Figure 2 **Progression in the number of organised sectors (Joint committee, informal working group, SSDC)**



Source: own calculations based on European Commission 2014 (see annex 1)

1.1. By type of text

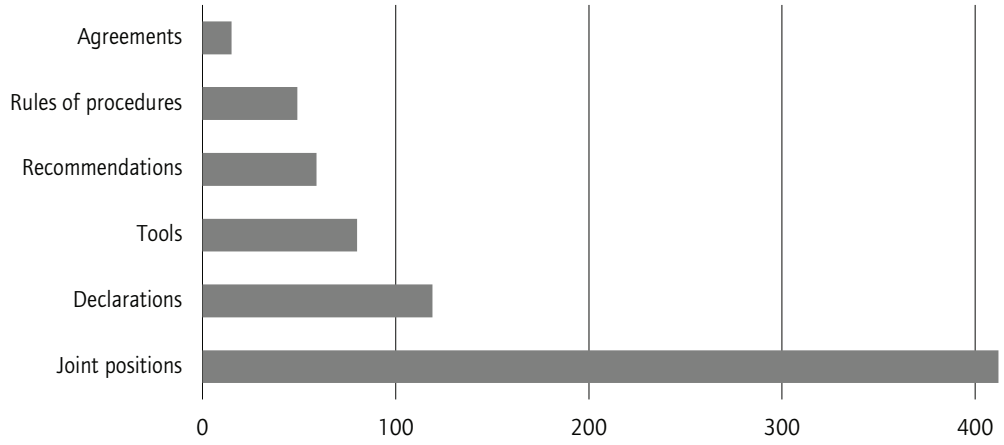
We have classified all the negotiated joint texts adopted in these different sectors in six categories as follows:

- 'Joint positions': texts jointly addressed by the social partners to the EU or the member states with a view to influencing general policy direction or the outcome of a specific piece of draft legislation. The joint positions represent a majority of all texts adopted (more than 56%) and cover topics such as the modernisation of labour law, occupational health and safety, etc.;
- 'Declarations': texts that circulate among the social partners themselves but without either binding nature or provision for monitoring their implementation (something along the lines, in other words, of 'declarations of intent'). These declarations come in second place, quantitatively speaking, and account for 16% of the texts adopted. Examples of subjects would be training developments in the sector in question, strengthening social dialogue, reducing occupational accidents, etc.;
- 'Tools': documents whose purpose is to help the social partners to achieve or implement specific goals. These come in third position, accounting for almost 11% of texts. Subjects covered include best practice in matters of equality, accident prevention, etc.;
- 'Recommendations': joint documents in which the European social partners undertake to achieve specific goals at European or national level but without giving any binding legal nature to their commitment. Unlike 'declarations', however, these texts do include a procedure for

monitoring their implementation. Such recommendations represent 8% of texts during this period and cover matters such as codes of behaviour (for example on forced labour or child labour in the textile sector), corporate social responsibility, equal opportunities, diversity, etc.;

– 'Agreements': joint texts negotiated between the social partners and converted, in the strict sense of Article 155 of the Treaty on the Functioning of the European Union (TFEU), into directives or implemented in accordance with specific national social partner or member state practices. Such texts are thus legally binding; they account for 2% of texts adopted, examples being the following: the European agreement on certain aspects of working time arrangements in the internal waterways sector signed in 2012; the framework agreement on prevention of injury by sharp objects in the hospitals and health sector signed in 2009, etc. (see Chapter 2);
– 'Rules of procedure': texts defining the rules governing social dialogue in the sector in question. These account for 7% of texts adopted.

Figure 3 **Total number of joint texts 1978-2013, by type (total: 734)**



Source: ETUI database: European sectoral social dialogue

From a methodological standpoint it should be pointed out that this classification system was devised in the context of research conducted at the Observatoire social européen[5] and the ETUI[6]. In this context each joint text that is the outcome of negotiation between the European sectoral social partners is classified by three senior researchers at the ETUI[7] before being incorporated into this Institute's internal data base. As mentioned above, it should be remembered that this classification system differs in some respects from that of the European Commission[8], but that this difference does not radically affect the analysis in any way.

5. http://www.ose.be
6. http://www.etui.org
7. Stefan Clauwaert, Christophe Degryse and Philippe Pochet.
8. http://ec.europa.eu/social/main.jsp?catId=480&langId=en

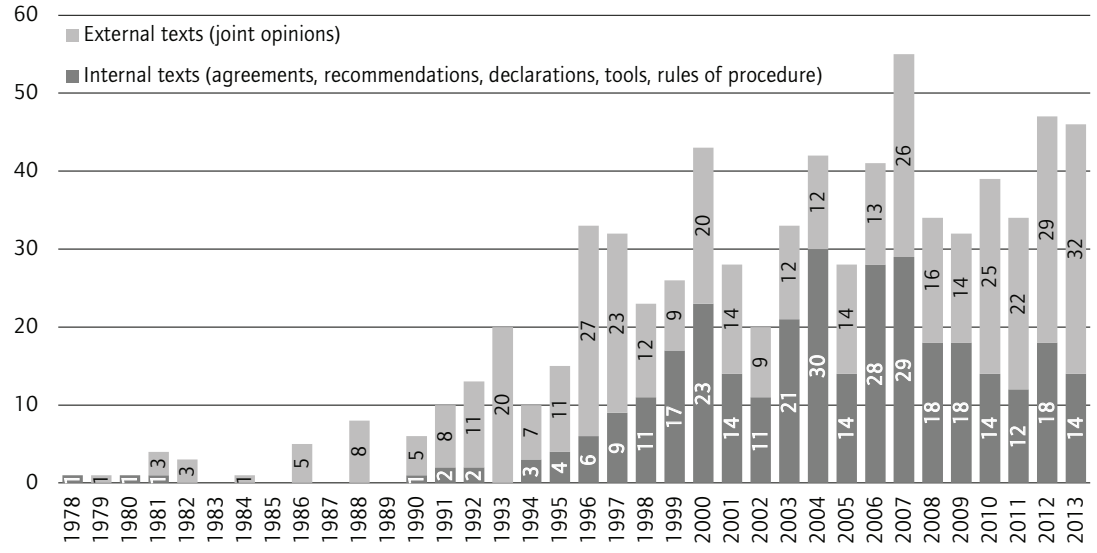
Do we observe any particular trend or development in the types of text adopted? If so does this reflect a change in the purpose of the sectoral social dialogue? It is almost certainly impossible to answer this question with any precision. But below we propose a particular trend that we regard as important, relating, as it does, to a development in the balance between those texts that we will call 'external' and those that we will call 'internal'.

In order to throw light on this development, we should first look back at our classification of texts by type which we will then divide into two major categories:

- 'external' texts, that is those addressed not to the social partners but to the European institutions and/or the member states. These are the joint positions and they reflect principally a social dialogue regarded as an instrument for defending the interests of the sector vis-à-vis the EU institutions. For this reason we attribute to these texts the function of joint lobbying;
- 'internal' texts are those prepared by the social partners prepare for themselves, whether with a view to organising their social dialogue, to committing themselves in more or less binding fashion to achieve certain specific goals, to providing themselves with the requisite tools of implementation. These 'internal' texts are therefore the rules of procedure, agreements, recommendations, declarations and tools, and they reflect a social dialogue tending in the direction of formation of a European collective bargaining system.

The Figure below shows a year-by-year breakdown of all joint texts into internal and external texts.

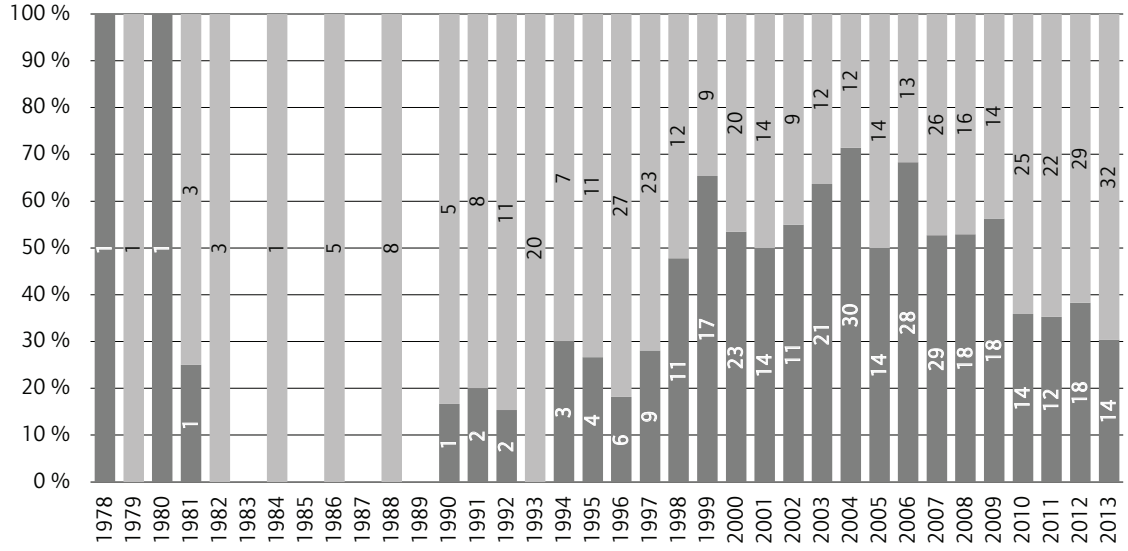
Figure 4 **Development in numbers of internal and external texts (1978-2013)**



Source: ETUI database: European sectoral social dialogue

This Figure shows that the number of external texts is greater over the major part of the period examined, the exception being the years from 1999 to 2009. This sub-period is characterised, indeed, by a proportion of internal texts equal to or higher than 50% as is shown more clearly by Figure 5 below which presents the information in percentages.

Figure 5 **Development of numbers of internal and external texts in percentage (1978-2013)**



Source: ETUI database: European sectoral social dialogue

With the exception of the years 1978 and 1980 (non-representative because one text only was adopted), two significant pieces of information emerge from this Figure: the number of internal texts is constantly above 50% during the 1999-2009 eleven-year period; this proportion of internal texts falls quite steeply – below the 40% threshold – over the last four years considered (2010-2013)(see Chapter 5).

1.2. By subject field and by type

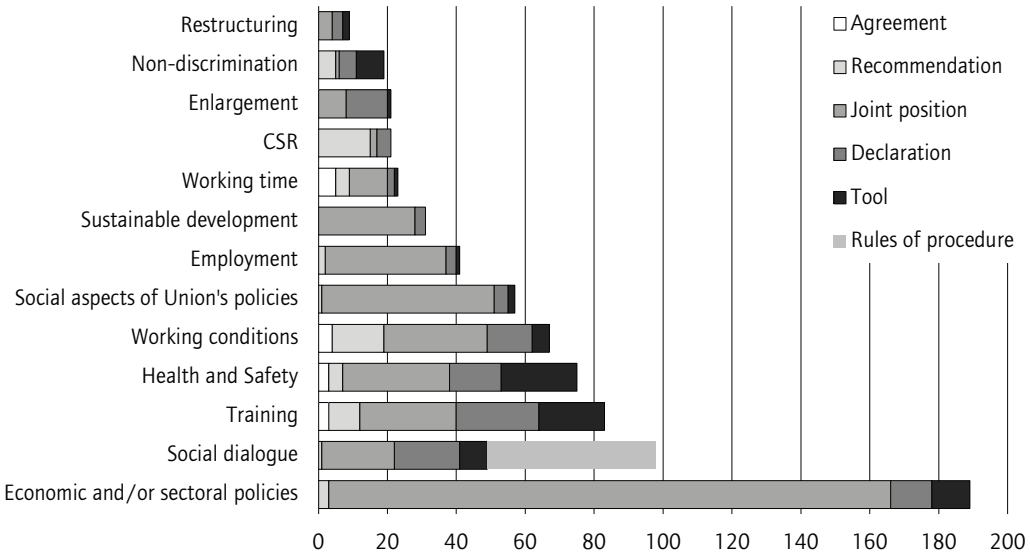
Examination of numbers of texts broken down by subject area gives an idea of the main topics covered by the sectoral social dialogue all sectors combined. In other chapters of this document, we analyse in more detail the content of some of these texts. In this section we combine a quantitative analysis of subject fields with the type of text used to cover the field in question.

