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**on the functioning and potential of  
European sectoral social dialogue**

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## EXECUTIVE SUMMARY

**This document aims to take stock of the main achievements of the European sectoral social dialogue and to review the functioning of the European sectoral social dialogue committees. It highlights the dynamics, outcomes and potential impact of the committees' work since 1998, and identifies possible improvements with a view to extending the scope and quality of the consultation and negotiation processes.**

**Background:** In accordance with the Treaty on the Functioning of the European Union (TFEU), the Commission is committed to promoting and facilitating European social dialogue at both cross-industry and sectoral levels. The sectoral dimension has a long-standing tradition in the European Member States and is reflected in the structure of the social partners' organisations.

Based on the provisions enacted in the Amsterdam Treaty, in 1998, the Commission set out the framework of European sectoral social dialogue. Subsequently, the Commission has created 40 European social dialogue committees, which now cover 145 million workers in Europe, in sectors of crucial importance (*e.g. transport, energy, agriculture, construction, commerce, fisheries, public services, metal, shipyards, education, etc.*)

European sectoral social dialogue committees are fora for consultations on European policies. They are also tools for autonomous social dialogue among the European social partners who may develop joint actions and conduct negotiations on issues of common interest, thereby contributing directly to shaping EU labour legislation and policies.

The committees work on issues such as occupational health and safety, vocational training, skills, equal opportunities, mobility, corporate social responsibility, working conditions, sustainable development, etc.

**Outcomes and prospects:** The committees have produced various types of outcome, some binding, some not, including agreements implemented through European legislation. The number of agreed texts with legally-binding effects has been increasing over time (since 2004 alone, four such texts were agreed, the same number of new Directives adopted in the fields of employment and health and safety during that period).

Through their achievements, these committees have contributed to improving European employment and social policies, as well as working conditions in Europe. They have the potential to go on doing so. Indeed, their experience and expertise of economic and social change at sectoral level can help design appropriate industrial policies. They can take part in the negotiation of agreements helping to modernise industrial relations. They can develop their contribution within the 'Europe 2020' strategy framework, thereby strengthening ownership and implementation of the strategy.

If improvements are to be achieved, European sectoral social partners and their national affiliates should continue to pay attention to their administrative capacity, representativeness and delivery. As for the Commission, it should continue its support and carry out closer monitoring, to ensure better synergies between committees and a more significant contribution to European policies.

## 1. INTRODUCTION

The European Union recognises social dialogue as one of the pillars of the European social model, and a tool of social cohesion and resilience. This was confirmed with the entry into force of the Lisbon Treaty. The new article 152 of the Treaty on the Functioning of the European Union (TFEU) highlights the Union's commitment to promoting the role of European social partners, and supporting social dialogue. It also acknowledges the autonomy of European social partners<sup>1</sup>.

The Commission adopted the Communication on adapting and promoting social dialogue at Community level and the Decision of 20 May 1998, dealing specifically with the sectoral dimension of European social dialogue and creating European sectoral social dialogue committees (*hereafter*: 'committees'). These committees are an arena for trust-building, information sharing, discussion, consultation, negotiation and joint actions.

At the joint request of the European social partners acting in a given sector, the Commission continues to create committees in sectors in which the conditions of the 1998 Decision are met: the European social partners must have national affiliate members in several countries; the affiliates must themselves be recognised as national social partners; (representativeness at national level); they should be able to negotiate and to adopt agreements at European level; (capacity to negotiate); they should have adequate structures and be able to ensure effective participation. Representativeness at European level is based on a combination of these three criteria and regularly monitored by the Commission.

The Commission has, so far, created 40 committees. They have adopted more than 500 texts of various kinds, binding to lesser or greater degrees, including agreements to be implemented in the Member States, either by European directives or by customary national procedures.

European sectoral social partners have particular expertise in their sectors and in the realities of their workplaces.

## 2. THE EUROPEAN SECTORAL SOCIAL DIALOGUE COMMITTEES

### 2.1 Dynamics of the committees



There are currently 40 European sectoral social dialogue committees<sup>2</sup> and discussions are under way regarding the possible creation of new committees for ports and sport.

All the committees have certain elements in common. European organisations which share common objectives, agendas and work programmes, and recognise each other can, if they wish to form a committee, present a joint request to the Commission, which will assess their representativeness. Then it will provide logistical and operational support. For European social partners who want to try out sectoral social dialogue provisionally before making a formal commitment, the Commission has proposed a preliminary test phase. This offers more flexibility, and has been used in the case of *central administrations*.

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<sup>1</sup> Article 152 TFEU: '*The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy. The Tripartite Social Summit for Growth and Employment shall contribute to social dialogue*'.

