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**Partnership for change in an enlarged Europe -
Enhancing the contribution of European social dialogue**

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1. INTRODUCTION

The need for a Partnership for Change

The European Union (EU) is currently facing change on an unprecedented scale.

The EU has adopted a strategy for responding to this challenge: enlargement to new borders and the objective of economic and social modernisation agreed at the Lisbon European Council in 2000, and to which an environmental dimension was added at Gothenburg in 2001.

The European social model places great emphasis on the need for social dialogue and it is widely recognised that successful economies in the 21st century will not be possible without a modern system of labour relations and efficient strategies for managing change pro-actively.

To underpin the implementation of the Lisbon agenda, the spring 2004 European Council calls on Member States to build partnerships for change involving the social partners, civil society and the public authorities in accordance with national traditions.

The social partners, with the active support of the European Commission, have laid the foundations for the European social dialogue, and both its tripartite and bipartite dimensions have developed in a dynamic and innovative way. In recent years the social partners have wished to pursue a more autonomous dialogue and are adopting a diverse array of initiatives, including an increasing number of 'new generation' joint texts, characterised by the fact that they are to be followed-up by the social partners themselves. This requires greater interaction between the different levels of industrial relations, including effective industrial relations systems and social partner capacities at national level.

Enlargement: Challenges and opportunities

Enlargement will reinforce the need for social dialogue and partnership. Enlargement creates new opportunities for EU economies and enterprises, but major adjustments are still necessary, particularly in the economies of the new Member States. Partnership will therefore be of particular importance to managing the impact of continuing restructuring in these countries.

However, the enlargement of the EU also presents a challenge for the European social dialogue. Social dialogue in the new Member States is characterised by the predominance of tripartism, relatively new social partner organisations, and under-developed bipartite social dialogue at national and sector levels. The question of the **technical capacity** of the social partners is of importance in this context.

Enlargement will also challenge the **technical capacity of the European social partner organisations**. It will increase the variety of industrial relations traditions and imply larger negotiating delegations, which may make it harder to reach agreement.

Purpose of the Communication

The social dialogue Communications of 1998 and 2002 described and established the institutional framework in which the European social partners operate, and which is now firmly rooted.¹

¹ Commission Communication, *Adapting and promoting the Social Dialogue at Community level*, COM(1998) 322 final; Communication from the Commission, *The European social dialogue, a force for innovation and change*, COM(2002) 341 final.

As the mid-term point of the Lisbon Strategy and the review of the Sustainable Development Strategy approach, it is a good time to take stock of the European social dialogue, particularly in view of the recent calls for a Partnership for Change to help deliver the reforms necessary to enable the Lisbon objectives to be met on schedule. Furthermore, the recent enlargement of the EU comes at a time when important qualitative developments are occurring within the European social dialogue.

Against this backdrop, while fully recognising the broad scope of the social dialogue, **the purpose of this Communication is to promote awareness and understanding of the results of the European social dialogue, to improve their impact, and to promote further developments based on effective interaction between different levels of industrial relations.**

2. THE AGENDA FOR REFORM: COMPETITIVENESS AND MORE AND BETTER JOBS

In a world of rapid change and high mobility of capital and technology, the quality of human resources is the key factor for international competitiveness.

These fundamental transformations are changing the way Europe works, the employment profile and traditional thinking about how EU labour markets function. Enterprises are having to respond to structural change, reassess the skills they need and how production in general and work processes in particular should be organised.

The challenge ahead is to improve quality in work with a view to positively managing all dimensions of change - economic, social and environmental - in order to ensure sustainable development and social cohesion by mobilising and developing the full potential of both the present and future labour force. The need to strengthen the adaptability of workers, enterprises and sectors in EU economies is therefore of paramount importance.

2.1 Improving adaptability

To improve adaptability, it is important to achieve a balance between flexibility and security in the employment relationship. This is fundamental both to employers, to enable them to run competitive firms, and to employees, in order to benefit from decent working conditions and wages.

In this context new questions emerge with regard to how to deal with the management of the workforce, and trade-offs are being negotiated by social partners at all levels with regard to employment relationships, lifelong learning possibilities, flexible working time arrangements and the organisation of transitional labour markets.

2.2 Investing in human capital and job quality

Sustainable employment and productivity growth needs to be underpinned by increased and more effective investment in human capital and better job quality.² Well-developed industrial relations systems can help to create favourable conditions for innovation, improvement of job quality and competitiveness.

² Communication from the Commission, *Improving quality in work: a review of recent progress*, COM(2003) 728 final.

Investing in job quality in terms of health and safety at work, appropriate access to training and skill development over all age groups and good working conditions for maintaining and attracting staff, are important ingredients for responding to the challenge of managing change.

High performing work organisations are created through consensual relations between management and employees, which can best be achieved through negotiation and collaboration at enterprise level.

2.3 Attracting more people to the labour market

Europe needs to make work a real option for all. Higher employment rates and labour market participation are all the more necessary because of the future decline of the working age population.

Through collective bargaining, social partners can help to improve labour market provisions in order to create incentives for employers to recruit the unemployed more easily and to contribute to fighting undeclared work. EU participation rates can be increased by removing the obstacles which continue to hinder the participation of women and people with disabilities in the labour market.

A further important source to be tapped for increasing labour supply is to ensure that people remain in work for longer, which requires the development of comprehensive active ageing strategies.³ Urgent action is necessary by the social partners to remove incentives for early retirement in conjunction with the creation of incentives to remain in work for longer.

2.4 Delivering reforms

The report of the Employment Taskforce⁴ argues that sustainable reform requires investment in 'political capital' and efforts to develop intelligent and effective institutions.