Over the period under examination taken as a whole, the subject most commonly found in the SSD is EU economic and sectoral policies. This topic is tackled, by and large, via the adoption of joint positions addressed to the European authorities. In the vast majority of cases it is a matter of joint lobbying by the sectoral social partners. However, the texts may also be declarations, tools, or (in a small minority of cases) recommendations, in

which case it is a question not of lobbying the European institutions but of establishing reciprocal undertakings between the two sides of industry.

The second most frequently recurring topic is the social dialogue itself. This topic is dealt with in the majority of cases via the adoption of 'internal' texts addressed by the social partners to one another and which deal with the future, the challenges and the stakes, as well as with the actual organisation of the sectoral social dialogue.

Figure 6 **What fields are covered by what type of SSD text (1978-2013)?**



Source: ETUI database: European sectoral social dialogue

The subject that comes in third place is training, followed by occupational health and safety. The order of frequency of topics can vary, however, depending on the period under examination. For example, questions concerning EC accession were, as would be expected, more common during the 1999-2007 period (Eurofound 2009). Since 2008 there has been no SSD text covering this topic so that gradually it has become one of the least frequently dealt with subjects in the social dialogue.

Another topic that appears to be non-priority is anti-discrimination issues. Although this topic has been present – albeit never close to the top of the list – since the end of the 1990s, there has been no development in frequency either upward or downward. Another rarely present topic – possibly even more surprisingly – is restructuring, though it is worth pointing out that restructuring questions may in future rise higher up the list because this is a topic that was absent from the sectoral social dialogue until the mid-2000s and became more frequent after 2008 in the context of the most severe economic crisis that Europe has experienced in the post-war period.

We see a significant rise also in sustainable development issues, above all, once again, since the mid-2000s. This topic is dealt with above all in the mining, chemicals and electricity sectors in the context of European climate targets (reduction of CO_2 emissions, energy efficiency, development of renewable forms of energy).

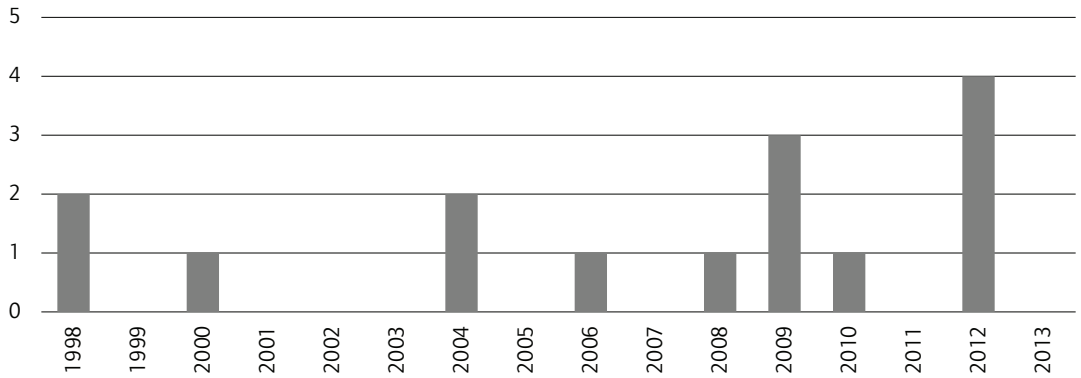
The topic of working conditions is another increasingly present subject in the SSD, especially since 2008, and it is dealt with as much in joint positions as in reciprocal undertakings. This topic covers, in particular, matters such as telework, temporary work, working conditions in certain specific sectors (above all construction and transport) as well as the stress–violence–workplace harassment triptych, undeclared work, bogus self-employment, trends in labour law (especially the question of flexicurity), etc.

This overview of trends in the topics covered by the SSD shows that, even in the absence of rapid or sudden changes in the priorities of the European sectoral social dialogue, changes are to be observed over the long term and these reflect the gradual emergence of new challenges or new concerns. As mentioned at the beginning of this chapter, however, one particular trend appears significant over the last few years, namely the increase in the number of legally binding framework agreements negotiated in the SSD framework. This is the specific trend that will be examined in the following section.

2. General trends in framework agreements

In order to throw light on this development, it is necessary to examine more closely the numbers of texts in the 'framework agreement' category. The most striking observation is that out of the total of 15 such agreements concluded in the current history of the European sectoral social dialogue, no less than eight were signed during the 2009-2013 period, in other words in the context of economic crisis. This period was thus characterised by a greater intensity of legally binding texts than any other in the history of the SSD. Yet it would be inadvisable to draw any hasty conclusions from this observation, as we shall see below.

Figure 7 **Total number of framework agreements signed annually by the European sectoral social partners**



Source: ETUI database: European sectoral social dialogue

The fifteen joint agreements signed to date relate to just four fields: working time (5), working conditions (4), health and safety (3) and training (3).

They involve 12 sectors (out of 43): railways (4), maritime transport (2), private services (2), civil aviation (1), hospitals (1), private security (1), inland navigation (1), professional football (1) and sea fisheries (1), as well as one 'multisectoral' agreement, signed, that is, by social partners in three sectors: chemicals, metalworking and mines (1). If we take this last case as counting not just as one but as three agreements, we reach a total of 17 legally binding agreements signed to date in the framework of the sectoral social dialogue.

One of the first points to be noted is that the different transport sectors represent the majority in this classification: railways, maritime transport, civil aviation, internal navigation have, taken together, signed no less than eight

framework agreements, i.e. more than half of the total. This can be explained in two ways: these sectors were excluded from the general directive on working time[9] (because their specific features failed to accord with the general provisions of this directive) and they were thus in the position of taking it upon themselves to negotiate their own specific working time provisions. The second reason relates to the fact that employees in the transport sector are, by definition, workers concerned by mobility and whose work frequently involves crossing borders, leading to the need to reach agreement on European principles concerning, for example, training and professional licences.

Table 1 **List of the fifteen framework agreements signed by the European sectoral social partners**

Date	Sector	Title	Subject field
30/09/1998	Railways	Agreement on some aspects of the organisation of working time in the rail transport sector	Working time
30/09/1998	Maritime transport	European agreement on the organisation of working time of seafarers	Working time
22/03/2000	Civil aviation	European agreement on the organisation of working time of mobile staff in civil aviation	Working time
27/01/2004	Railways	Agreement on certain aspects of the working conditions of mobile railway workers assigned to interoperable cross-border services concluded by the European transport workers' federation (ETF) and the Community of European Railways (CER)	Working time
27/01/2004	Railways	Agreement concluded by the European Transport Workers' Federation (ETF) and the Community of European Railways (CER) ont the European licence for Drivers carrying out a Cross-Border Interoperability Service	Working conditions
25/04/2006	Chemical, Metal, Mines	Agreement on Workers Health Protection through the Good Handling and Use of Crystalline Silica and Products containing it	Health and Safety
19/05/2008	Maritime transport	Agreement concluded by ECSA and ETF on the maritime labour convention, 2006	Working conditions
10/06/2009	Railways	Joint Declaration on the application of the CER -ETF Agreement on a European Locomotive Driver's License	Training
18/06/2009	Personal services	European Agreement on the Implementation of the European Hairdressing Certificates	Training
17/07/2009	Hospitals	Framework Agreement on Prevention from Sharp Injuries in the Hospital and Healthcare Sector	Health and Safety
24/11/2010	Private security	European Autonomous Agreement on the Content of Initial Training for CIT Staff carrying out Professional Cross-Border Transportation of Euro Cash by Road between Euro-Area Member States	Training
15/02/2012	Inland waterways	European agreement concerning certain aspects of the organisation of working time in inland waterway transport	Working time
19/04/2012	Professional Football	Agreement regarding the minimum requirements for standard player contracts in the professional football sector in the European Union and in the rest of the UEFA territory	Working conditions
26/04/2012	Personal services	European framework agreement on the protection of occupational health and safety in the hairdressing sector	Health and Safety
21/05/2012	Sea fisheries	Agreement between the social partners in the European Union's sea-fisheries sector concerning the implementation of the Work in Fishing Convention (2007) of the International Labour Organization	Working conditions

Source: ETUI database: European sectoral social dialogue

In the following pages we examine only the agreements from the 2009-2013 period (for earlier agreements see, inter alia, our articles published in *Transfer:* Pochet 2005; Degryse *et al.* 2011). The eight framework agreements signed

9. Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (codifying directive 93/104/EC).

since 2009 deal with training (3), working conditions (2), health and safety (2), and working time (1).

– During this period, the personal services (hairdressing) sector is the only one to have signed two framework agreements: one on the implementation of the European Hairdressing Certificates (18 June 2009) and another on the protection of occupational health and safety in the hairdressing sector (26 April 2012):
  i. November 2007 saw the signature, by the social partners in this sector (Coiffure EU and UNI Hair and Beauty), of the 'Bari Charter' which sets out follow-up commitments and clarifies the links between the European hairdressers' various initiatives (the certificate, the health and safety covenant, and the 'How to get along' guide). It paved the way towards a first joint agreement on the implementation of the European Hairdressing Certificates, concluded on 18 June 2009. The purpose of this document, classified by the European Social Observatory in the 'autonomous agreements' category, is to 'improve the overall quality and image of the hairdressing services in the EU' through the use of European certificates and joint national-level implementation of their provisions. This is a strong joint undertaking, involving both the European and the national social partners. Their undertaking relates, firstly, to the integration of specific training modules (including in particular health and safety instructions) into national hairdresser training programmes; thereafter it covers the design, the production and the issuing of European certificates to those who pass the examination and/or update their qualifications. The follow-up arrangements are binding on the social partners: they are duty-bound to implement this certification system, and the national social partners are obliged to report regularly on the state of play.
  ii. The second framework agreement in this sector deals with health and safety protection in the workplace and was adopted in 2012. What prompted the European social partners to reach this agreement was their frustration with the revision process of the cosmetics directive[10] on which the Commission had recently embarked. The purpose of this directive is that all products placed on the European market should be safe and should respect the same set of regulations in all member states. Its pillars are consumer safety, harmonisation of regulations, consumer information and experimentation using animals. Yet protection of the health of workers in the sectors most concerned by the use of cosmetic products – first and foremost beauticians and hairdressers – is not explicitly mentioned in the directive. On 5 February 2008 the Commission published a draft regulation replacing the 1976 directive but without tightening up the issues

10. Directive 76/768/EEC.

concerning occupational health and safety in spite of a specific demand along these lines from the social partners. This refusal gave rise to the determination on the part of the social partners to take up this question themselves via the sectoral social dialogue. It is thus that their framework agreement negotiated in 2009 and adopted in 2013 contains a set of targets concerning protection of health and safety in the workplace, the working environment, safety standards, staff training measures and harmonisation of working conditions within the EU. This text supplies a series of recommendations with regard to, in particular, handling of products, protection of the skin and respiratory tracts, but also musculoskeletal disorders, the working environment and work organisation, maternity protection and mental strain. It is indeed a framework agreement in the sense of the TFEU, and the social partners invited the Commission to submit this text for decision by the Council with a view to making it compulsory in the member states. However the Commission refused, for the first time in the history of the European social dialogue, to convert this text into a directive. Indeed, ten member states quite vehemently manifested their opposition to this European legislation on hairdressing which would have been, in their view, excessively pernickety – there was a reference, in this context, to the fictitious example of Europe laying down rules about the height of hairdressers' heels (Bandasz 2014). Astonishingly, these member states did not make their case in the context of the ad hoc institutional framework, i.e. within the European Council where they could have tried to form a minority large enough to block the legislation, but informally, further downstream, by a letter addressed directly to the Commission. It is thus that the Barroso Commission, after having evaluated the agreement and on the pretext of a problem concerning the representativeness of the signatories, announced on 2 October 2013 that it would not present a legislative proposal during its mandate (due to end in the autumn of 2014), thereby arousing the anger of the social partners, not only at sectoral level but also at cross-sectoral level – at least on the part of the European Trade Union Confederation, while BusinessEurope refused, for its part, to take up a position in relation to this controversy of direct relevance to the European social dialogue. At the time of writing, the intentions of the new Juncker Commission on this matter remain unknown.

