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# 5 France: From Conflict to Social Dialogue?

Robert Tchobanian

Works councils are required by law in France. They are part of a mixed system of worker representation in the workplace, which includes union locals. The actual place and the role of the works council has long been contested between employers and trade unions, and this has reduced the impact of councils on company life. During the 1970s, the growing crisis in the labor market, the decline of Taylorism, and companies' emerging human resource policies exacerbated the conflict. Meanwhile, the industrial relations system underwent major changes due to new laws and economic and social transformations. Are the works councils now becoming the focal point of a more active social dialogue? And is such change possible at a time when the influence of unions on the workforce is sharply declining?

The characteristics of the French system require works council activities to be analyzed within the wider framework of industrial relations and its evolution, keeping the councils' history in mind.

## 5.1 Legal Framework of Workplace Representation

Collective worker representation at the workplace level is a mixed system bringing together elected bodies and trade unions. Its purpose was redefined in 1982 with the Auroux reforms, named after the minister of labor of the time. It is within this framework that the place of works councils in France will be examined.

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### 5.1.1 Systems of Workplace Representation

In 1990, there were approximately 19 million workers in France, according to general census figures. National and local government workers are represented under special rules. The law regulating worker representation at the workplace level mainly affects the private and competitive public sectors, which at the end of 1990 employed about 14 million workers.

The complexity of the workplace representation system required by law varies with firm size. No internal representation system exists for firms with up to 10 employees. In firms with 11 or more employees, personnel delegates (*délégués du personnel*), elected by all employees, are required by law. In companies and establishments with a workforce of 50 or more, there are in addition enterprise committees (*comités d'entreprise ou d'établissement*), whose members are elected in the same way. These companies have also a health and safety committee (*comité d'hygiène, de sécurité et des conditions de travail*—CHSCT), which is named by the elected enterprise committee and the personnel delegates.

Trade unions may set up union locals at the workplace by naming union delegates (*délégué syndical*) to the management. Unions have a legal right to name union delegates in companies with more than 50 employees. In smaller firms, the personnel delegates can be named union delegates for their term of office, unless a more advantageous system is created by industrial agreement.

The distribution of workers by size of establishment shows the worker populations represented by the different arrangements (table 5.1). For companies and establishments with 50 or more employees, which employ approximately half of the workforce in the private and competitive public sectors, the representation system is made up of four bodies: personnel delegates, the enterprise committee, the health and safety committee, and union delegates. Personnel delegates, enterprise committees, and health and safety committees all perform functions of works councils; they are part of a mixed representation system which also includes the trade unions.

**Table 5.1** Employment in the Private and Competitive Public Sectors by Size of Establishment, 1990

Size of Establishment (number of workers)	Number of Workers	Percentage of Workers
1-9	3,338,986	24.1
10-49	3,973,647	28.7
50-199	3,175,644	22.9
200-499	1,614,070	11.7
500 or more	1,744,701	12.6
Total	13,847,048	100

Source: UNEDIC 1991.

The enterprise committee comes closest to the definition of a works council (see Rogers and Streeck, chap. 1 in this volume). All employees of the firm are represented, not just the union members. The committee is involved in the economic and organizational life of the firm. In terms of the typology proposed by Rogers and Streeck, the enterprise committee is a representative council, its rights being defined by law. In particular, the enterprise committee engages in three kinds of activity:

1. It manages the funds provided by the firm for social and cultural activities for the employees and their families. These can be considered indirect wages, the allocation of which is decided by the enterprise committee.
2. It is entitled to receive information and offer advice on "the firm's organization, management, and general functioning."
3. It may negotiate agreements on profit sharing (the distribution of part of the company's annual profits to the employees) and financial participation.

Enterprise committees meet every month. Meetings are chaired by the head of the firm; a secretary is elected from among the members. Committees are entitled to 0.2 percent of a firm's total payroll to cover their operating expenses, and each member is entitled to limited paid release from work, not counting the time spent in committee meetings. Depending on the size of the firm, commissions are set up in which individual employees may be asked to assist the enterprise committee. Economic training is to be provided to the elected members to prepare them for their mission. A certified accountant helps the members understand the company's accounts. Under some conditions, the enterprise committee may also obtain advice from an outside expert on the introduction of new technology.

In companies with several establishments, each with its own enterprise committee, a central enterprise committee exists to deal with problems common to the entire company. Likewise, companies that are part of a group of companies have a group committee. Where all of these provisions are applied, the enterprise committee, rounded out by the health and safety committee for questions of occupational hazards, is the representative body with the best access to information and the strongest technical means for influencing the firm's economic and social life and its consequences for the employees.

The situation of the personnel delegates is more complex. They are responsible for presenting the employer once a month with all individual and collective grievances concerning the application of legal or contractual rules. They also present any demands aimed at changing these rules. Thus, their role is similar to that of the trade unions. Before 1982, they were often the main place of union expression before management. Personnel delegates do not, however, have bargaining rights; these belong to the union locals. Their role appears to be on the decline today.

Union locals, and the union delegates who represent them to management, play a more general role. Legally, they are in charge of "defending the material

and moral interests” of the workers. This includes organizing union life within the firm, for example, collecting dues and convening union meetings. Coordinating the activities of union members in works councils is another general prerogative of union locals. Like the personnel delegates, the union delegates are responsible for representing workers’ individual and collective grievances. But their true representative role lies in the area of collective bargaining. Union delegates can bargain with management and sign company or plant agreements. The 1982 legislation makes it obligatory for management to bargain locally on matters like wages, working hours, time schedules, and worker participation (“expression”) at regular intervals. Like elected representatives, the union delegates are protected against dismissal, and the firm pays them for a certain number of hours spent on union activities.

Finally, there are links among the enterprise committee, the health and safety committee, the personnel delegates, and the union delegates. The personnel delegates may transmit employee demands to the enterprise committee and the health and safety committee. During their monthly meeting with management, they may be assisted by a union delegate. Union locals may send representatives to the enterprise committee and thus receive all information provided to its elected members. The enterprise committee and the health and safety committee sometimes deal with the same problems. The union locals typically try to coordinate the activities of the different bodies. For certain questions, enterprise committee consultations may be carried out in conjunction with negotiations conducted by the union delegates. During elections of personnel delegates and enterprise committees, the first round of voting is open only to the lists of the unions present at the workplace. Nonunion candidates may run only in a second round, which is called if there are no union lists or if these did not obtain the votes of the majority of the employees.

Even though it is complicated, this system seems relatively balanced, giving space to elected bodies representing all employees, as well as to union representation. But it is also the result of a long historical process. The place of workforce representation in the company, and the place of the unions within such representation, was until recently more a question of power and the result of mutual distrust between employers and unions than one of stable rules of joint regulation.

