



## CODEBAR-project

### **Decentralised Bargaining in France**

Marcus Kahmann

Catherine Vincent

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## Executive summary

Industrial relations in France are heavily shaped by the strong and interventionist role of the State. As a result, a very detailed and broad Labour Code was set up. Granting individual rights and benefits directly to employees, however, undermined the role of unions in collective bargaining development. Nevertheless, in the years of rapid economic growth during the second half of the 20th century, the extension procedure, along with the technical support provided by the Ministry of Labour enabled the entire workforce within industries to enjoy the benefits that had been negotiated mainly at sectoral level. Yet, collective bargaining developed in a threefold space in which agreements were signed: interprofessional national level, sector level and company level, in descending order of priority.

From the mid-1980s, in comparison with most continental European countries, there was an early development towards the decentralisation of collective bargaining at company level through a series of issues on which derogations were possible, although the system remained coordinated by law and the favourability principle. In larger companies, bargaining became mandatory on an increasing number of topics. The 2016 and 2017 reforms introduced a reversal of the hierarchy of norms and conferred more autonomy to company bargaining. Sector agreements remain important as a safety net mainly for terms and conditions of employment in SMEs, but more and more space has been given to company agreements for designing tailor-made regulations.

The objective of this research - carried out within the framework of a comparative and multi-disciplinary research project (CODEBAR<sup>1</sup>) - is, first to analyse the opportunities and the limits of the legal and collective bargaining systems for company level bargaining and, second, to explore the bargaining strategies of French firm level actors and their results.

For this purpose, the report first addresses recent evolutions in the legal framework and in the quantity of collective bargaining as well as the academic debate on the decentralisation of collective bargaining in France. Regarding the latter, scholars have underlined the complexity of the decentralisation process. While they would agree that company level influence has increased in France over the last thirty years, many would question the unidirectionality of the State-led decentralisation process as well as the unambiguousness of its results. Studies of the relations between company and sectoral level bargaining do not point to a straightforward decline of the latter, but to the diversity of patterns and emphasised the relative autonomy of bargaining levels.

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<sup>1</sup> CODEBAR (*Comparisons in decentralised bargaining*) is a comparative research project coordinated by the University of Amsterdam and funded by the European Commission. It involves eight countries (France, Germany, Ireland, Italy, the Netherlands, Poland, Spain and Sweden) and focuses on the consequences of the decentralisation of collective bargaining at company level.

In the same way, within firms, they observe some variation in bargaining content and outcome between company cases depending on factors such as company size, workforce composition or industry, the type of industrial relations actors developed in the company, etc.

The second part of this report addresses actor strategies in company bargaining through four case studies based on a qualitative research approach, combining in-depth interviews with actors and document analysis. This represents the empirical core of this report. The cases are from manufacturing (Electric, Aero and Metal) and retail (Sports) sectors. Three of these companies are publicly traded business groups, the last one is a small subsidiary of a foreign group (Metal). While the Electric and Aero cases concentrate on bargaining at group level, the Metal case covers collective bargaining from the perspective of a subsidiary. Its autonomy in terms of collective bargaining is higher than that of comparable subsidiaries in the two other manufacturing cases.

All four cases converge in that the articulation between company and sectoral norms in wage bargaining is relatively weak. Real wages are higher - albeit to different degrees and by various techniques - than in the respective sectoral agreement. The prevalence of company over sectoral bargaining is associated with rather favourable material outcomes for the workers and persistent social peace for management. Such benefits cannot be attributed to legislative action in favour of the decentralisation of the collective bargaining system. In these businesses, company bargaining has eclipsed sectoral bargaining for a very long time and is seen by management as a tool to guarantee social peace and attract and retain a qualified workforce. The cases confirm that the prevalence of such a "high-road" strategy in company bargaining depends on market and technological conditions as well as the capacity of trade unions to impose themselves at company level as a credible actor in the eyes of workers and management. The report also identifies the erosion of the institutional coordination capacity of the bargaining system as a serious challenge to trade unions. While employer associations have been in favour of an *à la carte* approach to collective bargaining, unions cannot subscribe to such a vision that may increase inequality among workers. The case studies demonstrate that due to internal divisions, however, trade unions prove unable to compensate for the declining institutional coordination by actively taking on this role themselves.

## Introduction

The broader industrial relations context in France is heavily shaped by the strong and interventionist role of the State, which has served different purposes at different points in time: by the turn of the 20th century, it offsets the organisational weaknesses of both unions and employers; then, after the Second World War, it incorporates trade unions and employers' organisations in the formulation of social and welfare issues by treating them as partners, albeit often only in an advisory capacity. As a result, a very detailed and broad Labour Code was set up. Granting individual rights and benefits directly to employees, however, undermined the role of unions in collective bargaining development. However, in these years of rapid economic growth, the extension procedure, along with the technical support provided by the Ministry of Labour enabled the entire workforce within industries to enjoy the benefits that had been negotiated mainly at sectoral level. Yet, collective bargaining developed in a threefold space in which agreements were signed: interprofessional national level, sector level and company level, in descending order of priority.

This 'Fordist compromise' collapsed in the late 1980s because of the shift away from industry to the service sector and the rise of unemployment and precarious forms of employment. Meanwhile, as a third kind of State intervention, neoliberal policies have gradually been implemented, although several welfare safety-nets have been retained. These changes have gone hand in hand with a decline of the trade union structural power (Pernot 2017; see box 1). Since then, decentralisation of collective bargaining has been a central theme of industrial relations reforms.

In the last two decades, several laws have significantly modified industrial relations and the labour market. In their wake, the 2017 ordinances have profoundly disrupted the previous system by weakening the individual and collective protections provided by the Labour Code: increased decentralisation of collective bargaining; overhaul of workplace representation; a further step forward in deregulating the labour market, notably by easing economic dismissal procedures and introducing a compensation cap in the event of legal action. The employers' organisations have clearly supported the ordinances, which meet many of their demands, while all the unions are strongly opposed.

Within firms, employee representation has been drastically simplified. This representation is still based on both the trade unions, which can set up a trade union section and appoint one or more trade union delegates as long as they are representative, and on the CSE (Social and Economic Committee) directly elected by the entire workforce. The CSE replaces all the former staff representation bodies and combines their functions: employee complaints, consultation on economic issues, on working conditions and on health and safety, management of social and

cultural activities. The means of the CSE (number of elected representatives, paid time-off hours for elected representatives, etc.) have been clearly reduced compared to the former bodies, whereas it must take charge of all their attributions, in particular as regards health and safety.

It is therefore firm level representatives with fewer resources who must also face the strengthening of bargaining at this level. The objective of this research is to explore the responses of firm level actors to the devolution of bargaining competences at company level. What are their strategies to adapt to these changes? What is the role of sector level standards for them from now on? How do they evaluate the outcome of decentralised bargaining in terms of the quality of its process and norms?

The report is structured as follows. Section 1 describes the evolution of the institutional framework of collective bargaining and employee representation in France. Section 2 analyses the trends on decentralisation of collective bargaining and how they are discussed in the French literature. It includes a quantitative look at collective bargaining. Section 3 and 4 are dedicated to the four company case studies: three in manufacturing and one in retail sectors. These cases are based on a qualitative research approach, an approach that combines in-depth interviews with actors and document analysis. Section 5 provides a cross-company analysis and the main concluding findings of the report. The conclusion places the research contribution within the context of other studies on the recent evolution of collective bargaining.

### **Box 1: Representative trade unions in France**

The French trade union movement has traditionally been marked by pluralism, rivalry between union confederations and a lack of financial and organisational resources. Trade union membership statistics have always exhibited lower rates in France than in other European countries, barely reaching 20 per cent even in the late 1960s. The oil shocks and recession of the 1970s further narrowed the base and trade union membership has been constantly low since then, at a mere 10 per cent: roughly 8 per cent in the private sector and 20 per cent in the public sector in 2019 (Dares, Données, *La syndicalisation*, 2021). The sectoral breakdown highlights that union membership remains robust in traditional industries. Despite these weaknesses, unions have achieved a high level of employee participation in elections for company representatives and are able to mobilize workers with great success.

Five trade unions confederations were granted 'nationally representative' status by the government until 2008, and since then through representativeness elections. Indeed, since the 2008 law, in order to participate in collective bargaining, a trade union must obtain, depending on the level concerned, at least 10 per cent of the votes in the elections for employee representatives and 8 per cent at sectoral and interprofessional levels. Despite these new rules, the trade union landscape is rather stable with the same five representative confederations at national level.

The three main organisations are the CGT (*Confédération Générale du Travail*, General Confederation of Labour), the CFDT (*Confédération Française Démocratique du Travail*, French Democratic Confederation of Labour) and the CGT-FO (*Confédération Générale du Travail-Force Ouvrière*, General Confederation of Labour-Labour Force) commonly referred to as FO. The first two account for 65-70 per cent of trade union members; FO brings the figure to 80 per cent (Pernot 2017). In addition, there is the small *Confédération Française des Travailleurs Chrétiens* (CFTC, French Christian Workers' Confederation) and the sectoral organisation representing managerial employees, the *Confédération Française de l'Encadrement-Confédération Générale des Cadres* (CFE-CGC, French Confederation of Management-General Confederation of Professional and Managerial Staff). The results of the last workplace elections in 2020 are as follows: CFDT 26.77 per cent; CGT 22.96 per cent; FO 15.24 per cent; CFE-CGC 11.92 per cent; CFTC 9.50 per cent.

Two more recently established organisations, the *Union Nationale des Syndicats Autonomes* (UNSA, National Unions of Autonomous Trade Unions) and the *Union Syndicale Solidaires* (USS, Trade Union 'Solidaires') are not recognised as representative at an interprofessional level, but they are representative in a number of sectors, thus enabling them to participate in sectoral bargaining.

# 1 Institutional framework of collective bargaining and employee representation in France

## 1.1 The French collective bargaining structures at sectoral level

Despite one of the lowest rates of union density, the French bargaining coverage rate is one of the highest among the OECD countries: 96 per cent in the private sector and 98 percent including public enterprises.<sup>2</sup> First and foremost, it is worth noting that there is no real collective bargaining in the public service in France even though it accounts for almost 20 per cent of the total employed workforce. In France's long-standing administrative and legal culture, employment in the public service is characterised by a separate status, unilaterally granted by the State and detailing its civil servants' rights and duties. Industrial relations in the public service are specific. Until 2010, there was no right to collective bargaining. A 2010 law acknowledged and generalised collective bargaining, but its renewal remains incomplete. The law did not confer legally binding status on agreements, as only their legislative or regulatory implementation grants them normative effects. Bargaining rights are still fairly weak and, regarding wages, under the unilateral control of government (Vincent 2016).

Compared with other European countries, collective bargaining was set up belatedly in France, in the 1950's.<sup>3</sup> In the following decades, the general use of administrative extension of collective agreements,<sup>4</sup> sectoral level bargaining emerged as the main pillar of French industrial relations. Although collective bargaining in France can legally take place at three levels<sup>5</sup> - the multi-sectoral level, sectoral level and company level, in descending order of normative priority - from the 1950s to the 1980s, industry-wide bargaining was the most common level at which collective agreements were negotiated; company level bargaining took place only in large companies. The coordination between levels was legally realised through the "favourability principle" - in other words, the most favourable clause prevailed over any other that is less favourable from the employees' perspective.

Representative unions have a monopoly on collective bargaining at sectoral level. The 2008 law redefined the criteria for the representativeness of the different unions: to take part in collective

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<sup>2</sup> OECD/AIAS ICTWSS database, 2021. [URL: <https://www.oecd.org/employment/ictwss-database.htm>]

<sup>3</sup> The first law establishing a collective bargaining system dated back to 1936. Due to the outbreak of the Second World War, but also to the hostility of employers toward unionism, the law was not implemented. The 1950 law consolidated the 1936 terms.

<sup>4</sup> This procedure was implemented in 1936. The contents of sectoral agreements extended by the Ministry of Labour are binding on all the employers in a similar activity, with or without registered membership in a professional association. This extension procedure helps to offset the weakness of employee representation, as well as the employers' lack of incentives to bargain.

<sup>5</sup> The Collective Labour Agreement Act of 1971 legalised the triple-level collective bargaining system.

bargaining at sectoral level, a union federation<sup>6</sup> must obtain a minimum of 8 per cent of the votes in elections for works councils. Regarding the validity of agreements, a majority criterion was gradually introduced. Nowadays, any sectoral level and inter-professional agreement must be supported by one or more representative unions having obtained more than 50 percent of the votes in the workplace elections of the concerned sector.

The role of the State, however, remains one of the most peculiar features of the French collective bargaining system, whose strength and spread have never relied on the existence of strong and encompassing bargaining parties, but on support from the State, particularly in the form of extension procedures and the statutory minimum wage. Political intervention both reflects and maintains the loose links between the social partners. As a result, the key role of State intervention and a long-standing mutual distrust between employers and trade unions explain the relative weakness of the French collective bargaining system. Most terms and conditions of employment are set by the Labour code. Its scope is broader and more detailed than in other European countries, mainly regarding working time and health and safety.

Wage-setting mechanisms are an illustrative example of how the collective bargaining system works. The legal minimum wage (or SMIC, *salair e minimum interprofessionnel de croissance*) represents the gravitational pull for wage bargaining at sectoral level and sets the pace for annual wage increases. In some ways, it has the same effect as centralised national wage agreements in other countries. At sectoral level, trade unions and employers' organisations bargain the increase of conventional minimum wages for each professional grading - which correspond to the wage floor for a given set of qualifications. Therefore, sectoral level actors are not the only stakeholders regarding wage policies because room for manoeuvre is left for actual wages bargaining at company level. By the early 2000s, large companies seek to negotiate minimum wages at sector level to preserve some leeway on the actual wages they practice. A trend towards complexifying and diversifying remunerations emerged, which has replaced across-the-board wage increases and brought about a form of wage management whose purpose is to adjust labour costs and offer incentive for higher performance (profit-sharing, employee savings, etc.). These individualising devices may themselves be subject to negotiation in the enterprise, but a significant difference may arise between agreements signed in leading companies and the content of the corresponding sector agreements (Castel, Delahaie & Petit 2014). However, the sector level collective agreement remains

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<sup>6</sup> The French trade union system is marked by the coexistence of several competing peak unions (*confédérations*). Within each peak union, different unions are affiliated and organize workers in specific labour markets (*fédérations*). Peak unions are also horizontally organised as they organise workers along specific administrative lines (*unions régionales, départementales* and *locales*).

the place for determining wage hierarchies, as it serves as a referent for extending increases throughout the wage scale.

Since the 2000s, State interventionism in collective bargaining goes so far as to define a part of its agenda. Successive legislations have introduced the obligation to negotiate at sector level on various topics. At the present time, in each bargaining sector, every four years the employer and union negotiators are obliged to open discussions on a certain number of topics: pay, work-life balance, working conditions and strategic workforce planning, exposure to occupational risks. Every five years, the sectoral social partners must examine whether the job classification scheme of the collective agreement is still up to date. They may also conclude an agreement that changes the rhythm and redefines the topics of sectoral bargaining. Importantly, there is no obligation to reach an agreement between the social partners, only to open discussion. However, in practice, almost all bargaining sectors regularly conclude agreements on these topics.

As a result, since the 2000's, training has often been the second major theme of sector level bargaining - after wages. Analysing these sector level agreements tends to show that these are little innovative bargaining, dependent on legislative provisions and imposing weak constraints on enterprises. The sector level is considered in its subsidiary role of firm level bargaining, to cover SMEs that had not engaged in bargaining. However, due to the activities of many joint (or tripartite) national or regional bodies that are related to it, training is one of the pillars of employers' sector organisations' operations in business. It is an important source of their legitimacy, especially in their corporate services functions. The resources collected by these institutions are geared towards priorities that are defined more or less jointly according to occupational sectors and in any event, they reinforce the sector and its stakeholders' identity.

In the last decade, with the development of the theme of lifelong training, bargaining on training tends to become one chapter of broader negotiations on employment, in particular through GPEC or older worker' employment bargaining. However, on these issues, sector level collective bargaining is struggling to find its place. Since 2010, less than ten sector agreements have been signed per year over the GPEC. Sector level agreements on older workers' employment are slightly more numerous, due to more stringent laws. Since 2010, company level bargaining became a vector of public policies for maintaining employment, particularly regarding the expected impacts of bargaining on the reorganisation and reduction of working time or even of bargaining focused on restructuring prevention and anticipations.