– The agreement signed in 2009 by the social partners in the **railways sector** (CER, ETF) is a rather special case. It is a follow-up to their agreement of 2004 on the European driving licence for mobile workers engaged in interoperable cross-border services in the railway sector. This agreement had been turned into a directive by the European

institutions in 2007[11]; but the social partners had considered that there were gaps in the directive and that it failed to cover all the terms of their agreement. For this reason, they signed a new text in which they stipulated the scope of their 2004 agreement, stressing the six points that were not taken up in the directive: continuing training for drivers; communication to staff representatives of the operating rules in the other member states; assistance to drivers in the event of accident; inspection and recording of working time; information to be provided to staff representatives in the event of incident or accident in another member state; and monitoring of the implementation of the agreement and discussions on major incidents or accidents. We have classified this text in the category of agreements because it is explicitly aimed at filling in the gaps in a legislative instrument resulting from earlier negotiations. Yet it remains questionable whether this text should be regarded, as we regard it, as really a *new* agreement, insofar as the implementing provisions are those that already appeared in the partners' earlier agreement of 2004.

– Also in 2009, the social partners in the **hospital and healthcare sector** (EPSU, HOSPEEM) signed a framework agreement on prevention of injuries from sharp objects in the hospital and healthcare sector (see detailed analysis in *Transfer* 2011). Injuries from needle pricks or resulting from the use of sharp medical instruments are regarded as a serious occupational risk for hospital staff. In 2006, the Commission launched a first phase of consultation of the social partners on this matter. The second phase was launched in 2007 and seemed to indicate that the Commission intended to prepare a directive on this subject, something which was unanimously refused by all the employer organisations consulted. Most of them, and also EPSU, did not rule out, however, the idea of a negotiated agreement within the social dialogue framework. It is thus that EPSU and HOSPEEM finally decided to start up direct negotiations 'in the shadow of the law'. In July 2009, they reached agreement on a 'Framework Agreement on Prevention of Sharp Injuries in the Hospital and Healthcare Sector'. In this agreement they review the evaluation of risks of accident for hospital staff, their prevention, their protection, and their elimination, the training and awareness-raising of workers, and the reporting of accidents and follow-up. The social partners explicitly requested the EU institutions to make this text legally binding, and this was done in 2010 by the adoption of a Council Directive to implement the agreement in question[12].

– In 2010, the **private security sector** (CoESS, ESTA, UNI-Europa) signed an autonomous framework agreement on the contents of the

11. Directive 2007/59/2007.

12. Council Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU.

initial training for road transport workers carrying euros in cash between eurozone member states. This agreement, reached in the framework of a Commission proposal[13], was entitled European Autonomous Agreement on the Content of Initial Training for CIT (= Cash-In-Transit) Staff carrying out Professional Cross-Border Transportation of Euro Cash by Road between Euro-Area Member States. Introduction of the euro had indeed strongly increased the need for cross-border transportation of cash by road. In this proposal, the Commission argued the need to step up the initial and continuing training of CIT workers. The social partners in the sector supported this idea, negotiated the content of the training, and in their joint agreement they detail the minimum content of a compulsory training module that must have been followed by all workers in the sector. The European Parliament and the Council adopted, on 29 November 2011, a regulation on the cross-border transport of cash euros[14], annex VI of which contains these minimum training requirements, making the social partners agreement binding on all CIT workers. These requirements deal, in particular, with the requirement to have followed and completed an additional and compulsory training module concerning procedures for the cross-border transportation of cash, EU law on the transportation of cash, national law applicable to transportation of cash of the transit states and receiving member states, the national rules on driving vehicles applicable to cash transport particularly with regard to the right for the vehicles transporting funds to use certain traffic bands, the national security protocols applicable in the event of attack, the national protocols in the case of emergency applicable in the transit member states and the receiving member states in the event of breakdown, road accident and technical or mechanical failure of equipment or vehicle for transporting funds, etc.

– In 2012 three new framework agreement (in addition to the one on hairdressing already described above) were signed. The first of these was in the **inland waterways sector** and relates to certain aspects of the organisation of working time in inland waterway transport. The purpose of this agreement, signed on 15 February 2012, is to adapt to the specific features of the sector the general directive of 2003 on working time arrangements[15]. The inland waterways social partners (EBU-UENF, ESO-OEB, ETF) were of the view that this directive laying down general minimum standards did not sufficiently take account of the particular working and living conditions in the internal waterways sector. While some vessels sail non-stop, i.e. 24 hours a day, others sail for 14 hours a day on five or six days a week; what is more, workers in this sector may be accommodated or actually live on the vessels on which

13. COM(2010) 377.

14. Regulation (EU) No 1214/2011 of the European Parliament and of the Council of 16 November 2011 on the professional cross-border transport of euro cash by road between euro-area Member States.

15. Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

they work so that their rest periods are spent there. Finally, periods of duty can be longer than in other sectors, for example unexpectedly long waits at locks or when the vessel is being loaded or unloaded. It is therefore to adapt the provisions of the directive to the specific features of their sector that the social partners negotiated a European agreement aimed at defining specific rules. These rules stipulate weekly working time of a maximum of 48 hours (calculated over a 12-month period), maximum night work of 42 hours a week, at least four weeks of paid annual leave, daily and weekly rest periods (at least 10 hours a day). The text also contains provisions on seasonal work in passenger transport, breaks, protection of minors, emergency situations, health and safety protection, working paces. The social partners demanded, in agreement with the provisions of the TFEU (Articles 154 and 155§2) that their agreement be implemented by a Council decision on a proposal from the Commission. Accordingly, after having evaluated the agreement and carried out a study of its costs and advangages, the Commission on 7 July 2014 presented (more than two years after the signature) a proposal for a directive that would transpose this agreement[16]. The Employment and Social Affairs Council of 11 December 2014 reached a political agreement on transposing this text into a directive.

– The second agreement signed in 2012 (on 19 April) is that of the **professional football sector**. It concerns the minimum requirements for standard contracts for players in the professional football sector in the EU and the rest of the territory of the UEFA. It should be pointed out that this sector was not created until 2008. It brings together two employer organisations – the European Professional Football Leagues (EPFL) and the European Club Association (ECA) – and the International Federation of Professional Footballers Division Europe (FIFPro Division Europe), as well as the Union of European Football Associations (UEFA) which is not a 'social partner' properly speaking but is involved in this social dialogue in its capacity as a leading football governing body at European level. This characteristic reflects, what is more, a specific feature of professional football, where it is hardly possible to speak of a binary relationship between an employee and a worker but where the situation is one of a triangular relationship between a player, a club (and a League) and the governing bodies (European: UEFA and international: FIFA), giving rise to a network of contractual relations that can be a source of conflicts. What is more, there are those who regard the organisation of this social dialogue as a means for employers and players to exert joint pressure on the UEFA (Parrish 2011). The existence of a European social dialogue structure outside the UEFA structures would also enable the FIFPro to put pressure on the UEFA and on the clubs so as to bring to the fore the 'workers'' interests (Colucci *et al.* 2012). Be this as it may,

16. Proposal for a Council Directive implementing the European Agreement concluded by the European Barge Union (EBU), the European Skippers Organisation (ESO) and the European Transport Workers' Federation (ETF) concerning certain aspects of the organisation of working time in inland waterway transport - COM/2014/0452 final – 2014/0212.

the football sector is one of the youngest to have signed a framework agreement (alongside the hospital and healthcare sector). This is explained by the fact that the content of this agreement was negotiated between the UEFA, the FIFPro and the EPFL even before the CDSS was set up. It was back in 2007 that these three organisations created a working group and reached agreement on the minimum requirements for players' standard contracts[17]. And it is only subsequently that they set up their CDSS (in July 2008), adopted a work programme, and officially signed, in 2012, their 'Agreement regarding the minimum requirements for standard player contracts in the professional football sector in the European Union and in the rest of the UEFA territory'. This agreement, which explicitly refers to the EU Charter of Fundamental Rights, contains provisions on the required contents of an agreement between the player and the club, on relations between the employer and the player (rights and duties), on the obligations of the club (pay, bonuses, fringe benefits, refunds, etc. including a provision for the protection of young players and, in particular, their 'non-football education'), on the obligations of the players, but also on rights pertaining to image, on the hiring out of players to other clubs, on discipline, on doping, etc. It is to be stressed that, since the 'territory of the UEFA is broader than that of the European Union (extending to include Turkey, Israel, Kazakhstan, Russia, etc.), the social partners decided to set up a working group in 2013 to oversee the implementation of the agreement in a group of countries and to identify any problems arising with this implementation.

– Finally, the third agreement signed in 2012 related to the **sea-fisheries sector**. This agreement aims to implement the International Labour Organisation (OIT) Convention of 2007 on work in the fisheries sector. The sea-fisheries sector set up an advisory committee as early as 1974 and turned itself into a CDSS in 1999. This was the first framework agreement signed by the social partners in this sector (who have already adopted some 34 joint texts of which 82% are joint positions). There are three social partners: the workers are represented by the European Transport Workers' Federation (ETF); the employers are represented on the one hand by Europêche, the fishing boat owners and employers (17 national organisations of fisheries companies present in ten member states[18]), and also by COGECA which represents fisheries cooperatives (and is present in only six countries[19]). These social partners began negotiations in 2010 with a view to concluding an agreement on the implementation of ILO Convention 188 on work in fisheries adopted in 2007[20]. According to the provisions of this Convention, the European

17. The FIFPro had denounced numerous cases of abuse relating to players' contracts, particularly in Eastern Europe: no guarantee in case of injury or sickness, wage penalities, etc. (Colucci *et al.* 2012).

18. Belgium, Germany, Denmark, Spain, France, Italy, Malta, Netherlands, Poland and United Kingdom.

19. Germany, Greece, Ireland, Italy, Malta and Slovenia.

20. http://www.ilo.org/dyn/normlex/fr/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312333

agreement sets out minimal demands for work on board (minimum age, medical examinations), terms of service of crew members (length of rest periods, recruitment, placement, pay, repatriation), of accommodation and food, health and safety at work (accident prevention, medical case, social security). The European social partners hope to encourage the member states to ratify the Convention and, in particular, that this agreement will strengthen the legal framework of states whose social legislation can be considered insufficient in this respect. On 10 May 2013[21] they asked the Commission and the Council to turn their agreement into a directive, pursuant to Article 155§2 of the TFEU. The Commission's legal service issued a positive opinion in September 2013 and a cost/benefit study was to follow.

What is shown by the description of the framework agreements signed during the 2009-2013 period is that all result from initiatives taken before the crisis erupted. It cannot therefore be asserted that any link exists between the context of crisis and recession and the number of European sectoral social dialogue agreements signed during this period. On the contrary, it may be hypothesised that the signature of these numerous agreements is the delayed culmination of the period of strong activity of the sectoral social dialogue that preceded the crisis. More generally, what is more, it is to be observed that periods of economic crisis are, on the contrary, hardly favourable to the development of social dialogue, whether at the national or at the European level.