The Commission calls on the European and national social partners to take part in a genuine partnership for change by stepping up their efforts to address the themes identified above and ensuring that their contributions are as concrete and effective as possible.

3. THE ROLE OF THE SOCIAL PARTNERS: THE NEED FOR A REINFORCED PARTNERSHIP

3.1 The European social dialogue as a form of better governance

The European social dialogue in its current form has evolved considerably since its launch in 1985. **Quantitatively**, the work of the various social dialogue committees has resulted in the adoption of more than 300 joint texts by the social partners and they have undertaken many **transnational joint projects**.

In recent years there has been a **qualitative shift** in the nature of the social dialogue towards **greater autonomy**. This is reflected by the increasing adoption by the social partners of 'new

³ Communication from the Commission, *Increasing the employment of older workers and delaying the exit from the labour market*, COM(2004) 146 final.

⁴ *Jobs, Jobs, Jobs – Creating more employment in Europe*, Report of the Employment Taskforce, November 2003.

generation' texts, in which they undertake certain commitments or make recommendations to their national members, and seek to actively follow-up the text at the national level.

This evolution of the social dialogue is consistent with the Commission's more general efforts to improve European governance. The social dialogue is indeed a pioneering example of improved consultation and the application of subsidiarity in practice and is widely recognised as making an essential contribution to better governance, as a result of the proximity of the social partners to the realities of the workplace. Indeed the social partners are different in nature from other organisations, like pressure or interest groups, because of their ability to take part in collective bargaining.

In spite of the European social partners' achievements and some promising developments (see Annex 1), the **impact** of their initiatives could be improved, especially the new generation texts, many of which address the Lisbon themes. One common difficulty is that many texts contain imprecise and vague follow-up provisions. Effective follow-up at national level is, however, only possible if the European social partners' texts include detailed provisions on this.

3.2 The need for good synergies

If the European social partners are to make an effective contribution to achieving the objectives of the Lisbon Strategy, good interaction between the different levels of industrial relations is essential.

3.2.1 Synergies with the national level

The increasing autonomisation of the European social dialogue, in particular the increasing adoption of diverse initiatives and new generation texts followed-up by the social partners themselves, means that effective interaction between the European and national levels of industrial relations is crucial. Good quality industrial relations at the national level are therefore of the utmost importance.

Capacities

In practice the impact of the social partners' texts will depend largely on both the **political will** of the national affiliates to implement the text, as well as their **technical capacities** to do so, including their representativeness. Data on the coverage rates of collective agreements in the Member States, particularly after enlargement, suggest that effective implementation may be problematic in numerous Member States.

The Commission urges the social partners and Member States to work together to assist the social partners in reinforcing the administrative capacities of national social partner organisations, for example through the possibilities provided by the structural funds – in particular the European Social Fund (ESF).⁵

National public authorities could potentially play a facilitating role with regard to the implementation of European texts in some Member States. Indeed, this potential role is reflected in Article 139(2) of the EC Treaty, which states that agreements shall be implemented in accordance with the procedures and practices "specific to management and labour *and* the Member States" (emphasis added). For example, if a text or its provisions are implemented at the national level through a collective agreement, in Member States where the

⁵ COM(2004) 493 final.

use of extension procedures are part of normal industrial relations practice, this could potentially help to extend the scope of the impact of the European text. In some Member States tripartite mechanisms and structures may also be useful.

Awareness-raising

If the synergies between the European and national level are to be maximised, it is important to ensure that the social partners **promote awareness** of their texts at all levels by organising promotional activities. Regular meetings between the European social partners and national affiliates, such as in social dialogue committees, or conferences and other events organised by the social partners themselves – will therefore be all the more important in an enlarged Europe and for ensuring effective implementation of new generation texts.

Transparency

To maximise synergies it will also be essential to ensure that the results of the European social dialogue are as **transparent** as possible to all those involved with the negotiation and follow-up of texts. Indeed, the significance and status of the European social partners' texts is not always easy to understand to those not directly involved in their dialogue, partly because of the diverse range of titles and formats employed, and the rather loose use of terminology. However, imprecise terminology, as well as failure to clarify all aspects of the follow-up of texts in negotiations, can result in difficulties when it comes to implementing them in practice.

The Commission has identified two main categories of texts which could qualify as 'new generation' texts: autonomous agreements, and process-oriented texts which make recommendations of various kinds (frameworks of action, guidelines, codes of conduct, and policy orientations). The essential difference is that agreements are to be implemented and monitored by a given date, whereas the second kind entail a more process-oriented approach, involving regular reporting on progress made in following-up the objectives of the texts. These categories are explained at greater length in the typology provided in Annex 2.

The Commission encourages the social partners to improve the clarity of their texts and to include detailed follow-up provisions in their new generation texts. With this end in view, the Commission invites them to draw on the typology and drafting checklist included as annexes, and to invest in joint follow-up actions.

3.2.2 Synergies between sectors

The social partners in different sectors – at the European, national and company level - can learn a great deal from each other's experiences. The results of the European social dialogue could therefore be improved by enhancing the synergies **between the various sectors** as well as **between the European cross-industry and sectoral levels**. For example, in the area of lifelong learning, some sectors (postal services, banking, cleaning industry) have referred to the cross-industry framework of actions. Similarly, on the topic of telework, social partners in the electricity and local and regional government sectors have adopted joint texts welcoming the cross-industry agreement and calling on their members to implement it in their sectors in accordance with the procedures and practices specific to management and labour by the July 2005 implementation deadline for the cross-industry agreement. Both sectors also undertake to monitor the implementation of the agreement in their sectors in 2005.