<sup>2</sup> This figure comprises also the sector of central administrations which has positively completed its test phase in 2010. See also: Dynamics of European sectoral social dialogue, Eurofound, 2009,

NB: As for the social partner organisations participating in the committees, the employer's delegations are often represented by several organisations for a single industry (civil aviation or banking). In other sectors of the economy, it is even more complicated, as the employers may represent conflicting market segments (in economic areas that have been privatised). Employers are split among 62 different European sectoral organisations. This situation contrasts with the trade union side, which is much more integrated (17), namely into the European Trade Union Confederation and its big sectoral federations. Moreover, the delegations of the committees may comprise organisations which are recognised as European sectoral social partners by the Commission, and also other social partners' representatives who add complementary representativeness.

## 2.2 Diversity and relevance of outcomes

In 2004, the Commission suggested a typology to classify social dialogue outcomes. This emphasised that **the added value of a text depends not solely on whether it is binding, but on its operational follow-up and effective implementation.**

Outcomes may be:

- (1) **agreements** (*whether or not implemented through European directives*) which are binding and must be followed up and monitored, since they are based on Article 155 of the Lisbon Treaty;
- (2) **process-oriented texts** (*frameworks of action, guidelines, codes of conduct, policy orientations*), which, albeit not legally binding, must be followed up, and progress in implementing them must be regularly assessed;
- (3) **joint opinions and tools**, intended to influence European policies and to help share knowledge.

Most of the texts adopted by European sectoral social dialogue committees consist of **technical tools** which help to give a European dimension to specific issues (*eg, common website on posting of workers in the construction sector; common vocational CVs in agriculture; a guide and regular reporting on responsible restructuring in the sugar industry, etc*). European sectoral social dialogue has also adopted **binding agreements which are implemented by European directives or through internal procedures**, both at sectoral and pluri-sectoral level.

The overall functioning of the committees cannot be assessed solely on the basis of the number of texts they produce. Concrete measures taken at national or company level may not always be documented and **most outcomes are rather qualitative in nature**, aiming to raise awareness, support social dialogue at national/regional or company level, or influence policy-making. Joint texts, presentations of good practice or involvement in common projects (seminars, conferences, studies, workshops) offer opportunities for social partners to learn from one another and to build trust.

## 2.3 Adapting to enlargement

**The Commission is fully aware that promoting European sectoral social dialogue within 27 Member States is a challenge**, since European sectoral social partners represent national member organisations that operate in different countries, use different languages, and are subject to different socio-economic realities, in different national industrial relations systems<sup>3</sup>. In addition, the sectoral dimension of collective bargaining was rather underdeveloped in most new Member States.

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<sup>3</sup> Following enlargements, the European social partners have, sometimes, included new actors who do not always have the capacity for collective bargaining.

### 3. IMPROVING THE CONSULTATION AND NEGOTIATION DIMENSIONS OF THE EUROPEAN SECTORAL SOCIAL DIALOGUE COMMITTEES

#### 3.1 Consultation and administrative capacity of the European social partners

Under Article 154 of the Lisbon Treaty, European social partners are consulted by the Commission on the principle and content of any European social policy initiative.

The Commission has developed a methodology and procedure for **Impact Assessment** of all its initiatives. Assessment guidelines include a specific reference to consulting European sectoral social dialogue committees, offering them a new opportunity to contribute towards shaping European policies. If the partners are to be effective in this new role, they have to have the capacity to deliver timely reactions to such consultations.

European sectoral social partners can also play an active role in promoting the networking of national sectoral observatories, other bodies and representatives from education and training providers with the objective to share information and best practice at European level on trends in employment and skills needs (see annex 7). Such Pilot networking projects will be launched soon in some sectors, with the active participation of European social partners. As a follow-up to the December 2008 Commission Communication on New Skills for New Jobs and in the June 2009 Communication *A shared commitment for employment*, the Commission explored the possibility of setting up **European Councils on Skills and jobs**.

 To respond positively to increasing calls for participation and consultation, European social partners must have the capacity to ensure consultations are coordinated among their members, as well as being able to deliver outcomes and contributions. However, their capacity depends on that of their national affiliates whose strengths and resources may be limited, or whose structures may still be evolving in particular, in the new Member States and in sectors experiencing structural change, including the entry of new actors. It is crucial that national sectoral social partners and authorities develop and assess their own capacity, partly by making full use of European funding from the social dialogue budget headings and the European Social Fund<sup>4</sup>. Given the key role that the European sectoral social partners can play in the policy-making process, this issue of capacity is of utmost importance.