Finally, the driving force of sectoral collective bargaining has eroded over the course of successive reforms in recent decades. From the mid-1980s, there was an early development, compared with

most continental European countries, towards the decentralisation of collective bargaining to company level through a series of issues on which derogations were possible, but the system remained coordinated by law and the favourability principle (Vincent 2019). The 2016 and 2017 reforms introduced a reversal of the hierarchy of norms and conferred more autonomy to company bargaining. This overhaul of collective bargaining will certainly hasten the decline of the regulatory heft of sectoral agreements.

## **1.2 Decentralisation at company level: a less and less coordinated collective bargaining system**

As noted above, the sectoral level was dominant from the 1950s to the 1990s. Derogations from the Labour Code - on statutory working time - through sectoral or company agreements were introduced from the 1980s to the 1990s. Even if the changing pattern of collective bargaining has gradually delineated the coupling between the central and company levels, until 2004 coordination among the different levels was still ensured by the ‘favourability’ principle. In 2017, the Macron Ordinances replaced it with a compulsory division of topics among levels.

In the new collective bargaining architecture, coordination between levels is no longer based on the “favourability principle”, but rather on the complementarities of bargained topics. Regarding competencies in standard setting, the division is as follows:

- (i) Formally, the role of sectoral level agreements is reinforced since there are now 13 topics on which derogation is forbidden. This reinforcement has taken place at the expense of the law, however, and not at the expense of company agreements.
- (ii) The sectoral level ‘lock up’ faculty, unlimited under the 2004 Law, has now been reduced to four areas, which mainly concern issues of occupational safety and disabled workers. The weakening of sectoral level bargaining is evident here.
- (iii) The primacy of company agreements concerns everything that does not fall into the two previous blocks, a considerable quantity. Returning to the example of wages, all remuneration rules are now solely governed by the company agreement, with the exception of agreed minimum wages, classifications, and overtime premium.

## **1.3 Employee representation and collective bargaining at company level**

Employee representation at the workplace remains dual in France, but it has been institutionally simplified by the Macron Ordinances. Representation is still based on the unions, which can set up a union section and appoint one or more union delegates as soon as they are representative, that is, they obtained at least 10 percent of the votes in workplace elections. Change has been profound with regard to the works council body. The CSE (Social and Economic Committee), directly elected

by all members of the staff, replaces all the three former employee representation bodies (works council, employee delegates, and Health & Safety Committee) and combines their functions: claims of employees, consultation on economic issues, working conditions and on health and safety, management of social and cultural activities. The resources of the CSE (number of elected representatives, global amount of time-off supported to hold these mandates, etc.) have been significantly reduced compared to those of the former bodies.

Regarding collective bargaining at company level, it is the trade union delegates from the representative unions who negotiate with the employer. In 1982, the law introduced compulsory bargaining in the company, which is specific to France. In companies with at least one trade union delegate, the employer must enter into negotiations on a number of topics. Whereas at sectoral level, there is no obligation to conclude an agreement. Negotiations can take place at corporate group or company level, or if no union objects, at establishment level. The topics for compulsory negotiation have increased over time. Since 2015 they have been grouped into three areas:

- (i) Remuneration, working time and the sharing of added value in the company (profit-sharing, incentive schemes and employee savings); these topics must be negotiated annually
- (ii) Professional equality between women and men and quality of working life (employment of disabled workers, right to disconnect, reconciliation of work and family life, home-work mobility, etc.); this topic must also be negotiated every year
- (iii) Strategic workforce planning (GPEC, *Gestion prévisionnelle des emplois et des compétences*) training, subcontracting, temporary employment, career of trade union delegates, etc. GPEC is a potentially innovative collective bargaining item. It is a genuinely French HR concept (Gilbert 2006). Originally developed in the 1990s, its aim is to anticipate organisational restructuring and to cushion its potential effects on employment by collectively putting into place measures that promote training as well as the internal and external mobility of workers. Since 2005, companies with at least 300 workers are legally obliged to negotiate a GPEC agreement every three years.<sup>7</sup>

Since the 2017 Macron Ordinances, it is possible to adapt the methods and frequency of these compulsory negotiations by company agreement. The assessment of the impact of these obligations on company bargaining is not unequivocal and has been the subject of much research (see below).

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<sup>7</sup> The legislation on strategic workforce planning is symptomatic of both the tendency of public policy to manage employment *via* company bargaining as well as the difficulties of the sectoral level to find its place on employment matters (Tallard and Vincent 2014).

Regarding the agreements signatories, workplace agreements take effect once the signing unions represent 50 per cent or more of the votes in the works council elections. Since the early 2000s, to offset the fact that non-unionised companies - mainly SMEs - were not able to bargain because of a lack of union delegates, successive legislation has extended the possibilities for non-union representatives to negotiate in non-unionised workplaces. The Macron Ordinances have drastically extended the scope of the device. Three different regimes have been introduced, depending on the size of the non-unionised workplace.

- (i) Where there are 20 or fewer employees and no employee representatives: the employer can propose an 'agreement' drafted unilaterally that must be approved by at least two-thirds of the workforce.
- (ii) Between 20 and 49 employees: two possibilities are open without priority. Elected representatives can sign the agreement if they represent the majority of votes, or it can be signed by employees mandated by a union.
- (iii) Workplaces with 50 or more employees: the agreement can be signed by elected representatives, otherwise by mandated employees.

The shift in the level of bargaining has changed the link between sectoral and company levels, but only in very large firms. As we have seen, for the public authorities, company level bargaining has become a way of managing employment. In large firms, trade unions are encouraged by company management to participate in anticipating economic changes and their impact on employment as expected. According to this 'commitment' logic (Didry and Jobert 2010), management and unions develop common conceptual tools, share diagnostics and, as the case may be, a particular perspective on employment and staff mobility. Even though managing employment, an intrinsic element of human resource management within companies, has been admitted to bargaining, it remains a managerial initiative, in the form of 'managerial social dialogue' (Groux 2010). In accordance with the same logic, large companies, major automakers in particular, have signed so-called 'competitiveness-employment agreements', which are a French version of concession bargaining. In these agreements, unions exchange guarantees on employment against the lowering of social standards laid down in past company agreements.

In many small companies, the rare agreements signed offer little benefit to employees and sectoral agreements remain the reference (see 2.2.1). However, regarding recent and upcoming legal changes, in particular the introduction of ballots, the balance of power risks to become less favourable to trade unions in enterprises.

Bargaining at company level has considerably developed in the last two decades, but decentralisation does not necessarily mean derogation (agreement *in pejus*). In practice, the use of derogations remained limited (SECAFI 2020). Three reasons may explain the lack of success of derogations at company level. First, because otherwise unions would have refused to sign them. Second, the standards imposed at sectoral level are already the result of minimal compromises and leave little room for less favourable agreements. Finally, derogation agreements are not relevant tools for management. In large companies, if economic survival is not at stake, opening negotiations on derogation clauses sends a very negative message both for unions and employees. SMEs are less likely to sign their own agreements, whether they include derogations, because maintaining the reference to sectoral level agreements seems less time-consuming and risky.

## 2 Trends and debates on decentralisation in collective bargaining

### 2.1 How is decentralisation discussed in the literature?

The increasing importance of company level bargaining has been analysed as a decisive change of the French industrial relations system since the 1980s (Mériaux 2000). In their comparative study on the neoliberal transformation of industrial relations in Europe, political economists Baccaro and Howell (2017: 95) see the "construction of institutions of collective bargaining and social dialogue inside the firm" as the specifically French pathway taken by liberalisation, and "the mechanism by which the State was able to withdraw from active regulation of the labour market and permit flexibility and expanded employer autonomy and influence in managing the firm". On the other hand, French sociologists and labour economists working with a stronger empirical focus — often combining quantitative (data analysis of public surveys on industrial relations) and qualitative (case studies across different industries and company sizes) methodologies — have underlined the complexity of the decentralisation process and steered away from analytical meta-concepts such as neoliberalism or liberalisation. While scholars would agree that employer influence has increased in France over the last thirty years, many would question the (1) unidirectionality of the State-led decentralisation process as well as the (2) unambiguousness of its results.

#### 2.1.1. The persistence of an articulated multi-level collective bargaining system

Unlike the decentralisation hypothesis might suggest, national multi-sectoral ("interprofessional") bargaining between employers and trade unions has seen a significant revival in recent years. In the period after May 1968, several national agreements were reached, most of the time resulting in the adoption of new legislation benefitting workers (monthly pay for production workers, supplementary social protection, vocational training, and job security). The method of pre-legislation national bargaining subsequently tailed off until its restart in 2007. Since then, several interprofessional agreements have been signed between the major employer associations and trade unions, resulting in the production of a considerable quantity of labour market legislation (Freyssinet, 2015; Pernot 2017). However, there is only little systematic reflection upon the continuing relevance of this layer of the collective bargaining system.

Studies on the relationship between company and sectoral level bargaining do not point to a straightforward decline of the latter, but to the diversity of patterns. Building on data from the industrial relations and collective bargaining survey REPOSE, Delahaie and Fretel (2021) distinguish four types of the regulation of employment and working conditions at establishment level: mixed regulation, sector-centred regulation, company-centred regulation, low degree of

collective regulation. Each of them is characterised by a specific articulation of sectoral, company and non-collective bargaining references. Sectors can be identified in which they dominate (see box 2).

**Box 2: A sectoral typology of establishment level regulation (Delahaie and Fretel 2021)**

- "Mixed regulation" of terms and conditions is found in sectors in which establishments reference multiple normative sources, i.e company and sectoral agreements, but also other documents or modes of evaluation. Union rights and employment topics are determined independently of sectoral or company agreements. Sectoral bargaining remains important for working conditions, training, and complementary health insurance. 41 per cent of workers and 43 per cent of establishments belong to this category. They are mostly small (less than 50 workers), exposed to international competition, integrated into a larger entity, and often found in metalworking, steelworks, or construction. Union presence is below average and HRM tends to consider them as a threat.
- "Sector-centred regulation" characterizes sectors in which the establishments exclusively reference the sectoral agreement (including wages) and participate in sectoral bargaining. This category comprises 24 per cent of the workers and 21 per cent of the establishments. Establishments are considerably larger (more than 50 workers) and belong to large multi-establishment organisations. Most of them belong to the social economy (mutual insurances, associations, charitable foundations). Cleaning is the only significant sector in this category that exclusively operates in a competitive market (Jobert 2003; Denis 2008). Union presence is above average and valued by management.
- "Company-centred regulation" refers to sectors in which establishment level employment and working conditions are essentially defined by a company bargaining agreement, almost independently of the bargaining topic. This profile concerns 23 per cent of the workers and 21 per cent of the companies. It comprises mostly large establishments (between 200 and 500 workers), most often belonging to larger companies with more than 10 establishments. Two sectors dominate this category: retail as well as hotels and restaurants. Establishment level bargaining is more intense than in other sectors.
- "Low degree of collective regulation" refers to sectors in which establishment level working and employment conditions are to some extent regulated by a company agreement. However, most topics are not collectively agreed. In this category, very little reference is made to the sectoral agreement. This category comprises 13 per cent of the workers and 14 per cent of the establishments. Establishments in this group are rather small (between 20 and 50 workers) and relatively young (less than 20 years of activity). The following sectors dominate: engineering offices and corporate services as well as wholesale and import/export. Union presence is underdeveloped, and activity is mostly subcontracted.

French sociologists have been critical of the idea of centralisation/decentralisation, thus questioning the impact of the "hierarchy of norms" that prevailed in Labour law until the Macron Ordinances. Against the idea of a centralised and unified system with legal norms that rule over

everything and from which derogation is possible only if it is more favourable to the worker, and with national agreements stronger than sectoral agreements, themselves superior to company agreements, scholars emphasised the relative autonomy of bargaining levels (Jobert *et al.* 1993). Already in the early 1990s, a central finding was that each level of bargaining has its specific actors and a "certain degree of autonomy and therefore evolves according to its own rhythm and internal dynamics. The coordination of the system is guaranteed, also because each actor has its own institutions of coordination" (Saglio 1993: 10). More specifically, scholars insisted on the relative autonomy of the firm from the sectoral level, building on the observation that the actors at this level adapt, define, transgress, or indeed impulse the typically very general rules contained in the sectoral agreements in line with their own priorities and rules (Sellier 1993). Against this background, French researchers have preferred the concept of articulation over that of determination.

The idea of decentralisation as a unidirectional and comprehensive process has also been challenged by research on company level bargaining. In their study on the effects of the 2008 law on trade union representativeness, Hege *et al.* (2015) identified a tendency towards the centralisation of collective bargaining in the (international) multi-establishment business groups they studied. This came at the expense of establishment level social dialogue and bargaining. In the eyes of managers, the concentration of union resources and bargaining rights at national level as well as the extension of the scope of agreements were crucial to the pursuit of the intended "rationalisation" of social dialogue (Dirringer 2015). According to Bérout and Yon (2011), centralisation of company bargaining feeds into its increasing technicality and fosters the disconnexion between central level union negotiators and their base. It may coincide with the organisational consolidation of large groups (IRES 2016; Thévenot *et al.* 2021). Transnational bargaining has added another layer to the existing system, even if its impact on firm level bargaining in France has remained limited — at least in the case of European Framework Agreements on restructuring in French multinationals (Guillas-Cavan and Delahaie 2020).

### **2.1.2. Bargaining content between standardisation and diversity**

French scholars have also emphasised the inconsistencies and ambiguities of the State-led decentralisation process in terms of bargaining results. If it is true that the number of company agreements has drastically increased since the 1980s (see 2.2.), their quality has generally fallen short of public policymakers' expectations. Formalism and the tendency to stick to minimal agreements are widely recognised as a problematic feature in France, even if this tends to vary regarding the issues that are negotiated (Mias *et al.* 2016). For example, agreements on compulsory agreements on strategic workforce planning tend to be richer in content than those on senior workers.

In their study on company social dialogue, Béthoux and Mias (2019: 13) point to the restrictiveness of the legal framework as a potential source for the impoverishment of company bargaining whereby legal compliance takes precedence over other goals and benefits. There is also evidence that the devolution of an increasing number of bargaining topics challenges the capacities of firm level actors. As a rule, management has been better equipped to cope with this challenge. In larger companies, France has seen the emergence of a distinct human resource management function that is almost exclusively dedicated to the pursuit of collective bargaining. Trade union delegates on the other hand can struggle with the consequences of decentralisation, due to a lack of time, skills, or activist resources. To meet deadlines, they may content themselves with pasting and copying legal requirements into agreements or in embracing "good practices" defined by the law itself. Such behaviour entails a strong standardising effect on company bargaining.

Nevertheless, Béthoux and Mias (2019) observe some variation in bargaining content and outcome between company cases.<sup>8</sup> Other than factors such as company size, workforce composition, or industry, they attribute this variation to differences in the "place given to law and the way it is used" by company actors. Differences in the actors' "legal consciousness" explain the type of industrial relations actors develop in the company, "even more so in a context that has long involved State involvement with extensive regulation playing a structuring role" (Béthoux & Mias, 2019: 11). In their sample, they identify four types of such a relationship (termed "proactive", "a-legalistic", "formalistic", "locally focussed"). Accordingly, bargaining may either be an "empty shell" and "lose any substance" or break free of "traditional forms of negotiation, bringing a deliberative component" and potentially innovative issues into the picture. Béthoux and Mias underline that the latter ("best case") scenario typically coincides with certain — rather rare — conditions: the existence of networks of long-established institutions in the workplace, or the strong commitment from worker representatives who manage to effectively "orchestrate" the representative structures in the company.

## 2.2. A quantitative look at collective bargaining

Analysis of the available statistical sources and administrative reports highlights a remarkable stability of the number of sectoral collective agreements and a steady increase of company agreements in recent years. Similarly, the actors involved in negotiating and signing agreements

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<sup>8</sup> Other recent studies combining quantitative and qualitative approaches confirm the variety of French workplace industrial relations (e.g Giraud and Signoretto 2021).

have not changed much, despite the legal possibilities for negotiations with non-union representatives at the workplace level.

Sectoral level

Since 2000, between 1,100 and 1,400 sectoral agreements have been signed each year at national, regional, or local level. Between 2009 and 2012, the number of agreements annually signed reached a very high level, with more than 1,300 agreements concluded each year. In 2013, the number of agreements fell significantly to around 1,000, a figure repeated since then, except in 2018. This slight decrease is explained mainly by the decline in agreements on wages and working time linked to low inflation and a very moderate SMIC rise (see table 1).

**Table 1 – Evolution of wage agreements, 2005–2019, France**

	2005	2008	2009	2010	2011	2012	2013	2014	2015	2018	2019
<b>% of sectoral level agreements on wages</b>	44.8	47.1	34.5	36.5	40.5	45.6	41.6	38.2	34.6	35,7	37,3

Source: *La négociation collective en 2019*, Ministry of Labour.