However this may be, it is necessary to recognise that the sectoral social dialogue has not so far abandoned the legislative path, whereas at the cross-sectoral level, the doctrine of BusinessEurope, the employer representative, has for the past fifteen years been opposed to a social dialogue that would lead to the production of legislative texts[22].

Having said this, the current controversy about the Commission's refusal to give legislative transposition to the hairdressing agreement could have important consequences: the sectoral social partners could lose interest in negotiating if they have no assurance that their agreement will be transposed. It will be noted that the contested agreement dates from 2012; and that no further agreements were negotiated in 2013 and 2014. The period 2009-2013 might not, therefore, augure a new dynamic but represent a mere parenthesis. Only the future will tell.

21. The time gap is explained by the fact that it was necessary to revise the initial text, in collaboration with the Commission, to make it compatible with European legislation in the sea-fisheries sector and the relevant social dialogue provisions of the Treaty. The revised text was adopted on 8 May 2013.

22. The only three cross-sectoral framework agreements to have been turned into directives are those on parental leave (1995), on part-time work (1997) and on fixed-term contracts (1999). We do not take into account here the amendments to the framework agreement on parental leave made in 2009.

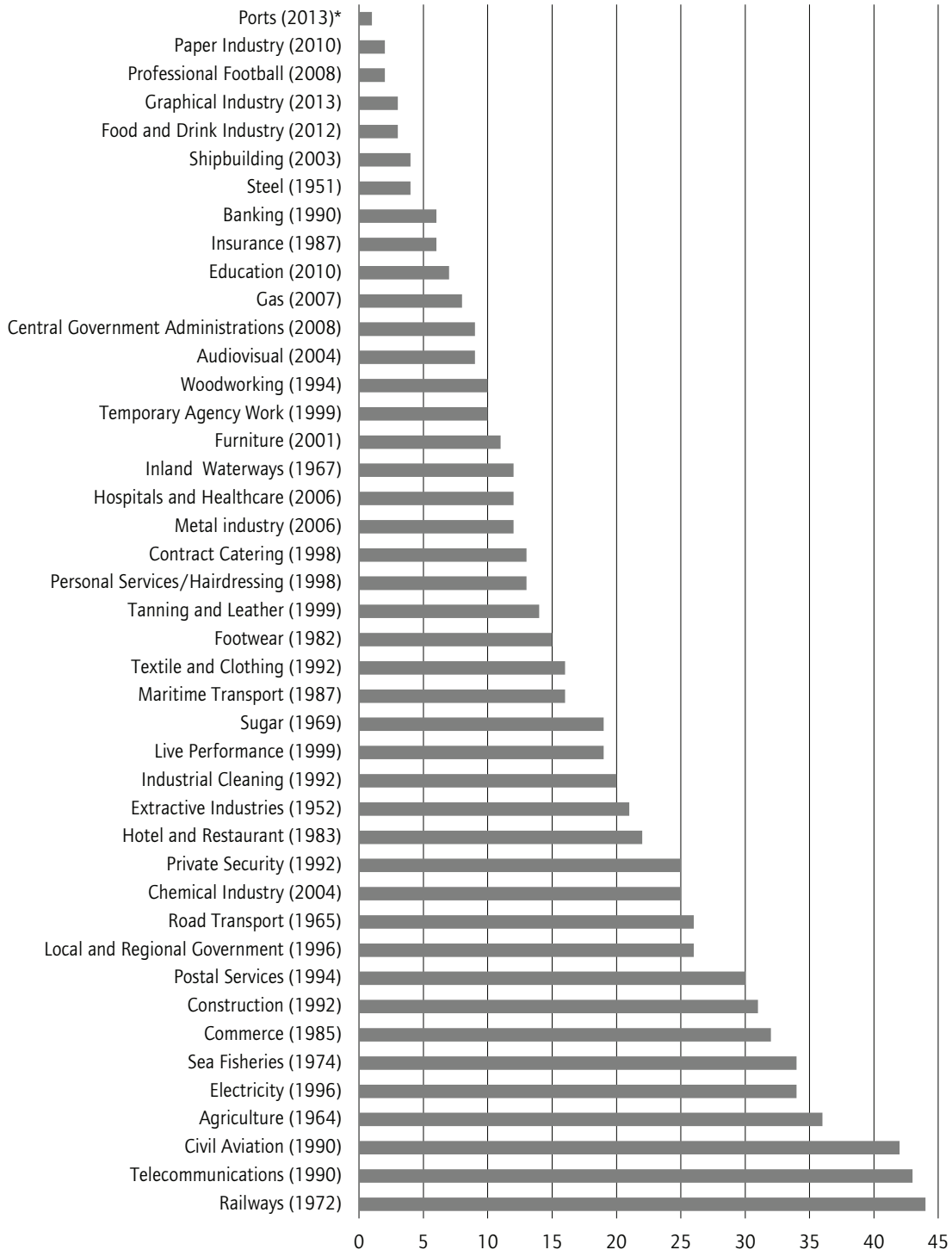
3. Number of joint texts by sector

Let us now take a look at the number of texts signed by each sector over the period as a whole. As shown by the Figure below, sectors consisting of networks are all to be found in the top few: railways, telecommunications, air transport, electricity, postal services, road transport. What all these sectors consisting of networks have in common is that they have been subject to liberalisation policies at European level since the 1980s.

Also close to the top are the sectors traditionally most affected by European policies: agriculture (Common agricultural policy), fisheries (Common fisheries policy), commerce (internal market), construction (mobility of workers, posting of workers).

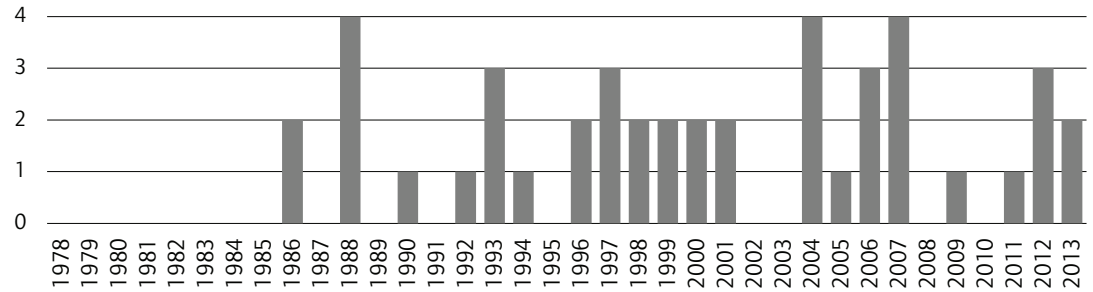
Can the most 'active' sectors (in terms of adoption of joint texts) be said to be part of a general trend towards an increase in activity? Or is it rather that their activity is linked to differing periods of social dialogue intensity but not particularly within a generally upward trend? The Figures below, which show the number of texts adopted in each of the ten top sectors over the 1978-2013 period, enable us to see that, with the exception of the electricity sector, there is no trend of generally increasing activity but rather different periods of more intense activity associated with particular contexts and circumstances. We present – very briefly and non-exhaustively – a few features of these contexts and special circumstances.

Figure 8 **Number of joint texts adopted by sector (1978-2013)**



* In brackets: date of creation of first joint committee, or of first informal working group, or of sectoral social dialogue committee (as from 1999).
Source: ETUI database: European sectoral social dialogue

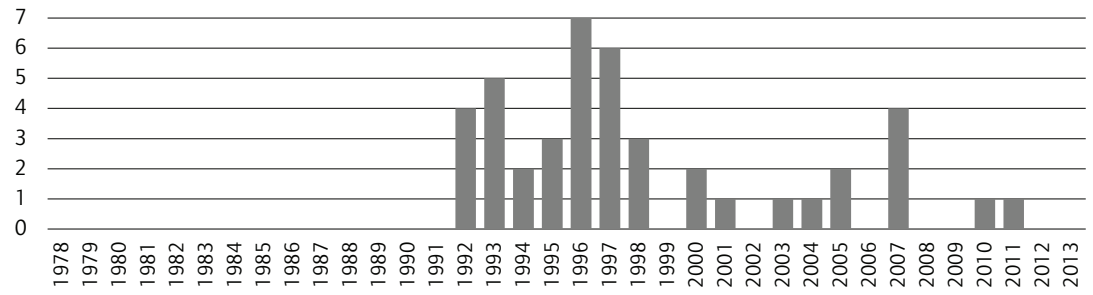
Figure 9 **Number of joint texts in the railway transport sector**



Source: ETUI database: European sectoral social dialogue

Activity in the **railways sector** has been relatively constant since the end of the 1980s. Topics covered include European transport policy, the development of railway infrastructures, environmental issues, liberalisation, railway company licences, working time, work organisation, training, employability, non-discrimination and, more recently, psychosocial risks and bullying within the sector.

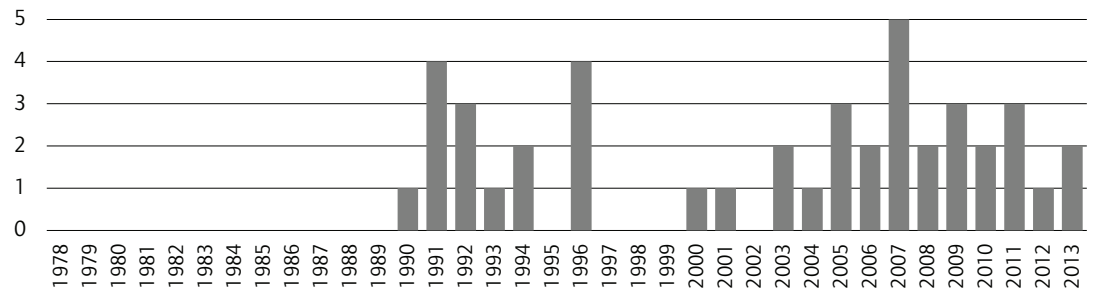
Figure 10 **Number of joint texts in the telecommunications sector**



Source: ETUI database: European sectoral social dialogue

In the **telecommunications sector** the bulk of social dialogue activity is concentrated in the 1990s which were the years of telecommunications liberalisation. The European policy of liberalisation and its impacts were the subject of a series of joint positions addressed by the social partners to the European institutions. Other problematic issues arising in the sector were then tackled: the development of teleworking, call centres, health and safety questions, musculoskeletal disorders, etc.

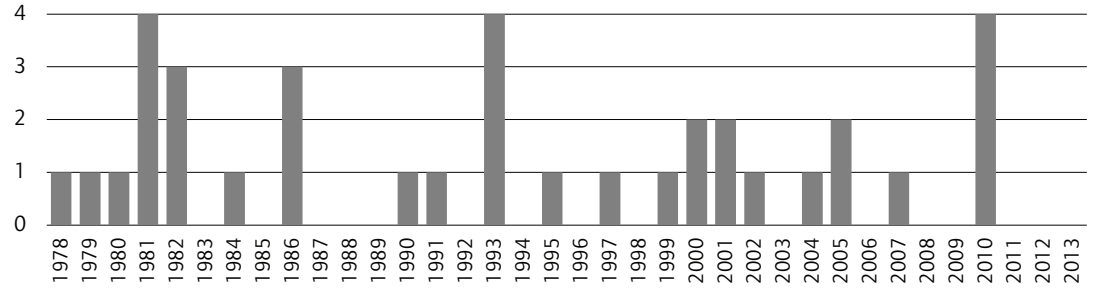
Figure 11 **Number of joint texts in the civil aviation sector**



Source: ETUI database: European sectoral social dialogue

Two rather distinct periods appear in the social dialogue of the **civil aviation sector**: the first half of the 1990s during which the social partners adopted joint positions only on matters specific to air transport (drawing up airport timetables, flying time, rest periods for crews, employment, training, ground staff, etc.); the post-2000 decade which began with a framework agreement on working time arrangements, followed principally – and almost exclusively — by a series of joint positions on the introduction of the 'Single European Sky'[23].

