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## **NEWGOV**

### **New Modes of Governance**

Integrated Project  
Priority 7 – Citizens and Governance in the Knowledge-based Society

#### **The Emergence and Evolution of the Sectoral and Interprofessional Social Dialogue? A Quantitative Analysis**

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## Summary

In this paper we will draw together two objectives of the NEWGOV project. On the one hand to map all the existing documents in the field and on the other to reflect on the emergence and the evolution of new modes of governance in specific domains. We have created a database including all the joint documents signed by the social partners at European level. We present the results of a quantitative analysis covering all 353 agreements adopted since 1978 at sectoral level and 52 at interprofessional level. From this quantitative analysis we can detect certain overall trends on the emergence of and evolution affecting the sectoral social dialogue and compare the dynamics with the interprofessionnal social dialogue. This article is structured in four main parts. First we classify the texts adopted into six categories: ‘agreements’, ‘recommendations’, ‘declarations’, ‘internal rules’, ‘tools’ and ‘common positions’. Then, we briefly set out the main stages leading up to the formation of the 31 sectoral committees now in existence and the developments at interprofessionnal level. The two main parts are part 3 and part 4 which present the findings from our data. The third describes the developments in the sectoral social dialogue, analysing the different dimensions (number of documents, type, topics, and to whom they are addressed). The fourth part follows the same lines but at the interprofessionnal level. Then we draw some conclusions.

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## 0. Introduction<sup>1</sup>

The development of the interprofessional social dialogue has been presented in various books and articles (Dølvik, 1999; Degryse, 2003; Keller and Sörries, 1999a and b; Keller and Bansbach, 2000). Scholars have been interested in the actors' strategy (Arcq *et al.*, 2003; Branch and Greenwood, 2001; Braud, 1998; Dølvik and Visser, 2001; Gobin, 1996; Groux *et al.*, 1993; Tyszkiewicz, 1999) or in the results (Bercusson, date; Degryse, 2000; Falkner, 2003; Keller and Sörries, 1997). Traditionally, interprofessional social dialogue is presented as having developed in three phases a) the emergence from Single Act to Maastricht b) the consolidation from Maastricht to 2000 c) the uncertain time from the autonomous joint programme to today (Bureau du plan, 2005).

On the other hand, the sectoral social dialogue has attracted little attention until now. This lack of interest is all the more surprising in that most negotiations in the vast majority of Member States (EU 15) actually take place at sectoral level (see, for example, the *Industrial Relations Report 2004*). Only very recently have there been any multi-sector, cross-cutting studies which adopt both a quantitative and a qualitative approach (Benedictus *et al.* 2002; De Boer *et al.*, 2005; Dufresne, 2002; Pochet *et al.* 2004; European Commission 2004; Nordestgaard and Kirton-Darling 2004; Pochet and Degryse, 2005; Weber, 2001). All of these studies stressed that the type of documents adopted by the sectoral social partners was undergoing a qualitative change. In other words, it appeared that significant developments were underway which needed to be better understood, analysed and assessed.

Such an initiative posed two challenges: one quantitative, since there were no standardised data concerning texts signed after 1997 (when the European Commission published a compendium of earlier texts, 1995 and 1997), and the other qualitative, related to the precise nature of the texts adopted. How should they be described? How should they be classified?

At the same time the interprofessional social dialogue seems to have entered into a crisis as the last legally binding agreement was signed in 1999. In the new century, the interprofessional social partners have only signed soft law agreements (e.g. telework, stress, long life learning).

In this paper we will draw together two objectives of the NEWGOV project. On the one hand to map all the existing documents in the field and on the other to reflect on the emergence and the evolution of new modes of governance in specific domains.

We have created a database including all the joint documents signed by the social partners at European level. We shall present below the results of a quantitative analysis covering all 353 agreements adopted since 1978 at sectoral level and 52 at interprofessional level<sup>2</sup>. This analysis is based on the reading and classification of all 'agreements' signed since 1978 at sectoral

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<sup>1</sup> The analysis of agreements between 1978 and 1996 and for the year 2004 at sectoral level was conducted together with Christophe Degryse, and for the period 1997 to 2003 with Anne Dufresne and Christophe Degryse. The analysis for the 1997-2003 is contained in chapter 3 of the quantitative and qualitative analysis of a study commissioned by the European Commission (no. VC/2003/0400 – SI2.365647). I subsequently classified the 52 documents issued by the interprofessional social partners according to the categories we used for the sectoral social dialogue. Special thanks to Dominique Jadot for retrieving the documents and to Renaud Smoes for preparing the tables. In the course of the work with Anne Dufresne and Christophe Degryse we identified different sectoral dynamics that enabled us to draw up a six-category classification on which I draw once again here. This research was partly funded by the Swedish SALTSA group.

<sup>2</sup> We have already included the year 2005 which is not the case for the sectoral dialogue. The reason is that no new document is likely to be signed at interprofessional level before the end of the year. In January 2006 the tables will be changed for the sectoral part.

level. We then classified the 52 documents issued by the interprofessionnal social partners according to the categories we used for the sectoral social dialogue. In the course of the work with Anne Dufresne and Christophe Degryse we identified a six-category classification of the joint documents produced by the social dialogue actors, on which I draw here.

From this quantitative analysis we can already detect certain overall trends on the emergence of and evolution affecting the sectoral social dialogue and compare the dynamics with the interprofessionnal social dialogue. We will not touch here on qualitative aspects and trends specific to individual sectors but would refer the reader to the studies carried out for the Commission and for UNI-Europa (Pochet, 2005a; Pochet *et al.*, 2004; Pochet and Degryse, 2005, Degryse *et al.*, forthcoming).

This article is structured in four main parts. First we classify the texts adopted into six categories: ‘agreements’, ‘recommendations’, ‘declarations’, ‘internal rules’, ‘tools’ and ‘common positions’. Then, we briefly set out the main stages leading up to the formation of the 31 sectoral committees now in existence and the developments at interprofessionnal level. The two main parts are part 3 and part 4 which present the findings from our data. The third describes the developments in the sectoral social dialogue, analysing the different dimensions (number of documents, type, topics, and to whom they are addressed). The fourth part follows the same lines but at the interprofessionnal level. Then we draw some conclusions.

## 1. Texts adopted: a clarification

The official titles of the joint documents vary considerably: common opinions, declarations, resolutions, proposals, guidelines, recommendations, codes of conduct, social labels, etc. It is not possible to create meaningful categories on the basis of the official designations. We shall refer to them generically as ‘joint texts’ or ‘joint documents’.

We distinguish between ‘mutual undertakings’ between the social partners, and ‘common positions’, i.e. documents intended for the public authorities (first and foremost the Commission). With regard to ‘mutual undertakings’, we distinguish between ‘tools’, ‘declarations’, ‘recommendations’ and ‘agreements’. Each is addressed to the social partners but the degree of constraint is different. The last category is ‘internal rules’, laying down the rules of the game. These categories allow us to test the hypothesis that the social dialogue is increasingly taking place between the social partners or mainly addressed to the public authorities.

We can also test whether we notice a trend from non-binding to more binding documents or whether the story is more complex. Having all the joint texts from the beginning of the social dialogue process, this gives us the temporal dimension for which we have distinguished two sub-periods. From the beginning to 1998 (when the Commission issued a Communication creating the new sectoral committees and giving them a double goal of consultation and of negotiating agreements) and 1998 to today. We do not use sub periods for the interprofessionnal social dialogue as it is not relevant.

Before analysing the tables, let us spell out the differences in more detail.

**a) Agreements:** This category corresponds to agreements initiated between the European social partners (pursuant to Article 139), intended for national organisations and with a follow-up procedure determining precise mechanisms and deadlines for implementation. Agreements may or may not be converted into directives.

**b) Recommendations:** This category comprises texts whose provisions are drawn up by the European social partners intended for national organisations and for which a follow-up and evaluation procedure is laid down at national and European level. There is deemed to be fol-

low-up if the text of the joint document sets out (reasonably precise) procedures for national implementation and for a European-level evaluation of this follow-up at a given point in time. This is therefore a procedural definition. Follow-up as defined here should not be confused with implementation, which relates to substantial aspects.

c) Declarations: This category corresponds to ‘declarations of intent’ drawn up by the European social partners, intended for national organisations or for themselves, and where no explicit follow-up procedures are set out in the text or where the procedure is vague.

d) Tools (for training and action): This category comprises various sub-categories: studies (only studies carried out jointly by the social partners and not by European and/or national consultants); handbooks; glossaries or databases.

e) Internal rules: Internal rules are recognition agreements between the social partners.

f) Common positions: This category corresponds to texts addressed to the European institutions. These texts may be produced under very different circumstances. Sometimes the prime purpose of a common position is very obvious but, in other cases, it may be vague due to being watered down by the numerous matters covered.

It should be noted that our categories are not exactly the same than those proposed by the Commission (2004).

## **2. The main institutional developments at sectoral and interprofessional level**

Originally the bodies serving for the consultation of the European social partners were joint committees, established by the European Commission. A first wave of six joint committees was formed in the sectors covered by the ‘integrated’ common policies: mines (1952), agriculture (1964/1974)<sup>3</sup>, road transport (1965), inland waterways (1980), fishing (1974) and railways (1972). Their members were appointed by the Commission, with an equal number of employers and employees. Informal working groups, set up at the request of the social partners, began to appear during the 1980s. They provided for a more pragmatic and flexible form of social dialogue, as well as being more informal. Such working groups were formed in a number of sectors with the Commission’s backing: HORECA (1983), commerce (1985), insurance (1987), banking (1990), etc. A second wave of joint committees took shape in the late 1980s and early 1990s in the following sectors: sea transport (1987), civil aviation (1990), telecommunications (1990) and postal services (1994).