In 2019, 495 sectors had valid collective agreements but the 68 most important cover 76 per cent of employees. At the national level, at least one agreement was signed in 77 per cent of these sectors in 2019.

Workplace agreements

Regarding the workplace level, as stated above, the number of agreements increased substantially between the 1980s and the 2010s, from 3,900 in 1984 to 34,000 in 2011. Since then, the number of agreements concluded each year continued to increase, despite a slight decline in 2013-2014.



Note: \* Including agreements signed by union delegates and employees mandated by trade unions.

Source: *Bilan annuel de la négociation collective* from 2000 to 2019, Ministère du travail.

In 2019, 50,300 workplace agreements were signed between employers and employee representatives,<sup>9</sup> a number significantly higher than in 2018. It is worth noting that almost half of these agreements are concluded in enterprises with less than 50 employees, up by 10 points compared to 2018. This change is due, on the one hand to the establishment of new employee representation bodies, but also on the other to the widening opportunities to negotiate without union presence (see above).

Regarding all the workplace agreements, including those signed by employee representatives and those adopted by referendum, 41 per cent relate to profit sharing and participation, 22 per cent to wages, 17 per cent to working time and 13 per cent to trade union rights and the functioning of works councils (+1 point compared to 2018). This last theme weighed 9 per cent in 2017, before the implementation of the Macron Ordinances.

In 2018, collective bargaining took place in only 16.7 per cent of workplaces with more than 10 employees; yet, they were employing 63 per cent of the workforce. More than 82 per cent of these negotiations resulted in an agreement. Agreements were signed in 11.7 per cent of all workplaces and in 68.6 per cent of those with union representation.

### Who are the negotiators?

Since the early 2000s, successive legislation has extended the possibilities for non-union representatives to negotiate at workplace level if there is no union delegate. However, the majority

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<sup>9</sup> That includes agreements signed by union delegates, elected representatives and employees mandated by trade unions.

of agreements were still signed by union delegates or employees mandated by trade unions (60 per cent in 2019). In 2019, 13 per cent of workplace agreements were signed by elected employee representatives and almost 27 per cent by referendum. Whereas in enterprises with less than 50 employees, only 7 per cent of the texts are signed by union delegates. Approval by referendum (50 per cent) and the unilateral decision of the employer (30 per cent) are the dominant means of concluding in very small enterprises.

Agreements are generally signed by all the trade unions present at the workplace. To neutralise the effect of each union's presence on the number of agreements they sign, the Ministry of Labour calculates their “propensity to sign”. This is the signature rate of an organisation calculated in the companies where it has a union delegate and where, therefore, it has or has not signed the existing agreements. With 94 per cent, the CFDT appears to be the organisation whose union delegates sign agreements most frequently, but the other organisations are very close behind. The CGT (84 per cent) is characterised by a slightly lower propensity, but it is not comparable to that at the sectoral level (only 35 per cent).

To conclude, we can say that the figures published every year by the Ministry of Labour paint a picture of a country heavily engaged in collective bargaining at enterprise and sectoral level. The question remains whether this helps to produce social compromises.

### **2.3 Four decades of cross-sectoral debate among government and social partners about decentralisation**

The relationship between capital and labour at firm level has been a matter of French public debates since the end of the Second World War. Bloch-Lainé's book "*The Reform of the enterprise*", published in 1963, summarised the ideas put forth by modernists including high officials, managers, unionists, and intellectuals. It argued for a new governance within the firm, giving increased responsibilities to workers. Notwithstanding the initial hostility towards modernist ideas among employers' associations and some unions, it had a lasting effect on public policy in the following decades, notably *via* the 1975 Sudreau report that inspired the 1982-3 Auroux laws (Chatriot 2012).

Formally, firm level bargaining was recognised in 1971, few years later the legislator recognised union presence within companies and gave appointed union delegates (*délégués syndicaux*) the exclusive right to bargain (in 1968). Intended to fulfil President Mitterrand's campaign promise of extending industrial democracy, the 1982 Auroux laws made it mandatory for any establishment counting one or more union representative to negotiate annually on wages, working time and work organisation (without obligation to reach an agreement). Since then, the catalogue of compulsory bargaining items at firm level has continuously evolved (see 1.1). The Auroux laws also

strengthened the prerogatives of union delegates and the elected workplace representation bodies. Compulsory firm level bargaining marked a departure from the State's and the unions' long-standing preference for (national) sectoral and (national) multi-sectoral bargaining. Yet, company bargaining was not completely unknown at that time. It even played a pivotal role and often prompted sectoral negotiations. Large companies such as Renault set new standards in working time, wages, trade unions rights, which were then included in sectoral agreements. The peculiarity of firm level bargaining at the time was that agreements were usually reached under extremely conflictual conditions. By making company level bargaining compulsory, the Auroux laws wanted to put an end to "French exceptionalism" of highly conflictual workplace relations.

Within the employer camp, the political line towards decentralisation initially fluctuated in the 1970s (Amable 2016). When the Auroux laws were adopted, unions welcomed them. They viewed them as a way of invigorating worker participation and enabling union delegates to better defend and represent worker concerns. This seemed all the more desirable as the coordination among different levels was legally governed by the favourability principle. However, the main employer association CNPF (now named MEDEF) met the Auroux laws with hostility, fearing the strengthening of radical unions at workplace level. Yet, slow growth and mass unemployment stifled labour radicalism and employers soon came to realise the advantages of company bargaining. Finally, the proponents in the employer camp of privileging company level bargaining prevailed over those defending national level interprofessional bargaining to deal with the State and to counter a potential left-wing government.

The CNPF reconsidered its position on collective bargaining by the late 1990s and proposed a "social refoundation" to the trade unions. This initiative came against the 1998 and 2000 Aubry laws on working-time reduction (Freyssinet 2002). Although these had fostered company level bargaining over the implementation of working-time reduction in exchange for greater organisational flexibility, organised employers (as well as the political right) strongly opposed them. MEDEF's "social refoundation" aspired to safeguard industrial democracy from such State interventionism and to foster the emergence of "credible, representative and modern trade unions". Underlining the decidedly political ambitions of its project, it also called for the recognition of the right to bargain collectively in the Constitution and an affirmation of the normative authority of social partners (Yon 2018). In terms of the level of collective bargaining, MEDEF not so much altered its preference for company bargaining over sectoral bargaining ("only where it is necessary") (Freyssinet 2002). What was new was its reappraisal of multi-sectoral level bargaining. Unions were divided over the nature of MEDEF's initiative but welcomed its proposition to immediately pick up multi-sectoral negotiations on four different topics (collective bargaining, unemployment

insurance, health & safety, supplementary pensions); four others were envisaged as a second step (training, equal opportunities, role of managers, social protection).

The agenda of institutionally "refounding" industrial relations has since then inspired a number of legislative reforms which were enacted by conservative governments. Among the most important are:

- the 2004 Fillon law, allowing for company level derogation from sectoral agreements, except for minimum wages, job classifications, supplementary social protection, and vocational training; however, sector level negotiators could "lock up" other topics and exclude them from company level derogations. This law also stipulates that in order to be valid collective, agreements must now be signed by one or more unions receiving more than 30 per cent (meanwhile 50 per cent) of these votes.
- the 2007 Larcher law on the "modernisation of social dialogue", reinforcing the social partners' role as a "co-legislator"
- the 2008 reform of trade union representativeness, basing unions' bargaining rights on their results in the most recent professional elections (threshold of 10 per cent of the votes). This reform was meant to anchor union activity more firmly in the workplace and to increase the legitimacy of company level bargaining

All these reforms were preceded by consultation with social partners. Whereas employers' associations were generally satisfied with them, national union confederations were divided over them. It was the socialist Hollande government that broke with the tradition of preliminary social partner consultation over labour law reform in 2016 (Rehfeldt and Vincent 2017). Its 2016 bill on the reform collective bargaining was based on a report that had recommended to further strengthen firm level bargaining (Combrexelle 2015). It was unanimously ejected by all representative trade union organisations, prompting the Minister to negotiate some changes with the CFDT union. Despite this, it triggered numerous strikes and mass demonstrations over a period of four months, which were organised by student unions and a trade union coalition between CGT and FO. The core of the 2016 Labour law regarding collective bargaining was to make the company the decisive bargaining level, limited in a first step to working time and overtime pay, paid holidays and weekly rest.

Paradoxically, the mobilisation contributed to the election of the Macron government in 2017 as the new President managed to surf on the wave of rejection of reforms which he had himself inspired as the Minister of Economy of the Hollande government. During the election campaign he announced the prioritisation and acceleration of labour law reform. The so-called "Macron

Ordinances" were adopted as soon as September 2017. The vote was preceded by formal consultations with the unions and employer associations, but it was difficult to get a clear picture of the government's intentions during this process. What emerged was an overhaul of the collective bargaining and workplace representation systems, unprecedented since the Auroux laws, as well as a step forward in labour market deregulation. The employer organisations welcomed this project while most unions opposed it. As far as collective bargaining is concerned, it generalised shared competencies between the law and sectoral and company agreements (see 1.2.).

### **Four case studies on company bargaining in retail and manufacturing**

The empirical core of this report consists of four case studies on company bargaining. The cases are from manufacturing (Electric and Aero) and retail (Sports). All of them are publicly traded business groups. Initially, we intended to compare two companies from each sector. However, due to the persisting difficulties of getting access to the second case in retail, we ultimately decided to replace it by another case from manufacturing (Metal), albeit with a different focus. While the Electric and Aero cases concentrate on bargaining at group level, the Metal case covers collective bargaining from the perspective of a subsidiary. The Metal case is different from the two other manufacturing cases in that it is integrated into a foreign group. Its autonomy in terms of collective bargaining is higher than that of comparable subsidiaries in the two other manufacturing cases.

This section is structured as follows. For each of the two sectors, it gives an overview of the sectoral labour market in terms of its characteristics, collective bargaining, and social partner organisations. Then, the individual company case studies are presented. These are organised in the following manner. They start off by addressing the characteristics of the company in terms of employment and activity. Second, recent evolutions in company bargaining are analysed. Third, union and employer strategies at company level are considered. Subsequently, the articulation between company and sectoral norms as well as the coordination between the actors at both levels are explored. Finally, the quality of the content and the processes of collective bargaining are analysed.

## 3 Company case studies in the manufacturing sector

### 3.1. Collective bargaining in manufacturing

#### 3.1.1. The labour market in manufacturing

Since its heydays in the 1970s, industrial employment has drastically decreased. Between 1974 and 2018, France lost half of its industry jobs. The remaining 2.5 million jobs represent 10.3 per cent of total employment. The share of industrial production in gross domestic product has equally declined. In 2018, it stood at 13.4 per cent (France Stratégie 2020: 44). Textiles and manufacturing are at the heart of industrial decline.

In 2019, the added value of French manufacturing was €202 billion (UIMM 2020). Its commercial balance was negative (- €42 billion), with the notable exception of transport equipment (+ €30.7 billion). After a decade of significant decline of its part in the gross domestic product in the 2000s, manufacturing had managed to stabilise itself in the following decade. The COVID crisis has once again raised concerns over its prospects.

In terms of collective bargaining, the definition of the manufacturing sector (sometimes also referred to as "metalworking") is narrower than the statistical one, excluding the chemicals, textile, printing, rubber, and pharmaceutical industries. It comprises activities in the areas of aeronautics and space, automobiles, machine-tools, computers, rail, maintenance and repair, metalworking, and ships. In 2019, the added value of the sector was €124 billion (UIMM 2020). The same year, employment (full-time equivalents) stood at 1.324 million (plus 83,069 full-time temporary agency jobs) and was concentrated in the transport equipment and metalworking activities. The sector's workforce is relatively old. Only 7 per cent of the workers are younger than 25 years. The 40-49-years old represent the largest age group (32 per cent). Renault, PSA as well as Airbus are among the principal employers in the sector. Greater Paris and Rhône-Alpes are the most industrialised regions in France, concentrating each a quarter of manufacturing jobs.

The lack of attractiveness of jobs are a major problem in French manufacturing. Half of its enterprises report recruitment difficulties for production work, despite high levels of unemployment.<sup>10</sup> The metalworking industry illustrates this problem. According to a study,<sup>11</sup> between 2009 and 2019 metalworking has lost 28,000 jobs (83,353 jobs in 2019). Employment

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<sup>10</sup> [URL; <https://www.observatoire-metallurgie.fr/tendances/la-branche-de-la-metallurgie-en-france>]

<sup>11</sup> [URL; [https://www.xerfi.com/blog/Metallurgie-baisse-des-effectifs-et-difficultes-de-recrutement-croissantes\\_1072](https://www.xerfi.com/blog/Metallurgie-baisse-des-effectifs-et-difficultes-de-recrutement-croissantes_1072)]

provisions predict a further decline of the number jobs. The industry's workforce is overaged. The share of workers between 50 and 59 years old is above the sectoral average (27.3 per cent in 2016). Consequently, and despite deindustrialisation, employment demand is on the rise in metalworking. However, metalworking companies find it increasingly difficult to find candidates. This is in part due to the degraded public image of the industry which is associated with bad working conditions and ineluctable decline. Metal moulding as well as welding are particularly affected by labour shortages. Employers look for experienced production personnel, but shy away from recruiting young workers as they mistrust the existing job training schemes in metalworking. Agency work is the major track for recruitment in French metalworking. Yet, it does feed into the industry's difficulties of maintaining the level of skills of its workforce. This is even more relevant as automation will further suppress low skilled jobs and digitalisation requires upgraded job profiles.

### 3.1.2. Social partners in manufacturing

On the employer side, UIMM (*Union des industries et des métiers de la métallurgie*) is the principal bargaining party in manufacturing. It is affiliated to the main employer and business federation MEDEF (*Mouvement des entreprises de France*) and organizes 42,000 enterprises. To service its members and fulfil its bargaining duties, UIMM has 80 regional offices. Some 450 people are employed by UIMM.

On the trade union side, there are four sectoral federations which are recognised as representative in metalworking and thereby are entitled to bargain at sectoral level. These belong to CGT (*Confédération générale du travail*, 30.3 per cent), CFDT (*Confédération générale du travail*, 29.1 per cent), CFE-CGC (*Confédération française de l'encadrement*, 22 per cent), and FO (*Force ouvrière*, 18.58 per cent). Membership numbers are not available. Locally, union pluralism may result in even more complex configurations with unions such as SUD, UNSA or CFTC being also representative in certain companies.

Like UIMM, sectoral union federations are horizontally structured. For example, the CGT metalworking federation has offices at national level, at the level of each administrative region (*département*) and at local level (metalworker collectives at CGT *unions locales*). Historically speaking, the metalworking federations of both employers and unions have been a central player in their respective confederations. For a long time, collective bargaining in manufacturing was a driver for social progress in the entire French economy, either through pattern bargaining or the transposition of innovative bargaining issues into law. However, due to shifts in the sectoral composition of the French economy and secret funding scandals at UIMM (Offerlé 2014), this role has become much less prominent.

### 3.1.3. Collective bargaining structure

Sectoral collective bargaining in manufacturing is centred around the metalworking agreement. In terms of its scope, it comprises activities such as steel works, metal transformation, mechanical engineering, manufacturing of household equipment, vehicles, trains, ships, and aerospace devices. The bargaining structure is highly fragmented with some 80 territorial collective agreements. In the 1950s, UIMM had imposed regional or even departmental bargaining upon the then dominant CGT that preferred national level sectoral bargaining (Bévort & Jobert 2008: 57). The scope of these agreements roughly corresponds to that of the *départements*. Only for professional managerial staff (*cadres*) there is a nationwide agreement. There are also some national level sectoral agreements on working-time, health and safety, and job training that apply to all groups of workers. These agreements reflect an adjustment in UIMM's strategy after 1968, involving a shift of general employment issues to the national level (*ibid.*).

In 2016, organised employers and workers started negotiating over the overhaul of the territorial agreements. Both parties agreed that it is necessary to harmonise them and to renovate the job classification scheme upon which collectively agreed wages rely. This scheme dates to the 1970s and have not been adapted since. For a long time, negotiations stalled over harmonising regional minimum wage brackets and social protection in case of heavy accidents. A compromise was finally found in late December 2021, when CFDT, FO, CFE-CGC and UIMM have agreed upon an encompassing national sectoral agreement. At the time of writing, this agreement still has to be signed. It is to replace the existing 78 territorial agreements and to operate from January 2024 onwards. CGT participated in the negotiations but declared that it did not want to sign it. A major novelty is the replacement of the traditional socio-professional categories underlying the classification scheme by a matrix of six criteria (skill, contribution, communication, cooperation, tasks, autonomy).<sup>12</sup> In total, 18 coefficients were created, each corresponding to a minimum sectoral wage. To adopt the new scheme, extensive bargaining at company level will be necessary.