### 5.1.2 Historical Formation of the Representation System

The present system is the result of an accumulation of representative bodies that appeared at various stages in the history of the French industrial relations system and that are the expression of sometimes contradictory choices regarding the levels of collective bargaining, the role of union activity in the plant and the company, and the proper place of elected employee representation.

Before 1936, employee representation at the workplace was not required by law. Collective bargaining existed at the industry level. The company was not a place of bargaining, nor was there internal worker representation. Works

councils had existed in a variety of forms since the middle of the nineteenth century (e.g., health and safety delegates in coal mines, works councils in the armaments industry during World War I, and paternalistic councils in individual companies). But all attempts at legislation on a broader basis failed because of distrust between employers and unions (Andolfatto 1992). In 1936 the employers, faced with many strikes, proposed that representatives responsible for expressing workers' demands be elected by all workers within each establishment, regardless of union membership. Acceptance of the institution of personnel delegates was an employer concession made in a crisis to keep unions themselves out of the workplace. A law on collective bargaining that same year confirmed that bargaining was to take place mainly on the industry level.

Enterprise committees were created in 1945, in a period of relative social consensus after the end of World War II. Enterprise committees were to play a role in the operation of the establishment. They were to be given information and to be consulted, so as to improve the dialogue between management and labor. However, the representative trade unions obtained a monopoly over candidacies in enterprise committee elections, just as in the elections of personnel delegates. A 1951 law reaffirmed the centralization of collective bargaining at the industry level.

After the severe social conflicts of 1968, a law was adopted entitling unions to set up locals at the workplace. Very few workers need to be unionized for a local to come into existence since all that is required is the designation of union delegates by external unions. From 1968 on, personnel delegates, enterprise committees, and union delegates coexisted without any clear division of their tasks. A law adopted in 1971 made it possible to negotiate collective agreements at the company level. However, while union locals were set up in large numbers, workplace bargaining did not develop widely.

This was one of the reasons why in 1982 the new leftist government proposed the Auroux reforms. Their purpose was to reform industrial relations, and particularly representation at the workplace, by linking them to the major changes that were under way at the time. Employers and unions together had made the system inoperative. Their traditional positions must be analyzed for a better understanding of what was at stake with the Auroux reforms and how they were actually applied. Special attention must also be paid to the economic situation of the 1970s, especially to the crisis of Taylorist forms of work organization.

## **5.2 Workplace Industrial Relations before the 1980s**

Traditional French industrial relations assigned little significance to the workplace. Despite the existence of personnel delegates and enterprise committees, employers as well as unions preferred to avoid social dialogue at this level. Employers have traditionally been suspicious of union activities at the workplace. The position of the works councils is a result of this attitude.

### 5.2.1 Employer Strategies

#### *Neutralizing the Workplace in Industrial Relations*

French employers have always tried to protect their discretion in managing their companies by limiting union intervention and, more generally, any regulation imposed from outside. Personnel delegates and enterprise committees are representative bodies instituted by law; they may therefore limit the employer's autonomy. Moreover, they came into being at times when political and social events had weakened the power of employers.

French employers and their organizations have consistently strived to neutralize the individual company as a place of collective bargaining, resisting direct union intervention in its functioning. This explains in large part why bargaining was centralized at the industry level (Sellier 1961). Industrywide wage agreements set minimum wages, thus regulating the labor market to a certain extent by limiting competition among companies. Other contractual provisions standardize general employment conditions. On the other hand, industrywide agreements almost never affect work rules. Centralized collective bargaining therefore offers two advantages for the firm: agreements are not very restrictive at the workplace where they are actually applied, and the organization of work and the firm is not affected since these are matters that cannot be regulated in industry-level negotiations. Employers thus avoid union control over the very heart of company life.

Thus, the company remains in the hands of the employer. Taylorization in industry illustrates this. It began between the two world wars and went together with the development of large industry. This rationalization of production was undertaken without the unions being able to influence organizational choices or to control their effects on the workers (Ribeill 1984). Work rules imposed on the workers were determined exclusively by management initiative and the hierarchy in conceiving tasks and controlling their execution. Similarly, the social organization of the company was the result of unilateral decisions made by management.

The neutralization of the firm as a place of bargaining weakens the presence of the unions at the workplace. The traditional position of French employers toward works councils is related to this. In a paternalistic strategy, works councils can be used to limit union influence. But proposed works council legislation has often been designed to allow for a measure of "workers' control" (Hordern 1988). The personnel delegates, as set up in 1936, can be considered as combining these two concepts. By accepting them, employers were able to avoid direct union representatives. But the activity of the personnel delegates was one of relaying grievances and demands. They contested employer decisions and were soon perceived as indirectly carrying out union activities. Employers therefore always tried to limit their role.

Employer attitudes toward the enterprise committees are more complex. Enterprise committees were created after the war when unions were strong. They

appeared after experiments with worker participation in the management of some factories at the time when France was liberated. Enterprise committees did have some effect on company organization and, in this respect, were a threat to the employer's authority. On the other hand, they came into being during a time of relative consensus and economic reconstruction. Moreover, they were not decision-making bodies but bodies of information and consultation. Also, the fact that the head of the company chaired the enterprise committee made it easier to integrate them into the life of the company. Employers have therefore always favored the enterprise committees over the personnel delegates, and even more over the unions. At the same time, employers never made an effort to turn them into a more dynamic place for dialogue, and neither the employers nor the unions have tried to change their mutual relations through the enterprise committees (Montuclard 1963). In practice, enterprise committees have therefore often done no more than manage the company's social budget. Toward the end of the 1960s, however, new horizons began to open up for works councils.

#### *The 1970s: The Strategy of Direct Participation*

The development of French industry after 1950 entailed a high degree of Taylorization linked to mass production. Assembly lines and jobs requiring little training became common. The strikes of 1968 brought to light deep resentment among workers, particularly related to working conditions. The employer organization, the Conseil National du Patronat Français (CNPF—National Council of French Employers), for the first time had to accept union locals at the firm level. In the early 1970s, strikes over the organization of work became frequent, and workplace-level bargaining appeared necessary for dealing with the new quality of working life problems that had appeared (Reynaud 1968). But employers still refused to expand bargaining at the workplace.

In particular, union locals were accepted only under social pressure. Employers considered them foreign bodies introduced into the workplace and tried to limit their role to organizing union activities. A 1974 report studied the effects of the 1968 legislation on the relationship between enterprise committees, personnel delegates, and union delegates (Bachy, Dupuis, and Martin 1974). It showed that company management preferred informal over formal relations with employees, and relations with the elected representatives of all workers over relations with the union locals. In addition, the enterprise committee, dedicated to dialogue, was preferred over the personnel delegates, who expressed worker demands. The traditional suspicion of union activities was found to persist, and social dialogue with union-dominated works councils was limited.