The Commission encourages the social partners to continue to explore similar approaches. Greater publicity by the social partners for the results of their dialogue would be helpful in this respect, and the Commission will assist this process.

3.2.3 Synergies between the European social dialogue and the company level

Finally, the social partners could explore the possible synergies between the **European social dialogue and the company level**. One example is the link between the sectoral social dialogue and **European works councils (EWCs)**. In recent years there has been an intense development of company-level social dialogue and adoption of agreements within European groups. Approximately 650 EWCs have now been created, often comprising the largest undertakings in the sector.

Increasingly the range of issues being considered within EWCs is expanding beyond the core issues of company performance and employment to embrace subjects with a strong European dimension such as health and safety, equal opportunities, training and mobility, corporate social responsibility, environmental issues. Where these and similar topics are being addressed by the social partners at the sectoral level there may be an opportunity for synergies between that level and the EWCs in the sector concerned.

The European social partners could use the opportunity provided by the Commission's consultation on the revision of the EWC Directive to improve the link between EWCs and the social dialogue.

Another avenue which could be explored further when seeking to promote synergies between the European and company level, is the link between **social dialogue and company policies to promote Corporate Social Responsibility (CSR)**.⁶ Over the last two decades enterprises have initiated an increasing number of social and environmental responsibility initiatives, sometimes in response to pressures from their stakeholders. Some of the European sectoral social partners are undertaking CSR-related initiatives including charters and codes of conduct.

4. THE COMMISSION'S ROLE IN SUPPORTING SOCIAL DIALOGUE

According to Article 138(1), the Commission has the task of promoting the consultation of management and labour and must take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties.

4.1 Strengthening and enlarging partnership

The Commission takes the view that negotiations are the most appropriate means for settling questions related to work organisation and employment relations at both cross-industry and sector level, and welcomes the social partners' wish to pursue a more autonomous dialogue and to contribute to achieving the Lisbon objectives. It also encourages social partners to make use of the possibility provided by many Community directives for certain issues to be fleshed out through negotiations between the social partners at all relevant levels.

⁶ Commission Communication, *Corporate social responsibility: A business contribution to sustainable development*, COM(2002) 347 final.

Further to the March 2004 European Council conclusions on the need for a Partnership for Change, the Commission will monitor the follow-up given by the social partners to their contribution and assessment of the achievement of the Lisbon objectives.

4.2 Stepping up support to the European social dialogue structures in the context of enlargement

In the context of an enlarged Europe, support for bipartite social dialogue needs to be stepped up. The social dialogue committees are the appropriate bodies for the development of the social dialogue. The Commission will encourage new sectors to develop a social dialogue and to contribute to efforts to achieve the Lisbon objectives.

The European social dialogue needs solid foundations, which means that there is a need for the quality of industrial relations to be improved at national and decentralised levels in some cases.

The Commission will continue to encourage the development of bipartite social dialogue within the new Member States and will increase its support to the European social partners in order to deal with the consequences of enlargement.

It is however important to note that as the social partners are autonomous and social dialogue in the EU is based on the freedom of the right to association, capacity-building is essentially a bottom-up process depending on the efforts of the social partners themselves.

Extend and update the studies on representativeness

In order to identify the social partners to be consulted under Article 138 of the EC Treaty, the Commission carries out representativeness studies on the European organisations. This information is also important for the setting up of new sectoral social dialogue committees, as well as the Commission's assessment of the representative status of the signatory parties to Article 139(2) agreements.

In view of the expansion in the number of sectoral social dialogue committees and EU enlargement, the current pace of the studies and monographs needs to be stepped up and the existing studies need to be regularly updated and made publically available.

The Commission proposes that the representativeness studies should be carried out by the European Industrial Relations Observatory of the Dublin Foundation.

4.3 Improving the impact and follow-up of the European social dialogue

The Commission welcomes the increasing adoption of social partner texts making recommendations of various kinds to their members for follow-up at the national level (see Annex 2).

It encourages the social partners to make greater use of peer review techniques inspired by the open method of coordination for following-up these texts, for example by setting targets (quantitative, where feasible) or benchmarks, and regularly reporting on progress made towards achieving them.

The Commission will improve the visibility of the European social dialogue and assist the social partners in following up their texts by:

- Exploring ways of promoting the sharing of experience on follow-up practices, for example through the production of electronic newsletters, the Liaison Forum, and experience-sharing forums;
- Providing support for the social partners which will be accessible on the social dialogue website. This could consist of a typology of social dialogue texts based on the one proposed in this Communication, a lexicon of social dialogue terminology, a drafting checklist for new generation texts, good examples of follow-up provisions, information on European company agreements, and any other useful information. The Commission will also include all social partner texts in a data base;
- Reinforcing financial support for joint follow-up actions by the European social partners;
- Organising national seminars in each Member State – beginning in the new Member States - to raise awareness of the importance of the European social dialogue for national industrial relations.

4.4 Autonomous agreements

The Commission fully recognises the negotiating autonomy of the social partners on the topics falling within their competence.

However in the specific case of autonomous agreements implemented in accordance with Article 139(2), the Commission has a particular role to play if the agreement was the result of an Article 138 consultation, inter alia because the social partners' decision to negotiate an agreement temporarily suspends the legislative process at Community level initiated by the Commission in this domain.

While respecting the principle of the autonomy of the social partners, the Commission will publish autonomous agreements and inform the European Parliament and the Council of Ministers, after undertaking an ex-ante assessment as it does for Article 139(2) agreements to be implemented by Council decision.