#### 3.2 Negotiations and capacity to negotiate agreements

Together with European social legislation, European social dialogue is a major instrument for improving labour standards in the European Union and contributing to modernising labour markets.

Since the Amsterdam Treaty, European social dialogue has had the capacity to be an autonomous source of European social policy legislation. European social partners may adopt agreements that can be implemented through a **Council Directive**, which makes them legally binding for all employers and workers in Europe once they are transposed into national legislation or collective agreements (*'erga omnes' effect*); they may also adopt **autonomous agreements** to be

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<sup>4</sup> Article 5§3 of EC regulation (1081/2006) of 31 July 2007: *'Under the Convergence objective, an appropriate amount of ESF resources shall be allocated to capacity-building, which shall include training, networking measures, strengthening the social dialogue and activities jointly undertaken by the social partners, in particular as regards adaptability of workers and enterprises referred to in Article 3(1)(a).*

implemented through customary national procedures. In the latter case, the agreements are binding only for the signatories and their affiliates (*'relative' effect*)<sup>5</sup>.

This negotiation dimension has proved very useful for European sectoral social partners to enable adaptation of general EU working time rules to the specific circumstances in their sectors, such as railways, civil aviation or maritime transport.

There are negotiations starting or on-going in a range of sectors including personal services, professional football, inland waterways and sea fisheries.

Issues such as health and safety, working conditions, and working time have clearly in certain cases a specific sectoral dimension. The sectoral social partners' capacity to negotiate balanced compromises and their expertise on the ground can help them to play a very effective role in addressing specific issues at sectoral level when these are common to all, or at least most Member States. The Commission is eager to continue providing technical and financial support to such negotiations whenever it is required. As consistency with European law and quality in legal drafting are particularly important for agreements to be implemented by means of European Directives, the Commission is ready to provide legal assistance during negotiations where appropriate.

#### **4. REINFORCING THE COVERAGE AND REPRESENTATIVENESS OF THE EUROPEAN SECTORAL SOCIAL DIALOGUE COMMITTEES**

##### **4.1 Adapting the scope and size of the committees**

Since 1998, the Commission has been asked to create committees in large economic sectors (*construction, agriculture, postal services, hospitals, education, commerce, metal, engineering and technology-based industries*) as well as in smaller sectors such as shipyards, or micro sectors such as professional football. This highlights the issue of the committees' demarcation. Defining the perimeter of a given sector<sup>6</sup> is all the more difficult since sectoral coverage of social dialogue and collective bargaining vary widely among Member States. Moreover, the structure of committees varies from one sector to another.

The Commission assesses whether the limits of a given sector are relevant with regard to the economic activity involved, and takes into account the institutional configuration of its social partners, bearing in mind that a critical size is needed to achieve concrete results. In practice, the coverage of a sectoral social dialogue committee is closely related to the representativeness of its members<sup>7</sup>. This is why a committee should be as inclusive as possible<sup>8</sup> and as focused as necessary to be relevant for its stakeholders. It should include all relevant partners and ensure adequate representativeness.

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<sup>5</sup> This option does not exclude the agreement from being applied or transposed, totally or partially, via legislation at the national level: see Commission Staff working Paper of 2 July 2008: Report on the implementation of the European social partners' Framework Agreement on Telework SEC(2008)217.

<sup>6</sup> Based on the NACE classification, in accordance with the methodological approach adopted by EUROFOUND, which currently conducts the studies on representativeness [http://www.eurofound.europa.eu/eiro/comparative\\_index.htm](http://www.eurofound.europa.eu/eiro/comparative_index.htm).

<sup>7</sup> Employers organisations are generally structured in accordance with a narrow scope while trade unions tend to be organised on a wider basis.

<sup>8</sup> The Commission will, for example, encourage the creation of a large overarching sport committee instead of creating a separate committee per discipline.

## 4.2 Involving new players to adapt to change

Simple measures such as invitations to new actors to join and/or attend meetings as full members or **observers**<sup>9</sup> where appropriate can help to facilitate the integration of all relevant partners. The Commission will be attentive to these developments in its monitoring of the representativeness of the committees while fully respecting the autonomy of social partners.

## 4.3 Encouraging gender balance

When it comes to taking part in the committees' delegations, women tend to be under represented, given their weight in the sectors involved. The situation varies from sector to sector, and is mainly due to the appointment process within national affiliate organisations. However, in line with European policy on gender equal opportunities and non-discrimination, the Commission has invited the European social partners to work with their national affiliates to achieve better gender balance in both participation rates and representation on the boards of committees<sup>10</sup>.