It would seem that the social conflicts associated with a Taylorist system of organization should have modified employer attitudes. Conflicts in Taylorist factories were often spontaneously initiated by the workers themselves, and an established bargaining machinery could have helped prevent uncontrollable

social outbursts. The unions, however, found it difficult to define offensive strategies in these areas, given their traditional reticence toward adopting a position on the operation of the firm. In 1975, an economywide, "interoccupational" agreement signed by the CNPF and the minority unions stressed the need to improve working conditions while confirming that responsibility for this lay with the employers. No machinery was set up to enforce the agreement, however, and very few clarifying industry or company agreements were signed.

In subsequent years, companies began to develop their own social policies in response to the effects of Taylorism, without negotiation and often without even consulting the works councils: new forms of work organization, opportunities for workers to express their interests directly, changes in work schedules, communication policies, dialogue with supervisory and managerial staff, and so forth. At its 1977 and 1980 annual congresses, the CNPF presented summaries of these experiments, proposing to all firms a new, unilateral model for active social relations at the workplace.

This model was based on the direct mobilization of the workers themselves. Direct participation enabled the employer to limit union influence and thereby limit bargaining at the workplace. It also reduced the role of the legally required works councils. For example, employer-worker committees on safety and working conditions gave workers the opportunity to participate in improving safety at work. But they were acting in an area for which two legal commissions connected with enterprise committees already existed. Through social policies of this kind, employers reintroduced nonrepresentative forms of communication, using problems in working conditions to reassert control in managing the company and its human resources. A 1975 survey of company executives showed that the majority were still against bargaining and preferred increased direct participation (Bunel and Saglio 1979).

This is regardless of the fact that works councils, especially in the form of enterprise committees, would have seemed well suited for assisting with these new practices. In some cases, organizational innovations had actually been discussed with and were overseen by the enterprise committee. In 1973, the introduction of variable working hours was legally authorized, contingent on prior consultation with the enterprise committee. Certain public subsidies to firms for the improvement of working conditions also required an enterprise committee opinion. Furthermore, under the law the enterprise committee must be presented with an annual assessment of the impact of a company's activities and projects on working conditions. However, firms generally carried out their innovative projects without the elected representatives. A survey published by the CNPF in 1980 spent only a half a page out of 410 pages on enterprise committees and personnel delegates (CNPF/CODESE 1980).

This attitude can be explained by the influence of the unions on the works councils. Moreover, the CGT and the CFDT, the unions most strongly repre-

sented on works councils, had at the time a strategy of conflict rather than aiming at agreement. The employers, in turn, demanded the elimination of the union monopoly on candidacies in the first round of enterprise committee and personnel delegate elections. Through their unilateral social policies, employers wanted to limit both legally and union based intervention to issues covered by the law or to bargaining outside the firm. A different type of dialogue, established directly with the employees, was to be used for dealing internally with most social questions. In a way, these were "paternalistic" works councils (Rogers and Streeck, chap. 1 in this volume) created by the employer. But their very success raised the question of the relationship between them and legally required worker representation.

At first, companies wanted to protect their autonomy in areas traditionally beyond union control. But economic difficulties and the loss of competitiveness of French industry gave rise to new needs for social and organizational flexibility. At the end of the 1970s, the CNPF asked that centralized regulation be reduced in favor of regulations decided upon within the company, but without accepting the unions as bargaining agents at that level. Who was to be the employer's bargaining partner was unclear. An interoccupational agreement reached in 1981 linked a reduction in working hours to greater flexibility in the organization of company time schedules. But the CNPF refused to negotiate time schedules with the union locals and recommended that managements discuss the subject with the enterprise committee. The CFDT, the second-largest union, which had signed the agreement, demanded that bargaining rights be explicitly accorded to the unions alone. The Auroux reforms took these difficulties into account, along with other needs, in redefining the levels and actors involved in social dialogue at the workplace.

### 5.2.2 Union Attitudes before the Auroux Reforms

Employer distrust of works councils before the Auroux reforms is explained mainly by union policies and their influence on elected representatives. In turn, the strong position of the employer within the workplace explains the attitudes of the unions. It is difficult to describe the latter in short because of the variety of unions in France and the differences between them. The base of the French union movement lies outside the company. There are four union confederations that are open to all workers: the Confédération Générale du Travail (CGT), the Confédération Française Démocratique du Travail (CFDT), the "Force Ouvrière" (FO), which broke away from the CGT in 1947–48, and the Confédération Française des Travailleurs Chrétiens (CFTC). Managerial staff can also join the Confédération Générale des Cadres (CGC). Here we will primarily deal with the traditional "mass and class" unionism in industry, which, under the influence of the CGT, stresses a working-class worldview. This model exercised a certain hegemony in the union movement, as confirmed by election results. For example, 50.8 percent of the votes in the enterprise committee

elections of 1966 went to the CGT, and only 19.1 percent to the CFDT. The positions of these two unions can be used to describe union attitudes toward enterprise committees and personnel delegates up to the end of the 1970s.

### *Union Workplace Organization and Fears of Integration*

Attempts to organize union activities within the company always met with resistance from employers. Perhaps works councils could have been used as an institutional means of indirectly increasing union influence. But the traditional weakness of the unions at the workplace explains their hesitation and their preference for a strategy of conflict. Union strategy on works councils was long defined by this conflictual stance.

The situation is similar for collective bargaining. Industry-level negotiations leave the individual firm autonomy and thus give power to the employer. Company-level bargaining should therefore have been a major union goal. In fact, union attitudes were not that simple. Up until 1982, company bargaining was rarely used and was considered more a phase in the general conflict process than a means of obtaining a lasting collective agreement. Its general use was considered risky. Because union presence differed from one company to another, bargaining at the company level would have been less favorable for less well organized workers. There was also a risk of company egoism, and possibly even of competition among employees. Centralized bargaining, on the other hand, created a minimum level of protection that could then be improved in more prosperous companies. Unions also lacked the human, material, and conceptual resources to carry out effective company-level bargaining. The situation was more balanced at the industry level where the union was represented by full-time leaders.

On the other hand, industry-level agreements were unable to impose effective restrictions on employers. They were therefore regarded as a point of departure for union activists at the workplace, who had to use all available means to obtain improvements. This was the goal behind the mobilization of workers during conflicts. Strikes and demands were used for constant "harassment" of management. Within the model, results obtained through collective bargaining or strikes are no more than "social armistices" which hold until the unions have built up enough strength to challenge management again. Strikes are not a weapon related directly to formal collective bargaining since company-level conflict and industry-level bargaining are often unconnected. Rather, strikes are to mobilize the workers, many of whom are not unionized, and to strengthen the position of the workers within the firm. Unions are not organized by occupational groups, even though they consist mainly of skilled workers, since they aim at representing all workers whatever their job or category. They therefore do little to influence work rules (Eyraud 1983).