Figure 12 **Number of joint texts in the agriculture sector**

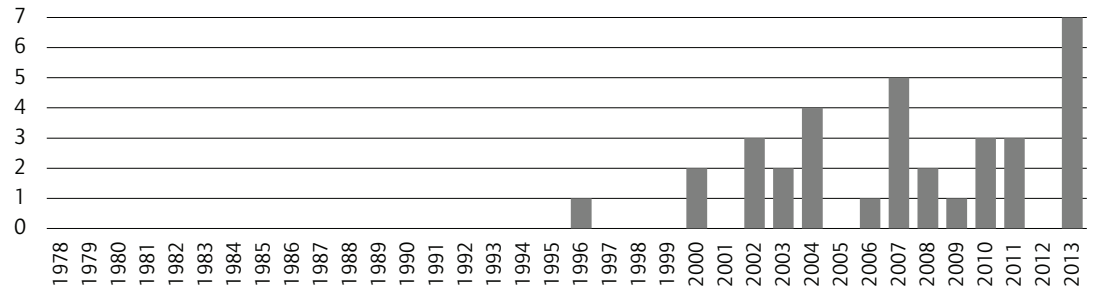


Source: ETUI database: European sectoral social dialogue

Social dialogue in the **agriculture sector**, just like that of the railways, has seen fairly constant activity since its creation. It deals with clearly defined topics: the working hours of agricultural wage-earners, the social aspects of the Common Agricultural Policy (CAP), accident prevention, training, employment, health and safety.

23. Introduction of common rules on air traffic flow management (http://eur-lex.europa.eu/legalcontent/FR/TXT/?qid=1418388524848&uri=URISERV:l24020).

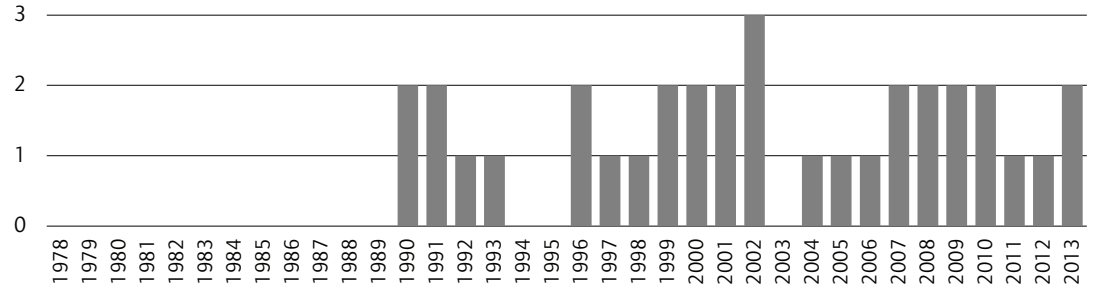
Figure 13 **Number of joint texts in the electricity sector**



Source: ETUI database: European sectoral social dialogue

Electricity is the only European sector in which the activity of the social partners seems to indicate an upward progression between 1996 and 2013. Whereas, at the beginning of the period, it was above all the opening of the gas and electricity markets that captured the social partners' attention, subsequently they turned this attention to the European climate goals (Climate Energy Package). Between these two 'poles' of interest, the sector also developed a set of joint texts centered on health and safety issues, equal opportunities, training, stress in the workplace, bullying and harassment, generational mix, etc. But the steady increase in the number of texts adopted seems clearly linked to the new European climate issues.

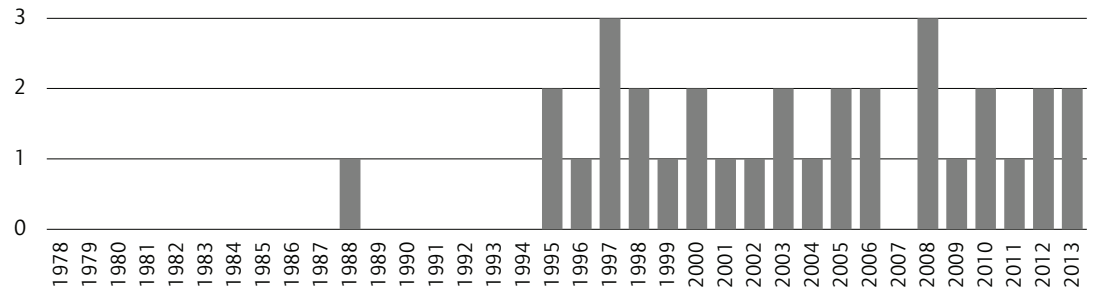
Figure 14 **Number of joint texts in the fisheries sector**



Source: ETUI database: European sectoral social dialogue

The social dialogue in the **sea-fisheries sector** reflects very steady activity since the beginning of the 1990s. This activity is centred in particular on the implementation of the Common Fisheries Policy (CFP) and on questions of sustainable development (it should be remembered that the EU has exclusive competence in relation to the biological maritime resources, i.e. setting of fishing quotas). With regard to working conditions, the social dialogue in this sector deals with training, occupational health and safety, prevention of accidents at sea, social clauses to be included in fisheries agreements with third countries, as well as, as detailed above, working time issues (implementation of ILO Convention 188).

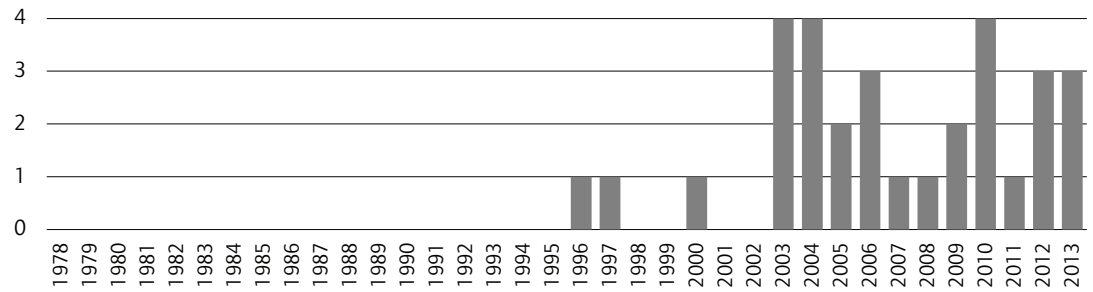
Figure 15 **Number of joint texts in the commerce sector**



Source: ETUI database: European sectoral social dialogue

The social dialogue in the **commerce sector** really began in 1995 and immediately developed a fairly steady rate of activity that has continued down to the present. One of the specificities of this highly active sector is that it directs its social dialogue principally towards working conditions and matters of training. Within these areas, a wide-ranging number of topics are tackled: steps to combat violence in commerce, the fight to prevent children's work, prevention of racial discrimination, fundamental rights, the struggle against racism and xenophobia, generational mix, teleworking, promotion of employment and integration of handicapped persons, working environment, steps to prevent harassment, etc. Almost half of the joint texts in this sector are addressed to national companies, national social partners, and national organisations. The remainder are addressed to the European institutions and deal with specific EU initiatives (Green Paper on Commerce, Lisbon Strategy, Services Directive, Europe 2020, etc.).

Figure 16 **Number of joint texts in the construction sector**

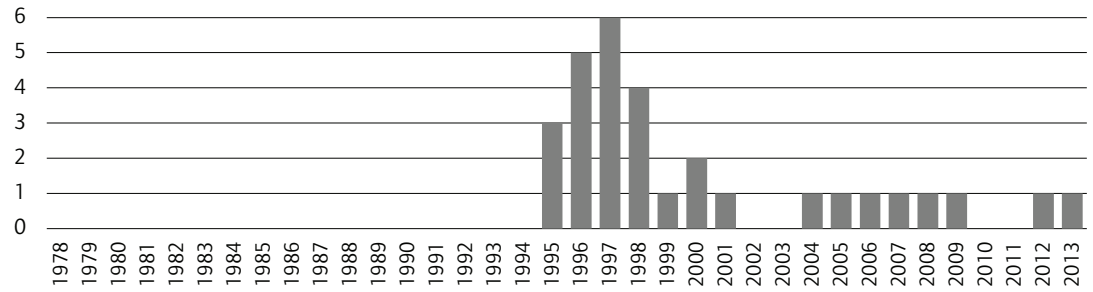


Source: ETUI database: European sectoral social dialogue

The social dialogue in the **construction sector**, which has been rather steady since 2003, is very clearly oriented towards two specific problematics: health and safety ('working at heights' directive, work-related stress, etc.) and, above all, the directive on the posting of workers. This sector is indeed particularly affected by the free movement of posted workers as a means of lowering costs

and which gives rise, particularly since the enlargement of the EU to include the central and eastern European countries, to tough competition. More marginally, the social dialogue also deals with making occupations in this sector attractive to young people, the problem of bogus self-employment, public tendering, etc.

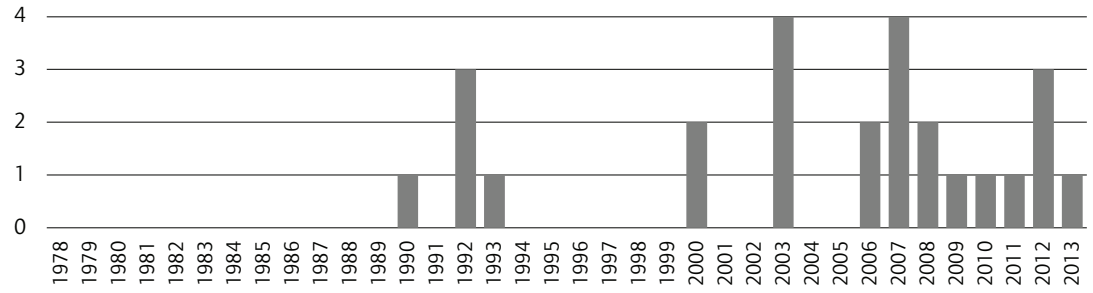
Figure 17 **Number of joint texts in the postal services sector**



Source: ETUI database: European sectoral social dialogue

As the Figure shows very clearly, the social dialogue in the **postal services sector** saw intense activity during the period of launching the liberalisation of postal services in Europe, in the mid-1990s, and subsequently became limited to a 'minimum service'. During this first period from 1995 to 1997 (when the first postal directive was adopted[24]), all social partner activity in this sector was directed at the European institutions in order to make known their viewpoint on the future organisation of postal services. It was only as from 1998 and 1999 that the social dialogue turned to other topics: prevention of workplace accidents, promotion of employment, training, equal opportunities, corporate social responsibility, etc.

Figure 18 **Number of joint texts in the road transport sector**



Source: ETUI database: European sectoral social dialogue

24. 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.

The 'historic' **road transport sector** of European integration seems to have undergone two distinct periods: the first when the social partners were principally interested in questions of safety and working conditions (traffic and road safety, safe running of utility vehicles, minimum health and safety standards, lack of safety in local public transport, security at rest places and parking lots, etc.). A second period, as from the end of the 2000s, was marked by the emergence of new topics such as illegal working practices and the opening of the European goods traffic market. These topics reflect, as for other sectors, a joint concern in the face of increasingly tough competition situations.

This rapid analysis of the sectors most active in terms of production of joint texts shows rather clearly that activity of the SSD develops more on the basis of spurts of activity than of any general trend towards an increase in the activity in question. As has been seen, this uneven development can be explained by a range of factors: for example, the legislative activity of the European institutions, the introduction of new policies, or the revision of specific legislative texts, the emergence of concerns specific to the sector, the appearance of new challenges linked to the European or international context, etc.