In 1985, the Single Act introduced a provision recognising the social partners and allowing them to hold a dialogue. With the support of the President of the Commission Jacques Delors the interprofessional social dialogue between ETUC for the workers and UNICE for private enterprise and CEEP for public or semi-public companies began.

The 1991 Social Protocol laid down a legal framework which opened up new scope for dialogue at interprofessional level as well as in the various sectors. The entry into force of the Maastricht Treaty (and its Social Protocol) resulted in an obligation on the Commission to consult the social partners prior to the adoption of a legislative proposal and the possibility for them to sign collective agreements which may either be extended *erga omnes* by means of a Council directive or else be implemented by the social partners themselves at national level.

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<sup>3</sup> The social dialogue began in 1964 but the committee was not formally established until 1974.

The interprofessional social partners agreed on three collective agreements transformed into a directive by the Council (parental leave, part-time work, fixed term contract). They failed to agree on others such as works councils or information/consultation at national level. The turning point was the failure in 2001 of the negotiation on temporary agency work which should have been the last text on atypical work (after the fixed-term and part-time agreements).

Concerning the sectoral level, following its framework decision of 20 May 1998 (European Commission 1998) the Commission decided on 1 January 1999 to harmonise the system, replacing the two former types of body with sectoral social dialogue committees (SSDCs), '*intended to promote dialogue between the social partners at European level*'. Thus the sectoral social dialogue was put on an institutional footing as an extension of the interprofessional social dialogue initiated at Val Duchesse in 1985.

SSDCs are formed by joint request of the social partners and approved by the Commission. They comprise a maximum of 40 representatives (with an equal number from both sides of industry) and are chaired either by one of the social partner representatives or, at their request, by the Commission representative who in any event acts as the committee secretary. Each committee is expected to adopt its own rules of procedure and work programme (often annual). It holds at least one plenary meeting per year and handles more specific matters at enlarged secretariat meetings or in restricted working groups. The negotiating mandate is determined by national organisations: the Commission has not laid down any rules as to the means of approving joint texts.

The number of sectoral social dialogue committees (SSDCs) has grown since the reform: the sectors organised into committees increased from 20 in 1998 to 31 in 2004. Ten joint committees and 16 informal working groups were transformed into SSDCs, while five sectors established committees directly: live performance (1999), temporary workers (1999), furniture (2001), shipbuilding (2003) and audiovisual (2004). Last of all, following the REACH proposal<sup>4</sup>, the chemical industry finally decided to seek recognition as a new committee.

By contrast, certain sectors with a tradition of national collective bargaining are not represented, for example metalworking and public services. There may however be changes in the pipeline. Some progress seems to have been made in metalworking since the end of the European Coal and Steel Community (ECSC) (the creation of a shipbuilding committee was the first step) and the national public authorities are considering the possibility of establishing one, especially now that the local and regional government committee has been recognised.

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<sup>4</sup> Proposal concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), (COM (2003) 644 final), 29 October 2003.

**Table 1: The 31 sectoral social dialogue committees officially established as at 31 December 2004 in alphabetical order**

Sector	Workers	Employers	Former joint committees	Informal working groups	SSD committees
<b>Agriculture</b>	EFFAT <sup>(1)</sup> (2000)	GEOPA/COPA (1958)	1964		1999
<b>Audiovisual</b>	EAEA, EFJ	EBU, ACT, AER, CEPI, FIAPF			2004
<b>Banking</b>	UNI-Europa (2000)	FBE (1960), ESBG (1963), EACB (1970),		1990	1999
<b>Chemical industry</b>	EMCEF (1996)	ECEG			2004
<b>Civil aviation</b>	ETF (1999), ECA (1991)	ACI-Europe (1991), CANSO (1998), ERA (1980), IACA (1971), AEA (1973)	1990		2000
<b>Cleaning industry</b>	UNI-Europa (2000)	EFCI (1988)		1992	1999
<b>Commerce</b>	UNI-Europa (2000)	EuroCommerce (1993)		1985	1999
<b>Construction</b>	EFBWW (1984)	FIEC (1905)		1992	1999
<b>Electricity</b>	FSESP/EPSU (1974), EMCEF (1996)	Eurelectric (1999)		1996	2000
<b>Footwear</b>	ETUF-TCL (1964)	CEC (1959)		1982	1999
<b>Furniture</b>	EFBWW (1984)	UEA (1954)			2001
<b>HORECA/Tourism</b>	EFFAT (2000)	Hotrec (1992)		1983	1999
<b>Inland waterways</b>	ETF (1999)	UENF (2001), ESI/OEB	1967		1999
<b>Insurance</b>	UNI-Europa <sup>(2)</sup> (2000)	CEA (1953), BIPAR (1937), ACME (1978)		1987	1999
<b>Live performance</b>	EAEA (1999)	Pearle (1991)			1999
<b>Local and regional government</b>	FSESP (1978)	PfE CCRE (1951)		1996	2004
<b>Mines</b>	EMCEF (1996)	APEP (1983), EURACOAL (1953), Euromines (1995)	1952		2002
<b>Personal services (hairdressing)</b>	UNI-Europa (2000)	CIC Europe (1991)		1998	1999
<b>Postal services</b>	UNI-Europa (2000)	PostEurop (1993)	1994		1999
<b>Private security</b>	UNI-Europa (2000)	CoESS (1989)		1993	1999
<b>Railways</b>	ETF (1999)	CER <sup>(3)</sup> (2002)	1972		1999
<b>Road transport</b>	ETF (1999)	IRU (1948)	1965		2000
<b>Sea fishing</b>	ETF (1999)	Europêche/COGECA (1959)	1974		1999
<b>Sea transport</b>	ETF (1999)	ECSA (1990)	1987		1999
<b>Shipbuilding</b>	EMF (1971)	CESA (1965)			2003
<b>Sugar</b>	EFFAT (2000)	CEFS (1954)		1969	1999
<b>Tanning and leather</b>	ETUF-TCL (1964)	COTANCE (1957)		1999	2001
<b>Telecommunications</b>	Uni-Europa (2000)	ETNO (1991)	1990		1999
<b>Temporary work</b>	UNI-Europa (2000)	EuroCIETT (1967)			1999
<b>Textiles/clothing</b>	ETUF-TCL (1964)	Euratex (1995)		1992	1999
<b>Woodworking</b>	EFBWW (1984)	CEI-Bois (1952)		1994	2000
<b>Total</b>	11 European industry federations	48 employers' federations			31

<sup>(1)</sup> Formerly known as EFA – founded in 1958.

<sup>(2)</sup> EURO-FIET (1972) – ECF-IUF (1981).

<sup>(3)</sup> Formerly known as CCFE – founded in 1988.

Source: Table updated and completed, Industrial Relations 2002.

It also has to be said that the employers' representation is somewhat fragmentary. This is particularly true for civil aviation but also for the mining, banking and audiovisual sectors. Each

of the eleven European trade union industry federations (EIFs) sits on at least one committee. UNI-Europa is present in eleven and transport in five.

As far as the interprofessional social dialogue is concerned, the turning point was represented by the social partners' autonomous work programme (2002-2005) that seeks to increase the degree of autonomy from the Commission. Even though there have been numerous measures, the number of joint documents negotiated with potential binding effects is limited (Degryse, 2005).

### **3. Development of the sectoral social dialogue**

We will examine the number of documents adopted both globally and per sector. We then disaggregate these data year by year in a table, stating in how many years each sector has signed one or more text(s) and how many sectors have signed one or more text(s) per year. Section 4 analyses the types of texts adopted in relation to the six categories defined below. The next step is to look more closely at the themes covered, based on 11 topic areas.<sup>5</sup> Last of all we shall consider the addressees of these texts.

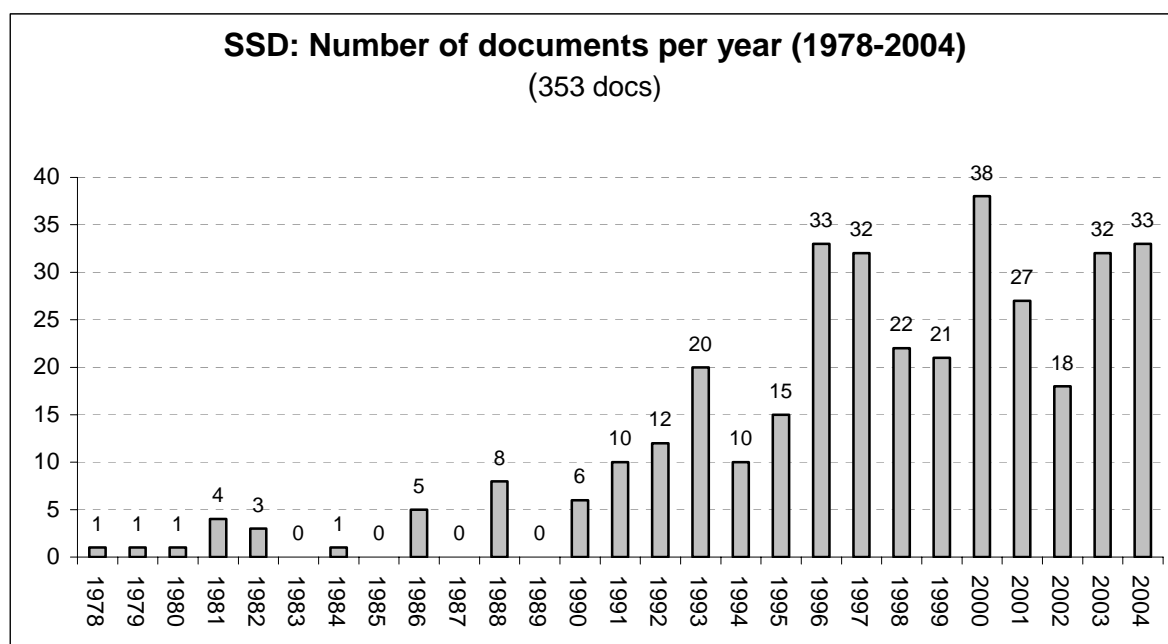
Our analysis will be based on two periods. The first period covers all documents since the very outset, i.e. beginning with the first joint document in agriculture in 1978 on working time; the second period runs from 1998 onwards, the date when it was decided to establish the new social dialogue committees. Even though these were only set up from 1999 onwards, we have kept 1998 as the starting date because that is when the Commission clearly stated that it expected to see a renewed sectoral social dialogue.