French unions' approach to the company is determined by this model of union action. The organization of work and the management of the firm are

considered to be inevitably defined by the power of the employer. For the workers, it is therefore more important to control the consequences of the organizational choices made by the employer than to influence these choices themselves. The introduction of Taylorist principles was seen as confirming this analysis. In practice, French unions have left the company a free hand in organizing the workplace. This "Fordist social compromise" does not imply the absence of social conflict; in fact, conflict is at the very center of union activity. But it coexists with a tacit understanding that leaves company organization to the company itself and focuses union activity mainly on the distribution of income and other material benefits. The result is very low union involvement in the governance of the workplace.

The ideologies of each of the two major unions contributed to this outcome. The CGT, which is Marxist, sees socialism as the solution to the contradictions of capitalist management. Involvement in a firm's economic decision making under the present system is regarded as dangerous. The CFDT, in turn, advocated socialist self-management in the 1970s. But this never translated into concrete demands, even though the CFDT was highly critical of Taylorist principles. Thus, works councils provide unions with an indirect but institutionalized presence, and they may be used to increase union influence within companies and with the workers. They are not, however, considered instruments of intervention in the organization of the firm and of work. Moreover, union pluralism often leads to union competition at the workplace, which stifles innovative initiatives.

The cases of the personnel delegates and the enterprise committees are, however, quite different. The personnel delegates deal with demands and grievances, which corresponds directly to the union model of action. Once a month, the personnel delegates have the right to express demands, and management is required to meet with them. While the monthly meetings between the personnel delegates and management were designed for individual grievances to be presented, this is rarely the case (Bonafe-Schmitt 1981). The personnel delegates' main activity is to present general union demands, which are raised anew at each meeting. Given that they are often accompanied by union representatives, personnel delegates are actually a union delegation that meets with the employer. Indeed during strikes, the personnel delegates use their meetings with the employer to articulate the demands of the unions in order to help obtain the desired results. This is not really formal bargaining since there is no agreement but only employer concessions. The institution of the personnel delegates also enables the unions to make their demands known to the employees, despite the hostility of the employers, and personnel delegates do play a role in representing individual grievances, which is often done more informally. Through these interventions, the personnel delegates have managed to bring together formal action, mainly by raising collective demands, and informal influence with respect to individual employee needs. To reduce the number

of demands expressed through this channel, management in the 1970s reinforced the contacts between workers and the company hierarchy and created opportunities for direct expression of worker interests.

The enterprise committees are in a different position. Created at a time when large sections of the French union movement demanded that employees be given a role in the management of the firm, enterprise committees never had more than advisory status. While there had been plans to institute arbitration in case of disagreement, this did not materialize, and unlike their German counterparts, enterprise committees were not given powers of co-determination, although they did obtain rights to accounting and organizational information. Their activities therefore remained of little importance, except during the period immediately after the war; and the unions did little to change this. After 1948, the CGT warned against the dangers of class collaboration inherent in enterprise committee policies that were not directly unionist. This corresponded to union fears of getting involved in management in the absence of conflictual conditions. As a consequence, the number of enterprise committees declined until the mid-1960s.

#### *The 1970s: Trade Unions Facing Company Social Policies*

The creation of workplace union organizations enabled the unions, especially the CGT and the CFDT, to attempt to coordinate their activities with those of the elected works councils. A growing number of enterprise committees were set up in this period, not only because of the new presence of the unions but also because some companies tried to use the committees to limit the role of the union locals. The position of both the CGT and the CFDT was to make the union local the center of the representative system at the workplace, with the enterprise committee and the personnel delegates serving as sources of information and general institutional resources. Reality in the companies, however, was much more varied. The actual structure of representative systems, especially the relationship between the works councils and the union locals, was determined by the interaction between employers and unions and their respective strength. Three main situations could be found in the beginning of the 1970s (Martin 1976). In the first, in which the unions were weak, both actors favored normally functioning elected bodies despite their small influence. In the second, in which the employer was opposed to bargaining with the unions, unions coordinated their activities with the works councils, which in fact expressed the union position. And in the third, in which union presence was strong and management preferred a single bargaining partner, the union local was predominant.

The relationship between elected works councils and union structures cannot be explained simply by existing legal provisions. The interaction between the social actors and the context of this interaction played a predominant role. Conflict over the rules of the game (the procedural rules) became more important than maximizing the benefits of representation (the substantive rules).

Union difficulties toward the end of the 1970s illustrated the effects this had on the role of the representative bodies.

At the beginning of the 1970s, rising social conflict and growing unionization appeared to ensure that a new balance would be reached, with greater union influence. Union locals were rapidly set up: while in 1970, 27.5 percent of all establishments with 50 employees or more had at least one union local, in 1978 this figure had increased to 58.4 percent. And yet, at the end of this period, company social policies had undermined the stability of the workplace representation system as well as of collective bargaining. Faced with this situation, the unions began to examine new strategies.

The employment crisis is often presented as the main cause of the difficulties faced by the unions after 1977. Declining employment in major industries took away social pressure and limited the benefits obtainable through union action. The result was a decline in union membership. But other factors also contributed, among them the union's response to company participation practices (Tchobanian 1990). New forms of work organization, direct employee expression, and flexible work schedules were often denounced by the unions simply because these ideas came from the employer. Union locals were unable to intervene through negotiation or enterprise committee consultations. Fear of agreeing to technical solutions that might benefit the company while not increasing the unions' conflictual power led the latter to denounce practices that the employees often approved. The lack of any real debate among unions on changed work practices and new needs of workers contributed to union decline.

Employee expression is an area in which the rising difficulties were easily observed. The CFDT had demanded it since 1973, but in a form that linked it to union action. The other unions were less sure. Finally, it was the employers who created opportunities for expression, in a form that corresponded to their needs and competed with the unions, and especially with the personnel delegates. For the unions, denouncing these practices to the workers was no longer enough. The evolution of a new attitude was most striking at the CFDT, which in 1978 accepted union-independent employee expression, provided that it was negotiated at the workplace with the union locals. Less conflictual union policies were offered in exchange for recognition of the union's presence at the workplace. At that time, the CNPF rejected the CFDT's propositions, only to find them later included in the Auroux reforms.

The Auroux reforms tried to fulfill two needs. The role of the unions, which were faced with considerable difficulties at the workplace, was reasserted. In addition, the reforms tried to promote continued and intensified structural change in response to new economic constraints. While unions were assigned a legitimate role within the company, they were expected to accept major changes in their practices.