These different factors may actually be mixed: thus the social dialogue in the agriculture sector deals of course, from the outset, with the introduction and operation of the Common Agricultural Policy but also with developments in this context, namely the phase of strong agricultural industrialisation and the new risks thereby entailed for workers in terms of health and safety and training (new machines, new tools). These factors can also fluctuate over time within the same sector, whether depending on the European context or on the changing dynamic of the actors (see the rather exaggeratedly pronounced example of the postal services).

Bechter suggests other factors of variability of the quality of the functioning of the European sectoral social dialogue committees linked, among other things, to the heterogeneity/homogeneity of the national industrial relations systems (Bechter *et al.* 2012).

Having said this, some sectors seem to show that an activity at first almost forcibly directed towards EU political decisions (liberalisation, opening up to competition) can subsequently be animated by other more internal dynamics (for example, geared towards working conditions in the sector, training needs, etc.)

4. The new sectors

Since the outbreak of the financial crisis in 2007-2008 and the other crises that followed in its wake, the European social sectoral dialogue has been enriched by the setting up of nine new committees – see Table 2.

Table 2 **The new SSDC 2007-2013**

	Date of SSDC creation	Number of joint texts adopted (2007-2013)
Gas	2007	6
Professionnal football	2008	2
Metal	2010	9
Central government administrations	2010	9
Education	2010	7
Paper	2010	2
Agro-industry	2012	3
Graphical industry	2013	3
Ports	2013	1

In actual fact, some of these sectors already existed informally before the official creation of their SSDC. This applies to **metalworking** which set up its informal social dialogue working group in 2006 (for more details, see Dufresne *et al.* 2006: 219). The social partners in this sector had therefore already adopted some joint texts – together with chemicals and mining – on the protection of workers' health in the framework of the handling and use of crystalline silicon and products containing it; since the formal creation of their SSDC in 2010, they have adopted nine new joint texts dealing principally with training, competitiveness and employment, the EU's industrial policy, social dialogue and wage formation.

Similarly, before being formally constituted as a SSDC, the social partners in the **gas sector** had already adopted two joint texts (one on health and safety in 2000[25], and the other on the social dialogue in 2002[26]). The social dialogue

25. Joint statement of Eurogas, EPSU and EMCEF on health and safety in the gas supply industry (24/10/2000).
26. Conclusions of seminar for social dialogue by the Social partners for the Gas Supply Sector, 18 April 2002.

in this sector is between IndustriAll (workers) and EUROGAS (employers). Since the late 1990s and early 2000s, acceleration of the liberalisation of energy markets (electricity and gas) has been one of the determining factors for setting up an SSDC. In their statement of 2002, the social partners said that a committee of this kind should enable them 'to make recommendations to the European Commission in parallel with the proposals for directives on the liberalisation of the gas market. The European sectoral social dialogue must allow the strategic stakes to be defined, both industrial and social, for all employees of this economic sector. It must participate in the evaluation of the essential regulations, especially to combat social dumping.' Questions of employment, employability, new occupations, skills, training, working conditions and work organisation, as well as energy policy and energy efficiency linked in particular to the fight against climate warming, were to be topics for discussion and negotiation among the social partners. Since 2013, however, this CDSS seems to have fallen into a state of deep lethargy.

The **central government administration sector** has also had an informal social dialogue working group since 2008. It is to be noted from the outset that this sector – characterised by a high level of unionisation and sheltered from international competition (see Dufresne *et al.* 2006:236) — has been severely affected by the austerity measures adopted by government in the context of the debt crisis. This has affected jobs as well as wages, pensions, employment status, collective bargaining systems and social dialogue (Eurofound 2014). The new SSDC set up in 2010 brings together representatives of the central government employers (EUPAE) and the central government administration employees in the EU (TUNED). Its main aims are to improve the operation of administration (quality service in administrations), standards relating to working conditions (gender pay gap in the civil service), to promote national social dialogue (anticipation and management of change in government administration), and to issue joint opinions on European policies that have an impact on the sector. Nine joint texts, all dealing with these topics, were adopted during the period under examination. One feature of this sector is that not all EU member states belong to the SSCD. The only governments taking part are those of Belgium, France, Spain, Greece, Italy, Luxembourg, Romania, the Czech Republic, the United Kingdom, Slovakia and Lithuania[27]. One important effect of this situation is that the 2012 framework agreement on quality service in central government departments is binding on only these eleven member states and not on the 17 others.

The **paper sectoral social dialogue**, set up in April 2010, is conducted between the Confederation of European Paper Industries (CEPI) on the employer side and IndustriAll on the workers' side. Before the formal creation of this SSDC, the social partners in this sector had already cooperated, in particular on occupational health and safety issues; as from 2003, they undertook to aim for a 'zero accident' target and the compilation of good practices in this respect was the subject of a jointly published report in

27. http://www.fonction-publique.gouv.fr/fonction-publique/europe-et-international-13

2012. This report constitutes, what is more, the first 'joint' tool adopted by this new SSDC. Today one of the main challenges facing both this sector and the graphical sector is the significant fall in paper production associated with the structural decline in its consumption due to the development of the information society and internet (with the exception of the sub-sectors of wrapping paper and paper-based household and health products). More recently, this SSDC adopted two joint texts in 2014 on the reindustrialisation of the European Union and the future of biomass supply in Europe, in the context of the EU's bioenergy policy.

The **graphical sector**, where the social dialogue is conducted between Intergraf on the employer side and UNI Europa Graphical on the worker side, currently represents more than 700 000 workers in Europe. This sector relates to the printing of books, newspapers and magazines. As for the paper sector (see above), the rapid development of information technologies and the internet, sometimes to the detriment of reading of newspapers and magazines, represents one of its main challenges. SMEs are affected differently, insofar as they are better able to adapt rapidly than are large firms faced with problems of surplus capacity. This specific challenge is compounded by that of the economic crisis by which the sector has been extremely hard hit. The fear is of a structural weakening so strong that it would open the door to a rush of imports from developing countries or to the emergence of a quasi-monopoly on account of firms' vulnerability to takeover[28], two scenarios which would, whatever else, entail major implications for labour. This is why restructuring issues are among the main topics tackled by the social partners. To meet these challenges, the sector has been concentrating recently on services such as data base management for clients and production of internet sites or electronic documents. Yet here too the international competition is very strong. This is why the social dialogue committee gives equal priority to topics linked to development of training and skills with a view to providing new services and innovative products.

The **ports sector** covers port authorities, terminal operators, dockworkers and other port employees. It brings together the European Sea Ports Organisation (ESPO), the European Federation of Private Port Terminal Operators (FEPORT), and, on the workers' side, European Transport Worker's Federation (ETF) and International Dockers Coordination Europe (IDC), which represents dockers and other port employees. This sector is present in 22 member states and employs 1.5 million workers directly and a further 1.5 million indirectly. The SSDC which the ETF had been wanting to set up for several years finally saw the light in June 2013 (it is to be noted that the ETF is already present in six other SSDCs[29]). This sector is faced with management of ever more traffic, the need to train workers to adapt to a new

28. 'The future of the European Print Industry in our Hands – What the Industry says', a joint project by Intergraf, Uni-Europa graphical, Assografici, bvdm, KVGO, Ver.di, Unite and Fistel-CISL. No date.

29. Namely: sea fisheries, internal navigation, maritime transport, road transport, railways and civil aviation.

generation of vessels, to new logistics, and to the connection of ports within the country. It is in this context that the European Commission and Council have expressed the wish to liberalise port services ('ports package'). After having failed twice in 2004 and 2011 under pressure from dockworkers firmly opposed to this liberalisation and supported by the European Parliament, the Commission proposed in 2013, for the third time, a new ports package[30], but this time without including the liberalisation of handling services so that the new package covers only the other aspects such as access to port services (pilotage, towage, refuelling, dredging, waste management). The social aspect has been sent back to the new SSDC that was set up deliberately in the wake of the Commission's initiative. However, on the question of the liberalisation of handling services, the employer organisations (shipowners and port representatives) and those representing workers are strongly divided and for this reason the subject will constitute a difficult topic for social dialogue. The new SSDC also intends to embark upon discussion of more traditional social dialogue topics such as training and skills for technological developments, attractiveness of occupations to young people, occupational health and safety, and promotion of women's employment.

The education sector brings together the European Federation of Education Employers (EFEE) and the European Trade Union Committee for Education (ETUCE) representing the workers. This sector employs some 15 million persons in Europe. Education and training being one of the main planks of the Europe 2020 Strategy which includes two targets in this area[31], this sector is called upon to play an important role in the development of education, training, apprenticeships and knowledge acquisition. In 2004 some first studies were made on the status of the social dialogue in education in the EU member states. Between 2006 and 2008, these studies fostered the organisation of regional gatherings between social partners and then, in February 2009, the creation of the European federation of education employers (the ETUCE having been in existence since 1977). In September of the same year, a joint request was sent to the European Commission to set up a SSDC and this was done in June 2010[32]. Two main lines of interest emerged from the results of this nascent SSDC: on the one hand, the development and quality of education and lifelong learning (including recruitment in this sector, demographic trends and evaluation of schools and teachers); on the other the working conditions and in particular the question of bullying and harassment in school. In its three years of existence it has adopted seven joint texts on these subjects.

The **agro-industry sector** brings together EFFAT, which represents 2.6 million workers in the fields of restaurants, agriculture, tobacco, hotels, tourism, and, on the employer side, FoodDrinkEurope which represents the national federations, sectoral associations, and 18 large agro-food companies

30. http://europa.eu/rapid/press-release_MEMO-13-448_en.htm
31. Less than 10% of early school-leaving; at least 40% of 30-34 year-olds with a higher education qualification or equivalent.
32. European Sectoral Social Dialogue in Education: Higher Education Employers' Seminar. San Anton, Malta, 14 May 2010.

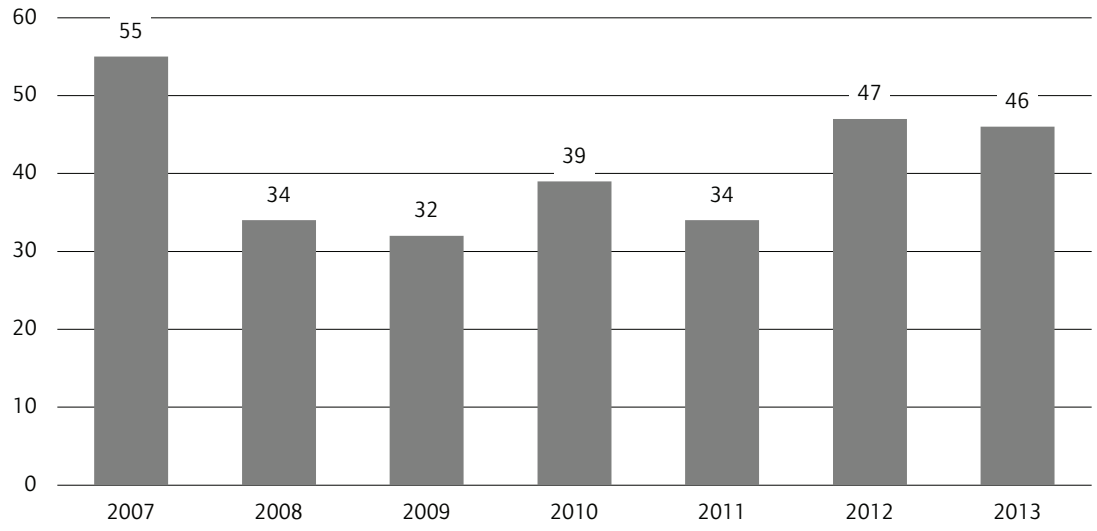
(Coca-Cola, Danone, Nestlé, Unilever, etc.). This industry employs in total 4.2 million workers in Europe. It is, according to FoodDrinkEurope, the largest manufacturing sector in Europe in terms of turnover, added value and employment. It is in any case one of the few sectors able to take pride in its resilience and stability during a period of crisis (its annual production is higher than at the beginning of the crisis in 2008). The three texts adopted by the SSDC of this sector dealt with reform of the Common Agricultural Policy (closely linked to the agro-food industry), with food taxes to combat obesity (described as 'discriminatory'), and with the draft revision of the Solvency directive (and its impact on occupational retirement schemes).