## 3.2. Company case-study 1: Electric France

### 3.2.1. Company characteristics

Electric is a French multinational company and a leading global player in the provision of electrical energy and automation solutions for private homes, buildings, and industry. Electric has operations in over 100 countries and employs 130,000 people worldwide. In fiscal year 2019, it posted

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<sup>12</sup> [URL; <https://www.lesechos.fr/economie-france/social/la-metallurgie-se-dote-dune-convention-collective-unique-1374199>]

revenues of €27.2 billion. In the 2000s, Electric accelerated its expansion at the global scale through several major acquisitions. Its external growth strategy has been complemented by the externalisation of industrial production to the European periphery and Asia. These days, Electric defines itself as a multilocal company. Its activities are evenly distributed between Europe, Asia, and the United States. The headquarters are situated in France, Hong Kong, and Boston.

Electric has developed from a history in steelwork and shipbuilding. In the 1980s and 90s, the company made several strategic acquisitions in France that allowed for the turn towards the electricity business. Employment in France is declining but remains important. In its production facilities, research centres and sales agencies Electric employs 15,500 workers (permanent contracts). 65 per cent of them are *cadres* and engineers.

The dual system of worker representation is fully developed at Electric France. All establishments that belong to the UES (*Unité économique et sociale*<sup>13</sup>) have their own works council (*Comité économique et social*; CSE). There is also a central works council at UES level. Above the UES level, there is a group level CSE that represents the UES as well as the different subsidiaries outside the UES. At transnational level, there is a European works council. In terms of trade union presence, Electric displays the pluralism of workers' voice that is typical of large industrial companies. In total, there are five trade unions which are entitled to bargain at group level. These are FO, CFDT, CFE-CGC, CGT, and CFTC. FO and CFDT are the dominant unions at Electric, each of them representing about 30 per cent of the votes in the works council elections. Trade union rights are determined by a favourable company collective agreement. At central and UES level, they are above the legal requirements if it comes to the number of union representatives, delegation time or operational budget. Each year, several agreements are concluded. Bargaining takes place at central (national), local (sites) and subsidiary level, depending on the issues dealt with.

### 3.2.2. Evolution of collective bargaining

In terms of the evolution of collective bargaining at Electric, the major development over the last 20 years has been its centralisation, i.e., the shift from establishment level to subsidiary and group level. In 1988 and 1992 Electric absorbed two major companies, Merlin-Gerin (electrical materials) and Télémécanique (industrial automation). Both companies were marked by contrasting principles of firm governance and bargaining. Whereas Télémécanique was very centralised, in Merlin-Gerin the different subsidiaries enjoyed a lot of discretionary autonomy. Since the merger, Electric

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<sup>13</sup> In French law, an UES allows for the unified representation of workers being employed by legally distinct entities which belong to the same company.

management has sought to rationalise company structure and to harmonise social standards to facilitate worker mobility between the different entities without driving up labour costs.

From a management point of view, the centralisation of collective bargaining is a condition for developing a more homogenous social status at Electric. Since 2005, French labour law recognises collective bargaining at company group level. Management proved eager to exploit this possibility. A first central level agreement was signed as early as 2006. It defined the bargaining parties of both sides and equipped central union negotiators (*délégués syndicaux centraux*) with important resources, including relief from their jobs. Many substantial agreements followed. They treat issues such as workforce management, employee saving schemes, arduous working conditions (*pénibilité*), disabled workers, training, pension schemes (*prévoyance*), teleworking, block-release training (*alternance*), or professional career of works council members. Once they are adopted at central level, these agreements are deployed in the different legal entities that compose the company in France.<sup>14</sup>

Despite the increasing importance of the central level as a site for collective bargaining, not every topic is handled there. Wages are negotiated at the intermediate level of the different legal entities. Electric UES is by far the most important bargaining unit. It brings together 12,500 workers in 11 establishments. The remaining 28 subsidiaries are separately dealt with in terms of bargaining. However, the UES takes the lead. This means that successive bargaining at subsidiary level integrates the wage increases agreed upon at UES level. In other words, their room for manoeuvre is very limited.

The organisation and length of working-time are negotiated at site level. This links to the heritage of Electric in France as a conglomerate of different enterprises. The company still counts a significant number of production sites which operate on different (shift) work schemes. In 2017, central management tried to harmonise the pertaining site-specific weekly working-time and work organisation arrangements. However, its proposal for a central level agreement on company competitiveness proved too ambitious and encountered union opposition. In the end, management had to renounce implementing the agreement. Instead, it decided to streamline working-time by negotiating at the level of production sites, concluding local agreements that exchange employment protection (guaranteed investments, job security, and working hours) against concessions on working-time.

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<sup>14</sup> There is also a European framework agreement on restructuring. It was concluded in 2017 by the European Works Council. However, due to much higher national legal requirements, it has not had a significant impact in France. Bargaining over wages and working time remains in the hands of the national subsidiaries.

### 3.2.3. Union and employer strategies

The centralisation of company bargaining may in part be explained as a management strategy to cope with the expansion of the compulsory bargaining agenda. It also reflects a change in firm governance, resulting from the increasing transnational character of Electric. For each national territory, the goals and results are determined by the Executive Board. This "bottom-line" provides the central frame of reference for national HRM. It translates into an "*integrated approach*" (HRM manager) that provides HRM with a firm hold on bargaining at subsidiary and local levels. In other words, despite the persistence of multi-level company bargaining, discretionary powers are concentrated at central levels. The employer status of the different French subsidiaries is considered a "legal fiction" by management itself. It is maintained only for reasons of industrial or HRM strategy. Among other things it facilitates restructuring by circumventing the central works council.

A complementary management strategy to centralisation is the rationalisation of social dialogue. This is a common theme in contemporary French management and policy discourse.<sup>15</sup> It refers to the search for greater procedural effectiveness of the compulsory collective bargaining machinery. Electric managers frame the need for "rationalisation" specifically in terms of a lack of professionalism and qualification of trade union negotiators. According to their vision, these must be able to apprehend the challenges addressed by the legal environment and comprehend the constraints of management. In other words, key union negotiators should "keep up with" central HR managers. On the other hand, union delegates would certainly not describe themselves as insufficiently prepared for carrying out this "job". However, they would agree that specialised skills and experiences are required as (compulsory) bargaining has increasingly become technical, especially in the field of social security (complementary health insurance and pension schemes). As legislation and jurisdiction quickly change, this has obliged them to increasingly call in external professional support.

Against this background, in 2018 HRM drafted a company-wide agreement that values trade unionists' bargaining skills by way of individual remuneration. It also provides for their training. Union representatives are entitled to obtain a private business school degree in social dialogue that was co-designed by Electric. This collective agreement also organises job-related training of union

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<sup>15</sup> This idea of rationalising social dialogue guided the 2017 Macron works council reform which obliged companies with more than 50 employees to merge the three bodies of elected employee representations (CHSCT, DP, CE) into a single works council (*Comité social et économique*, CSE). This has had drastic effects on the number of elected worker representatives.

delegates. Thus, unionists should be given the opportunity to return to their jobs once their mandate is over. Such agreements have become common in many large French companies.

Trade unionists at Electric struggle to find adequate strategies to respond to the challenges of company bargaining. Centralisation of collective bargaining is problematic as it carries the risk of cutting off a decisive source of union legitimacy at workplace level. The CGT central delegate feels that the unions have increasing difficulties to mobilise workers and to persuade them to stand in professional elections for works council mandates. The abolishment of the health and safety committees (CHSCT) and the personnel delegate (DP) by the recent Macron Ordinances has fed into these difficulties of maintaining union activity at establishment level. Nevertheless, trade unionists welcome management's initiative to negotiate at central level. Likewise, they conceive it as a way of providing for a more homogenous social status in the company. Yet, the fate of the 2017 central agreement on company competitiveness shows that this support is not unconditional. Most union negotiators were not opposed in principle to this agreement. They mobilised because the employment guarantees proposed by management in exchange for giving up certain social standards were too weak.

#### **3.2.4. Articulation between company and sectoral bargaining structures**

The priority of company over sectoral bargaining and labour law norms was established as a principle by the 2017 Macron Ordinances (see above). The impact of this reform has been very limited at Electric. In most subsidiaries and the UES, social standards are much more elevated than in the regional and national metalworking agreements. Management emphasizes that lowering social standards beneath the sectoral level is "honestly neither an option .... Frankly, we didn't even think about this ... Our way of operating in collective bargaining hasn't changed".

However, HRM makes use of another disposition of the Macron laws. To increase the length of weekly working time in exchange for a partial rise in wages on six sites, management pressured company unions to sign a so-called "collective performance agreement". This type of company agreement allows for integrating collectively agreed norms on working-time and wages (within the limits of the collectively agreed sectoral wages) to individual labour contracts with immediate effect. In case of refusal, the worker can be dismissed.

In terms of wage setting, company and sectoral bargaining are weakly coordinated. At Electric, wages are typically negotiated in December and January, whereas sectoral bargaining starts later in the year. Electric union negotiators decide about wage claims independently of their respective industry federation. They use macroeconomic data on prices and Electric's internal financial provisions to come up with their calculations for wage claims. The internal processes of democratic

deliberation over collective bargaining are marked by slight differences in the conception of union democracy. At CFDT for example, the commented minutes of the preliminary bargaining meetings are sent to the local union branches. A vote is then cast over the decision to sign the agreement. This is then binding for the central union delegate.

There is one exception to the weak impact of sectoral bargaining in terms of company level norms. Electric's management as well as trade unionists underline the importance of the sectoral negotiations over the job classification scheme. These were still ongoing at the time of our fieldwork. Interviewees agree that the overhaul would entail extensive additional negotiations at Electric. Pending the conclusion of the sectoral agreement, management decided to prepare the ground for the negotiations by bringing forward the works council elections to November 2021. Union interviewees report that the metalworking federations were strongly involved in the negotiations over the job classification scheme and that they were kept up to date of its progress. Electric management did not personally participate in the sectoral bargaining rounds over the job classifications. However, it was present in their preparation at UIMM level.

### **3.2.5. Coordination between company and sectoral actors**

The role of the industry federation in company level bargaining may vary to some extent from one trade union confederation to another, but the general picture is that of a loose coupling between union actors at both levels. Central union delegates need to be mandated by their federation, but contact is reduced, and delegates enjoy a significant deal of autonomy in company bargaining. For the central union delegates of CFE-CGC and CGT, the decisive person at federal level is the legal expert who checks the compliance of the agreements to be signed. The federation is said to be too busy with sector level bargaining to interfere with company bargaining. To obtain support, it is up to the union delegate to express his or her needs.

Despite CFDT's reputation for centralism, the picture is similar. There is an officer in charge of Electric at the metalworking federation, but she dedicates most of her time to servicing unionists in SMEs with weak resources. Once a company agreement is signed, the union delegate sends it to his federation. The latter may "alert" the union delegate over certain politically sensitive issues (supplementary pension schemes, competitiveness agreements) but they are not in the position to impose a line on their union delegates.

In terms of training of union negotiators, resources are mainly derived from the employer. For example, the CFE-CGC delegate reports that his federation has little to offer in this respect. Negotiators tend to be trained by specialised consultancy firms or lawyers, not by the union. To

finance such training schemes, the central union delegate has a dedicated employer-financed budget at his disposal.

### 3.2.6. Quality of collective bargaining processes

Company level bargaining has a long-standing tradition at Electric. Its former chief human resource manager (1997-2008) has held important representative positions at federal as well as confederal levels at UIMM since his departure from Electric. He is known as a fervent public promoter of social dialogue *à la française*. His mark is still present in the company. In our interviews, Electric managers willingly emphasise their attachment to social dialogue and the wealth of resources dedicated to it. According to them, information, consultation, and collective bargaining are an integral part of the company's HR approach, not simply a legal obligation to comply with. HRM views cooperative labour relations as key to avoiding social conflict under conditions of enduring organisational restructuring. The public recognition of the quality of employer-employee relations in the company is a source of pride for management, even if it results from "*30 years of sweat*" and "*is not easy every day*". Electric management has well established relations with the public authorities. In 2019, its former HR chief manager for France, helped put into place the Macron government's initiative to create a compulsory gender pay gap indicator for enterprises.

HRM investment into cooperative labour relations has paid off. Industrial action is very rare at Electric and seems to be limited to incidences of plant closure. Management describes its relations with the union side in collective bargaining as dense and mostly trustworthy. At central level, "off-the-record" informal relationships play an important role. Unlike in many other French companies, the contact between management and union delegates in-between bargaining rounds is constant. According to the chief HR manager: "this may be chocking for people who are familiar with other styles of social dialogue where off-the-record relationships do not exist. At Electric, there is a lot of off-the-record. This is a culture that is appreciated by the unions. For us, [the capacity to engage in such relationships with union negotiators] is a means to appreciate and evaluate our HR managers".

Ahead of the official start of bargaining over a specific topic, central management individually invites a representative of each union to offset potential friction points around the future agreement. If management requires the signature of certain union delegates to validate the agreement, they will try to integrate some of their proposals into the future agreement. By contrast, collective bargaining coordination is low among delegates belonging to different unions. It will be limited to very specific issues and periods without electoral competition. Inter-union affinities play a role in this, too.

### 3.2.7. Quality of collective bargaining content

Company bargaining is highly productive in terms of concluding agreements. At central level, bargaining is constant and almost all agreements get signed. "Some kind of gain over the initial proposition" (CFE-CGC union delegate) is a necessary condition for union delegates to sign an agreement. The right to participate in the follow-up commission of the agreement may be an additional motivation. The Ministry of Labour's database shows that between 2019 and 2021 no less than 160 collective agreements were signed at different levels and on different topics at Electric. Minority CGT is the only union that rarely signs an agreement.

The outcome of central collective bargaining is seen as "rather good", according to the CFDT central union delegate. There is very little conflict over the bargaining issues at this level and union members may not even be consulted over ongoing negotiations. Bargaining is much more conflictual in the different subsidiaries due to restructuring plans and wages being negotiated at this level. Conflicts not only arise with management but also among delegates belonging to different unions. For example, in the case of the recent closure of three plants, CFDT union delegates backed the refusal of management to negotiate a single restructuring plan at central level. Other unions denounced this refusal as a manoeuvre to weaken the union side. Whereas CFDT tried to elaborate propositions for reclassification and financial compensation, others tried to mobilise workers against the restructuring plan.

Unionists are somewhat dissatisfied with the evolution of collective bargaining in terms of its substantive norms, even if this sentiment is tamed by the rhetoric of an advantageous social status at Electric. Wages and incentive schemes (*intéressement*) are stagnating. The margins for company collective bargaining have reduced over recent years, underlines the CFE-CGC central union delegate. In the past, HRM could be receptive to the propositions of unionists. These days, management arrives well-prepared and with very precise propositions at the bargaining table. This change relates to the integration of Electric's collective bargaining department (*Direction des relations sociales*) into general HRM and the subordination of social dialogue to general financial imperatives. HRM is said to be bound hand and foot by financial directives. Under these conditions, unionists find it increasingly difficult to impact bargaining outcomes over topics which have a financial impact.

In terms of substantive or procedural innovation in company collective bargaining, there is little to be reported. Management prides itself of the envisaged creation of an observatory of social dialogue that is meant to further joint reflection on the way interest representation functions and can be bettered. Due to the COVID crisis, nothing has come off from this so far. The agenda of both

parties essentially remains determined by compulsory bargaining. Unionists seem to have difficulties in developing initiatives that go beyond this agenda. The CFE-CGC union delegate underlines that management is more open to union voice on new "innovative" bargaining topics than on established ones.

### **3.2.7.1. The collective agreement on strategic workforce planning: An example for innovative company bargaining?**

As many of the large firms, Electric has adopted the possibility of bargaining agreements on GPEC (see 1.3). Bargaining over GPEC is also mandatory at sectoral level, yet without imposing any specific norms on companies. Hence, the 2019 sectoral agreement in manufacturing seeks to support small and medium-sized companies willing to engage in strategic workforce planning by diffusing best practices and providing GPEC-related methodologies, shared diagnostics, and sector-specific information.

At Electric, the first GPEC-style agreement was already put in place at group level in 2004, i.e., before the legal obligation to do so. Demonstrating management's attachment to the concept, the GPEC agreement has been considerably refined over the years. It also inspired two successive European framework agreements on the anticipation of restructuring (2007 and 2017). The latest edition of the agreement was concluded in 2018. Unlike other collective agreements, it obtained the signature of all representative unions at group level, including CGT. It specifically sets out to manage the digital transformation of work, thereby aiming to maintain the competitiveness of the French subsidiaries. It provides a wealth of measures that, unlike the Sports GPEC agreement for example, go well beyond the minimal requirements of the Labour code. Among them are individual worker rights such as the annual interview with the manager on career development, site-specific information events on job prospects, financial aids for job mobility, paid external or internal internships, aids for setting up a business as well as a company-specific progressive retirement scheme. Moreover, the agreement allows union delegates to participate and sit in national and regional "GPEC commissions", which oblige management to share information about site level restructuring and jointly analyse the evolution of employment and skills in the company.