#### Number of documents

The social dialogue resulted in 353 joint texts during the period under investigation (1978-2004).

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<sup>5</sup> a) Health and safety b) Training c) Employment d) Working time e) Social dialogue f) Enlargement g) Working conditions h) Non-discrimination (including equality between men and women) i) Sustainable development j) Economic and/or sectoral policies k) Social aspects of Community policies.

**Figure 1: Total number of documents per year, all sectors**

Source: Observatoire social européen own data base.

Since the very first joint text was signed in the sectoral social dialogue in 1978, the yearly distribution reveals a significant increase in their numbers. Yet the increase is not continuous and there are sharp fluctuations from one year to another. In addition, more documents were signed after 1998 than between 1978 and 1997 (that year alone accounted for 32 joint documents). Finally, the number of documents began to rise in 1996, or two years before the formation of the new committees.

We should sound a methodological note of caution here: there have been more committees as time has gone by, and it is therefore quite natural to find a growing number of joint documents. Table 2 shows the total number of committees (officially established) by year. The second row shows the number of committees at the time when they signed their first agreement. The difference between the two figures derives from the fact that once a committee is officially recognised we have included agreements signed earlier when it was not yet official.

**Table 2: Establishment of SSDCs and dates of signature of first agreements, by year**

	1952	1965	1967	1969	1972	1974	1978	1982	1983	1985	1986	1987	1988	1990
<b>No. of SSDCs</b>	1	2	3	4	5	7	7	8	9	10		12		15
<b>First text</b>							1				2		4	7

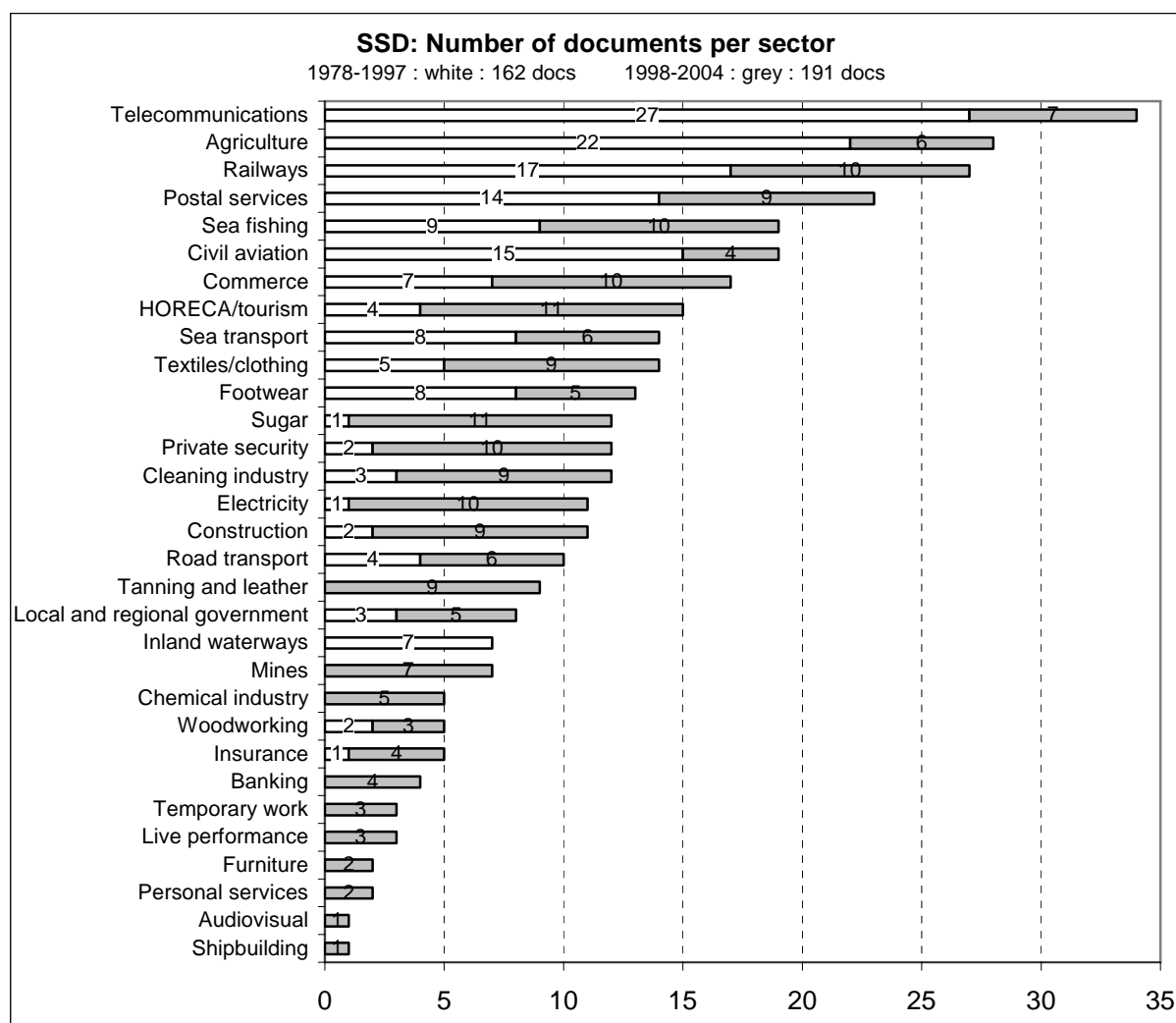
  

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
<b>No. of SSDCs</b>		18	19	21		23		24	27		28		29	31
<b>First text</b>	8	9	11	14	15	19	21	22	23	27	28	29	30	31

The 33 (Figure 1) agreements of 1996 (for 19 committees) are therefore more numerous in relative terms than the 27 documents (Figure 1) of 2001 for 28 committees. In the former

case, each committee issued 1.5 texts on average; in the latter just one each. The following figure shows the relative productivity of each sector.

**Figure 2: Number of documents per sector 1978-2004 (353 docs)**



Source: Observatoire social européen own data base

There are highly significant differences between one sector and another. Four of them (telecoms, agriculture, railways and postal services) each signed more than 20 joint texts and account for almost a third of all joint documents. Ten sectors, on the other hand, signed five joint documents apiece or fewer: these are recently established committees for the most part. The sectors which were the most prolific before 1998 were no longer necessarily so thereafter. This is the case for telecoms, agriculture and civil aviation.

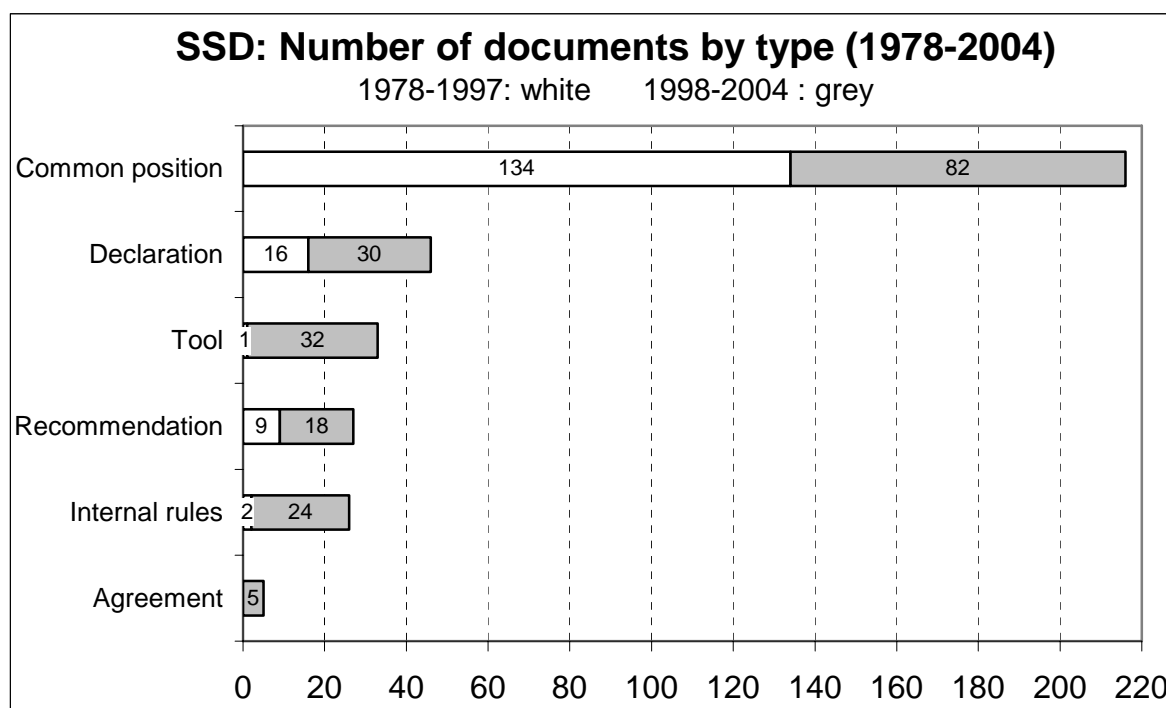
Further detailed examination of the broad figures show in how many years (since 1998) there was one or more document(s) per sector. Only two sectors, sugar and commerce, signed one or more document(s) per year. Private security signed one in six years out of seven. Railways, HORECA/tourism, postal services, sea fishing, telecommunications and sea transport: five years out of seven. At the other end of the scale, inland waterways have signed no agreement since 1997. Moreover, seven sectors signed no joint texts at all in 2003 or 2004: these are agriculture, footwear, furniture, inland waterways, personal services, textiles/clothing and temporary work.