# 5. ENHANCING EFFICIENCY OF THE EUROPEAN SECTORAL SOCIAL DIALOGUE COMMITTEES

## 5.1 Synergies and information between sectors

The Commission supports and encourages initiatives between committees, and between cross-industry and sectoral European social dialogue.

One of the Commission instruments to facilitate cross-fertilisation among committees is the **Liaison Forum**<sup>11</sup> which brings together representatives of all European sectoral social dialogue organisations **four times a year**.

## 5.2 Effective delivery and better monitoring of implementation

The capacity of European sectoral social dialogue to improve working conditions throughout Europe depends on outcomes being implemented in the workplace. In its Communication of 12 August 2004, the Commission drew European social partners' attention to the need for detailed follow-up and reporting provisions to monitor the impact of their outcomes.

**Most European sectoral social partners' organisations are characterised by a low degree of centralisation. They have limited capacity to influence their national affiliates. Follow-up at the national level of dialogue held at the European level depends on involving national sectoral social partners effectively in EU dialogue, and on the interaction between the EU social dialogue mechanisms and various national industrial relations systems. Effective follow-up at national**

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<sup>9</sup> In some committees or working groups, representatives of special interest groups, SMEs and/or self-employed can also participate as observers.

<sup>10</sup> **The Commission services collect data on gender composition of the committee's delegations.**

<sup>11</sup> The Commission organises this Forum 4-5 times a year and invites to it the Secretaries-General and Presidents as well as other interested members of the European social partner organisations and of the social dialogue committees, both at sectoral and cross-industry level. The main purpose of the Forum is to provide for an exchange of information and experience and enhance synergies across sectors and between sectoral and cross-industry social dialogue.

level is also clearly linked to the representativeness of social partners, and this is why it is important that committees are as inclusive as possible, and able to involve new players when relevant: national organisations which are not involved in the work of the committees at European level may not want to implement provisions that they did not contribute to.

Most outcomes of EU sectoral social dialogue are of a ‘soft’ nature, that is, they aim to raise awareness, disseminate good practice, or help to build consensus and confidence. Results at national level can be evaluated with qualitative indicators, though not with systematic quantitative data.

Regarding the way in which autonomous agreements concluded at EU level are implemented at national level, such agreements commit signatories and their national affiliates to implementation through national arrangements at their initiative (legislation, collective agreements, codes of conduct, joint promotion of tools etc). The obligation to follow up is even stronger when social partners decide to negotiate an agreement that results in a Commission legislative proposal being suspended. This puts pressure on EU social partners to implement such agreements fully and effectively.

The Commission has a responsibility to monitor the work of sectoral social dialogue committees and to stimulate their activities taking into account the specificities of each sector. The Commission pays attention to issues such as the adoption of an appropriate work programme, appropriate rules of procedure, and meaningful agendas for meetings, as well as action-oriented minutes and conclusions, and their effective follow-up. Experience has shown that committees may experience periods of relative inactivity due to conflicts between social partners or to lack of representativeness. In such cases, the Commission will continue to provide assistance to the committees, while keeping open the possibility of suspending a committee unable to fulfil its obligations.

### **5.3 Better use of European funding**

There is Commission funding to support the launch and functioning of European sectoral social dialogue. This is available for the organisation of meetings, the reimbursement of experts' expenses, and interpretation. The Commission organises more than 180 meetings a year (representing an average of 1-2 plenary meetings and 3-4 working group meetings per committee per year).

The Commission is in favour of using funding in an economic, efficient and effective way.

The Commission also supports projects through two budget headings that enable it to fund social dialogue and information and training measures at both European and national level. Each year, there are some 30-50 projects involving sectoral social partner organisations and their affiliates.

## **6. CONCLUSION**

This assessment of European sectoral social dialogue over the last 12 years shows the value of its contribution to the European social model. It shows that there is a direct correlation between the effectiveness of national social dialogue and effectiveness at European level, and that each energises the other. It highlights the need for sectoral social dialogue committees to face up to the need to adapt to new challenges and changes in policy.

Sectoral social dialogue committees offer social partners a framework for coordination, joint action and negotiation, and this could be further exploited by all sectoral social partners. To boost the consultation dimension committees should be involved more systematically in the impact assessment process. Taking part in sectoral skills councils can help social partners to get involved in joint actions with other partners as a complement to their autonomous dialogue.

To promote the negotiation dimension, the committees provide a flexible tool to address labour issues and solutions tailored to the diversity and complexity of different sectors. The Commission will ensure that its financial and technical support for sectoral social dialogue committees is adequate and proportionate, so that European social partners can deliver high-quality contributions and achieve joint outcomes that are properly implemented and monitored.