Upon the expiry of the implementation and monitoring period, while giving precedence to the monitoring undertaken by the social partners themselves, the Commission will undertake its own monitoring of the agreement, to assess the extent to which the agreement has contributed to the achievement of the Community's objectives.

Should the Commission decide that the agreement does not succeed in meeting the Community's objectives, it will consider the possibility of putting forward, if necessary, a proposal for a legislative act. The Commission may also exercise its right of initiative at any point, including during the implementation period, should it conclude that either management or labour are delaying the pursuit of Community objectives.

While recognising the broad scope of the social partners' competences, in line with the previous concerns of the Commission, where fundamental rights or important political options are at stake, or in situations where the rules must be applied in a uniform fashion in all Member States and coverage must be complete, preference should be given to implementation by Council decision. Autonomous agreements are also not appropriate for the revision of previously existing directives adopted by the Council and European Parliament through the normal legislative procedure.

4.5 Preparing further developments

In view of the growing number of new generation texts, the Commission considers there to be a need for a framework to help improve the consistency of the social dialogue outcomes and to improve transparency. This Communication makes a first step in this direction by proposing a typology (Annex 2), and a drafting checklist (Annex 3).

The Commission will examine the possibility of drawing up a more extensive framework. The Commission's preferred approach would be for the social partners to negotiate their own framework, and it calls on the social partners to consider this possibility.

Interest in and the importance of transnational collective bargaining has been increasing in recent years, particularly in response to globalisation and economic and monetary union. EWCs are adopting a growing number of agreements within multinational companies which cover employees in several Member States. There is also a growing interest in cross-border agreements between social partners from geographically contiguous Member States, as well as agreements between the social partners in particular sectors covering more than one Member State.

In view of this trend, the Commission is conducting a study of transnational collective bargaining and will make its results available to the social partners. At a later stage the Commission will consult the social partners on their outcome regarding the development of a Community framework for transnational collective bargaining.

Annex 1: Background to the European social dialogue

The European social dialogue has evolved considerably over recent years and is now well-established.

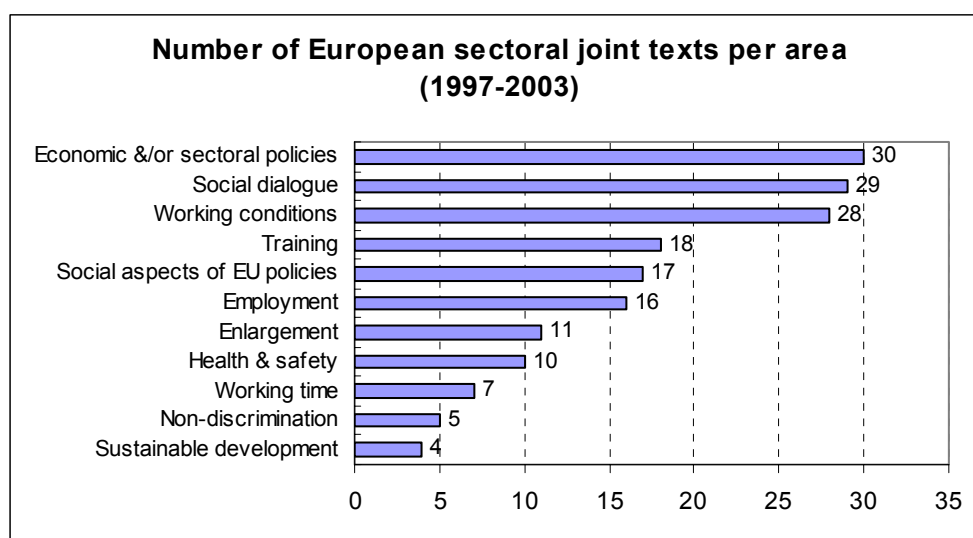
European **tripartite** social dialogue takes place within the Tripartite Social Summit for Growth and Employment, established in March 2003⁷, as well as the dialogues on macroeconomics, employment, social protection and education and training.

European **bipartite** social dialogue takes place within the cross-industry social dialogue committee and 30 sectoral social dialogue committees (see Annex 4), on the basis of work programmes adopted by the social partners.

Both bipartite and tripartite dialogue contribute to better cohesion and to building consensus by stimulating cooperation between levels of industrial relations players which helps to develop trust and mutual understanding.

Quantitatively, the work of the various social dialogue committees has resulted in the adoption of over 40 joint texts by the cross-industry social partners and approximately 300 by the sectoral social partners. These take a variety of forms, ranging from joint opinions to guidelines, codes of conduct and agreements. Some of these initiatives, such as three of the agreements concluded by the cross-industry social partners and those in the transport sector, have been implemented by Council directives.

The social dialogue has also evolved considerably in terms of the **scope** of the topics addressed. The topics covered by the social dialogue are diverse and have widened over the past few years.