Finally, the **professional football sector** (already dealt with in detail above, see Chapter 2) brings together, on the employer side, the European Professional Football Leagues (EPFL) and the European Club Association (ECA) and on the workers' side the International Federation of Professional Footballers' Associations-Division Europe (FIFPro Division Europe). In addition, the Union of European Football Associations (UEFA), without being formally a 'social partner', is associated in this social dialogue. As from the creation of the SSDC in July 2008, a work programme was adopted providing for the setting up of a working group to embark on negotiations on the minimal standards required for standard professional footballers' contracts. This led, for this new sector, in April 2012 to the signing of an 'agreement regarding the minimum requirements for standard player contracts in the professional football sector in the European Union and in the rest of the EUFA territory'. Details of this agreement can be found in Chapter 2.

5. What significant developments have taken place during the crisis period (2007-2013)?

Looking over all the 43 sectors that currently have a SSDC, the development in the number of joint texts signed over the 2007-2013 period was very mixed. It is to be remembered, first of all, that 2007 was the year that saw the largest ever number of joint texts adopted – a total of 55 – since the creation of the SSD. This was the culmination of a period, starting in the 1990s, when the general trend was towards a quantitative increase in texts (see above).

Figure 19 **Progression in the number of SSD joint texts adopted since the crisis (2007-2013)**



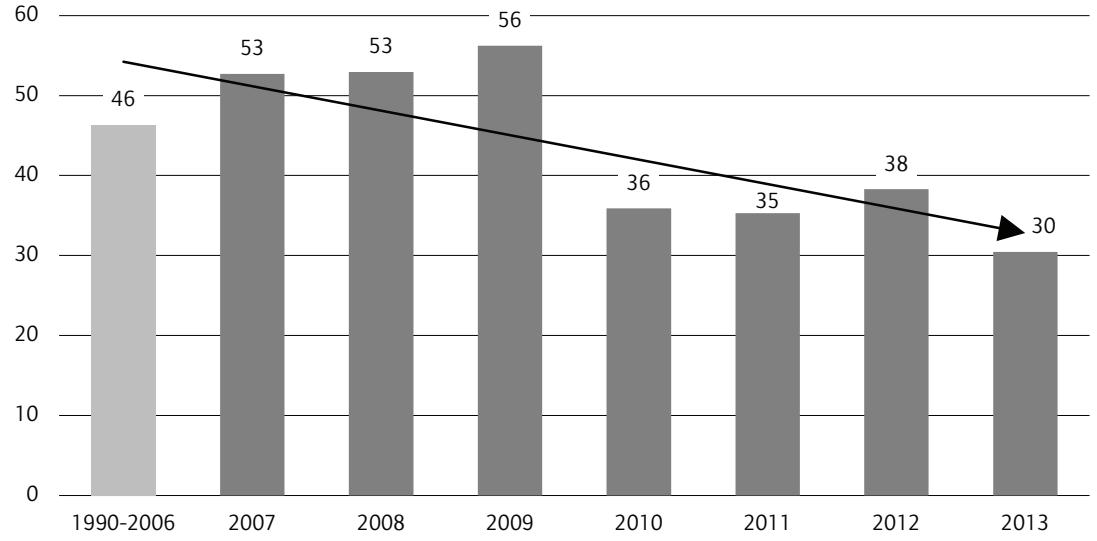
Source: ETUI database: European sectoral social dialogue

As can be seen, the 2008-2011 period seems to mark a relative break in this generally rising trend that was a feature of the years between 1990 and 2007. As Stefan Clauwaert and Isabelle Schömann (2011) have shown, it is difficult to evaluate unequivocally the use to which the European social dialogue was put during the first years of economic crisis and recession. The years 2012 and 2013 seem to be marked by a recovery, though the lack of hindsight makes it impossible to draw any definitive conclusions – all the more so in that the total number of texts adopted applies, as we have seen, to a context characterised by an increasing number of sectors.

One development does stand out nonetheless. If, in the whole set of texts adopted over this period, the developing relationship between internal and external texts is observed, a noteworthy feature becomes apparent. As shown by Figure 20 below, during the 1990-2006 period, on average some 46% of the joint texts were the outcome of reciprocal undertakings between social partners (agreements, recommendations, declarations, tools, rules of procedure). *A contrario*, 54% of these texts were addressed to the European institutions in the context of a joint lobbying procedure.

As mentioned above, the number of internal texts grew relatively, in comparison with lobbying texts, as from 1999 and until 2009 (see Figure 5). What is shown in the Figure below is the quite remarkable development of a steep drop in reciprocal undertakings over the last four years examined: from 2010 to 2013 the percentage of reciprocal undertaking texts falls far below the 40% threshold, in other words well below the average for the 1990 to 2006 period.

Figure 20 **Percentage of internal texts, by year**



Source: ETUI database: European sectoral social dialogue

Though we still lack hindsight, if this development were to be confirmed in future, it would quite clearly reflect a change in the function of the sectoral social dialogue which would be used much more as an instrument of joint lobbying than as a forum for reciprocal undertakings.

This may appear to contradict what we wrote in Chapter 2, which drew attention to the high number of binding framework agreements signed in recent years. But, as mentioned above, most of these agreements have their origins before the crisis (and cannot therefore be linked to it), and it is to be observed that there were no negotiated agreements in 2011, nor in 2013 nor

in 2014. In order to explain this apparent contradiction, one could venture the already mentioned hypothesis that the signature of these numerous agreements is therefore the culmination, after the event, of the period of strong sectoral social dialogue activity that preceded the crisis.

In spite of the current lack of hindsight to interpret this development, it is impossible to avoid asking whether it is linked to the consequence of the euro crisis, as from 2010, and the new economic governance put in place since then, concerning which the least that can be said is that the social partners were scarcely at all invited by the EU and the member states to become involved in any proactive manner (Clauwaert and Schömann 2011).

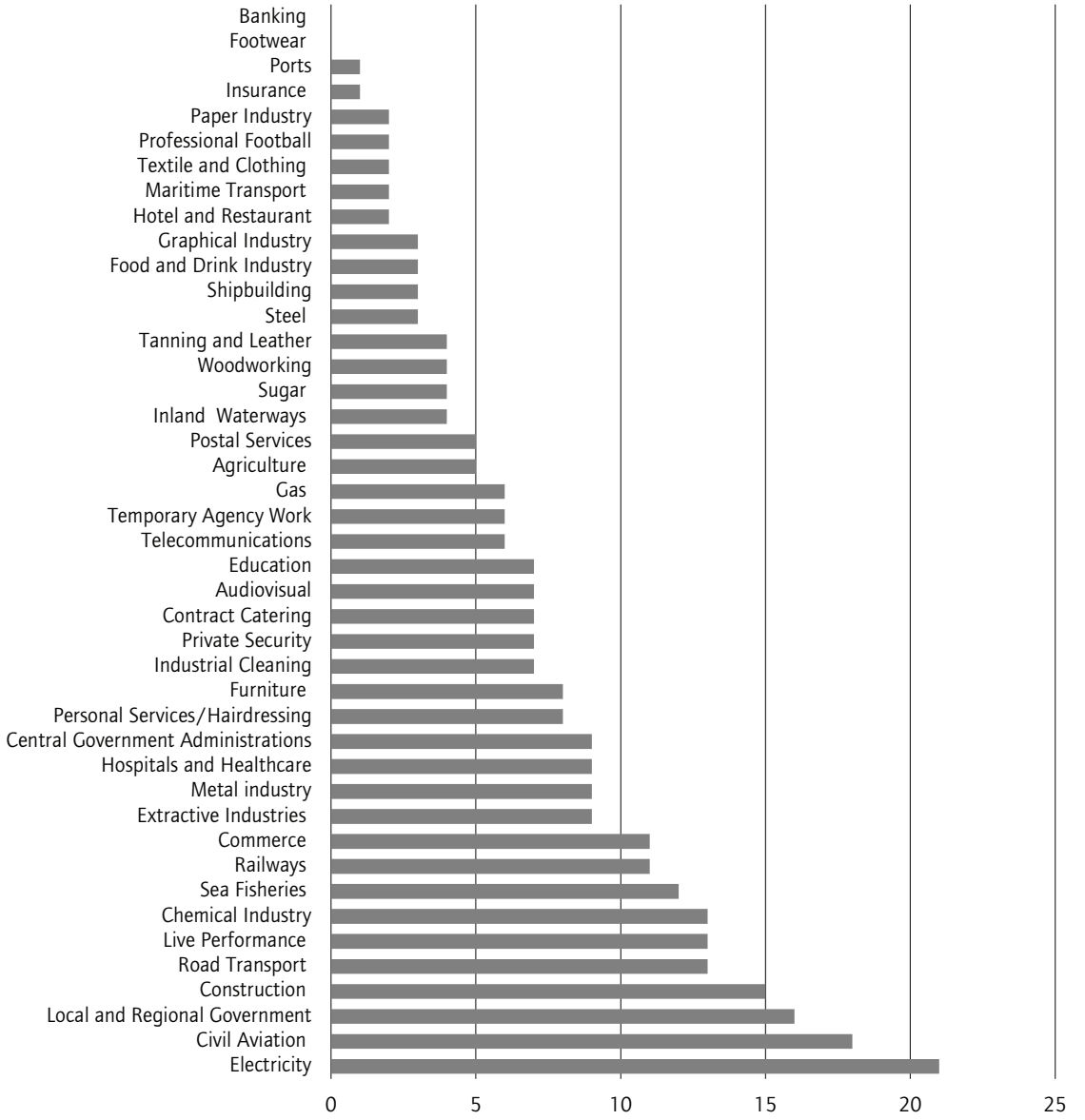
The failure to transpose into a directive the framework agreement concluded by the hairdressing industry in 2012 could also have put a damper on any excess of enthusiasm: what is the point of negotiating for months on end only to see the Commission and some of the member states refuse to implement the provisions of the agreement finally reached? Thus the transposition of the agreement on working time in the inland waterways was, it is true, the subject of political agreement, as mentioned above, but, even so, it met with general reservations from no less than eight member states in the Permanent representatives Committee (COREPER) (Czech Republic, Estonia, Ireland, Greece, Cyprus, Hungary, Malta and United Kingdom)[33]. Such developments are likely to sow doubt in the minds of the sectoral social partners regarding the determination and ability of the Council to transpose their agreements into directives. This would indeed constitute a noteworthy new development in the evolution of the European social dialogue, one that would undoubtedly tarnish its image.

Before concluding, one final question is in order: during the period of crisis 2007-2013 what were the most active sectoral social dialogue committes in terms of adoption of joint texts? And what were the main topics covered in the context of this activity?

Four sectors adopted fifteen or more texts over the period examined, that is, on average, more than two texts a year: electricity, civil aviation, local and regional government, and construction. What is the nature of these texts and with what topics did they deal? This information is summed up below.

33. COREPER, 28 November 2014, doc. 16031/14.

Figure 21 **Number of joint texts by sector (2007-2013)**



Source: ETUI database: European sectoral social dialogue
Methodological remark: in the above table each multisectoral agreement signed during the period examined — there were in fact 5 signed by a total of 17 sectors – was counted for each signatory sector. This explains why the total number of texts over this period and attributed by sector is higher than the total number of texts.