To extend the coverage of sectoral social dialogue committees to the whole economy and labour market, the Commission has a flexible, pro-active approach. This highlights the added value of starting new sectoral social dialogue committees. The Commission has always promoted an inclusive approach to creating European sectoral social dialogue committees, while respecting the principles of pluralism<sup>12</sup> and the autonomy of social partners. European social partners should adopt measures facilitating the integration of all relevant social partners.



Before starting a new committee, social partners are invited to consider running a test phase. They should assess whether their administrative capacity can cope with more involvement in the European policy-making process. To reinforce capacity, particularly in new Member States, national sectoral social partners and authorities are invited to make full use of financial support from the social dialogue budget headings and the European Social Fund.

To reinforce the representativeness of European social dialogue, European social partners should review the composition of their committees regularly to ensure they reflect changes in their sector and in the economy as a whole. The development of sectoral social dialogue makes it necessary to step up the rate at which sectoral representativeness studies and updates are carried out to keep pace with developments.

To make European sectoral social dialogue more effective, special attention should be paid to consultation, consistency and synergies among sectors. The Liaison Forum is the appropriate platform for these discussions and exchanges of best practice.

To give visibility to the outcomes of European sectoral social dialogue and to support monitoring of implementation, social partners should make use of all the support available from the Commission. This involves coordination and technical support, awareness-raising and reporting. The Commission regularly presents developments in European social dialogue in its biannual "*Industrial Relations in Europe*" report, and reports to Member States in the Group of Directors-General for Industrial Relations.

The current economic crisis has confirmed the importance of European social dialogue at both cross-industry and sectoral level, as well as the relevance of social partner initiatives tailored to the realities of companies and sectors. As well as cross-industry social dialogue, sectoral social dialogue is particularly relevant, as demonstrated by the work underway in various committees. Sectoral social partners can contribute to this effort.

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<sup>12</sup> The civil aviation committee respects the specificities of ground handling, air traffic management and cockpit crews while ensuring synergies between the sub-sectors.

The Commission will go on supporting such initiatives as part of the Europe 2020 strategy and its mutually reinforcing economic, social, and environmental policies with a view to paving the way for recovery from the current crisis.

## Annex 7

### **European Sector Councils on Jobs and Skills**

#### **Objectives**

The Commission therefore wishes to offer support for a platform at sectoral level for social partners and national observatories on skills and employment.

The Commission invites the sectoral social partners to take the lead and engage on a voluntary basis in networking efforts aimed at developing a European sector council in their sector on a voluntary basis. The Commission will provide a framework and financial support for partners inviting in this regard, within the limits of its resources to develop this networking. This support will be conditional on an evaluation of the councils in terms of output, commitment, satisfaction and value-added.

#### **Structure proposed**

European sector councils would take the form of networks among national observatories on skills and employment, together with European sectoral social partners (or other representative stakeholders) who would chair the council of their sector and be responsible for its day-to-day management. To ensure that skills mismatch issues are adequately addressed, relevant European representatives from education and training organisations should be invited to participate.

#### **Timetable and Commission support**

The Commission envisages setting up sector councils in two phases: first, identifying existing national observatories and councils on jobs and skills, and second, setting up the sector council, bringing together these bodies in a network. The first and second phases of the process should be launched in 2010 and 2011 for a limited number of pilot sectors.

## **Annex 8**

### **Involvement of social partners and sectoral social dialogue committees (SSDC) in the Commission impact assessment procedure**

The annex to the revised Impact Assessment Guidelines contains a specific section on standards for consulting social partners (p. 15, point 5.2). It makes a distinction between initiatives in the field of social policy on the one hand, and social implications for a specific sector on the other.

A consultation of an SSDC on an impact assessment would include a definition of the underlying problem, the relevant policy options and an estimate of social and employment impacts of the various options and any relevant accompanying mitigating policy measures.

The policy services responsible for the impact assessments take due account of the opinions expressed by the European social dialogue committees in the context of their consultation. To enable transparent and efficient consultation, the Commission will publish a list of all planned impact assessments, along with the Commission work programme.

## Annex 9

### Overview of NACE classifications for the committees

#### **Professional football**

NACE rev.2 class 93.12 (mainly equivalent to NACE rev.1.1 class 92.62) most closely covers the activities of sport clubs. Professional football is one part of this classification.



#### **Sports (candidate sector for new representativeness studies)**

NACE rev.2 class 93.1 (mainly equivalent to NACE rev.1.1 classes 92.6 and 93.0) most closely covers sports activities, including the operation of sports facilities, activities of sports clubs, fitness facilities and other sports activities.