One limitation of quantitative analysis is that, by its very nature, it focuses on figures. In actual fact, on the one hand not all sectors are equally ambitious with regard to the quantity of texts they wish to produce; on the other, the generation of a large number of texts says nothing about the quality of those texts, nor about the internal dynamic at work. Such data alone, therefore, can certainly not be considered indicative of the vitality of dialogue in a sectoral committee. For example, HORECA is the sector which signed the most joint documents, but a careful analysis reveals the weakness of the content of these texts. Thus we must draw a distinction according to the types of document signed. It should also be noted that in other cases, such as textiles/clothing, the absence of any joint texts did not prevent the protagonists in the sector from cooperating intensively when confronted with the end of the multifibre agreements (Pochet 2005a).

### Types of document

As stated above, we have defined six types of joint document: agreements, recommendations, declarations, tools, internal rules and common positions.

**Figure 3: Number of documents by type 1978-2004**



Source: Observatoire social européen own data base

An analysis of all 353 documents reveals that a large majority of them – 216 (60%) – are common positions. Next come declarations – 46 – and then, in turn, tools, recommendations, internal rules and lastly agreements (5).

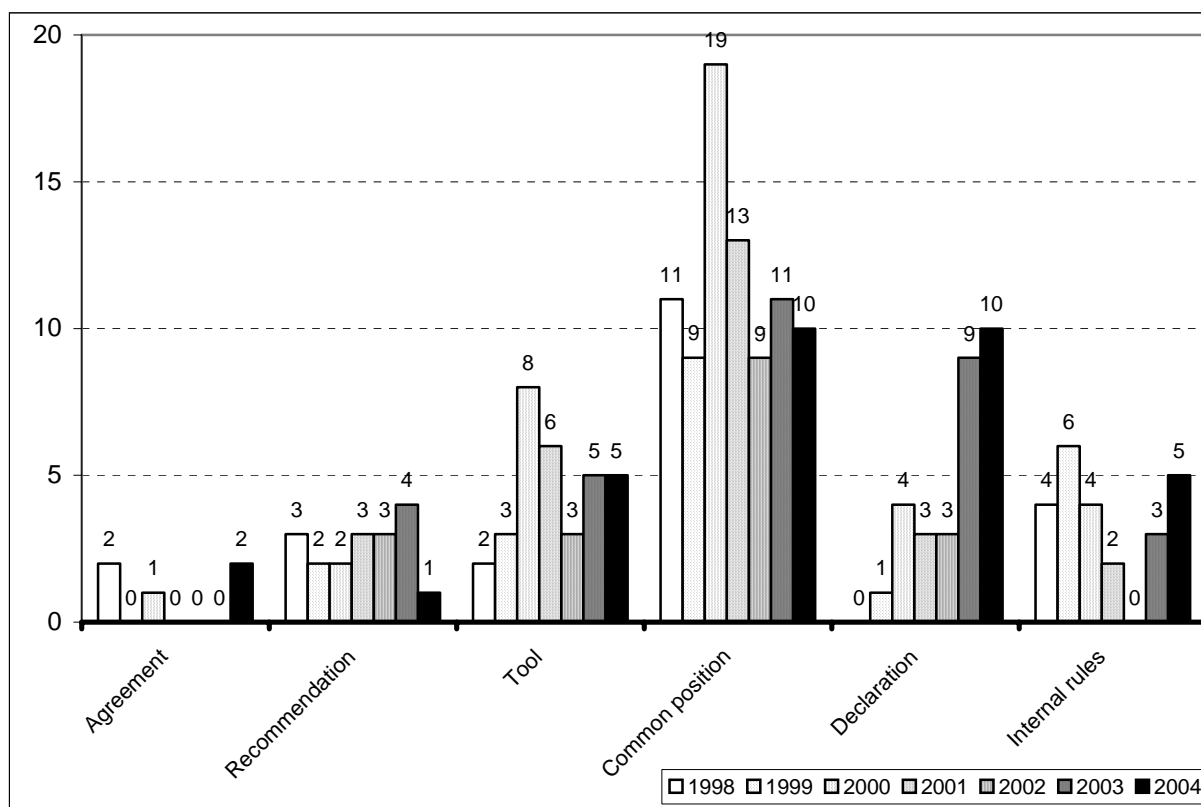
Therefore, if we interpret the social dialogue restrictively as the negotiation of binding agreements, ‘agreements’ constitute fewer than 2% of all texts. Three of these are directly related to the sectoral implementation of the 1993 Working Time Directive in the transport sectors<sup>6</sup>, in

<sup>6</sup> European agreement on the organisation of working time of seafarers (30 September 1998); Agreement on some aspects of the organisation of working time in the rail transport sector (30 September 1998); European agreement on the organisation of working time of mobile staff in civil aviation (22 March 2000).

the wake of the European directive. The other two were signed in the rail transport sector in 2004 (for a detailed analysis see Champin 2004).

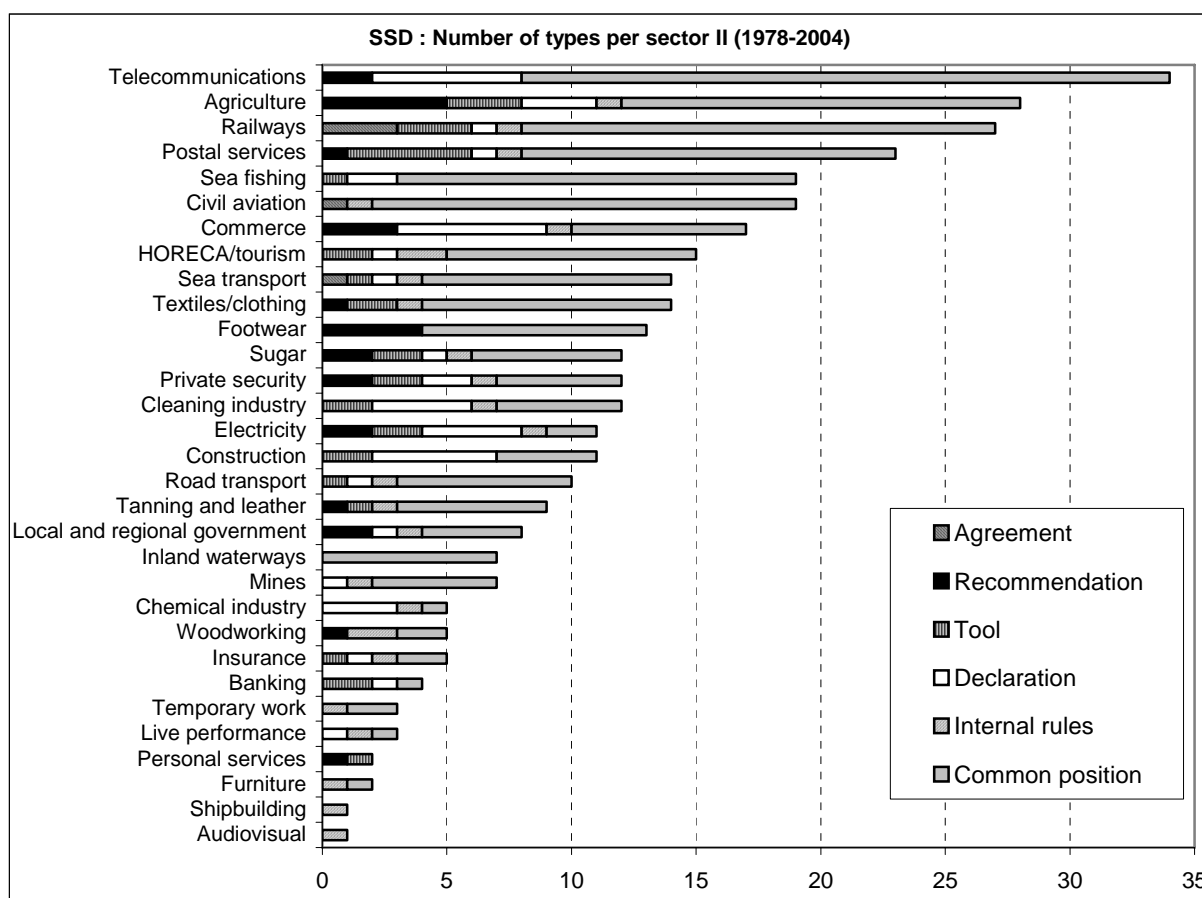
A somewhat different view is obtained by scrutinising the texts signed since 1998. 82 of these are common positions, which still constitute the largest category but now cover fewer than 45% of all joint texts. Declarations, tools and recommendations are clearly gaining ground. The question now arising is how this move towards more social dialogue between social partners is distributed across time. The next table presents the results (1998-2004) on an annual basis so as to give a more precise idea.