Electricity

The European social dialogue in the electricity sector saw intense activity between 2007 and 2013. Thirteen texts were adopted in an effort to influence the political direction of the EU, while no less than eight 'internal' texts sought to improve the working conditions of workers in the sector (stress, harassment, training, equality, etc.). It will be noted that this intense activity does not deal directly with the crisis as such.

Table 3

Types of text	Subjects dealt with 2007-2013
13 joint positions	Social aspects of the European energy community (south-east Europe), European energy strategy 2011-2020[34], smart meters, external dimension of European energy policy, Energy Roadmap 2050[35], health and safety in the nuclear sector
3 recommandations	Stress at work, violence and harassment, skills and anticipation of change
3 tools	Equal opportunities and diversity, demographic change, socially responsible restructuring
2 declarations	The effects on employment of the opening of energy markets, social aspects of CSR

Civil aviation

The implementation of the Single European Sky (i.e. the European organisation of air traffic management: regulation, economy, security, environment, technology and institutions) and the social consequences that this implementation can engender at all levels represent the priority concerns of the social partners in this sector. This includes aspects of working conditions (health and safety, training) but also of mobility and questions linked to it (social security regime). The economic crisis was not the subject of specific discussions between the social partners during this period.

Table 4

Types of text	Subjects covered 2007-2013
9 joint positions	Single European Sky[36], European performance system for airline services, servicing on the ground (ground staff), social security provisions for flight staff
6 declarations	Training of air traffic controllers, health and safety of crews, social aspects of the implementation of the Single European Sky, mobility of workers
2 recommendations	Security in the air, training of ground staff
1 tool	Evaluation of the process of working consultation concerning development of the 'Functional Airspace Blocks'

Local and regional government

Contrary to the preceding cases, the social partners in the local and regional government sector, a sector particularly affected by the public expenditure cuts, produced numerous texts on the economic crisis, European governance, austerity policies, reduction of public expenditure and public sector jobs, etc. (EPSU 2014). The subject of working conditions is also very present: gender equality, bullying and harassment, health and safety, etc.

34. http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52010DC0639&rid=13
35. http://eur-lex.europa.eu/legal-content/FR/ALL/?uri=CELEX:52011DC0885
36. http://ec.europa.eu/transport/modes/air/single_european_sky/index_en.htm

Table 5

Types of text	Subjects dealt with 2007-2013
8 joint positions	Economic crisis and governance (public expenditure cuts, public sector jobs cuts, etc.), modernisation of labour law, inclusion of persons excluded from the labour market, restructuring, health and safety
4 declarations	Sectoral social dialogue, reform process in local and regional government, tendering procedures, youth employment
3 recommandations	Gender equality, bullying and harassment, action framework for stepping up working conditions in the sector
1 tool	Role of social dialogue in public services reform

Construction

Labour force mobility has also been a major concern of the construction section, whether it is a question of the posting of workers, intragroup transfers and entry and residence conditions of workers from third countries. Economic crisis is another subject covered, given its major impact in this sector; the social partners call on the EU and its member states to promote investment, growth and employment.

Table 6

Types of text	Subjects treated 2007-2013
12 joint positions	Posting of workers, intragroup transfers, entry and residence conditions for third-country nationals, public works tendering, strengthening growth and employment, health and safety strategy 2013-2020 [37]
1 declaration	Role of joint social funds
1 recommendation	Employment of bogus self-employed workers in the sector
1 tool	Rights and obligations in the framework of posting of workers

Overall, therefore, it can be observed that, of the four quantitatively most 'productive' sectors during the crisis, only one – the local and regional government sector – sees its activity as directly and essentially focussed on the crisis, restructuring and the social consequences. This crisis is also present, but to a lesser extent, in the construction sector. The two remaining sectors (electricity and civil aviation) have, meanwhile, seen some intense activity but this has been directed exclusively towards European sectoral policies and a high standard of working conditions (training, health and safety, equal opportunities, etc.).

37. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an EU Strategic Framework on Health and Safety at Work (2014-2020), COM(2014) 332 final, Brussels, 6.6.2014. http://eur-lex.europa.eu/legalcontent/FR/TXT/PDF/?uri=CELEX:52014DC0332

As for the sectors seen from the above Figure to be less productive, it will be noted that they include the banking sector[38]. It may appear surprising that the European social dialogue should have played no role in this sector through which the crisis was unleashed and which has been undergoing such major restructuring since 2007 (bankruptcies, nationalisations, mergers, restructurating, etc.) as well as job losses[39]. But the activity of this SSDC would seem to have been very weak from the outset.

38. With regard to the ports or paper sectors, the SSDCs have been set up too recently for any evaluation of their activity to be possible at this stage.

39. We may, however, mention one recent initiative in this sector: the organisation of a Eurosofin symposium dealing with social dialogue in the framework of restructuring in the banking sector in Europe. This was to held on 11 February 2015.

Conclusions

From a quantitative standpoint, we started out from the rather widespread belief that the sectoral social dialogue has been the locus of increasingly intense activity, with an increasing number of joint texts adopted each year by an increasingly large number of organised sectors. In reality, though it is true that the number of European sectors practising structured social dialogue has been increasing all the time, the overall performance record of this dialogue has to be interpreted with a certain amount of caution. Some sectors are more active than others and, more often than not, this activity is linked to particular circumstances that are in a state of flux. It cannot really be asserted that there is any overall trend towards a gradual strengthening of the SSDCs' activity (some sectors, such as insurance, banking, gas or footwear, even appear to have fallen into a state of deep lethargy over these last few years). The European sectoral social dialogue is therefore not, in any general sense, becoming more active; it is increasing in breadth, in the sense that it is covering an increasing number of sectors.

Still on the quantitative front, it is observed that the financial crisis of 2008 and the associated ensuing crises had no more than a limited impact on the sectoral social dialogue. There was no clean quantitative break in the number of joint texts adopted but merely something of a drop, offset to some extent by the increase in the number of SSDCs. During the 2007-2013 period, no less than nine new sectors became organised into SSCDs, bringing the current total number of such committees to 43. It is to be mentioned also that the specific topic of the debt crisis (banking and sovereign) and its consequences is indeed present in the social dialogue, but to a somewhat limited extent (except in the regional and local government sector and, to a lesser extent, the central government sector). In sectors such as banking or insurance, this topic is even totally absent over the period examined.

On the qualitative front, two main developments are to be observed. The first – and very clear – such development relates to the period 1999-2009. This was the period in which the SSD produced – to date and measured in proportionate terms – the most joint agreements between sectoral social partners. It was therefore a social dialogue consisting in the main of **reciprocal undertakings** – with a particularly abundant harvest of no less than eight framework agreements concluded between 2009 and 2012.

Yet it is to be observed that as from 2010 other developments have started to emerge. There has been a steep drop in the proportion of reciprocal undertakings within the overall production of joint texts, and this type of text is currently stagnating at below 40% of the total. This has become, accordingly, a social dialogue consisting for the most part of **joint lobbying**. How are we to explain in this context such a strong increase in the number of framework agreements, with its culmination in 2012? This apparent contradiction is explained simply by the fact that the signature of these numerous agreements is the coming to fruition, some time after the event, of the period of strong SSD activity that preceded the crisis. For it is to be noted that no new agreement was negotiated in 2011, or in 2013, or in 2014.

As can be seen, the overall purpose of the European social sectoral dialogue is itself rather ambivalent. It is apparent that the activity we have described here shifts to and fro within an ill-defined area that includes both joint lobbying and a species of reciprocal undertakings evidently intended as contributions to the emergence of a European industrial relations system. This seeming ambiguity can be explained in different ways and in particular by the diversity of national structures and approaches to social-partner consultation, by the diversity of strategies brought into play, and by the extremely wide-ranging nature of the employer interests present (Perin 2014).

Could the recent development represent the downside of an otherwise positive record of achievement in the social sectoral dialogue? It does appear likely that the unexpected refusal to transpose via legislative channels the framework agreement concluded in the hairdressing sector, together with the lack of enthusiasm of certain member states for the transposition of the inland waterways' working time agreement, could damage the social partners' interest in a social dialogue of reciprocal undertakings, insofar as they are no longer assured that the agreements in question will ultimately be implemented. If doubt is being sown in the social partners' minds as to the willingness of the Commision and of the member states in the Council to transpose the negotiated agreements as directives, all the added value of the social dialogue would thereby be weakened. But the 'revival' to which the new Juncker Commission has expressed its commitment could help to reverse any such development and to unleash new impetus for the social dialogue and its actors.

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All links were checked on 6.2.2015.

Annex

List of the 43 sectoral social dialogue committees (SSDC)

Sectoral Social Dialogue Committees (SSDC)					
Creation					
Joint (advisory) Committee	Informal working group	SSDC	Sector	Employees	Employers
1951		2006	Steel	IndustriAll	Eurofer
1952		2002	Extractive Industries	IndustriAll	APEP, EURACOAL, Euromines, IMA-Europe, UEPG
1964		1999	Agriculture	EFFAT	GEOPA/COPA
1965		2000	Road Transport	ETF	IRU
1967		1999	Inland Waterways	ETF	EBU, ESO/OEB
	1969	1999	Sugar	EFFAT	CEFS
1972		1999	Railways	ETF	CER, EIM
1974		1999	Sea Fisheries	ETF	Europêche/COGECA
	1982	1999	Footwear	IndustriAll	CEC
	1983	1999	Hotel and Restaurant	EFFAT	Hotrec
	1985	1999	Commerce	UNI Europa	EuroCommerce
	1987	1999	Insurance	UNI Europa	ACME, BIPAR, CEA
1987		1999	Maritime Transport	ETF	ECSA
	1990	2000	Civil Aviation	ETF, ECA	ACI-Europe, AEA, CANSO, ERA, IACA, IAHA
	1990	1999	Telecommunications	UNI Europa	ETNO
	1990	1999	Banking	UNI Europa	EACB, EBF-BCESA, ESBG
	1992	1999	Construction	EFBWW	FIEC
	1992	1999	Industrial Cleaning	UNI Europa	EFCI
	1992	1999	Textile and Clothing	IndustriAll	Euratex
	1992	1999	Private Security	UNI Europa	CoESS
1994		1999	Postal Services	UNI Europa	PostEurop
	1994	2000	Woodworking	EFBWW	CEI-Bois
	1996	2004	Local and Regional Government	EPSU	CEMR
	1996	2000	Electricity	IndustriAll, EPSU	Eurelectric
	1998	1999	Personal Services/Hairdressing	UNI Europa	Coiffure EU
	1998	2007	Contract Catering	EFFAT	FERCO
	1999	2001	Tanning and Leather	IndustriAll	COTANCE
		1999	Temporary Agency Work	UNI Europa	Eurociett
		1999	Live Performance	EAEA	Pearle*
		2001	Furniture	EFBWW	UEA, EFIC
		2003	Shipbuilding	IndustriAll	CESA
		2004	Audiovisual	EFJ, FIA, FIM, UNI-MEI	ACT, AER, CEP, EBU, FIAPF
		2004	Chemical Industry	IndustriAll	ECEG
		2006	Hospitals and Healthcare	EPSU	HOSPEEM
	2006	2010	Metal industry	IndustriAll	CEEMET
		2007	Gas	IndustriAll, EPSU	EUROGAS
		2008	Professional Football	ECA, EPFL	FIFPro
	2008	2010	Central Government Administrations	TUNED	EUPAN
		2010	Education	ETUCE	EFEE
		2010	Paper Industry	industriAll	CEPI
		2012	Food and Drink Industry	EFFAT	FoodDrink Europe
		2013	Graphical Industry	UNI Europa Graphical	Intergraf
		2013	Ports	ETF, IDC	FEPORT, ESPO

Source: European Commission, Industrial Relations in Europe (forthcoming)