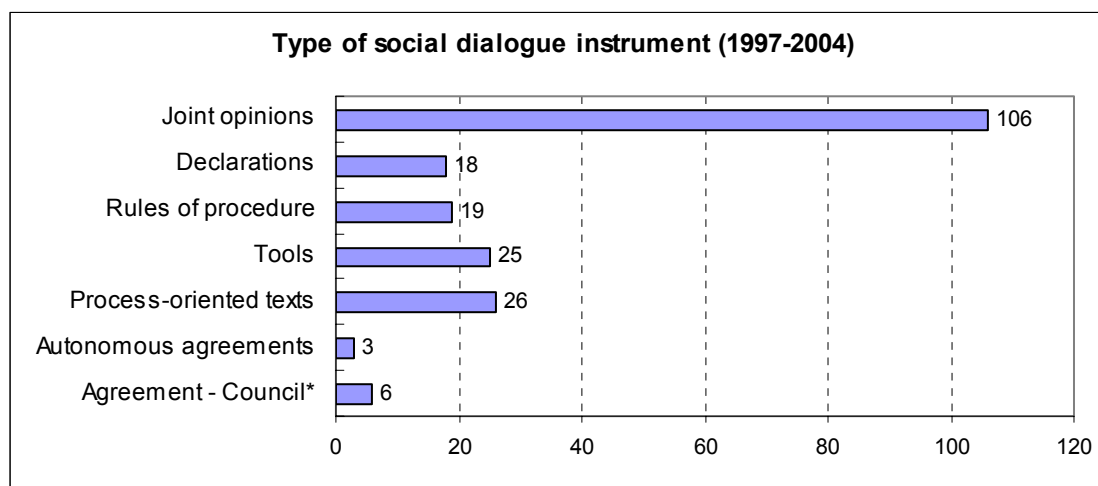
* This table identifies the main topic to which the joint text refers, however in practice many overlap categories.

The activities of the social partners are not confined to the adoption of joint texts. The social partners undertake many **transnational joint projects**. They consist of a large variety of activities, including the organisation of roundtables, studies, and the production of practical tools, such as handbooks on vocational training, health and safety and procurement practices. The transnational nature of these projects means that they make a very practical contribution to increasing the interplay between industrial relations actors at the European and national

⁷ OJ L 70, 14.3.2003, p. 31.

levels, promoting the exchange of experience and best practice, and improving understanding of European policy at the grass-roots level.

It is now widely recognised that better governance in the field of employment and social policy entails a **variety of policy instruments**, including a combination of legislation, social dialogue, corporate social responsibility, the open method of coordination, the structural funds, action programmes, mainstreaming measures, policy analysis and research. The variety of tools employed by the social partners reflects this recognition in the industrial relations field.



* Although the table covers the period 1997-2004, this category includes the cross-industry agreement on parental leave from 1995.

Many of the European social partners' joint opinions targeted at the European institutions have been important in influencing the content of EU legislation and policies, particularly by helping to identify the compromise position between the social partners.

More recently there has been a **qualitative** evolution in the European social dialogue towards greater autonomy. This is reflected partly by the social partners' increasing adoption of joint work programmes. Another indication of this qualitative shift is the increasing adoption by the social partners of '**new generation**' texts, which are characterised by the fact that the European social partners make recommendations to their members and the social partners undertake to follow them up at the national level.

In spite of the achievements of the European social dialogue so far, in certain areas its **impact** could be improved. In particular, the significance and status of the European social partners' texts is not always easy to understand to those not directly involved in their dialogue, partly because of the diversity of titles and formats employed, and the rather **loose use of terminology**.

The problem of the loose use of terminology by the social partners was first identified by the Commission in its Communication of June 2002,⁸ in which it called on the social partners to endeavour to clarify the terms used to describe their contributions and to reserve the term 'agreement' for texts implemented in accordance with the procedures laid down in Article 139(2) of the Treaty. Indeed the term 'agreement' has been employed in a very general way in the past. For example, it has been used for texts aimed at setting up social dialogue

⁸ COM(2002) 341 final.

committees, as well as texts which essentially make recommendations, rather than being real 'agreements'. Equally there are some texts which might arguably qualify as 'agreements' or other types of new generation texts, but which have weaker titles.

The impact of some of the European social partners' initiatives, especially the new generation texts, many of which address the Lisbon themes, could be improved by including more **detailed follow-up and reporting provisions**. At present these range from precise examples explaining how, through which structures and at which intervals the text will be evaluated, to much vaguer provisions, with the social partners simply undertaking to regularly discuss the follow-up given, or undertaking to follow it up but without giving any indication as to how often. Some texts include no follow-up provisions at all. Imprecise terminology, as well as failure to clarify all aspects of the follow-up of texts in negotiations, can result in difficulties when it comes to implementing them in practice.

Some promising developments include the cross-industry social partners' *Framework of actions on the lifelong development of competencies and qualifications* and the sugar sector's *Code of conduct on corporate social responsibility in the sugar industry*. Both include clear follow-up provisions and have produced their follow-up reports to schedule. Initiatives have recently been undertaken in the textile & clothing, leather & tanning sectors to implement their codes of conduct, and social partners in the agriculture sector are undertaking initiatives to follow-up their agreement on vocational training.

Annex 2: Typology of the results of European social dialogue

With a view to assisting understanding of the various social dialogue instruments and helping the social partners to improve transparency, the following typology identifies four broad categories, each of which has sub-categories: agreements implemented in accordance with Article 139(2); process-oriented texts; joint opinions and tools; and procedural texts. The social partners are encouraged to draw on this typology when drafting their texts in the future.

The **new generation texts**, which the social partners seek to follow-up themselves, fall within the first two categories, namely **autonomous agreements** and **process-oriented texts**.

It should be pointed out that the loose use of terminology makes it difficult to categorise some of the texts and some overlap categories.

I. Agreements implemented in accordance with Article 139(2): minimum standards

The texts in this category establish minimum standards and entail the implementation of certain commitments by a given deadline. Article 139(2) makes it clear that two main types of agreement fall within this category, the main difference relating to the method of implementation foreseen.