### 5.2.3 The Auroux Reforms: The Search for a New Industrial Relations System

In 1982 the Auroux reforms redefined the collective rights of workers. Union locals obtained the right to annual negotiations on wages and the organization of working hours; the involvement of the enterprise committee in company activities was strengthened; the health and safety committee was created; and the right to direct and collective "expression" was instituted for employees. The purpose of the reforms was to rationalize representation at the workplace and define its relationship with collective bargaining on the one hand and the social and human resource policies of management on the other. The role of the unions as the employers' most important counterpart was confirmed—unions alone can negotiate for the workers—but the enterprise committee and the health and safety committee were given legal capacities to intervene in the organization of the company. As for the right to direct expression, union locals had to react to the practices of direct participation developed by companies. The reforms tried to modernize collective representation by reinforcing the importance of union action but at the same time favored dialogue on the new problems facing companies. Their goal was to decentralize industrial relations to a certain extent while changing the logic behind them (Eyraud and Tchobanian 1985).

The Auroux reforms were proposed by a newly elected leftist government, but they continued previous reform efforts by the French state. Since 1968, the state had made several attempts to strengthen collective bargaining and social dialogue in the regulation of labor relations. The 1971 reform had permitted company bargaining, and the enterprise committee obtained supplementary rights in the areas of working conditions and social information, for example, a right to an annual "social assessment" in firms with more than 300 employees. In 1975, a study group described social relations in French firms as poor and called for de-Taylorization of work organization and recognition of unions as part of the firm (Sudreau 1975). The Auroux reforms gave these policies a more concrete form while keeping in mind changed economic and social conditions. The organizational rigidity of French companies, their declining competitiveness, the use of new technologies, and the growing number of small and medium-sized firms all had to be taken into account. The crisis of the French trade union movement, its political divisions, and the negative attitude of employers toward unions were other important factors.

The CFDT was the union most involved in the reforms. Obligatory negotiations at the company level, the right of workers to direct expression, and the use of experts in assessing new technologies were all part of a new strategy that the CFDT had tried to develop since 1978. The CGT adopted a more critical position. While it approved of the new rights, it criticized the lack of means to ensure that they were applied in the best interest of the workers; its strategy remained attached to conflict. The FO, for its part, rejected company-level bar-

gaining, fearing for the stability of bargaining at the industry level, and regarded direct expression as a threat to collective representation. The employers denounced the reforms as creating new constraints on firms. They also objected to the requirement of dialogue with the unions at the workplace since this reversed the deregulatory effects of the neoliberal social policies of the 1970s—despite the fact that the law did provide for greater legal and contractual flexibility.

Employer hostility and union distrust could have made the reforms fail. They had been introduced in the hope that changes in the legal framework would change the behavior of the actors. Ten years later, some changes are striking, such as the increase in company-level bargaining (Caire 1992; Goetschy and Rozenblatt 1992). Other parts of the reforms, such as the provisions for employee expression, have failed, at least for the time being.

### **5.3 The Auroux Reforms and Works Councils**

The Auroux reforms appear to have affected the works councils least. The only new elements were the creation of health and safety committees and the strengthening of the role of enterprise committees in economic matters. Worker participation in management, or “co-supervision” on the board of directors or board of trustees, was limited to two representatives designated by the enterprise committee who would have only an advisory role. However, works councils were strongly affected indirectly by innovations in their environment and their new links to collective bargaining and the representation and participation of employees. Before 1982, no legal framework existed that would have required the actors to define these relationships clearly. For example, direct employee participation, as developed by the employers, touched on an area—the organization of work and social relations at the workplace—that was traditionally outside the influence of works councils or union workplace organizations. Likewise, since company-level bargaining was not obligatory, works councils did not necessarily have to take it into account. Three modes of social regulation could be found side by side: management initiatives, works council rights to dialogue, and union intervention. The Auroux reforms encouraged the actors to coordinate the three procedures, giving works councils a central position at the crossroads of the systems of collective action of workers (especially union action, where unions were present) and of social relations set up by the company (especially direct employee participation).

#### **5.3.1 Difficulties Facing the Personnel Delegates**

In 1988, only 43.3 percent of eligible establishments had personnel delegates. The rate was even lower, 36 percent, in establishments with fewer than 50 employees, where personnel delegates are the only legally required representative body. Moreover, the rates have been on the decline since the mid-1980s (table 5.2).

Table 5.2 Workplace Representation by Size of Establishment

Size of Establishment (number of workers)	Percentage of Establishments with Personnel Delegates	
	1985	1988
11-49	39.5	36.1
50-99	63.4	55.3
100-499	82	78.1
500-999	96.9	95.4
1000 or more	97.3	98.8

Source: Ministry of Labor, Employment, and Professional Training, *Dossiers statistiques du Travail et de l'Emploi*, 1990.

Even in large companies, personnel delegates are negatively affected by changes in the functions of the representative bodies. A recent study has shown that their actual activity is often very limited (Tchobanian 1992). Company-level negotiations have increased the role of the union delegates. Although personnel delegates are generally elected, their main activity, the presentation of grievances, has long been connected with union practices of confrontation and struggle. As a result, their position has been diminished by the institutionalization of negotiations and the strengthening of the union delegates.

The crisis of the personnel delegates is an indicator of the crisis of union strategies based on conflictual demands. The falling number of union activists and the trend toward deunionization is another factor. Union locals prefer enterprise committees and union delegates, with their important role in dialogue with management, over the personnel delegates. In addition, the social policies of employers and the new direct participation practices have diminished the often informal role of personnel delegates in handling individual employee grievances. Personnel delegates have thus been reduced to their institutional role, which is less apparent to workers. Worker attitudes also seem to have changed, with workers having become more reticent about having a representative express their grievances for them. Personnel delegates were well adapted to blue-collar workers; they seem to be less accepted by the new categories of skilled workers, technicians, and engineers.

### 5.3.2 Enterprise Committees and Social Dialogue

The Auroux reforms strengthened the enterprise committees. Statistics confirm that enterprise committees are found in the vast majority of companies with 50 or more employees. According to the ministry of labor, 79 percent of eligible establishments held enterprise committee elections in 1990. This percentage is slightly higher than in the early 1980s. Approximately five million employees are represented by enterprise committees. Health and safety

committees are also frequent; they exist in 65 percent of eligible establishments.

### *Enterprise Committees and the Economic and Social Life of the Company*

The law describes the enterprise committee as responsible for the "collective expression of the employees" on decisions about the "management, the economic and financial development of the company, the organization of labor and production techniques." The law requires that committees be periodically informed on a variety of subjects. Before management makes major decisions on economic, technological, organizational, or social matters, it must consult the enterprise committee. For example, the committee must be consulted on such issues as mergers, transfers, or the purchase of subsidiaries; on collective layoffs for economic reasons; on workforce training projects; and on the introduction of new technology. As a rule, management cannot make a final decision without consultations, but it is not required to take the enterprise committee's view into account. Through the information it receives and the consultations to which it is entitled, the committee can express the interests of the workers, monitor the operation of the firm, and help the local unions act with full knowledge of the facts.