**Figure 4: Number of documents by type and by year (1998-2004)**



Source: Observatoire social européen own data base

What is striking about the distribution of documents by type and by year is a relative stability for internal rules, peaks for tools and declarations, and a general tendency towards a reduction in common positions. Developments are, however, erratic rather than representing a systematic year-on-year downward trend. In 2003, for the first time, there were fewer common positions (11) than the sum of declarations, recommendations and agreements (12), i.e. joint undertakings by the social partners. The same happened again and was more pronounced in 2004, with 10 common positions against the sum of 11 declarations, recommendations and agreements. This would seem to indicate a shift from a social dialogue initially more prone to issue common positions addressed to the Community authorities, towards a social dialogue focusing more on internal social partner priorities. Only the results of the next few years will confirm whether or not this is a meaningful trend.

**Figure 5: Sector-by-sector breakdown II (1978-2004)**

Source: Observatoire social européen own data base

Between 1978 and 2004 13 sectors adopted recommendations and three others, agreements. Interestingly, they are not the same ones. One might think that this outcome is mainly due to the implementation of the Working Time Directive, but we should add that the trade union side in the transport sector is reluctant to sign up to ‘soft’ instruments such as recommendations (Noordestgaard and Kirton-Darling 2004). So-called recommendations are often codes of conduct or charters, as in the case of sugar, textiles, footwear, leather, woodworking and private security. Agriculture has adopted several recommendations on working time and has been a pioneer in this field. Three sectors – agriculture, electricity and sugar – have passed recommendations on training. We know extremely little about the effective implementation of recommendations: in many cases follow-up has been minimal and fragmentary and, as in textiles, has sometimes been set in motion after a delay of several years. The sugar code of conduct is innovative in that it arranges for precise follow-up of implementation with the publication of a summary document.

This figure also shows that 20 sectors at best adopted declarations, a rather meagre achievement in terms of joint undertakings.

A detailed sector-by-sector analysis (De Benedictus *et al.*, 2002 and Pochet *et al.* 2004) makes plain that there is no general dynamic progressing from common positions to tools, declarations, recommendations and then agreements. In other words, an examination of each sector individually reveals no obvious gradual move towards more binding undertakings in terms of follow-up. Meaningful trends can only be inferred from the sum of all the different sectors.

It is now time to turn our attention to content, and to analyse the topic areas covered by these joint documents.

### Topic areas covered

Many joint documents are confused and deal with a variety of topics without their main objective emerging clearly. For a number of them we had to make a choice, which proved quite difficult in some cases<sup>7</sup>. We could not emphasise too strongly the need for caution when interpreting these results. For this reason we used several fields when constructing our database. Here we shall present the results for the main field only.

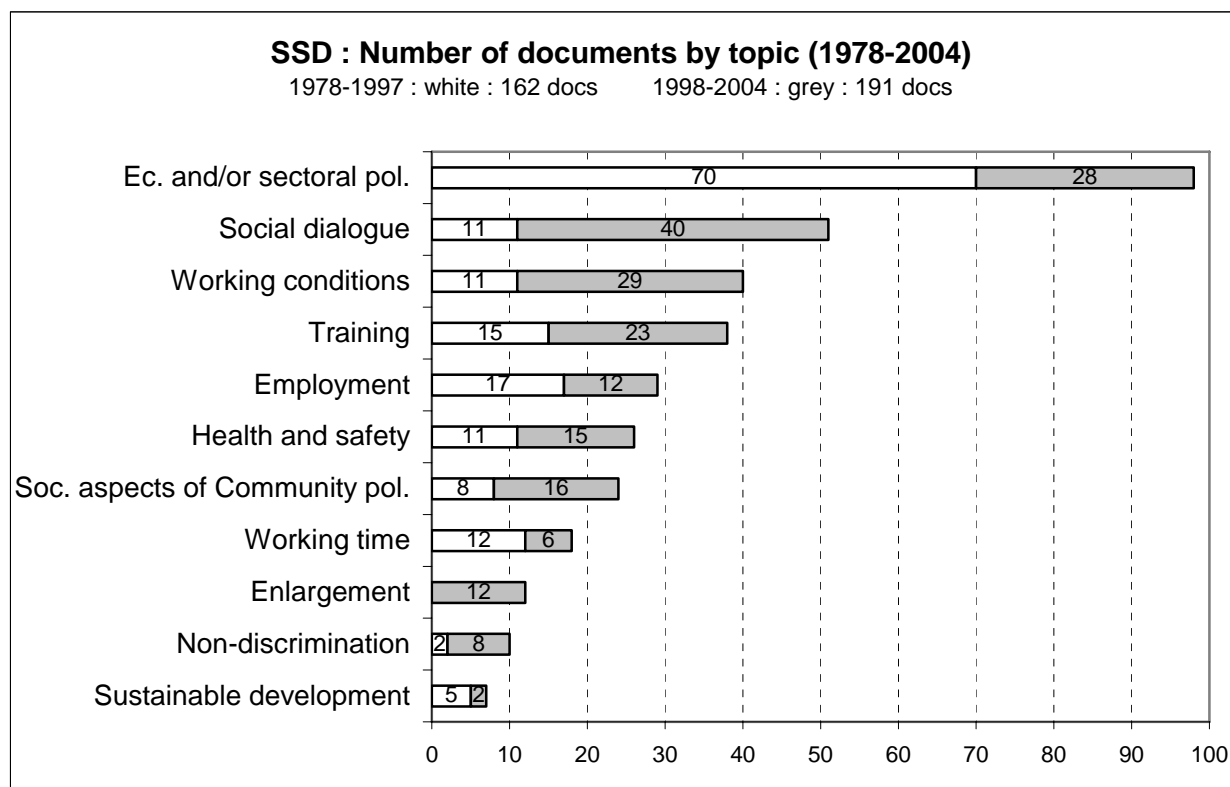
The topic areas have been grouped into 11 categories:

1. Health and safety
2. Training
3. Employment
4. Working time
5. Social dialogue (including the 26 sets of ‘internal rules’)
6. Enlargement (the texts on enlargement mainly deal with the issue of extending social dialogue to the east European countries)
7. Working conditions (including non-standard forms of work: telework, illegal employment, etc.)
8. Non-discrimination (including equality between men and women)
9. Sustainable development (including environment)
10. Economic and/or sectoral policies (in a sense, ‘industrial’ policy in the broad sense of the term)
11. Social aspects of Community policies (social consequences of sectoral strategies).

In the main, the topic areas selected correspond to those put forward by the European Commission in its *Industrial Relations Report* for 2000.

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<sup>7</sup> The same difficulty has been highlighted by other research teams which have analysed these agreements (in particular De Benedictus *et al.*, 2002).

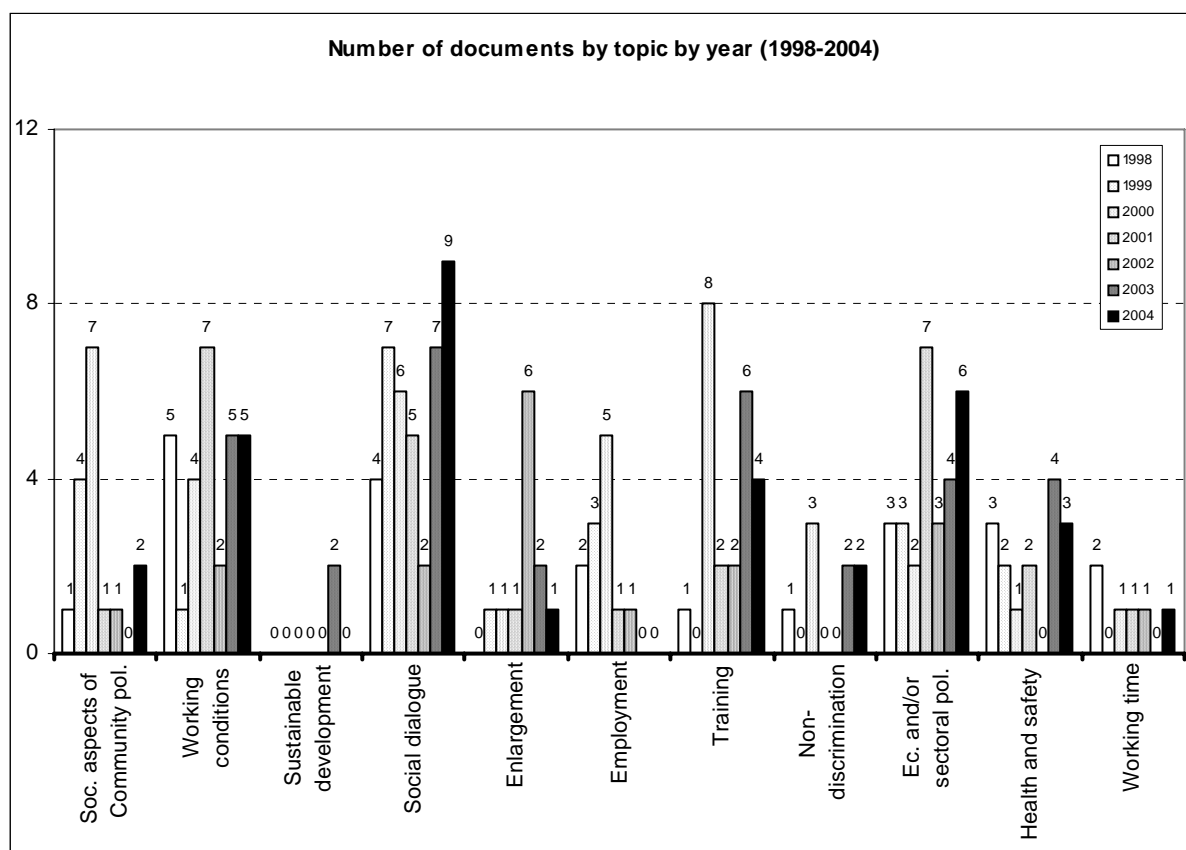
**Figure 6: Number of documents by topic (1978-2004)**

Source: Observatoire social européen own data base

‘Economic and/or sectoral policies’, ‘social dialogue’ and ‘working conditions’ are the three largest topic areas judging by the number of texts. The order is reversed after 1998, with ‘social dialogue’ in the lead followed by ‘working conditions’. We would however be particularly reluctant to comment in any further detail, since these are also the areas with the most general headings and hence they encompass many documents whose aims are equally general. We would recall in addition that the ‘social dialogue’ category also covers ‘internal rules’ between social partners, of which there are 26 sets. The rarest topics are sustainable development, non-discrimination, working time and health/safety. It is particularly surprising to see non-discrimination, including gender equality, so low down the list. Contrary to expectation, ‘employment’ and ‘working time’ are the only ones to crop up more frequently before 1998 than afterwards.