Agreements implemented in accordance with Article 139(2): minimum standards	
Type of agreement	Examples
<i>Agreements implemented by Council decision</i> Implemented by Council decision, monitored by the Commission	<ul style="list-style-type: none">– Framework agreement on parental leave, 1995– Framework agreement on part-time work, 1997– Framework agreement on fixed-term work, 1999– European agreement on the organisation of working time of seafarers, 1998– European agreement on the organisation of working time of mobile workers in civil aviation, 2000– European agreement on certain aspects of the working conditions of mobile workers assigned to interoperable cross-border services, 2004⁹
<i>Autonomous agreements implemented by the procedures and practices specific to management and labour and the Member States</i> Implementation and monitoring by the social partners	<ul style="list-style-type: none">– Framework agreement on telework, 2002– Framework agreement on work-related, stress, 2004¹⁰– Agreement on the European licence for drivers carrying out a cross-border interoperability service, 2004

Agreements implemented by Council decision

The first kind of agreement consists of those which are implemented at the joint request of the signatory parties by a Council decision (in practice so far by Council directives) on a proposal from the Commission. This category includes the three cross-industry framework agreements on parental leave, part-time work and fixed-term contracts, as well as the maritime transport and civil aviation sector agreements on working time, and the railway sector agreement on the working conditions of mobile workers assigned to cross-border interoperable services. The three cross-industry framework agreements were negotiated as a result of a Commission

⁹ Implementation by Council decision requested at the time of publication.

¹⁰ Formal adoption pending at the time of publication.

consultation under Article 138, whereas the sectoral agreements make use of the space left to the social partners by a directive¹¹ to adapt the Community provisions to the specific needs of the sector.

The responsibility for ensuring that agreements implemented by Council decision are transposed and implemented lies with the Member States, even in cases where the provisions are implemented through collective bargaining by the social partners. Responsibility for monitoring these agreements lies with the Commission, although the social partners are systematically consulted on the implementation reports.¹²

Autonomous agreements

With regard to the second type of agreement – those implemented in accordance with the procedures and practices specific to management and labour and the Member States - it is the social partners themselves who are responsible for implementing and monitoring these agreements. The *Framework agreement on telework* of July 2002 is the first cross-industry example of this type of agreement and was the result of an Article 138 consultation. In May 2004 the cross-industry social partners concluded their second agreement of this type on the topic of work-related stress, which was also the result of an Article 138 consultation. However at the time of publication the agreement had not yet been formally approved.

Effective implementation and monitoring is important in the case of agreements of this kind, particularly if they have been negotiated subsequent to a Commission consultation under Article 138. Article 139(2) states that the Community level agreements "*shall* be implemented" (emphasis added), which implies that there is an obligation to implement these agreements and for the signatory parties to exercise influence on their members in order to implement the European agreement.

II. Process-oriented texts

This category consists of a variety of joint texts which are implemented in a more incremental and process-oriented way than agreements. In these texts the European social partners make recommendations of various kinds to their members for follow-up, and they should involve regular evaluation of the progress made towards achieving their objectives in order to ensure they have a real impact. The implementation of some aspects of these texts may require cooperation with national public authorities.

Texts of this kind can be useful in areas in which legislation at European level may not be the most appropriate solution, often because of the complex and diverse array of measures already in place in Member States, but in which the social partners may nevertheless have an interest in working together. They can also assist the exchange of good practice and mutual learning. Such texts sometimes help to prepare the ground for future Community legislation.

There are three main types of instrument falling within this category.

¹¹ In this instance Directive 93/104/EC concerning certain aspects of the organisation of working time (OJ L 307, 13.12.1993).

¹² The ETUC's European Trade Union Institute (ETUI) has produced its own implementation reports on the parental leave, part-time and fixed-term work agreements through its NETLEX network of national legal experts. The agreement on working time in civil aviation and the agreement on working conditions in the railway sector indicate that the social partners will undertake evaluations of the implementation of these agreements.

Frameworks of action

Frameworks of action consist of the identification of certain policy priorities towards which the national social partners undertake to work. These priorities serve as benchmarks and the social partners report annually on the action taken to follow-up these texts.

Guidelines and codes of conduct

Guidelines and codes of conduct make recommendations and/or provide guidelines to national affiliates concerning the establishment of standards or principles. In some cases these are intended to serve as principles or minimum European standards to be implemented at national or company level. In other cases they seek to promote higher standards than those provided for in existing legislation. This category also includes codes of conduct intended to promote the implementation in companies' supply chains of existing internationally agreed standards in the area of labour law established by international conventions. The content of some of these codes of conduct goes beyond the core ILO conventions.

Policy orientations

This sub-category refers to texts in which the social partners pursue a proactive approach to promoting certain policies among their members. The texts explain how these will be promoted (e.g. collection and exchange of good practice, awareness-raising activities) and how the social partners undertake to assess the follow-up given and its impact.

Process-oriented texts	
Type of text	Examples¹³
<i>Frameworks of action</i> - working towards common priorities Follow-up and annual reporting by the social partners	Framework of actions on the lifelong development of competencies and qualifications, 2002
<i>Guidelines, codes of conduct</i> - establishing standards or principles Regular follow-up and reporting by the social partners	Establishing new European standards or principles: <ul style="list-style-type: none">– Recommendation framework agreement on the improvement of paid employment in agriculture, 1997*– Agreement on promoting employment in the postal sector in Europe, 1998– Guidelines on telework in telecommunications, 2001– European agreement on guidelines on telework in commerce, 2001– Code of conduct – Guidelines for European hairdressers, 2001– Voluntary guidelines supporting age diversity in commerce, 2002– Joint declaration on lifelong learning in the banking sector, 2002– European agreement on vocational training in agriculture, 2002*– Code of conduct on CSR in the European sugar industry, 2003– Code of conduct and ethics for the private security sector, 2003– Electricity sector joint declaration on telework, 2003– Local & regional government joint statement on telework, 2004– Statement on promoting employment and integration of disabled people in the commerce and distribution sector, 2004

¹³ Some of these texts do not include detailed provisions on follow-up and reporting, but have been included because they consist of recommendations to the members of the signatory organisations.