To be able to influence the life of the company effectively, the enterprise committee must have competence and means of action. The law provides for economic training for elected representatives, an operating budget, and periodic information. Studies have shown that these arrangements vary. Many small companies provide neither economic training nor an operating budget, and elected representatives do not always recognize the importance of these (Le Maître and Tchobanian 1992). Moreover, representatives are often ignorant of their rights, especially when they are not union activists (Cam 1991). In general, employers do provide economic and social information, for example, on the firm's economic activity and finances, technological choices and related investments, workforce structure, pay, and human resource policies. This information, however, is not always adapted to the needs of committee members. A study of 47 small and medium-sized companies in 1989 showed that the information provided by management is often limited (Henriet 1990).

Another study, which covered 200 companies, found three typical situations (Harff and Henriet 1988). In the first, the enterprise committee is not given the information to which it is entitled. Management refuses to incur the expense, and the elected representatives do not apply pressure to enforce their rights. In the second situation, management provides the information required in compliance with the law but does not worry about its usefulness. The committee contents itself with the fact that the legal requirements are met, without trying to use the information. This situation is characterized by its formalism. In the third case, one or both parties try to use the committee's rights to develop more dynamic practices. For example, management may try to make committee members and union representatives understand the economic constraints that

the company faces or may use the enterprise committee to transmit information to the workforce about company operations. Workforce representatives can then try to use this information to benefit the workers. The second situation was found to be the most common one.

Consultation is a case in point. Enterprise committees must be asked for their advice on all major company projects. Consultation is obligatory on employment, working conditions, working hours, the economic status of the company, and technological change. Through compulsory consultation, the enterprise committee can contribute to social dialogue at the workplace alongside the formal negotiations conducted through the union delegates. Consultation is more intensive where management sees the benefit of including the employees and their representatives in its social strategy and unions try to monitor the management of the company. In firms above a certain size, commissions supporting the enterprise committee can be created. In some areas, the enterprise committee may seek the help of an outside expert (e.g., a certified accountant or an expert on technology and work organization).

The influence of enterprise committees on personnel management seems more developed (Harff and Henriet 1988). On dismissals, the enterprise committee can call in an expert to help it make economic and organizational proposals so as to reduce the number of layoffs. In most cases, however, the enterprise committee is informed only after the decision has been made. Its intervention will therefore usually be limited to trying to negotiate a social assistance plan. Consultations with the enterprise committee on economic matters often seem to be merely formal. Employers must provide information on financial results, and an accountant paid by the company may be called in to assist the committee. A study of enterprise committees in large companies showed that almost half of them used this opportunity (Cohen 1986).

The influence of enterprise committees on work organization and technological change is a more recent development. Enterprise committees must be consulted on a company's workforce training programs. A 1970 interoccupational agreement and a law require firms to have a budget for the vocational training of their employees; this was confirmed by another agreement and new legislation in 1991. Enterprise committee consultations are required on both the preparation and the implementation of training programs. A recent study found that in approximately 80 percent of cases consultations actually took place. However, in less than 30 percent were enterprise committees, or their training commissions, involved in the preparation of a training plan at all stages. Thus, consultation usually means that workforce representatives are allowed to express their views on a decision made by management, but not that they can influence the decision itself.

Enterprise committee consultations on new technologies illustrate this. They were mandated in 1982 when the significance of the technological changes under way was realized. In the 1970s, the CFDT had strongly criticized the direction of technical change and the methods used in effecting it (CFDT

1977). The introduction of computer technology, with its effects on the organization of work, led enterprise committees and union locals to make technological and organizational counterproposals. Enterprise committee consultation procedures were instituted where "major" installations of new technology are planned. Legally, the enterprise committee must be informed at least one month prior to the meeting in which its advice is to be given. In companies with at least 300 employees, it can with the agreement of the employer call on the assistance of an expert, paid by the employer. If no agreement is reached, the enterprise committee may ask the courts to decide.

Many difficulties have appeared in the application of these consultation rules. A study of 83 cases in which enterprise committees called an outside expert found that the result of the expert's intervention is strongly related to general management acceptance of enterprise committee involvement in technological matters. In a conflictual context, expert advice has little influence on the ongoing project (Lochouard 1990). Company projects have usually already been firmly defined before the enterprise committee is invited to give its opinion. Activities of enterprise committees concerning the social consequences of technological changes, especially with respect to employment and working conditions, are more easily accepted by employers than intervention in the project itself, which is usually rejected in defense of managerial discretion over work organization and investment. Technological experts are therefore rarely called (Cam and Chaumette 1989). An overall evaluation in 1986 found fewer than 200 cases in which experts had been used (Carre and Valenduc 1991).

#### *Enterprise Committees and Indirect Wages*

Enterprise committees are often accepted by the workers mainly for the services they provide. Most important, they manage the company's social budget. They sometimes also play a role with respect to benefits unrelated to wages, for example, company health insurance plans or the management of the company restaurant. In addition, enterprise committees may negotiate financial participation agreements. Committee involvement in defining and managing a firm's indirect wages increases the variety of situations that exist in firms. Some enterprise committees concentrate on managing the social budget at the expense of their more representative role.

Managing the social budget is the only area in which the enterprise committee is in the position of decision maker, within the limits of the budget provided by the employer. There is no legal definition of the kind and amount of resources the enterprise committee may control. A study on establishments with more than 500 employees found a wide range of situations, from the absence of any social budget to one amounting to 5.45 percent of total payroll (Dufour and Mouriaux 1986). In most cases, the social budget varies between 0.5 and 1.5 percent of payroll. Managing these often large amounts can take up a major share of the enterprise committee's time. While this is not really a representa-

tive activity, and could better be described as a paternalistic one, it often determines the enterprise committee's image among the workers, and therefore the outcome of future elections.

The enterprise committee's role in negotiating financial participation for employees is an exception to the principle of union monopoly over negotiations. Financial participation entails the sharing of part of a company's profits with the workforce, based on results. By negotiating a formal agreement, a special tax status can be obtained for the amounts distributed. This provision, which was legislated in 1986, has been very successful. More than 10,000 agreements were in effect in 1990, and almost two million employees received on average an additional 3.2 percent of aggregate remuneration in their respective companies. Financial participation agreements enable the firm to vary wages with economic activity. They also sometimes include incentives; in 1990, 7.5 percent of existing agreements linked profit sharing to productivity. Both the enterprise committee and the union delegates may negotiate agreements on profit sharing; in certain cases, these have to be ratified by two-thirds of the employees in a referendum. In this area, therefore, the separation of functions between enterprise committees and union locals is not clearly defined.