Interestingly, yet among the interviewees, neither unionists nor management coin the GPEC agreement as an example for innovative bargaining. It seems as if GPEC has become part of a routine at Electric over the past decade. Bargaining innovation may also have faltered as the GPEC agreements have reached maturity from the management point of view. From the standpoint of trade unions, reservations about GPEC are less surprising as strategic workforce planning has always been a management concept at its core and ambiguous as such. While it promises unions to gain better visibility over the effects of company strategy on employment restructuring, there is

always a risk for them that management primarily uses it as a means of reducing employment, thus avoiding the more costly procedures for setting up a social plan. Union delegates at Electric also point to serious implementation problems. For example, the agreement obliges the different legal entities to share the impact of company strategy on jobs with the union representatives and to discuss its consequences in terms of job training with the works council. However, the visibility of management strategy has remained very low at this level and announcements of job cuts continue to hit unionists without or little prior notice.

### **3.3. Company case study 2: Aero**

#### **3.3.1. Company characteristics**

Aero is a French industrial group specialising in civil and military aerospace equipment (engines, landing gear, transmission systems, interior equipment, etc.) The group is the result of the merger in 2005 of a State-owned company producing aircraft engines<sup>16</sup> and a French company specialising, among other things, in military security. In the 2000s, the group underwent repeated restructuring, accompanied by numerous redundancy plans. Since then, its scope has stabilised, and it has grown by acquiring many small companies in its core business. Aero has an international presence, but the proportion of employees in France only fell below 50 per cent in 2019. Despite the desire to internationalise production to reduce costs, the company's management remains French.

In 2020, the group's total workforce is 91,000 employees, of which 43,000 are in France (43 per cent of the workforce). The employees are predominantly male (76 per cent), and are rather old, especially among the blue-collar workers. Despite relocation to low-cost countries, production activity remains important in France, occupying 45 per cent of the production workforce. The evolution of the categories is comparable to that of the metal industry, with 47 per cent of managers, technicians, and engineers.

Four trade unions are representative. The first, the CFE-CGC,<sup>17</sup> obtained 36 per cent of the votes in the last CSE elections. The CGT, which mainly represents blue-collar workers, had 22 per cent of the votes, a figure that has been steadily declining over the past 10 years. The CFDT was just short of taking second place. The other organisations present in the company are not or no longer representative (notably UNSA 5 per cent, and CFTC 3 per cent).

After a period of conflict during the restructuring process, with frequent strikes during plant closures, Aero is now experiencing a quieter social dialogue. Industrial relations are structured at

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<sup>16</sup> This company was previously privatised in 2004.

<sup>17</sup> As a reminder, the CFE-CGC is a category-based trade union that defends the interests of management (managers, supervisors, technicians, and engineers).

the three levels of the group. A group committee is set up at group level.<sup>18</sup> Each subsidiary has a central works council (CSE-C) and works councils at each site (CSE). Collective bargaining also takes place at all three levels. At group level, it is conducted by the group HRD and by the coordinators of each of the four representative trade union organisations. The latter also coordinate the negotiators at lower levels and the various trade union sections. In each company of the group, it is the central trade union delegates who negotiate with the HRD of the subsidiary. The negotiators in the subsidiaries have a certain amount of autonomy in the process and content of the agreements (see below). While there are many negotiations at these two levels, there are very few negotiations at establishment level, except on the organisation of working time.

### 3.3.2. Evolution of collective bargaining

The Aero group is the result of the merger of two companies with very different social histories: a public company with a long tradition of social dialogue and a dense network of collective agreements, and a private company, created more recently, specialising in new technologies and therefore with a weak trade union presence and few company negotiations. The management of Aero then wanted to consolidate a common culture among the different subsidiaries of the group: "until then, we were more of an addition of companies, rather than a group" (CFDT). This is why it sought to build a social dialogue at group level in order to develop a homogeneous social status. The first group agreement signed concerned profit-sharing, which was mutualised between the subsidiaries. Agreements on provident funds (convergence of the schemes of the different companies), supplementary pensions, employment of senior employees, training, forward-looking management of professional careers, integration of disabled workers and finally the means and structure of social dialogue followed.

However, bargaining at this central level has not replaced those at the subsidiary level, which remain extensive. These bargaining sessions cover, for example, wages, incentives schemes, professional equality, remote working, conditions and quality of life at work. In the general opinion of the union players, considerable leeway is left to the management of the subsidiaries, and in some of them they are even able to obtain benefits that others do not manage to negotiate. However, this autonomy in relation to the group's management is more limited in the case of wage bargaining, which is more regulated. There is an annual framework for the increase in the wage bill: "the group gives a low range and a high range, and the companies must stay within the range" (FO).

Until recently, negotiations, which were very fast-paced, mainly followed legislative developments, with social dialogue practices having found their cruising speed: "today, the culture of social

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<sup>18</sup> There is also a European works council.

dialogue is anchored" (CFE-CGC). The economic consequences of the health crisis on the aeronautics sector have given rise to a new bargaining dynamic with some recent attempts at innovation. From the point of view of the negotiation process, the union coordinators emphasise the new place given to the co-construction of agreements (cf. 6). As far as the issues are concerned, attempts had been made before the pandemic to integrate all the topics related to employment: they were not successful because of the health crisis. Above all, an important agreement (ATA, see box) was concluded in July 2020; it is "a sort of pact between the management and the trade unions" (CFE-CGC), with the company committing itself not to lay off workers in exchange for strong wage moderation and the use of short-time working.

Despite these favourable developments, the change in Aero's business model towards greater profitability and therefore cost reduction, mainly in the production activity, makes negotiations more difficult, particularly at the level of the most industrial subsidiaries where management may wish to call into question collective agreements on working time.

### **3.3.3. Unions and employers' strategies**

In the 2000s, the companies that make up the current Aero group experienced periods of high conflict linked to plant closures and staff reductions. During this period, relations between management and trade unions were difficult, and negotiation meetings were tense. While there may have been discriminatory practices towards staff representatives, particularly in terms of pay,<sup>19</sup> agreements to catch up on wages were signed in 2006. Since then, relations of trust have been built up between the social partners. As a sign of the quality of these relations, the implementation of the 2017 ordinances has not led to a rationalisation of the employee representation bodies or a reduction in the resources granted to the trade union, as in many other companies, including large ones. The only thing that was emphasised by the union delegates we met was the strengthening of control over the use of these resources.

On the management side, social dialogue, and more particularly the negotiation of agreements, is an integral part of the company's development strategy. The response to the economic crisis is an example of this, with the search for a majority collective agreement to avoid redundancies.

Bargaining is conducted at two levels: the group level and the subsidiary level, with the establishment level now being reduced. Management also wants to maintain these two levels of negotiation, even if this may be an obstacle to mobility between subsidiaries. However, the health crisis has reshuffled the cards in terms of management strategy. On the one hand, it has modified

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<sup>19</sup> The labour inspectorate at some plants has received complaints of discrimination.

the bargaining process, moving towards more co-construction. On the other hand, it reinforced the weight of the group level. In terms of wages, for example, they have gone from the recommendations of the group HRD for annual negotiations to a group agreement framing them, an agreement concluded in the context of the end of the economic consequences of the health crisis in October 2021 (see box).

The group and subsidiary HRDs seek above all to reach agreement with all the trade union organisations, the latter trying as much as possible to use this desire for a majority agreement to influence the outcome of collective bargaining.

The representative unions sections are active and have a real democratic life. This is because they are well established in the different plants of the group, but also to the important means they have at their disposal. As far as the three trade unions we met are concerned, these means allow monthly meetings of their members from the different plants (either one or two representatives per plant section, or the different union delegates). These meetings are an opportunity to draw up their platform of demands, to discuss ongoing negotiations and validate or not the signature of collective agreements.

The trade union negotiators have good relations with their employer contacts and the CFE-CGC, FO and CFDT sign most of the agreements, with varying alliances depending on the locations and the issues bargained. From this point of view, the CGT is a bit different. The relations between the four unions present are good, based on numerous informal exchanges. Inter-union leaflets are relatively frequent. The union negotiators complain that they are subject to the management agenda and rarely succeed in imposing their own agenda. The challenge of negotiation is mainly to try to improve, often at the margin, the proposals of the management.

#### **3.3.4. Articulation between company and sectoral bargaining structure**

The articulation between company and sectoral agreements introduced by the 2017 ordinances has had a very limited impact at Aero. Throughout the group, the standards negotiated are well above those of the metal industry's collective agreement. However, it should be noted that the conclusion of the ATA agreement was facilitated by the new rules concerning competitiveness agreements.

In terms of wage determination, the reference on both sides of the table is not the metal industry as a whole but the aerospace sector. The negotiator for the group HRD is very involved in GIFAS,<sup>20</sup> which gives him a good overview of the practices of the other majors in the sector. On

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<sup>20</sup> The GIFAS (*Groupement des industries françaises de l'aéronautique et du spatial*, French Aeronautics and Space Industries Group) brings together, as its name indicates, all the companies in this sub-sector. It defends the economic interests

the trade union side, this is also the reference. Whether it is through contacts and exchanges with the coordinators of these large companies within FGMM<sup>21</sup> for the CFDT, or information gleaned on these same companies thanks to FO *Métaux*. The CFE-CGC, for its part, benefits from the existence of a specific trade union for the aerospace sub-sector (see 5). All of them try to use the social best bidding groups to put pressure on Aero's management.

### 3.3.5. Coordination between sectoral and company actors

All trade unions are actively involved in the life of their sectoral federation. As is often the case in the aerospace industry, the Aero group allows the provision of several permanent staff for each union within the corresponding union federations if they so request. These permanent staff continue to be paid by Aero.<sup>22</sup> However, within the metalworking federations, these permanent staff follow sectors with low levels of union membership and tend to support employee representatives in small companies with a low union presence.

The CFE-CGC is an exception: one of its coordinators devotes part of his delegation time to the CFE-CGC AED (*Aéronautique, Espace, Défense*; Aeronautics, Aerospace, Defence). Created in 1936, this national union is specific to companies of this sub-sector and presents itself as the counterpart of GIFAS. It represents a large part of the CFE-CGC metal federation. In this structure, the best practices of aerospace companies are exchanged.

### 3.3.6. Quality of collective bargaining processes

Successive agreements on social dialogue have given both coordinators and central or local union delegates substantial resources to conduct collective bargaining. Travel budgets are also allocated to each representative union. They all feel that they have sufficient resources to coordinate trade union action at group level. Management also allows time for negotiations at all levels and on all subjects. The ATA agreement is particularly illustrative of the quality of the negotiation process: although it was negotiated in response to the economic emergency at the start of the health crisis, it took two months to negotiate.

Until recently, the conduct and content of negotiations were in the hands of management. The tradition was that after a meeting where HRD negotiators presented the background to the issue it wanted to negotiate; they came to the second meeting with a complete text that the union negotiators tried to amend as the meetings went on. During the negotiations, bilateral meetings,

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of its members. As far as social issues are concerned, it gives a mandate to the UIMM, of which it is one of the members.

<sup>21</sup> *Fédération Générale des Mines et de la Métallurgie* (General Federation of Mining and Metallurgy).

<sup>22</sup> For example, two federal officials of the FGMM-CFDT come from Aero.

i.e., unofficial meetings initiated either by a trade union or by the HRDs, made it possible to discuss the issues in hand more freely in order to overcome the sticking points.

The health crisis structured the process differently, an innovation that seemed to have been tested in early 2020 by the HRD managers. The idea was to integrate the content of the different agreements dealing with employment into a single agreement. The management proposed a co-construction to the negotiators. With the help of an external consultancy firm, workshops were set up to explore the subjects and enable the union negotiators to be on the same technical level as management. They were also used to list the expectations and demands of everyone. This approach has a double interest: for the management, to involve the trade union organisations in the negotiation and, as a result, in the implementation and monitoring of the agreement, and, for the trade unions, to have more information on the subject being negotiated and to be able to put forward their demands more easily. The final agreement was no longer to be a draft proposed by the management with some amendments but built up piecemeal during the negotiations. The health crisis interrupted the process, but the management shows its willingness to continue in this way.

Finally, in addition to negotiations, more informal processes, based on long-standing relationships of trust between the negotiators, make it possible to resolve a number of problems: "There are things that can be resolved by sending a text message or an e-mail to the HRDs of the level concerned, including the establishment. In general, it is resolved within 15 minutes. It's rare that we don't manage to improve things." (CFDT)

### **3.3.7. Quality of bargaining content**

In terms of quantity, collective bargaining result in a high number of agreements being signed each year. These agreements meet the legal obligations, and often go beyond them. The quality of the social dialogue is in fact attested to by the high level of the social standards applied at Aero, which are well above those of the sectoral collective agreement, and often above those of its competitors. However, these benefits are not only attributable to the negotiations within the company. On the one hand, they can be explained by the particularities of aeronautics where the State is traditionally very present through its intervention in the economy of the sector. On the other hand, the tensions on the sectoral labour market, present in the last decade, have pushed the management of aerospace companies to have a high-level human resources policy to attract and keep qualified workforce.

However, the innovative capacity of Aero's social dialogue was demonstrated in the management of the health crisis, on both sides of the bargaining table. Two examples can be given (see Box 3):

- The setting up of a solidarity fund: some specific job retention scheme was created in France in order to offset the economic consequences of the pandemic crisis. One of them,

the *Activité Partielle de Longue Durée* (APLD, long term partial unemployment scheme) can only be set up by a sectoral or company agreement. Employees in APLD receive 70 per cent of their original gross wage, which amounts to approximately 84 per cent of their original net wage. The employer may decide to increase the compensation rate. In April 2020, an agreement setting up an APLD scheme at Aero was signed by the CFE-CGC, CFDT, and FO. Proposed by the CFE-CGC and FO,<sup>23</sup> and accepted by management, the purpose of the fund included in the agreement was to provide additional compensation for employees whose pay was reduced by partial activity. It is fed by the voluntary donation of days off. This fund, which was liquidated at the end of November 2021, was generously funded by the employees: 19,000 days were donated, i.e., €4.9 million, enabling more than 40 per cent of the staff to receive compensation.

- The signing of an agreement to avoid redundancies (ATA agreement, see box 3), which was exceptional in the sector.

A final proof of the social cohesion prevailing at Aero was given by the conclusion in October 2021 of a "crisis exit agreement" in application of the "financial recovery clause" included in the ATA agreement. Signed at group level by the CGT, CFDT, and FO,<sup>24</sup> the agreement puts an end to the suspension of wage bargaining and authorises increases in the subsidiaries ranging from 2.5 to 3 per cent of the wage bill.

The question for the trade unions is whether the changes initiated by the health crisis, in particular the relationships of trust that have been created, will last with the recovery of the activity.

### **Box 3: Aero Activity Transformation Agreement (ATA)**

This is a group agreement signed on July 8, 2020 by CFE-CGC, CGT, CFDT, and FO. It applies until the beginning of 2022 and its objective is to deal with the exceptional situation created by the health crisis in addition to the APLD agreement.

In counterpart to maintaining the group's competitiveness (notably through wage moderation accepted by the employees), the management undertakes to preserve jobs and skills and to anticipate future developments.

Four main groups of measures:

- Wage restraint: Suspension of wage bargaining until 2022, but a budget for increases for each company of 1 per cent of the gross wage bill in order to implement changes related to seniority, promotions, and gender equality. Freeze on contributions to employee savings and supplementary pension schemes. Capping of profit-sharing and incentives schemes at 4 per cent in 2020/2021.

<sup>23</sup> The CFDT was rather defending a transfer of remuneration from professionals to the lowest paid.

<sup>24</sup> The CFE-CGC felt that the increases of proposed wage for managers and engineers did not compensate for the efforts made by this category over the period.

- Age-related measures to encourage older employees to retire (increased retirement allowance).
- Deployment of the APLD provided for in the April 2020 agreement.
- Strengthening of internal mobility to ensure that the workload and capacity of the group's various plants are matched on a voluntary basis (material and financial assistance for changing sites), and voluntary external mobility (assistance for setting up a business, assistance for professional projects, improved leave for sabbaticals and leave for close caregivers). Training and professional transition plans are also strengthened.

Finally, a "financial recovery clause" allows for the renegotiation of the agreement, particularly in terms of pay. It is triggered when a certain number of criteria (turnover, margins, and cash flow) are met.