Let us now move on to the distribution by year and by topic. Here too, there are significant differences for certain years.

**Figure 7: Number of documents by topic and by year (1998-2004)**



Source: Observatoire social européen own data base

No very clear trends emerge from a year-on-year analysis of topic areas, with the exception of ‘economic policies’ and ‘social aspects’. Indeed, the number of texts on economic and/or sectoral policies falls off sharply as from 1998 (there were 11 in 1997). Seven texts on the social aspects of Community policies were signed in 2000 and none at all in 2003. One might infer from this that the most general topics intended for the European institutions are on the decline. It should also be noted here that many ‘common positions’ were directly linked to the process of deregulation in utility sectors. Deregulation is virtually complete in some of these sectors. In 1997, 12 out of 30 joint documents came from just two sectors: telecommunications and postal services. ‘Enlargement’ peaked in 2002. More surprisingly, not one text geared directly to employment was signed in either 2003 or 2004 and there was only one in 2002, despite it being a period of economic crisis.

**Table 3: Occurrence of topic areas in three types of joint document (1998-2004)**

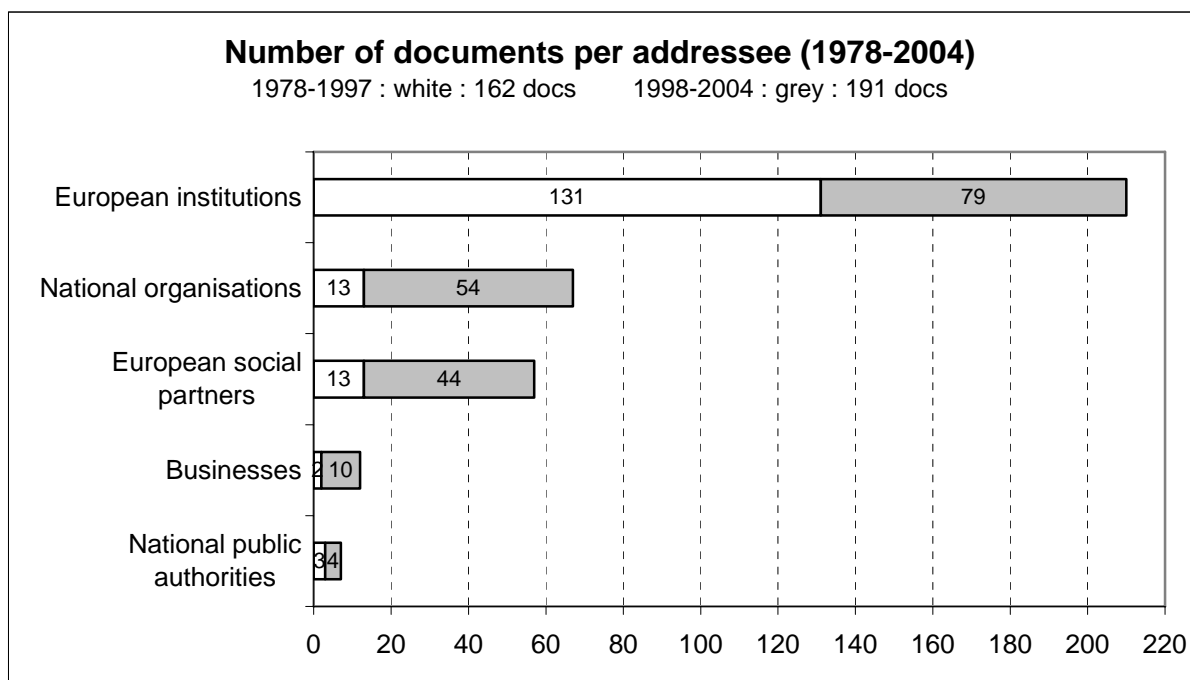
	<b>Declarations</b>	<b>Recommendations</b>	<b>Agreements</b>
<b>Social aspects of Community policies</b>	1		
<b>Working conditions</b>	4	11	1
<b>Social dialogue</b>	3	2	
<b>Enlargement</b>	6		
<b>Employment</b>		1	
<b>Training</b>	9	2	
<b>Non-discrimination</b>	3	2	
<b>Economic and/or sectoral policies</b>	2		
<b>Health and safety</b>	3		
<b>Working time</b>			4

Working time is the principal topic area as far as Agreements are concerned. This is not surprising because it proved possible to adapt the 1993 Working Time Directive to the transport sector, giving rise to three Agreements. As for Recommendations, working conditions was the topic most frequently addressed. Here too, the outcome would appear logical because most of the documents are codes of conduct. We did in fact define working conditions very broadly, and this tallies with the subjects covered by the various codes of conduct. With respect to Declarations, the main theme is training, followed by enlargement. ‘Common positions’ deal above all with economic and sectoral policies, followed by the social consequences of Community policies. Once again, this finding was to be expected since these are documents addressed to the Community authorities. As for Tools, health and safety is the main topic area. Even though we should remain cautious and not draw over-hasty conclusions, it does seem that each instrument lends itself to particular topic areas.

#### Addressees

Five categories of addressee have been identified: 1) European social partners, 2) European institutions, 3) national organisations, 4) businesses and 5) national public authorities. As for the topic areas, we have created two fields in order to take account of the diversity of addressees in many documents.

A large majority of documents are primarily intended for the European institutions, yet this applies basically to the period as a whole. It is no longer the case if we take 1998 as our starting date. Next come national organisations: of the 67 documents, just 13 were addressed to them before 1998, thereby marking a major change in the nature of the social dialogue. Last of all come national public authorities with a fairly high figure, since there are 26 sets of ‘internal rules’ which are by definition addressed first and foremost to the national authorities.

**Figure 8: Number of documents per addressee (1978-2004)**

Source: Observatoire social européen own data base

It is worth noting that 12 joint texts are intended primarily for businesses, while 15 more have businesses as a second addressee. The emergence of businesses as addressees is worth singling out and must be related to two factors: firstly, codes of conduct, which usually have businesses as one of their addressees and, secondly, the important role played by multinationals in certain sectors (in some cases they are direct members of employers' organisations).

Lastly, national public authorities are also mentioned, especially with respect to training and lifelong learning.

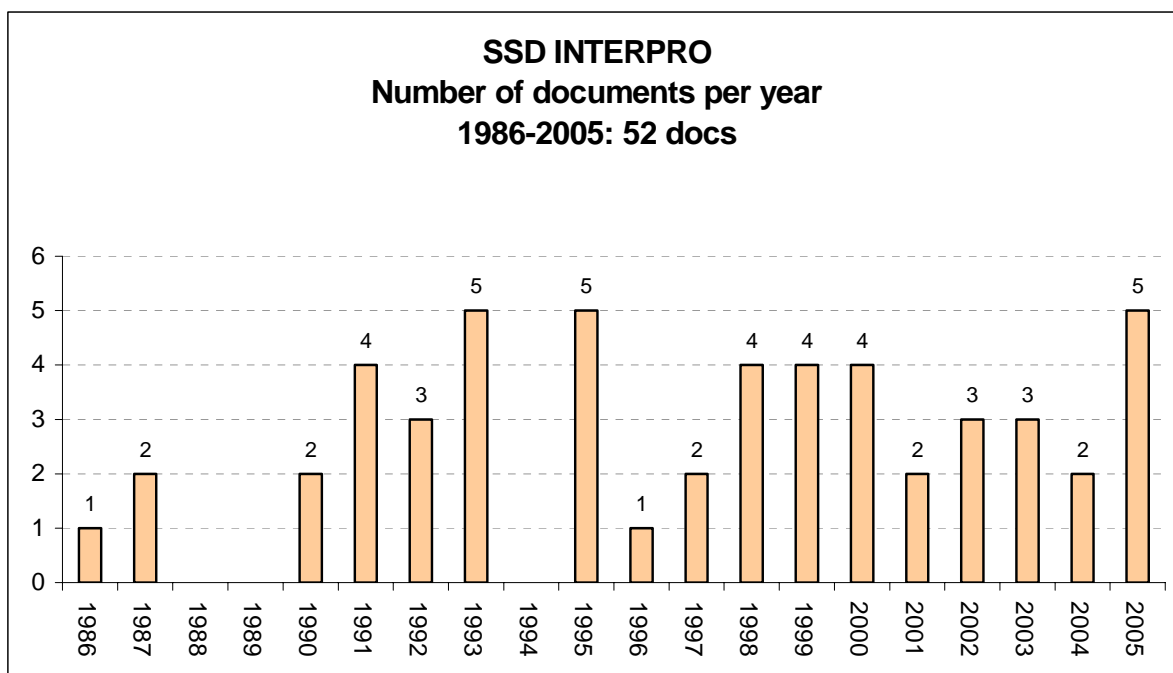
#### 4. Quantitative analysis of interprofessional agreements

In this part we will analyse the outcome of the interprofessionnal social dialogue producing the same data as those presented for the sectoral level. Nevertheless, in this case we do not distinguish two periods. We will present the data on the number, the types of document, the topics covered and their addressees. We have already included the year 2005 which is not the case for the sectoral dialogue. The reason is that no new document is likely to be signed at interprofessional level before the end of the year. In January 2006 the tables will be changed for the sectoral part.