Enterprise committees also play a *de facto* role in areas not foreseen by the law. For example, employees sometimes use the enterprise committee rather than the personnel delegates to seek redress of grievances. Likewise, enterprise committees may conduct informal (or *de facto*) collective bargaining with management; this happens in about one-third of the cases in which compulsory negotiations with unions locals do not take place. Also, formal bargaining with the unions is sometimes preceded by discussions with the enterprise committee. Finally, the enterprise committee is the principal representative of the workforce where no unions are present. The relative importance of different enterprise committee activities varies greatly from one company to another. The fact that enterprise committees exist in the vast majority of companies with over 50 employees is therefore not in itself enough to appraise their actual role. This is defined by which kind of enterprise committee activity is dominant, and by the committee's position in the firm's entire workplace representation system.

### 5.3.3 Company-Level Bargaining and Works Councils

Mandatory workplace bargaining did not mean obligatory contractual agreement. For opposite reasons, employers and, in part, unions were against negotiating at this level. Nevertheless, the number of company or establishment agreements increased quickly: 2,067 were signed in 1982, 5,165 in 1985, and 6,750 in 1991. In that year, 2.5 million employees were covered, about three-quarters of whom worked in companies with a workforce of 500 or more, amounting to nearly one in five employees that were at all covered by collective bargaining. In addition, between 1983 and 1986 more than 4,000 agreements regulating employee "expression" were signed. The French collective bar-

gaining system appears to have greatly decentralized over the past 10 years, the low union presence at the workplace explaining why only a minority of employees are covered by the system.

The subjects covered in company-level bargaining are mainly wages and working hours, for which the law requires annual negotiations. In 1990, 58 percent of company agreements dealt with wages, and 38 percent with working time. Other subjects were classification (5 percent), employment (3 percent), and training (2 percent). Company-level wage settlements make it possible to get closer to real wage variations, sometimes specifying precise methods of wage determination. Some agreements provide for general raises, while others are more individualized. In 1990, 32 percent of company agreements provided, at least to some extent, for individualized wage increases. Wage negotiations at the workplace seem to have become acceptable to employers since they are closer to the employees. Local unions, on their part, have come to accept elements of individualized pay increases, partially calling into question the traditional importance of seniority in wage setting.

These changes affect the works councils. In traditional industry-level bargaining, wages paid at the workplace were often very different from those defined in the industrial agreement, the employer being free to do what he wanted. It is true that workplace unions could express their wage demands through the personnel delegates, with the industrywide agreement and conflictual worker mobilization as arguments. In this way, unions had some influence on wages, even without formal negotiations. Company-level negotiations, however, make union action at the workplace legitimate, although their real effect is still being discussed. For some, the traditional weakness of unions at the company level limits their ability to influence wages significantly. A study of company-level bargaining has shown that in most cases, no more than two bargaining sessions are held and union negotiators do not usually have the necessary training. Except in large companies, workplace negotiations on wages are not comparable to industry-level negotiations, sometimes leading to an agreement that simply accepts formally the employer's offer without any real bargaining. Conceivably, wage demands presented at personnel delegate meetings were more effective than most company bargaining.

Company-level negotiations on working time and work schedules were another factor that changed the balance between centralized collective bargaining and the works councils. Major changes have taken place in the positions of the social actors on this question. The unions were on the defensive in this area. The employers, while they wanted greater flexibility in work schedules and in the rules governing overtime pay, first were against decentralized bargaining, but then realized the advantages of being able to depart locally from general legal or contractual rules. In 1985 the employers demanded that negotiations be held mainly at the company level, while the unions wanted industry-level agreements. But in 1990, there were already 1,025 company agreements on adapting work schedules to fluctuations in economic activity or extending the

use of equipment by having employees work successive shifts or on week-ends.

During the 1970s enterprise committees had progressively acquired a regulatory role on working hours. The creation of a new level of bargaining reduced their influence in this area. Enterprise committees are still being consulted on hours, and studies show that they continue to play a part, although often an informal one. Just as for wage negotiations, company bargaining on working time formalizes regulation and thereby limits the importance of dialogue with the works council. Moreover, negotiations give rise to differences between unionized and nonunionized companies since in the latter working-time agreements, made with the enterprise committee, have no legal status.

Other topics negotiated at the company level are not legally mandated, except for the organization of the right of expression. Only a few agreements, signed in the largest firms, deal with these matters. Usually their subjects are linked to human resource management, such as classification, training, working conditions, organization of work, and employment. These areas are strongly affected by the technological, economic, and organizational transformations that companies are undergoing at the present time. The negotiations extend social dialogue to areas that had traditionally been dealt with by management alone, or only at the industry level. An example is an agreement at Renault covering skill requirements, mobility, career planning, and work involvement, as affected by the reorganization of the firm.<sup>1</sup>

The prerogatives of enterprise committees and health and safety committees in these areas were reaffirmed. Enterprise committees have gained a particularly important role with the obligatory consultations on the introduction of new technologies. The committees must be informed of the entire project, on its organizational aspects as well as its social consequences. Collective bargaining, by comparison, covers the effects of technological change on employment, classification, and career prospects of individual employees. Consultations with the enterprise committee on the organization of work and negotiations with the unions on a social plan regulating its consequences for workers are two aspects of an identical process of cooperation for change. Enterprise committees have no powers of co-determination on organizational matters, and employers are free to ignore their views. But, by coordinating their activities with company bargaining, enterprise committees can increase their influence on the employer's organizational and technical decisions.

Initially, company-level negotiations dealt mainly with matters that had previously been bargained at the industry level. Under a trade-off, employers accepted collective bargaining at the workplace and unions accepted more flex-

1. The importance of these matters for workplace bargaining is rising. A study of about 300 agreements on classification, vocational training and employment that were signed in the first half of 1991 shows that 60 percent of the agreements applied to companies or establishments with fewer than 500 employees. Agreements signed at the largest companies addressed a wide range of issues, while those at smaller companies were limited to specific, individual points.

ible rules. To this extent, formal company agreements may have weakened the more informal dialogue that used to take place with the works councils, without giving them a new role. On organizational and human resources matters, however, company bargaining remained limited mainly to large companies. This is where a new balance between negotiations with the unions and dialogue with the works councils had initially seemed possible. Recent “modernization agreements” (see below) are aimed at this.

#### 5.3.4 Direct Employee Participation

The development of direct employee participation was one of the reasons for the Auroux reforms. Legislators recognized the importance of such participation for the economic and social modernization of companies. But they did not want participation to compete with collective representation, through works councils or unions, as it had in the 1970s. For this reason, the way in which the employees’ right of expression is exercised, both directly and collectively, must be negotiated at the workplace between union locals and employers.