### 3.4. Company case study 3: Metal Industries

#### 3.4.1. Company characteristics

Metal Industries is a medium-sized company that produces steel wire for private-use and industrial staples. It is situated in the rural East of France. Its history as the Tréfilerie à Metal goes back to 1901. Since 2006, Metal belongs to a German steel producer Steel (6,400 employees, total revenue of €2.2 billion in 2019). The takeover happened as Metal went through a period of serious economic troubles in the early 2000s, during which it was obliged to close several sites and lay off workers. Two production sites are left. They employ mostly low-skilled workers. In addition, there is a sales department in the Greater Paris region. It counts 10 employees. In total, Metal employs 250 workers as well as 30 temporary agency workers.

Most of Metal's production is exported. Total annual revenue is €60 million. Since 2014, the company's financial situation has stabilised. It has become profitable again and has begun to reimburse its debt. The COVID crisis has not had a negative effect on the company. Decline in demand was compensated for by the production of nose brackets for cloth masks. Only a very limited number of workers received part-time working allowances (*chômage partiel*). A collective agreement over short-time work was concluded, but only a single person benefitted from it.

In terms of union representation, since 2014 CFDT is the only union that participates in the professional elections to the works council (CSE). Its trade union delegate works at Metal since 1990. He started off as an engineering technician and later became a production line manager. He also serves on a part-time basis as the general secretary of the CFDT metalworking federation at the departmental level (Haute-Saône). The union pays him for this external mandate (*détachement*). Once a week, he returns to his job as an engineering technician. On the employer side, bargaining is managed by the company's human resource manager and the general director. The general

director arrived in September 2020. He has a history of managing a large car manufacturing plant with conflictual multi-union labour relations.

### **3.4.2. Evolution of company collective bargaining**

In terms of the evolution company collective bargaining, a decisive trait is its instability, mostly due to economic turmoil. This is epitomised by a succession of general directors at Metal. In 2000, a major conflict arose between the unions and management, leading to a week-long strike that brought production to a halt. In 2003-4, a new director in charge took on the task of restructuring. One site was closed, leading to the dismissal of 150 workers. New directors arrived, and the financial crisis hit the company strongly in 2008-09, resulting in the loss of 30 to 40 per cent of annual turnover. The overall volume of employment declined from 300 to 230 workers, mainly by means of non-replacement of workers going into retirement. To prevent bankruptcy, in 2014 STEEL decided to reinvest into the company and to restructure management. A new general director was internally recruited and the relationship between worker representatives and management bettered. He retired in 2020.

Due to the company's economic recovery, there has been a shift away from conflictual bargaining over the social conditions of employment reduction. These days, collective bargaining seems to follow more the routine of prescribed negotiations. Nonetheless, the issue of employment remains high on the agenda due to the company's rapidly ageing workforce. Since 2015, it had to recruit more than 100 workers to compensate for departures into retirement. Management increasingly finds it difficult to attract machine operators and to retain them. They try to compensate for departures by employing temporary agency workers, but the results are not conclusive. As a consequence, overtime has become an issue.

### **3.4.3. Union and employer's strategies**

The union delegate feels that management does not do enough to favour internal mobility to compensate for departures. Therefore, his union has pushed for collective bargaining over company employment and training policies. The (non-mandatory) 2020 agreement on strategic workforce management (GPEC) serves as a framework. It defines management's obligations in terms of recruitment levels, job training schemes (see below), management-worker interviews, part-time work for older workers, and agency work. Regarding the latter, the agreement reduces the maximum duration of employment to six months. In exchange, the union accepts the generalisation of agency work as a means for testing workers prior to direct employment.

The general director at Metal enjoys "total autonomy" in terms of collective bargaining and HR management. "Last year we confirmed our general pay rise with Steel, but this year we didn't bother, we simply did it. In fact, I try to take some distance from the group if I can", he says. Social dialogue is not high on his list of priorities. It is unclear to which extent he will continue to invest in collective bargaining. He displays a rather traditional paternalist attitude. On the one hand, he agrees upon pay rises and prides himself that they "go down very well" with the workforce and improve the reputation of the company as an employer in the region. On the other hand, he remains suspicious of unions. He considers collective bargaining as a constraint with which he will have to deal with pragmatically. The principal virtue of bargaining is that it provides a set of agreed rules to which both parties can refer to and thereby provide stability and predictability in the operation of the company.

#### **3.4.4. Articulation between company and sectoral bargaining structures**

The Metal CFDT union delegate has an insider view on sectoral bargaining in the Franche-Comté region. As the general secretary of the CFDT metalworking federation at the departmental level (Haute-Saône), he participates in sectoral collective bargaining in four *départements* (Belfort-Montbéliard, Doubs, Haute-Saône, Jura) that constitute the Franche-Comté region. Collectively agreed wages in the departmental collective agreements in metalworking are very low due to the weight of the car manufacturers. Their strategy at sectoral level is to keep wages in check among their suppliers. In most unionised metalworking companies, wages tend to be above the rates of the regional agreements, but little is known about the wage rates in non-union companies.

Metal fits into this general picture. Articulation between sectoral and company norms is somewhat loose. Annual wage bargaining at the company takes place in May, thereby anticipating regional bargaining. Collectively agreed wages are higher than in the regional agreement. There is also a thirteenth month payment as well as a collective agreement on profit sharing. Thanks to economic recovery, the dynamics of wage evolution have also been more favourable than at sector level.

#### **3.4.5. Coordination between company and sectoral actors**

However, this does not imply that there is no coordination between actors at company and sectoral level. The expectations of CFDT at Metal in terms of company bargaining seem to be influenced by the discussions the union delegate has at regional level where the evolution of company wages is a regular topic of debate between the five representative unions. As a member of the metalworking union's national executive committee, he is also well-informed about national collective bargaining. His federation provides him with macroeconomic data as well as with data on bargaining results in other metalworking companies. Together with the insider knowledge about

the company's situation provided by the works council, these different pieces of information allow for calibrating wage claims at Metal. In turn, knowledge about favourable company agreements in the region may shape union demands at sectoral level.

Coordination also exists on the employer side. Metal management is frequently in touch with regional UIMM. The principal aim is to maintain a "regional coherence" between enterprises, in other words to limit wage differentiation between them and the poaching of workers. However, maintaining such a coherence is not easy. The general director emphasises that during the COVID crisis the economic performance of the company has been above regional average. Refusing pay rises to workers is not easy in this situation, even more so as the company benefits from higher wages in terms of its attractiveness as an employer.

Additional evidence of articulation and coordination of collective bargaining is found in the field of training. To deal with the difficulties of recruitment and to favour internal job mobility, the union delegate and management agreed upon setting up a company-specific job training scheme. It is mainly directed towards low skilled workers who wish to become machine operators. Since 2016, between 10 and 15 workers have participated in this scheme each year. Workers may validate their participation as a CQPM certificate (*Certificat de qualification paritaire de la métallurgie*). This certificate, destined at acquiring and recognising professional skill sets in the industry, has been put into place by a sectoral agreement on continuous training in metalworking. The requirements of the CQPM certificates are elaborated by a technical committee that is overseen by a joint commission of unions and employers.<sup>25</sup>

#### **3.4.6. Quality of collective bargaining processes**

Collective bargaining activity at Metal is less intense than in larger companies. This is because its size is below the legally relevant threshold of 300 full-time workers beyond which a company is obliged to respect the full schedule of compulsory bargaining. In total, there are eight company agreements (on profit sharing, wages, strategic workforce planning, 35-hours working week, overtime, job mentoring, gender equality). Some of them are mandatory, others are voluntary.

In terms of collective bargaining, both parties follow the formalised bargaining agenda set up by management. Despite a certain physical proximity of management and worker representatives at Metal, the formal frame is respected. The bargaining process is iterative: the union receives the management proposal which then will be discussed with its members. The representatives add comments to the initial proposal and hand them over to discussion with management and so forth.

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<sup>25</sup> In total, there are 165 CQPM certificates in metalworking. In 2018, 12,500 CQPMs were issued in this industry.

Informal management-union discussions between meetings exist, but the agreement will always be finalised in an official meeting. Its signature is conditioned upon a vote by the union's members. Once signed, the workforce is informed about the bargaining agreement by way of a leaflet on the company's union board.

According to management and the general secretary of the works council, the collective bargaining process is fluid. The union delegate describes bargaining over wages as "fair and loyal". Every agreement gets signed by him. The union's demands are seen as reasonable by management and conflict is rare. The general director believes that this is not so much due to the aforementioned coordination of wage demands, but to the "family character" of the company, with workers having been employed over several generations. Unionists' attitude is said to reflect the prevailing "extremely friendly atmosphere" within the company. In such a setting, management says it is easy to be "virtuous regarding legal obligations", as well as to be "transparent with the union" about the company's financial situation.

#### **3.4.7. Quality of collective bargaining content**

Since 2015, remuneration has evolved favourably at Metal. Pay rises affect the entire personnel and are unconditional. To achieve this, no mobilisation has been necessary. The company's relative autonomy from its German proprietor group Steel provides room for distributing the benefits among the workers.

In recent years, collective bargaining has been rather innovative at Metal, even if the HR manager suggests that more recently the union has lost some of its propositional impetus. The multi-level engagement of the CFDT union delegate certainly plays a role in this. According to the HR manager, voluntary agreements are concluded "every time there is a specific problem we have to deal with" (HR manager). When asked about innovative bargaining initiatives, the union delegate evokes the voluntary agreement on overtime. It excludes employer-imposed overtime and allows the worker to choose its form of remuneration (money or time-off). The HR manager and the union delegate point to the mentoring agreement as another example for innovative bargaining. It formalises the training of young workers by older colleagues as a steel spinner and provides for bonus payments. This agreement is seen as crucial for the renewal of the workforce as another 60 workers will retire within the next three years. Another example is the voluntary agreement on "multiple competences". It provides bonus payments for workers who frequently change workshops within the company.

To guarantee the application of negotiated norms, the union's side strategically uses the works council to survey the evolution of personnel metrics. It will, e.g., ask for data on internal mobility,

wage evolution, number of hirings and CQPMs, and overtime. Once a year, the works council specifically deals with information relevant to the strategic workforce planning agreement GPEC.

## 4 Company case study in retail

### 4.1. Collective bargaining in retail

#### 4.1.1. The labour market in retail

With almost 2.2 million employees in around 500,000 enterprises, the retail trade sector represents 12 per cent of the total labour force and 10 per cent of gross added value. The largest sub-sector is food retailing with 45 per cent of the workforce, followed by personal goods stores with 32 per cent. It is therefore one of the largest economic sectors. Nevertheless, it has never played a leading role in French industrial relations, in contrast to, for example, the metal sector. There are various reasons for this: the preponderant weight of very small establishments, a low-skilled and low-wage labour force, and, above all, the historic weakness of unionisation in the sector. However, because of the dynamism of job creation in this sector, but mainly because it constitutes a field of experimentation for new forms of atypical job, retail trade is a key target for French trade union organisation.

Regarding job structure, the proliferation of atypical contracts is characteristic of the retail trade sector, more because of the number of self-employed than the number of fixed-term contracts (9 per cent in the retail sector compared with 7 per cent for the private sector as a whole). Most employees in the sector are unskilled: 67.8 per cent are unskilled white-collar employees, and only 8.9 per cent are blue-collar workers, 73.5 per cent and 10.5 per cent, respectively, in food retailing. The largest occupational categories consist of nearly 900,000 people composed of store cashiers (180,000), clothing and sports goods sellers (140,000), food sellers (110,000), non-specialised sellers (100,000) and self-service and storekeepers (just under 100,000).

Nearly one-third of those working in the retail trade are under 30 years old and 60 per cent are women, compared with 22 per cent and 39 per cent in the entire private sector. Some typical retail jobs are overwhelmingly performed by women: 85 per cent of cashiers and self-service employees and 76 per cent of salespeople are women. Women are, on the other hand, slightly in the minority among managers.

Due to the activity's dependence on customer flow, the common denominator of retailers is their subjection to substantial time organisation constraints, implicitly experienced at all levels of the company. Thus, companies must constantly adapt their workforces to fluctuations in the number of customers, whether on an annual, monthly, weekly, or daily basis. The use of part-time work is the most frequent way of devoting maximum working time to customer service and thus reducing wage costs. Some 28 per cent of retail employees work part-time. This is much higher than in the

entire private sector (15 per cent). As in other sectors, part-time work is more important for women than for men (39 per cent *versus* 10 per cent). Part-time employment is closely related to profession: half of cashiers and self-service employees and 32 per cent of salespeople are part-timers. The phenomenon is more pronounced among young people. However, the rate of part-time work varies from one store to another, ranging from 15 per cent to almost the whole workforce. This diversity in human resource practices can be explained by a combination of several factors. Some brands have developed pro-active policies to reduce the use of part-time work with quantified thresholds, often embodied in company agreements.

Working time is also characterised by its great flexibility: 29 per cent of people working in retail have schedules that vary from week to week, compared with 22 per cent in private sector as a whole. Almost 9 out of 10 people employed in this sector (88 per cent) work on Saturdays or Sundays, usually or occasionally (52 per cent in the private sector as a whole). As for Sunday work, 37 per cent of employees work at least occasionally on Sundays and 19 per cent usually (24 per cent and 10 per cent, respectively, in the private sector as a whole).

Finally, low wages are particularly prevalent in the retail sector and the proportion of employees paid around the legal minimum wage (SMIC) is one of the highest (between 20 and 32 per cent, depending on the sub-sector). All these unfavourable aspects of working conditions represent strong claims and bargaining stakes for the trade unions in the sector.

In the last years, and particularly since the pandemic crisis, the retail sector has experienced a tough transformation of management and logistics techniques, the computerisation of cashier tasks, the creation of discount stores and attempts to diversify into services, the growth of e-commerce, especially for non-food goods. To adapt, alongside strong price competition, the retail trade has launched new strategies: ongoing extension of shop opening hours, new digital technologies, new sales methods, etc. It is also a sector that is experiencing strong organisational changes with the development of the concept of mass retailing. Major global distribution groups, including several French multinational companies, are only about 50 years old. This is particularly the case for sports goods stores.

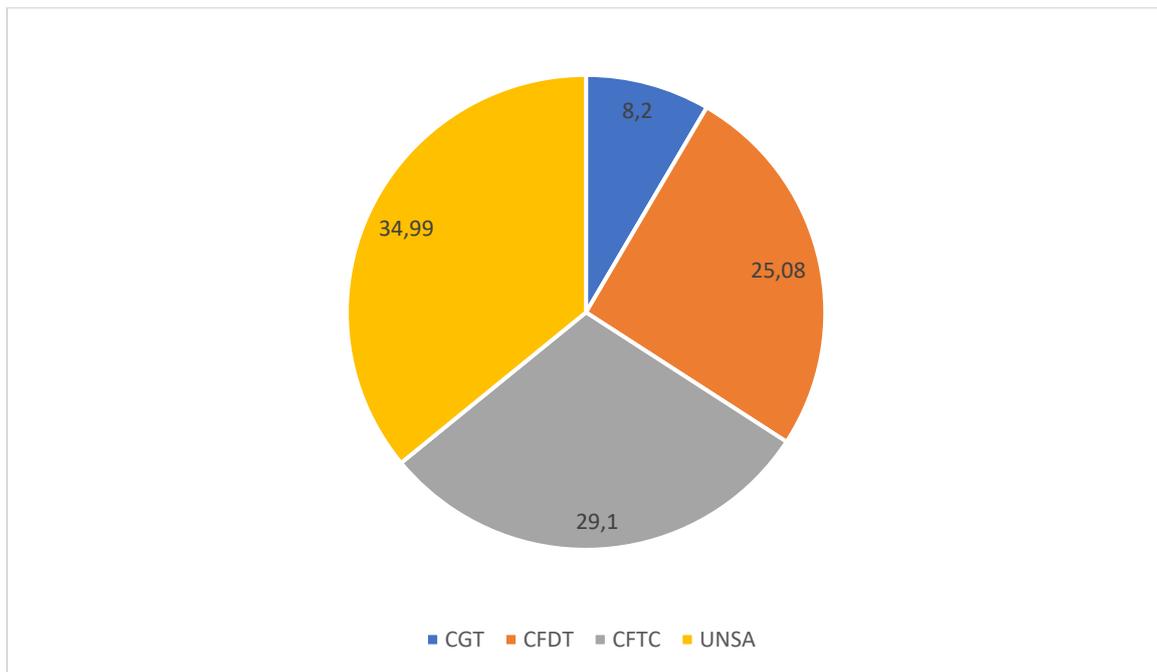
In 2020, sports goods stores employed 51,700 workers in 8,400 enterprises. Alongside one large multinational company and small shops which still stand up to the competition, there are kinds of intermediate groupings, organised either as a cooperative group or as a franchise network. Within these groupings, each store is a company and usually employs less than 50 workers. As a result, they do not have union delegates or collective bargaining.