##### Number

52 joint documents have been signed by the ETUC, UNICE and CEEP since the start of the Val-Duchesse social dialogue in 1986: roughly a seventh of the number signed at sectoral level over the same period. On average, the interprofessional social partners sign 2.5 joint documents per year.

Just three documents were signed between 1986 and 1990, whereas 14 were adopted during the following four years. 1994 was exceptional in that it was the only year when no documents at all were adopted. Thereafter there was a resumption of activity, albeit with highs and lows: five years with four or more documents signed and six years with two at most.

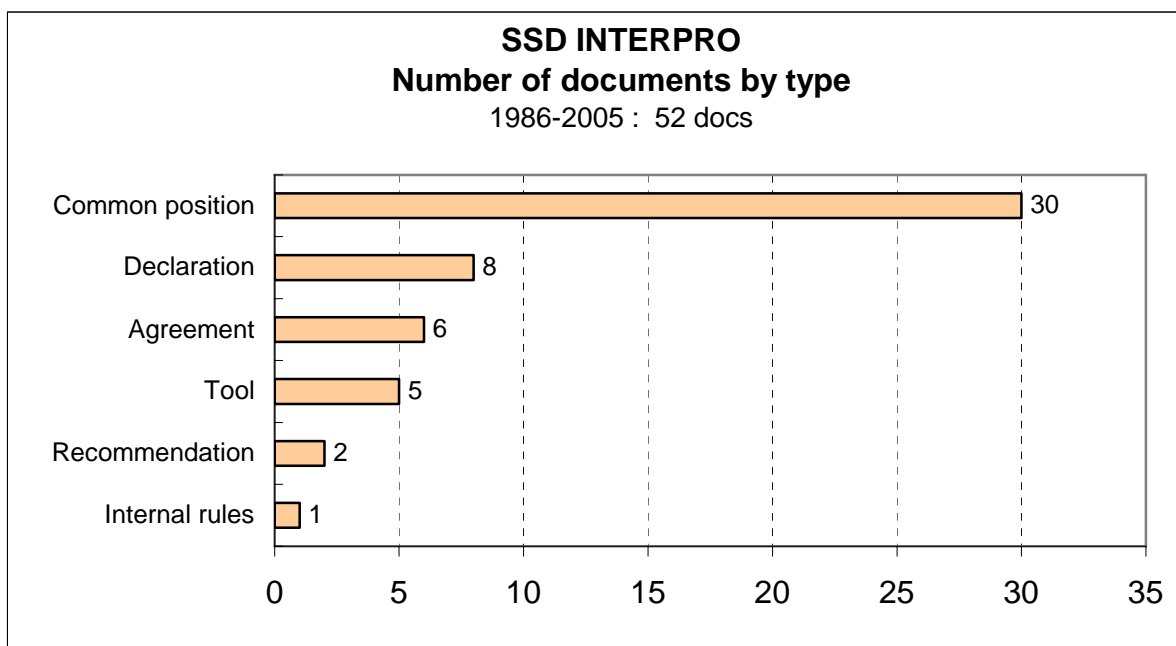
**Figure 9: Number of documents per year (1986-2005)**

Source: Observatoire social européen own data base

### Types of document

The joint documents are also of a very different type from those adopted in the sectoral social dialogue. The six agreements include three which were subsequently transposed into directives (parental leave, fixed-term employment and part-time work) and two agreements implemented by the social partners themselves: those on telework (2001) and stress (2003). Lastly, the other agreement in this category is the one which became the Maastricht Social Protocol.

There have been hardly any recommendations. The bulk of the activity (at least judging by the number of documents) has revolved around common positions: these constitute 60% of the documents adopted. Similarly, there have been only four tools.

**Figure 10: Number of documents per type (1986-2005)**

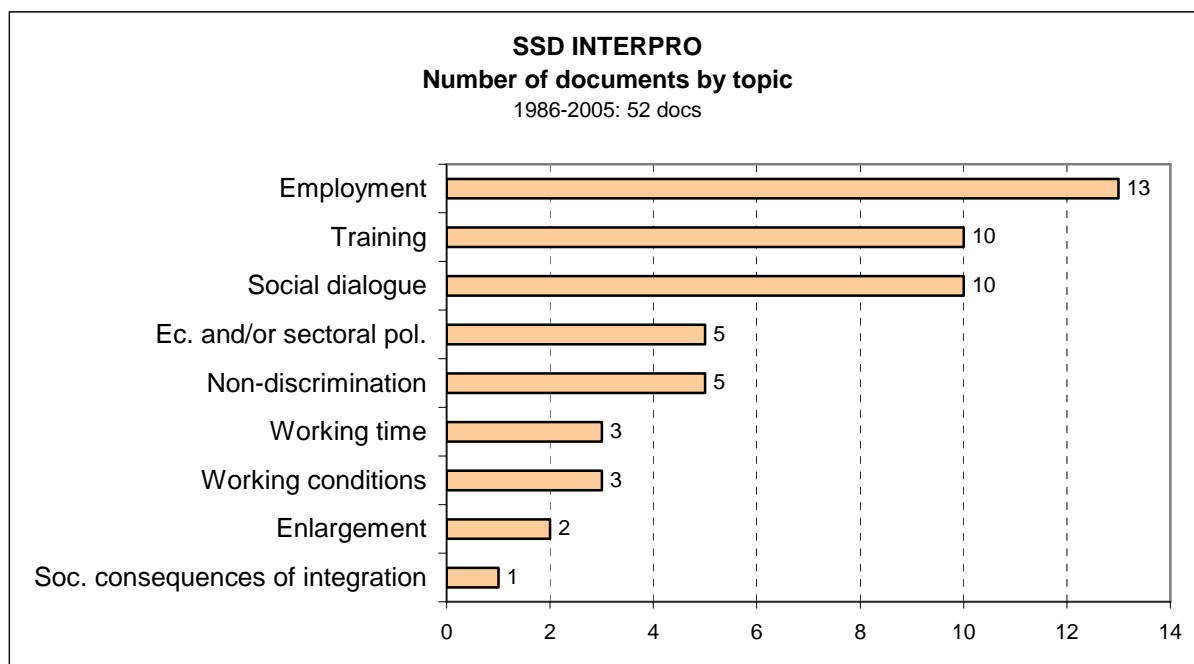
Source: Observatoire social européen own data base

#### Topic areas covered

As indicated in the first part we identify 11 topics: a) Health and safety b) Training c) Employment d) Working time e) Social dialogue f) Enlargement g) Working conditions h) Non-discrimination (including equality between men and women) i) Sustainable development j) Economic and/or sectoral policies k) Social aspects of Community policies.

Topic area frequency of coverage is also different from that in the sectoral dialogue. Employment and training come top of the numerical list. In contrast to the sectoral dialogue, however, there are few joint documents concerning economic policy or the social consequences of integration.

As with the sectoral dialogue, social dialogue appears as a topic in several documents. This shows the importance of defining and even redefining joint activities and the objectives pursued. Nevertheless, the vast majority of the documents with social dialogue as their principal topic area are addressed to the Commission. The interprofessional social partners wish to exert influence over the Commission, which they see as the principal actor/organiser of social dialogue (see below).

**Figure 11: Number of documents per topic (1986-2005)**

Source: Observatoire social européen own data base

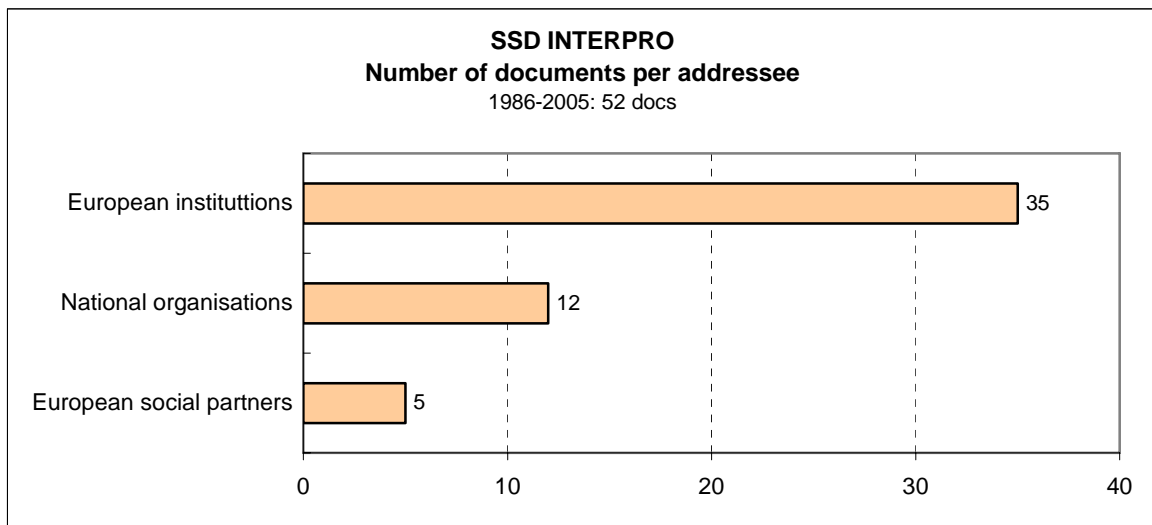
### Addressees

An analysis of the addressees of joint documents reveals that, more often than not, they are intended for the European institutions themselves (35 out of 52, a far higher proportion than in the sectoral dialogue). This can be partially explained by the fact that most of the documents dealing with employment matters are addressed to the European institutions, as are some of those concerning training. There are also more documents addressed to the Commission than there are common positions (30), since the agreements were sent to the Commission with a view to becoming directives (the same applied, in the sectoral dialogue, to the working time agreement and especially the railway agreement).