	<ul style="list-style-type: none"> - Guidelines for customer contact centres (telecommunications), 2004 <p>Promoting and enforcing existing internationally agreed standards:</p> <ul style="list-style-type: none"> - Code of conduct on child labour in the footwear sector, 1996 - Code of conduct for the European textile/clothing sector, 1997 - Agreement on Fundamental Rights and Principles at Work, in the commerce sector, 1999 - Code of conduct in the leather and tanning sector, 2000 - Code of conduct in the footwear sector, 2000 - Code of Conduct – A Charter for the social partners in the European woodworking industry, 2002
<p>Policy orientations – the proactive promotion of policies</p> <p>Regular follow-up and reporting by the social partners</p>	<ul style="list-style-type: none"> - Joint recommendation on apprenticeship in the sugar sector, 1998 - Electricity sector joint declaration on equal opportunities/diversity, 2003 - Orientations for reference in managing change and its social consequences, 2003 (cross-industry social partners) - Joint Statement on Corporate Social Responsibility in commerce, 2003 - Common recommendations of the European social partners for the cleaning industry, 2004

* Although these texts are referred to as 'agreements', they have been included in this category as their provisions appear to consist mainly of recommendations to their members and do not include a date by which implementation of the various objectives must be accomplished.

III. Joint opinions and tools: Exchange of information

This category consists of social partner texts and tools which contribute to exchanging information, either upwards from the social partners to the European institutions and/or national public authorities, or downwards, by explaining the implications of EU policies to national members. The instruments in this category do not entail any implementation, monitoring or follow-up provisions.

Joint opinions

This category includes the majority of social partner texts adopted over the years such as their joint opinions and joint statements, which are generally intended to provide input to the European institutions and/or national public authorities. These include texts which respond to a Community consultation (green and white papers, consultation documents, Communications), which adopt a joint position with regard to a given Community policy, which explicitly ask the Commission to adopt a particular stance, or which ask the Commission to undertake studies or other actions.

Declarations

This category refers to texts which are essentially declarations – usually directed at the social partners themselves - outlining future work and activities which the social partners intend to undertake (e.g. the organisation of seminars, roundtables, etc).

Tools

This category refers to the tools developed by the social partners, such as guides and manuals providing practical advice to employees and companies on subjects such as vocational training, health and safety and public procurement, often with the assistance of Community grants. These can make a very practical contribution at the grass-roots level, for example by

helping to explain the implications of EU legislation on certain topics, or helping to exchange knowledge of good practice.

Joint opinions and tools	
Type of instrument	Examples¹⁴
Joint opinions	<ul style="list-style-type: none"> – Position on training and continuing training (mines), 2003 – Joint declaration on the European harmonisation of legislation governing the private security sector, 2001 – Joint declaration on the objectives of the European directive on private agency work (temporary work sector), 2001 – Joint opinion of the European social partners in aviation, 2001
Declarations	<ul style="list-style-type: none"> – Joint declaration on the social partners of the cleaning industry and EU enlargement, 2000 – Joint statement and final report on the study on life-long learning in the electricity sector, 2003
Tools	<ul style="list-style-type: none"> – Selecting best value – A guide for organisations awarding contracts for cleaning services (cleaning industry) – Training Kit of Basic Office Cleaning Techniques (cleaning industry) – European Vocational Training Manual for Basic Guarding (private security) – Brochure on tutoring in the construction industry, 2004 – Website of the postal sector social dialogue committee, 2003

IV. Procedural texts

This final category consists of texts which seek to lay down the rules for the bipartite dialogue between the parties. This includes the cross-industry social partners' *Agreement of 31 October 1991*, which made proposals for the revision of the policy-making procedures in the EC Treaty in the social policy field. These proposals were incorporated virtually verbatim into the Treaty on European Union by the Intergovernmental Conference of 1991. This category also includes the social partner texts which determine the rules of procedure for the sectoral social dialogue committees.

¹⁴ This list is not exhaustive and only provides a few examples.

Annex 3: Drafting checklist for new generation social partner texts

- Clearly indicate to whom they or the various provisions are addressed, e.g. the Commission, other European Union institutions, national public authorities, social partners;
 - Indicate the status and purpose of the text clearly;
 - Where applicable, indicate the deadline by which the provisions should be implemented;
 - Indicate clearly how the text will be implemented and promoted at national level, including whether or not it should be implemented in a binding fashion in all cases;
 - Indicate clearly through which structures the monitoring/reporting will be undertaken, and the purpose of the reports at different stages;
 - Indicate when and/or at which intervals monitoring/reporting will take place;
 - Specify the procedures to be followed for dispute settlement (e.g. disagreements over the interpretation of the meaning of the text);
 - Be dated;
 - Be signed;
 - Agreements should include an annex listing the members of the signatory parties at whom the text is directed;
 - Indicate which language(s) is/are the original.
-