#### 4.1.2. Sectoral social partners

To a heterogeneous retail sector corresponds a fragmented employers' representation, each sectoral organisation defending economic and social interests of its constituents. Alongside the employers' federations representing the major retailers of food distribution and department stores, specific federations represent the different segments of specialised retailers. The UCS (*Union sports et cycles*) is the only employers' organisation representing employers in the sports goods sector. It is both member of the MEDEF and of the CPME (confederation of SMEs).

Regarding trade unions, it is interesting to note that the weight of the representative unions in the sports goods stores sector is significantly different from that of the trade in general and at national level: UNSA and CFTC are the first two organisations, far ahead of CFDT and CGT. FO is not representative in the sector.

### Results of the professional elections in the sports goods trade sector (2021)



The four unions have a unique federation encompassing services for individual and all the trade sectors. Because of their broad scope, they are among the leading federations in terms of membership in their organisations, even if the union presence in the retail sector is rather weak.

#### 4.1.3. Collective bargaining structure

Compared with other sub-sectors, bargaining in sports goods trade is quite dynamic. Nevertheless, a massive common characteristic is the weakness of the agreements content: it brings very few advantages to employees in addition to those provided for by the Labour Code. This is due to the polarisation of companies in the sector. On the trade union side, most of the sectoral negotiators are union delegates at Sports. On the employer's side, sector level negotiations are conducted by Sports' human resource director and by a legal director, employed by the USC, who in fact represents small companies and groupings, since the representatives of the latter rarely participate in sectoral discussions. The employers' proposals consider the interests of the groupings and the social status negotiated at sector level is increasingly inferior to that of Sports.

The sector level agreements are signed on the legally binding topics: vocational training, senior employment, etc. In an area as important as wages, for example, union organisations receive little annual increase for employees. The agreements signed merely upgrade the wages of classification levels that are below the SMIC. The latest wage agreement, for example, signed in February 2021, provides for increases of 2.2 percent for employees in coefficients 130 to 160, 2.04 per cent for

those in coefficients 170 to 180 and 1.7 per cent above. The result is a tightening of the range of wages. One of the union federation officials interviewed describes the sector level bargaining as a "minimum service" for employers. This strategy allows the employers' federations to keep their members and leave room for manoeuvre to Sports to negotiate their own agreements.

#### **4.1.3.1. Collective bargaining in sports goods stores**

The data on the number and the matter of company agreements signed relate to the trade sector as a whole and not just to the sports goods trade. In 2019, 10.6 per cent of the agreements signed by trade unions were concluded in companies in the trade sector (wholesale, retail, sales, and car repair), although this sector accounts for 16.8 per cent of the labour force. This low level is notably due to the weakness of union presence. The degree of workplace employee representation is generally low compared with cross-sectoral national averages. Trade union membership is also lower in the trade sector: 6 per cent in 2013 compared with 11 in the private sector. In most of the small and medium-sized shops, trade unions are almost absent. As a result, in these latter, national sector level collective agreements mitigate the scarcity of negotiation at company level.

Compared to major industrial groups, for example, the agreements signed in major retailers offer little benefit to their employees. In many cases, they only take over the sector level agreement by adding some provisions such as complementary health or training schemes, very rarely wage benefits. For HR management of companies, bargaining issues concern mainly the organisation of work schedules. The latest labour laws give them new opportunities in this field. Until now, Sunday work and the extension of opening hours are the main issues in company negotiations, both for employers and for employees. As a matter of fact, regarding those two topics, derogations are conditional on the conclusion of a collective agreement which provides for compensation for employees or, as regards work on Sunday, with a unilateral decision of the employer after referendum with employees. In this legal context, most department stores and specialised chains have attempted to reach agreements on this subject. The situations are very diversified according to the companies. Some have successfully concluded agreements such as Sports. Others faced with the refusal of the unions to sign.

In regard to the sports goods trade sector, the link between the sector and enterprise levels has changed only in very large firms. However, regarding recent and upcoming legal changes, and in particular the introduction of the referendum, the balance of power is increasingly unfavourable to trade unions in enterprises. In the rest of the sector, the sector level agreements remain the reference for small employers, all the more easily since its content is not that advantageous for employees.

## 4.2. Company case study: Sports SAS

### 4.2.1. Company characteristics

Sports is a French family-owned business group with 94,000 employees in 64 countries, including 16,000 in France. When it was founded in Lille in 1976, its concept was totally new: to combine a dual activity of designing multisport products (under its own brands) and selling in supermarket-type shops (now also via online sales). Its business has been rapidly expanding in recent decades. This expansion is the result of a double economic strategy consisting of producing and selling at low prices, on the one hand, and opening up internationally, on the other. Its turnover was €12.4 billion in 2019 (73 per cent achieved internationally). However, its growth has been more uncertain in recent years and employment in France has almost stagnated. The current developments in specialised retail represent a challenge for the company (digitalisation, e-commerce, new logistics technologies, etc.). Sports remains, for now, the leader of the market in the sale of sporting goods in France and second worldwide.

In France, the group is structured in three companies:

- Sports SA, which is the parent company and houses the central services (holding company management, R&D, technical design, and production activities based in Asia). It has the form of a European company and has 4,500 employees.
- Sports Logistique, which specialises in the storage and transport of goods. It has 12 warehouses with 2,500 employees.
- Sports SAS, which groups together the sales outlets (320 stores in France) and employs around 9,000 people (the case study concerns this entity).

The employment characteristics are similar to those of the retail sector. The employees are young: 57 per cent are under 30 years old, and they are in the majority in all professional categories. The weight of temporary jobs is also significant, representing a quarter of the workforce, particularly among the under-30s: these are often students due to the seasonal nature of the activity. Finally, employees are mainly low-paid, part-time workers. The company's social model is based on a fragile compromise: higher wages than those in the sector and a relatively good quality of life at work, in return for efforts to be flexible (working hours, part-time work, temporary jobs). This choice explains the high turnover in the company, including among managers.

As far as employee representation is concerned, Sports had no trade union representation for a long time: the first union was created in 1995. Industrial relations were then gradually structured. In theory, there are union delegates in each region (24 regions) as well as at the central level, but it

is the central union delegates who lead the union teams and conduct negotiations. Collective bargaining takes place at the central level of each of the three companies and at group level. At Sports SAS, there are only three representative trade union organisations left, compared with six before the 2008 law on trade union representativeness: the CFTC is the majority union (43 per cent), ahead of the UNSA (33 per cent) and the CFDT (22 per cent). UNSA is the only union that exists in the three companies in the group.

In terms of elected representation, there is a group works council and a European works council. To comply with the 2017 ordinances, a collective agreement on the creation of the CSEs was concluded with the three trade union organisations. Within Sports SAS, there is one CSE per region and one central CSE. Despite the agreement, this implementation was an opportunity to reduce the number of elected representatives, which is acknowledged by the company's management. At the request of the unions, the impact has been limited by the introduction of local representatives at stores level, but they have fewer powers than the former employee delegates. Despite this, the total number of delegation hours has been significantly reduced.

#### **4.2.2. Evolution of collective bargaining**

The historical values of the company are marked by social Catholicism and paternalism, which was common in the North of France. The principle displayed by the managers of Sports is that of trust in the employees and the sharing of added value. However, the HR director (HRD) emphasises: "total trust, but on condition that everyone is aware that we are still in a competitive world". These values are reflected, for example, in the place given from the outset to employee shareholding, which constitutes more than 11 per cent of the company's capital.<sup>26</sup> Yet, this corporate culture is changing and shareholders' expectations in terms of financial profitability are pushing managers to increase productivity and reduce personnel costs. These changes are reflected in the results of collective bargaining (see below).

Collective bargaining has always been very centralised in Sports. There have never been negotiations at stores level, nor at regional level. Agreements are concluded at the level of each company or at the level of the group. The union delegates note a strengthening of bargaining at group level due to the connexion of certain topics. For example, the agreements on health costs, previously signed in each company, were replaced at the beginning of 2021 by a group agreement.

The most notable development, for all the actors, is an increase in the quality of negotiations. Until the end of the 2000s, a major annual meeting had dealt with all the subjects for bargaining. The

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<sup>26</sup> By way of comparison, employee share ownership represents less than 5 per cent of the capital of CAC 40 companies.

trade union delegates sent in their demands. An agreement was signed every year, introducing various provisions, particularly in terms of wages, paid leave and working hours. For the HRD, although this was a time for expression, it was not very productive. The increase in the number of legal obligations to negotiate has led to the introduction of in-depth work on each topic. The reduction in the number of representative unions within the company, by halving the number of negotiators around the bargaining tables, has led to an increase in the quality of agreements. An agreement on the organisation and procedure of negotiations was signed in the years that followed. The pace of negotiations is sustained, with about 10 agreements concluded per year. The CFTC and UNSA have a strong tendency to sign agreements. Since 2015, management has increased the rationalisation of bargaining procedures by setting up an annual agenda by major topics, which is now well established.

#### **4.2.3. Unions and employers' strategies**

The actors on both sides of the bargaining table have a long seniority in the company. The union delegates have also been in office for a long time. This long-term experience has enabled most of them to build up relationships of trust.

The HRD wants to be open and committed to social dialogue. However, this dialogue is only one element of a collaborative management whose objective is to strengthen the support of employees for the company's development perspectives. Collective bargaining and elected representation are in fact instrumentalised by the management. The latter seeks to shape the union strategies present in the company. On the one hand, they want to encourage specialisation and therefore professionalisation of the central union delegates in order to better respond to the requirements of a centralised bargaining (we will see below that the UNSA is in line with this expectation). On the other hand, they denounce the influence that certain trade union federations may have on the conduct of negotiations: they want a union voice that is autonomous from the outside.

On the union side, in view of the geographical dispersion of the company over many sites and in a company characterised by a fluctuating workforce, the major challenge is to create cohesion within the collective of representatives and maintain contact with the employees. For the two largest trade union organisations, this requires a strong attachment to the company's culture, and therefore the search for a consensus with management through company collective bargaining.

Although this union only represents 9.5 per cent of the representativeness at national level, the CFTC is the leading union at Sports SAS and is close to the majority of votes necessary to sign an agreement alone. During the negotiations, the CFTC's support for the management's proposal is

generally rapid. As the leading union, it then ensures that one of the other two unions, usually UNSA, signs the agreement.

The SNAD UNSA (*Syndicat national autonome Sports*), created in 2000, has the particularity of being a company union which, although affiliated to the UNSA commerce federation, enjoys a great deal of autonomy. The vision of its central union delegate is to intervene upstream of bargaining tables, before decisions are taken, to influence them. Its stated aim is to "co-construct the content of agreements" with the management. Although the UNSA signs most of the agreements, the union does not hesitate to confront management in case of disagreement. For example, the agreement on the annualisation of working time, signed in 1998, was denounced by the UNSA in 2018 because its content was deemed too unfavourable to employees. After a year of negotiations, a new, more satisfactory agreement was signed by the three trade unions.

In the eyes of management, but also of the other two unions, the CFDT appears as a "protest union", which is quite unusual for this organisation. For his part, the CFDT central union delegate easily describes his competitors as "yellow unions, which vote for everything". Moreover, the management lacks neutrality according to the CFDT. The CFDT frequently refuses to sign company agreements, its strategy being rather to create, by relying on information and communication with the employees, the counter-power that it does not manage to build via the ballot box. It has created a Facebook group which, according to the central union delegate, includes 10,700 Sports employees. The expectations expressed by the employees on this group allow them to have an influence on the negotiations when the content of an agreement seems to him going against the interests of the employees.

The weak union base, visible through the low rate of participation in the elections, is increased by conflicting relations between the three trade union organisations.

#### **4.2.4. Articulation between company and sectoral bargaining structure**

The collective provisions agreed within Sports are higher than those of the sectoral collective agreement. In terms of remuneration, basic wages are slightly above the collectively agreed wages, but the variable part of remuneration - provided for in the profit-sharing and incentive agreements - makes a difference.

The HRD and the three central union delegates have bargaining mandates at sectoral level. They are in fact involved in social negotiations at this level. The fact that Sports is the only large company in the sector to have significant union representation (see 4.1) further accentuates the weight of the company in the results of the sectoral agreements: "The sectoral level reference is Sports. It is more

Sports that weighs on the sectoral level than the sectoral level on Sports." (CFTC) Annual wage bargaining are first conducted in the company and only then they do begin in the sector.

#### **4.2.5. Coordination between company and sectoral actors**

The two main unions practice company trade unionism with loose coupling to their respective federations. Within the UNSA, the desire for autonomy is a landmark and the unions delegates do not have mandates outside the company. Apart from occasional legal assistance and support for communication during elections, the central union delegate relies very little on the national and federal resources of his trade union organisation.

The CFTC has only slightly stronger links with its federation. Although the central union delegate uses access to federal training and regularly exchanges with the lawyers of his federation, the orientations and decisions are taken independently, under his authority.

The CFDT union team is the only one to rely on its federation: training, legal advice, etc. The central union delegate also informs the federal secretaries of its strategy and decisions and sends them the agreements before signing. However, the federation has never rejected the choices made by him.

#### **4.2.6. Quality of collective bargaining processes**

Collective bargaining takes place under cooperative conditions. Negotiations are most often initiated by management, but may be initiated following requests from trade unions, as it was the case with disability.

A social calendar is established at the beginning of each year and negotiations are well routinised: bilateral meetings, preparatory meetings beforehand, numerous bargaining sessions, and follow-up commissions after reaching each agreement. These commissions are reserved for the signatories of the agreement, which has the effect of marginalising those who refused to sign. When the subject comes back up for negotiation, it is even more difficult for them to influence the process.

In fact, the meetings between management and unions are permanent, often off the record, and the signatures are a long-term process. This process also results in the professionalisation of union representatives. This is especially true for the negotiators of the two main organisations, which are organised in a very pyramidal manner. The central union delegate surrounds himself with one or two delegates specialised in each topic to be negotiated. The central union delegate then follows the working groups by theme. In both cases, the final signing decision is taken by the central union delegate.

#### 4.2.7. Quality of bargaining content

However, the trade union representatives express a number of issues about the scope of the agreements.

Firstly, the influence they can have on the content of the agreements depends on the subject. For negotiations on diversity (seniors, disability, etc.) or quality of working conditions, the agreements can be quite innovative and go beyond the legal obligations. These agreements are often signed by all three union organisations.

On the other hand, negotiations with a direct financial impact, particularly those concerning pay, are more conflictual. In these cases, management looks at "the cost of an employee at Sports compared to other brands" (UNSA). Decisions are then taken upstream by the group's general management in a financial approach and the room for manoeuvre of the Sports SAS HR director is limited. Thus, negotiations on a new "remuneration package" are underway to review wages increases and variable monthly bonuses. All the central union delegates we met in the spring of 2021 found them complicated. To date, they have not been concluded.

Another example: there was no negotiation on partial activity during the periods of closure due to the pandemic, only the obligatory consultation of the CSE. Initially (for two months), the management compensated the loss of wage of the employees concerned but then no longer maintained their wage. The only financial advantage obtained in the last two years through collective bargaining is the increase in the employer's contribution to health costs.

In the same way, the trade unions are little involved in the strategic perspectives and transformation of the company in an economic and technological context that has changed dramatically in the retail.

Secondly, the application of the agreements is often incomplete due to the large number of stores scattered all over the country. The management has set up HR training cycles for stores managers.

## 5 Case comparison

This section identifies similarities and differences between the four company cases. It shows that the sector is an important, yet insufficient factor that helps explain the observed patterns in company bargaining.

### 5.1. Evolution of company bargaining: a selective decentralisation

The centralisation of company bargaining at group level has been identified as a trend by French research (see 2.1.1). We found this pattern in the two French manufacturing groups. Aero and Electric result from the not so long-ago merger of major French market players which were characterised by contrasting cultures of social dialogue and governance. In both cases, the centralisation of aspects of collective bargaining at group level is a means to facilitate intra-group worker mobility by reducing the fragmentation of social norms resulting from mergers. Agreements relating to employment issues (e.g., senior workers, strategic workforce planning), training and certain aspects of remuneration (e.g., social security schemes, profit sharing) have been transferred to this level. Centralisation remains selective, however. The Labour Ministry's collective bargaining data bank suggests that bargaining at subsidiary and site level persists in both companies. It includes employment issues, work organisation, and working time. Especially at Aero, bargaining at subsidiary level has remained important and intra-group differences in social standards persist. In both cases, wages continue to be negotiated at subsidiary levels.