However, a more careful analysis (see next table) indicates that documents have been addressed to the Commission in almost all fields. This is radically different from the case of the sectoral dialogue, where there was some equivalence between the number of documents addressed to the Commission and the common positions, most of which related to the social consequences of integration or EU sectoral policies. The national social partners come second and the European social partners third. The two missing categories are the national authorities and companies: hardly surprising, given that UNICE does not represent multinational enterprises.

Uncertainty surrounds the question of addressees, as it does for the sectoral dialogue, since often the joint texts are ambiguous and intended for more than one recipient. The situation is sometimes worse in respect of the cross-industry dialogue, since an attentive reading demonstrates that certain texts - above all those adopted in the 1980s, at the start of the process - appear not to have any real addressee. They are more akin to the minutes of a meeting, highlighting points of consensus and taking stock of divergent views.

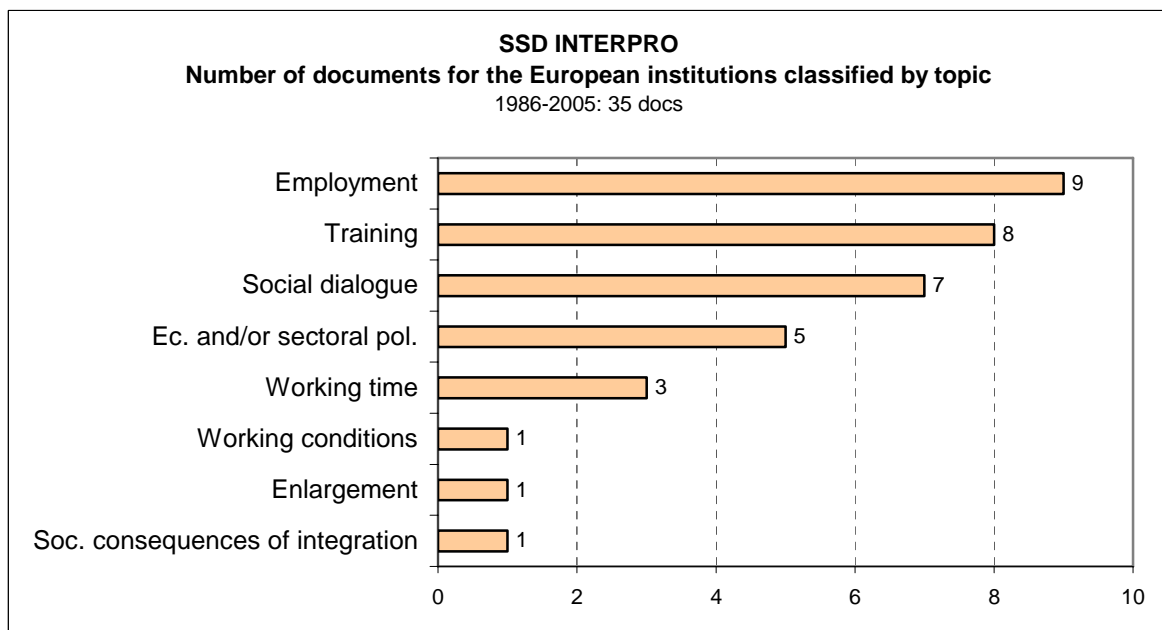
**Figure 12: Number of documents per addressee (1986-2005)**



Source: Observatoire social européen own data base

The next table shows all 35 joint documents addressed to the Commission, detailing the main topic areas covered.

**Figure 13: Number of documents for the European institutions classified by topic**



Source: Observatoire social européen own data base

## 5. Concluding remarks

It could be said, in summary, that the interprofessional social dialogue has three main strands. The first is its involvement in a range of general European policy areas: macroeconomic policy, employment policy, etc.; the aim being to influence the overall European agenda. Didry and Mias (2005) have shown how the earliest joint opinions had a limited yet distinct impact on certain Community texts.

The second strand is the reinforcement of social dialogue. This has happened in two different ways: firstly, the conclusion of agreements for which the Treaty makes provision (subsequently transformed into directives or else implemented by the social partners themselves); secondly, various initiatives aimed at encouraging the Commission to shape the social dialogue. The social partners took similar action when seeking to step up the role of social dialogue in Article I-48 of the constitutional Treaty (Pochet, 2005b), which is another illustration of their desire for autonomy and their dependence on the Community authorities.

The third and final strand is the construction of an independent agenda. The 2001 document on the three-year work programme is clearer than any other in this regard; it is nevertheless ambiguous since it overwhelmingly falls in with the EU's priorities, as proclaimed by the Commission. The autonomy is therefore only relative. Training, in our opinion, is a case in point.

Sectoral social dialogue has not developed in a way that mirrors the interprofessional social dialogue. The latter began with non-binding texts, principally in consensual areas and addressed to the Commission. Then there was a move towards 'agreements' extended *erga omnes* by means of Council directives, finally ending up with so-called voluntary agreements and more flexible instruments as in the case of lifelong learning (Kerckhofs and André, 2003).

Our quantitative analysis has brought to light a plethora of documents distributed unevenly across the years but growing in number especially from 1996 onwards. The majority of these documents consist of 'common positions' addressed to the European institutions, particularly before 1998.

There is no evidence of a gathering momentum from 'tools' towards 'agreements'. Nor has there always necessarily been a consensual issue at the outset. This is borne out by an analysis of the questionnaires used in our research which makes plain that, whatever the topic area, the conclusion of an initial joint document is consensual by its very nature (for example working time in agriculture). Therefore training, which was so important in the Val Duchesse social dialogue, has not always come first in the sectoral dialogue.

It proved difficult to classify many of the texts, and choices had to be made. However, the aim was not to supply precise statistics but to distinguish between and highlight dynamics and trends. One point is clear: fewer than 2% of the texts adopted are agreements with binding effect.

What we have sought to highlight are the differing tendencies, some more inclined towards consultation – 'common positions' – and others more for internal consumption in given sectors – 'mutual undertakings'. This duality is confirmed by an analysis of 'internal rules', which likewise demonstrate divergent degrees of ambition. Some of them mention the possibility of arriving at detailed, binding texts but others avoid this subject.

Topic areas were a particularly sensitive matter. This was undoubtedly the most difficult part of our quantitative work, but the difficulty is also very indicative of the ambiguous nature (to put it mildly) of many joint documents. Without going into detail, divergent tendencies

emerge. Nonetheless, our quantitative and qualitative analysis does reveal certain overall trends.

Most of the ‘agreements’ have been signed in sectors which are tied to European policies (transport; agriculture has signed quasi-agreements). Sectors in which the national industries have been deregulated (telecoms, postal services, electricity etc.), where there is both competition and interconnection, are the ones where there have been most ‘recommendations’ (not codes of conduct). Traditional sectors (banking, insurance) are in search of a European goal. Sectors that are ‘in decline’ (textiles, footwear, sugar etc.) and highly exposed to international competition are the ones where the largest number of codes of conduct has been signed. Sectors aiming to raise their profile (private security, cleaning industry etc.) and achieve European ‘quality labels’ are striving towards codes of conduct not based on the ILO standards (ethics, for instance). Finally, the commerce sector is experimenting with a variety of instruments in its desire to give greater prominence to its specific needs.

Trade-offs are clearly taking place: sectors in decline are joining forces to manage the industrial and employment crisis; sectors linked to the common policies are attempting to build European-level industrial relations; sectors exposed to interconnection are handling deregulation/privatisation by creating space for bargaining in areas where there is a tradition of partnership. Traditional sectors are engaging in ‘conservative’ social dialogue until such time as they find a genuine subject of negotiation; sectors with an image problem are constructing their European goals with relative degrees of success, and some are trying to reinvent themselves with the aid of Europe.

The diversity of situations, issues and dynamics explains why it is so difficult to build a well-structured system of industrial relations at Community level. It nevertheless seems that several sectors have reached a critical point. First and foremost, in view of the overall development of the sectoral social dialogue, those sectors which are performing least well, in whatever category they may be, are confronted with various questions as to the prospects for further dialogue, entailing an analysis of the obstacles and how to overcome them.

However, the same applies to sectors which have made substantial headway in recent years. They all in fact come up against the same problems: how should the texts be followed up? What linkage should there be between the European and national sectoral levels? and between the sectoral and interprofessional dialogue? Thus the aims of the social dialogue absolutely have to be clarified. And yet progress has often (but not always) been possible precisely because the purpose of the dialogue was – and remained – ambiguous. Headway could thereby be made in a social dialogue context without it necessarily being broadcast loud and clear. It would now be beneficial to clarify the status of the various joint texts, as well as their follow-up and practical implementation. In other words, whereas at one time the ambiguous nature of the SSD may have been positive and creative, it now runs the risk of becoming an impediment.

Our general conclusion, however, is that the interprofessional and the sectoral social dialogue - albeit in largely different ways - are converging towards the production of texts which are not legally binding but are increasingly coming to resemble codes of conduct or optional guidelines: what we have called recommendations. Thus implementation is the task of decentralised stakeholders, perhaps with moral pressure exerted on those who fail in their duty.

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