Annex 4: The sectoral social dialogue committees

Sectors	Employees' organisations	Employers' organisations	Date of creation
Agriculture	EFFAT	GEOPA/COPA	1999
Audiovisual	EFJ, EURO-MEL, FIA, FIM	ACT, AER, CEPI, EBU, FIAPF	2004
Banking	UNI-Europa	EACB, ESBG, FBE	1999
Civil aviation	ECA, ETF	ACI EUROPE, AEA, CANSO, ERA, IACA	2000
Cleaning industry	UNI-Europa	EFCI	1999
Commerce	UNI-Europa	EuroCommerce	1999
Construction	EFBWW	FIEC	1999
Electricity	EMCEF, EPSU	EURELECTRIC	2000
Footwear	ETUF:TCL	CEC	1999
Furniture	EFBWW	UEA	2001
Horeca	EFFAT	HOTREC	1999
Inland waterways	ETF	EBU, ESO	1999
Insurance	UNI-Europa	ACME, BIPAR, CEA	1999
Live performance	EAEA	PEARLE	1999
Local & regional government	EPSU	CEMR	2004
Mines	EMCEF	APEP, Euracoal, Euromines, IMA	2002
Personal services	UNI-Europa	EU Coiffure	1999
Postal services	UNI-Europa	PostEurop	1999
Private security	UNI-Europa	CoESS	1999
Railways	ETF	CER	1999
Road transport	ETF	IRU	1999
Sea fishing	ETF	EUROPECHE/COGECA	1999
Sea transport	ETF	ECSA	1999
Shipbuilding	EMF	CESA	2003
Sugar	EFFAT	CEFS	1999
Tanning and leather	ETUF:TCL	COTANCE	2001
Telecommunications	UNI-Europa	ETNO	1999
Temporary work	UNI-Europa	Euro CIETT	2000
Textile and clothing	ETUF:TCL	EURATEX	1999
Woodworking	EFBWW	CEI-Bois	2000

Annex 5: List of European social-partner organisations consulted under Article 138 of the EC Treaty

1. General cross-industry organisations
 - European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest (CEEP)
 - European Trade Union Confederation (ETUC)
 - Union of Industrial and Employers' Confederations of Europe (UNICE)
2. Cross-industry organisations representing certain categories of workers or undertakings
 - Eurocadres
 - European Association of Craft and Small and Medium-Sized Enterprises (UEAPME)
 - European Confederation of Executives and Managerial Staff (CEC)
3. Specific organisations
 - Eurochambres
4. Sectoral organisations representing employers
 - Airports Council International – Europe (ACI EUROPE)
 - Association of Commercial Television in Europe (ACT)
 - Association of European Airlines (AEA)
 - Association of European Cooperative and Mutual Insurers (ACME)
 - Association of European Public Postal Operators (PostEurop)
 - Association of European Radios (AER)
 - Association of National Organisations of Fishing Enterprises in the EU (EUROPECHE)
 - Civil Air Navigation Services Association (CANSO)
 - Committee of Agricultural Organisations in the European Union (COPA)
 - Community of European Railway and Infrastructure Companies (CER)
 - Community of European Shipyards' Associations (CESA)
 - Confederation of National Associations of Tanners and Dressers of the European Community (COTANCE)
 - Council of European Municipalities and Regions (CEMR)
 - Employers' Group of the Committee of Agricultural Organisations in the European Union (GEOPA)
 - Euracoal
 - Euromines
 - European Apparel and Textile Organisation (EURATEX)
 - European Association of Cooperative Banks (EACB)
 - European Association of Potash Producers (APEP)
 - European Banking Federation (FBE)
 - European Barge Union (EBU)
 - European Broadcasting Union (EBU)
 - European Committee of Sugar Manufacturers (CEFS)
 - European Community Shipowners Association (ECSA)
 - European Confederation of the Footwear Industry (CEC)
 - European Confederation of Hairdressing employers' organisations (EU Coiffure)
 - European Confederation of Woodworking Industries (CEI-Bois)
 - European Construction Industry Federation (FIEC)
 - European Coordination of Independent Producers (CEPI)
 - European Federation of Cleaning Industries (EFCI)
 - European Federation of National Insurance Associations (CEA)

- European Federation of Security Services (CoESS)
- European Furniture Manufacturers’ Federation (UEA)
- European Industrial Minerals Association (IMA)
- European Regions Airline Association (ERA)
- European Savings Banks Group (ESBG)
- European Skippers' Organisation (ESO)
- European Telecommunications Network Operators’ Association (ETNO)
- General Committee for Agricultural Cooperation in the European Union (COGECA)
- Hotels, Restaurants and Cafés in Europe (HOTREC)
- International Air Carrier Association (IACA)
- International Confederation of Temporary Work Businesses (Euro CIETT)
- International Federation of Film Producers' Associations (FIAPF)
- International Federation of Insurance Intermediaries (BIPAR)
- International Road Transport Union (IRU)
- Performing Arts Employers’ Associations League Europe (PEARLE)
- Retail, Wholesale and International Trade Representation to the EU (EuroCommerce)
- Union of the Electricity Industry (EURELECTRIC)

5. European trade union organisations

- European Arts and Entertainment Alliance (EAEA)
- European Cockpit Association (ECA)
- European Federation of Building and Woodworkers (EFBWW)
- European Federation of Journalists (EFJ)
- European Federation of Public Service Unions (EPSU)
- European Federation of Trade Unions in the Food, Agriculture and Tourism Sectors and Allied Branches (EFFAT)
- European Metalworkers’ Federation (EMF)
- European Mine, Chemical and Energy Workers’ Federation (EMCEF)
- European Trade Union Federation: Textiles, Clothing and Leather (ETUF:TCL)
- European Transport Workers’ Federation (ETF)
- International Federation of Actors (FIA)
- International Federation of Musicians (IFM)
- Union Network International – Europe (UNI–Europa)
- Union Network International – Media and Entertainment International – Europe (EURO-MEI)
- European Trade Union Committee for Education (ETUCE)*

The list will be adapted as new sectoral social dialogue committees are set up and/or in the light of the study on representativeness.

** Organisations affiliated to ETUC receiving copies of information.*