The third manufacturing case provides more detailed insight into collective bargaining at subsidiary level. Metal strikes a contrast with the two other cases from manufacturing. Its degree of autonomy from the group is very high and, unlike Aero or Electric, includes wage bargaining. This reflects differences in group governance. At Metal, intra-group harmonisation of social standards is not an issue due to the German proprietor group's small footprint in France.

The retail case showcases yet another pattern. It points to the importance of sectoral context regarding collective bargaining characteristics. Whereas the manufacturing groups result from a history of mergers and acquisitions of established companies with a solid record in company bargaining, Sports has pursued an organic growth path. The development of company bargaining was long-time hampered by weak trade union presence. Bargaining has taken off only recently, not so much due to the pressures from unions but to the evolving legal obligations for company bargaining. Sports also differs from the manufacturing cases in that the structure of the bargaining system is extremely centralised. Because of standardised work environments, management never saw a need for pursuing negotiations at regional or store level. In other words, centralisation has been consubstantial to the emergence of company bargaining itself.

## 5.2. Union and employer strategies: decentralisation as a strategic dilemma for unions

In organisationally complex companies, the articulation of the bargaining system in terms of levels and topics needs to fit their structural characteristics. Articulation is also subject to strategic intervention by company actors, especially in times of structural change. Such intervention is most evident in the case of Electric and Aero, where mergers and acquisitions have put the adaptation of the bargaining system high on the agenda. Its principal actor is (central) management. In both cases, it took the decision to centralise aspects of collective bargaining at group level to create a core of social norms. Labour law allows for such centralisation but does not require it. In the case of Electric, this move coincides with a centralising approach to company bargaining more generally. This means that even at decentralised levels, bargaining is supervised and controlled by central management. The centralisation of management power in bargaining is compatible with a multi-layered system, provided it is strategically or financially advantageous. It fits Electric's strong shareholder-value orientation and its degree of internationalisation. Characterising the strategy of Aero's management is more difficult due to its refusal to participate in the study. However, interviews with unionists indicate that the centralisation of management power in bargaining is less of a concern. This might reflect differences in the economic environment between the two groups. Aero's activities remain centred in France and its markets are less competitive.

The Electric case study shows that unions may resist the centralisation of bargaining issues if it threatens social standards. But such initiatives are rather exceptional in our cases. The general picture is that union representatives intervene little on the question of the articulation of the company bargaining system. A reason for this is that centralised bargaining is fundamentally ambiguous for them. On the one hand, it allows for harmonising social standards, thereby reducing competitive pressures between entities. Unions may also feel that by investing venues closer to where strategic management decisions are taken, they have a bigger chance to "get something out of management". On the other hand, their mobilisation capacity is usually weak at this level and unions largely remain dependent on management's will to concede. Centralised bargaining also exposes them to the risk of being instrumentalised and perceived as remote and privileged co-managers, thus putting at stake their legitimacy as the workers' voice. This is most significant at Sports where unions continue to struggle with the sector's unfavourable conditions for organising. By contrast, the continuing importance of subsidiary and local bargaining at Aero seems to limit such adverse effects as union activity remains comparatively intense.

### **5.3. Articulation between sectoral and company norms: sectoral agreements still a reference point for company bargaining?**

All four cases converge in that the articulation between company and sectoral norms in wage bargaining is relatively weak. Real wages are higher — albeit to different degrees and by various techniques — than in the respective sectoral agreement. Beyond this similarity, there are significant differences between cases in the way sectoral norms are referenced.

At Sports, the working and employment conditions are essentially determined by the company agreement. Its principal reference — and point of departure — is the sectoral agreement which is, however, a less favourable emanation of the company agreement itself. Metal represents a distinct pattern from such "company-centred regulation" (Delahaie & Fretel 2021). Company bargaining is also the dominant mode of determining working and employment conditions. In wage bargaining, the sectoral agreement only provides some orientation. However, on other topics such as training or complementary health, its direct normative impact may be larger at Metal than at Sports. The two remaining cases from manufacturing differ from "mixed regulation" (Delahaie & Fretel 2021) at Metal as non-collectively agreed norms overshadow sectoral norms in company bargaining. At Electric, because of the limitations of the scale of the sectoral agreement, references for wage setting are more likely to be found at international than at national level. Aero's labour market is more national. The reference point are the favourable wages of the aerospace sector.

Wages above sectoral standards point to similarities in labour recruitment strategies between the cases. Despite differences in product market and work organisation, all four companies want to be recognised as "good employers" to attract (and retain) a qualified workforce. Key to this is the provision of more favourable, "above market" working conditions. This dynamic is particularly relevant in the high-qualification and high-autonomy work environments found at Aero and Electric. Undercutting the minimalistic norms of the sectoral agreement is not a consideration for management.

### **5.4. Coordination between sectoral and company actors**

The articulation between sectoral and company level collective norms in our cases is sustained by specific patterns of cooperation between the collective actors at both levels. To identify them, we need to distinguish between the worker's and the employer's side.

On the worker's side, coordination follows a contrasting pattern. It is low in the three French business groups. Most interviewed union delegates would fend off any undesired interference from the outside union and insist on prioritising their own bargaining agenda. Their interest in sectoral bargaining is rather low. Distance from the sectoral unions occurs rather independently of union

affiliation, suggesting that is more structural than strategic. The resourcefulness of union delegates plays a major role in this. It sustains the development of union identities with a strong local character (see Hege and Dufour 2008). Sectoral trade union representatives seem to have internalised the distanced relationship. Providing legal advice, supplying a platform for exchange among union delegates from different companies and informing them about recent developments in sectoral bargaining are their main tasks.

There are some company-specific nuances to this picture. Union coordination seems the weakest at Electric. Other than checking legal compliance of agreements, there is not much coordination going on between the two sides and the level of engagement with the external unions is very low. The interview at the CFDT metalworking federation reveals that some of its officers are on leave from Aero. Yet, this does not translate into significantly stronger coordination between both sides as these officers mostly deal with servicing union delegates in weakly resourced SMEs. On the contrary, the CFE-CGC of Aero, which participates actively in a national union specific of the aeronautics and aerospace sub-sector, AED (member of the CFE-CGC metalworking federation), exchanges best practices and strategic choices with delegates from other aeronautics companies. At Sports, company level union resources are weaker than in manufacturing. Yet, this does not mechanically bring the three central union delegates closer to their sectoral federations. Among them, the CFDT delegate has developed the most significant ties with his federation, seeking resources that he needs to fill out his oppositional role in the relationship with management and rival unions UNSA and CFTC. It is noteworthy that, despite rather distant relationships at Sports, all three federations provide their union delegates with a negotiation mandate in sectoral bargaining. However, it is uncertain to what extent they follow a specific agenda in it.

The Metal case provides a striking contrast to this pattern. Union resources relevant for company bargaining are weak, with the notable exception of the part-time employment of the union delegate by the regional CFDT. His multi-level activism within the metalworking federation compensates for the lack of resources. Unlike other interviewed trade union delegates, his reasoning is equally grounded in his internal and external mandates. Trade union action at company level is coherent with the debates on political and economic issues at the regional and national level of the CFDT metalworking federation. In the wider picture of French industrial relations in metalworking (or elsewhere), such a high degree of coordination between company and sectoral bargaining is quite exceptional, however.

On the employer side, coordination between company and sectoral actors is more tangible. Sheer size renders the French business group cases largely independent of their respective employer associations in terms of resources. Yet, they remain interested in collective representation at

sectoral level and are involved in bargaining to structure the labour market and regulate competition. The continuing prevalence of the extension mechanism probably plays a major role in the continuous involvement in sectoral bargaining (see Traxler 2017). It is most evident in the case of Sports that dominates bargaining in sports retail and instrumentalises it to impose a minimum floor of conditions upon its competitors. Aero and Electric do not have such a prominent role within UIMM. However, due to their weight, hardly any agreement may be signed against their will. By the time the interviews were conducted, their interest in (national) sectoral bargaining was dominated by the renewal of the outdated job classification schemes. Metal management is also involved in sectoral bargaining, albeit exclusively at regional level. Faced with a tightening labour market, a main interest is to secure employer solidarity to prevent wages from rising too quickly.

### **5.5. Quality of bargaining processes: specialisation and rationalisation**

The rise of mandatory company bargaining in France has been accompanied by an increase in dedicated management resources. In all French business group cases we find departments at central level that exclusively deal with all legal and social issues associated with "social dialogue". These are managed by a "director of social affairs" (*directeur des relations/ affaires sociales*) whose exclusive role is to deal with the unions and the worker representation bodies. Their approach to bargaining is embedded in formalised business strategy, geared towards legal compliance due to the increasing "juridiciarisation" of industrial relations (Pélisse 2009) and scrupulously planned to meet the requirements of the public bargaining agenda. Such a highly specialised approach to company bargaining contrasts with the more "hands-on" and issue-driven character of collective bargaining at Metal, where it is the company's Director General who manages bargaining on top of his other jobs.

Significantly, and despite differences in size and industry, in all four cases collective bargaining is sustained by mostly trustworthy relationships between HR managers and union delegates. Unlike in companies with a strongly formalised approach to bargaining, contact between both sides is frequent and includes off-the-record relationships. In all cases, this corresponds to some form of management commitment to social dialogue. It is the strongest in the technology-driven manufacturing companies. Both Electric and Aero embrace collective bargaining to ensure social peace and worker satisfaction. At Sports and Metal, management's relationship with social dialogue is less institutionalised and its conduct is therefore subject to stronger fluctuation and adversity.

Recent research has identified increasing rationalisation pressures on social dialogue and collective bargaining procedures in French companies (IRES 2021). In our cases this is the most evident in

companies with well-developed and multi-level collective bargaining and worker representation systems, i.e, at Aero and Electric. Rationalisation pressures are the strongest at Electric. They manifest themselves in several ways. The rise of group level agreements coincides with the desire of management to reduce the number of negotiations and venues. Reinforcing the technical skills of the company's union negotiators is another aspect of HRM's rationalisation strategy. Moreover, management did not hesitate to significantly cut down the number of worker representatives after the 2017 Macron Ordinances. among Electric union delegates, rationalisation pressures have given rise to the concern that social dialogue increasingly becomes subordinated to efficiency criteria, thus resulting in dwindling margins for management compromise and the overall weakening of the culture of social dialogue.

Aero provides an interesting contrast to this. While management has also strengthened central level bargaining, unlike most French companies it refrained from cutting down the number of elected worker representatives after the Macron Ordinances. Thereby it sent a strong signal to the union side in favour of maintaining the "Aero's way" of social dialogue. The impact of COVID crisis on the aircraft industry has convinced management to reinvigorate the place of collective bargaining to manage employment crises.

#### **5.6. Quality of bargaining content: The compulsory bargaining agenda as an obstacle to innovation?**

The provision of innovative, tailor-made solutions to improve company competitiveness, secure employment and improve working conditions is generally seen as a major benefit of company bargaining. Our four cases provide for a contrasting account of recent incidences of such innovation.

At Metal, collective bargaining goes beyond the mandatory topics of working-time, wages, working conditions, and gender equality. The voluntary agreements on training, overtime, and bonus payments address local issues that occur from the continuous flow of formal and informal social dialogue between a very restricted number of actors. Innovative dialogue is facilitated by the prominence of shared "developmental concerns" (Bélanger & Edwards 2007) between management and the union delegate, i.e., the securing of the future of the company by renewing the workforce and its skills. At Aero, the ATA and ALPN agreements on safeguarding company activities and on partial unemployment exemplify innovative bargaining. The economic crisis has convinced management to embrace collective bargaining to protect the level of employment and remuneration against the effects of the health crisis on activity. The agreements temporarily derogate from collectively agreed company norms (without undercutting sectoral standards).

In the other two cases, bargaining innovation is more difficult to identify, at least at group level where interviews took place and voluntary agreements are the exception. Innovation seems to be limited to compulsory bargaining. The Electric agreements on strategic workforce planning are a case in point because they go well beyond the legal requirements, but the dynamics of this initially voluntary approach have petered out over time. At Sports, unions may negotiate favourable standards over legal provisions and innovate at the margins. The health crisis, however, has shown that little room is given to address specific employment issues outside the compulsory bargaining agenda. Bargaining innovation is not only hampered by the unwillingness to "think outside the box". Especially union delegates underline the frequency and technical exigences of company bargaining, resulting from its prescriptive character and the increasing number of aspects they must cover. These conditions themselves favour considerations of compliance over innovation.

A transversal finding from the four cases is that, in the eyes of trade unionists, the margins for substantive and generalised wage increases have decreased over the years. Even if the company fairs well, wage rises preferably occur through individualised or collective performance wage schemes. Due to its minimalistic nature, sectoral bargaining does not provide pressures to change this dynamic in our cases. Union delegates have fatalistically accepted this as they face difficulties to mobilise for issues other than restructuring. The weakness of distributive bargaining does not only explain the long-term shift towards (integrative) bargaining over more consensual employment issues (pensions, health assurance, older and disabled workers, gender equality), it also points to the lack of union power as a source for missing innovation in company bargaining.

## 6 Conclusion

Since the 1980s, France has seen a rather spectacular rise in collective bargaining at company level, both in terms of the number of companies engaged and agreements concluded. Questions remain over the effects and outcomes of decentralisation. The case studies provide some insights into this.

A central finding from all four cases is that company bargaining plays a central role in defining the working and employment conditions. Differences between them exist in the significance of sectoral agreements. In the three French business group cases, this significance is rather uncertain, confirming the tendency towards the "auto-regulation" of such entities (Dirringer 2015). The prevalence of company over sectoral bargaining is not a rule (nor an exception) in French companies. It tends to be associated with enterprises that share certain characteristics in terms of sector, ownership, union presence, and size (Castel *et al.* 2013). This is an important limit to the generalisability of our findings. The case studies speak in priority to company bargaining in business groups. Indeed, many French companies do not have trade unions and collective bargaining takes place with elected worker representatives (often guided by management) or simply is ignored.

In our cases, the prevalence of company bargaining is associated with rather favourable material outcomes for the workers and persistent social peace for management. Such benefits cannot be attributed to legislative action in favour of the decentralisation of the collective bargaining system. In these businesses, company bargaining has eclipsed sectoral bargaining for a very long time. Management uses it as a tool to guarantee social peace and to attract and retain a qualified workforce.

The prevalence of such a "high-road" strategy in company bargaining depends on market and technological conditions as well as the capacity of trade unions to impose themselves at company level as a credible actor in the eyes of the workers and management. Under different conditions, however, the institutional weakening of the normative authority of sectoral bargaining increases the risk of generating less favourable norms, worker's dissatisfaction and, potentially, unrest. A deepening polarisation of working and employment conditions would result from this with potentially negative effects on productivity and innovation. So far, companies have largely shied away from undercutting — already rather minimalistic — sectoral norms. This risk is nevertheless real as trade unions are, due to internal divisions, unable to compensate for the declining institutional coordination capacity of the system by actively taking on this role themselves.

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## 8 Annex: interviews

<b>ELECTRIC</b>
<ul style="list-style-type: none"> <li>• HRM director and director of social affairs Electric France, 25 February 2021, 72 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• CFDT central union delegate Electric France, 01 March 2021, 99 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• CFE-CGC central union delegate Electric France, 06 April 2021, 58 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• CGT central union delegate Electric France, 03 Mars 2021, 92 minutes</li> </ul>
<b>METAL INDUSTRIES</b>
<ul style="list-style-type: none"> <li>• CFDT union delegate, 04 June 2021, 72 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• Works council secretary, 14 June 2021, 28 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• General director, 41 minutes</li> </ul>
<b>SPORTS SAS</b>
<ul style="list-style-type: none"> <li>• Director of social affairs, 15 April 2021, 77 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• CFTC central union delegate, 30 Mars 2021, 93 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• CFDT central union delegate, 31 Mars 2021, 35 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• UNSA central union delegate, 15 April 2021, 68 minutes</li> </ul>
<b>AERO</b>
<ul style="list-style-type: none"> <li>• CFE-CGC central union delegate, 26 Mai 2021, 75 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• FO central union delegate, 11 Mai 2021, 71 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• CFDT central union delegate, 23 Mars 2021, 74 minutes</li> </ul>
<b>SECTORAL UNIONS (retail &amp; metalworking)</b>
<ul style="list-style-type: none"> <li>• Officer at CFDT metalworking federation, 8 January 2021, 95 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• Officer at FO retail federation, 7 January 2021, 74 minutes</li> </ul>
<ul style="list-style-type: none"> <li>• General secretary at CFDT service federation, 14 January 2021, 94 minutes</li> </ul>