Employee expression is situated at the crossroads between collective representation and social relations organized by the company. Its legal institutionalization pursued objectives that could have been uncomfortable to both employers and unions but also had the potential to overcome the deadlock at the workplace and lead to a more dynamic situation. Several projects have studied company-level bargaining, the implementation of agreements, and the follow-up by management and personnel delegates on the subject of employee expression.<sup>2</sup>

Employers were opposed to the law because it required them to negotiate modes of expression with the unions. The CNPF considered employee expression part of the internal organization of the relation between the company and its employees. Among the unions, the FO rejected the law, in the fear that expression would compete with collective representation. Negotiations, however, often produced agreement. Between 1983 and 1986, over 4,000 agreements on direct expression were signed. Their implementation, however, was disappointing. “Expression groups” often held only a few meetings. Most of them were content with presenting grievances to management, making it impossible for direct expression to find its own place in relation to other channels of representation. In 1989, an assessment by the Ministry of Labor indicated that the majority of employees subject to the legislation on expression were indeed covered by collective agreements on its implementation. But more qualitative analyses show that in many cases, the agreement was no longer applied. The attempt of the Auroux laws to place social relations at the workplace into a negotiated framework has failed.

There are several reasons for this. One is competition from “quality circles,”

2. Many of these are summarized in Martin (1989).

which during the period emerged in over 3,000 firms. Quality circles are unilaterally created by management, normally after informing the enterprise committee, and are often given the means to resolve problems on their own. In some cases, they were intentionally set up to limit the impact of expression. But it is also true that workers have often taken more interest in quality circles than in expression groups. Through quality circles, workers can have a direct impact on their workplace, while expression is typically limited to the defensive presentation of demands and grievances to the employer.

In addition, the failure of employee expression was caused by inability of the unions to develop a consistent position on the relation between expression and collective representation. A study of about 100 locals of the CFDT, the union behind the Auroux legislation, showed a wide diversity of union practices (Tchobanian 1989). Some branches had not signed any agreement, mainly because they refused to allow groups to be led by middle managers. Most often, agreements were simply aimed at guaranteeing the greatest possible freedom of expression, treating the latter as a democratic right belonging to employees and different from union rights. Local unions came in only to transmit employee demands to management. In other cases, unions adopted a more conflictual strategy, using the right of expression to mobilize workers for union demands. Only rarely did expression groups cooperate with the enterprise or health and safety committee to inform their activities and help prepare their consultations with the employer. It is only in these infrequent cases that expression groups help improve the effectiveness of collective representation, notably on the adoption of new technologies.

Since the 1970s, it has often been pointed out that the personnel delegates were most vulnerable to direct employee participation. Indeed, weakening the personnel delegates was one of the goals of the employers' new social policy. With the right of expression, workers can express their demands directly, and personnel delegates lose control of some of the problems that they had been in charge of handling. By favoring freedom of expression rather than acting on concrete problems, unions increase the difficulties of the personnel delegates without safeguarding the future of the right of expression. Union strategy has often been more supportive of democratic expression at the workplace than of workers' participation in company life.

Enterprise and health and safety committees have sometimes played a different part. The former have used their rights regarding work organization and technology to include individual employees in their work, thus avoiding competition and creating complementary relations between the collective position they represent and the employees who contributed their know-how to its development. The right of expression does raise the wider question of the place of individual employees in works council activities. Depending on the size of the firm, enterprise committees may form special commissions that include nonmembers. On matters like technological change, direct involvement of employees in the work of works councils is often recognized as useful even by

employers (du Roy 1989). Also, through their consultation rights, enterprise committees may present their views on other participatory practices, such as quality circles, so as to optimize their usefulness to the workers.

#### 5.4 A New Balance for Workplace Representation?

The aim of the Auroux reforms was to improve coordination between the various representative bodies at the workplace. The changed balance between the social partners and the new problems to be dealt with through social dialogue motivated these reforms. But the actual representation system and the place of the works councils in it continue to differ from one company to another. Beyond the legally required system, new models of representation, better adapted to present problems, are still being sought.

The Auroux reforms tried to create a new balance by reaffirming the central role of the unions in worker representation. In part they seem to have succeeded. The CNPF no longer rejects the representative role of unions at the workplace. But the low level of union presence and the wide variety of economic and social situations in different firms lead to wide differences in systems of workplace representation from one company to another.

##### 5.4.1 Weakening Union Presence in Workplace Representation

Union presence may be measured by the proportion of companies and establishments with at least one union local. In 1989, 51 percent of all establishments with over 50 employees, and 70 percent of employees in such establishments, were in this situation. Four years earlier, in 1985, these figures had still been 57 percent and 76 percent, respectively (table 5.3). In smaller establishments, union presence is much less common. Most employees, in other words, do not have union representation at the workplace. Given union pluralism, workers have a choice between unions, depending on their ideological posi-

**Table 5.3 Union Influence by Size of Establishment**

Size of Establishment (number of workers)	Percentage of Establishments with Union Delegates		Percentage Votes for Nonunion Candidates in Enterprise Committee Elections		
	1985	1989	1979	1985	1989
50-99	41.7	35.9	48.2	56	61.7
100-199	63.4	57.1	35.9	40.1	45.3
200-499	83.6	77.7	18.5	20.7	25.5
500-999	93.6	89.4	7.3	9.4	13.5
1000 or more	96.6	92.3	2.0	2.1	2.8

Source: Ministry of Labor, Employment, and Professional Training, *Dossiers statistiques du Travail et de l'Emploi*.

tions or their view of what unions should do for them. Yet only a minority of workers are unionized.

Union weakness is not new, but since the middle of the 1970s the number of union members has dropped sharply (Bibes and Mouriaux 1990). Union membership density in France seems to be the lowest of all Western developed countries and has been falling faster than everywhere else (Visser 1991; Chang and Sorrentino 1991). The CGT, the most important union in manufacturing, has lost more than half its members during the 1980s, as has the CFDT. The crisis of the CGT is continuing, while the other unions have recently had small increases in density. Total union membership is today estimated at around 10 percent in the private sector. Paradoxically, French unions are at their weakest at a time when they have more opportunity than ever to intervene directly at the workplace.

The crisis of the unions affects the position of the elected employee representatives. To be fully effective, the system created by the Auroux reforms requires the presence of strong unions. Their absence or weakness affects the actual impact of the reforms. Company collective bargaining needs workplace union organizations, as formal agreements with the enterprise committee or the personnel delegates have no legal standing. The problems of the French union movement are not only low union membership but also lack of support from workers in general, as indicated by the results of enterprise committee elections (for a general overview, see Bouzonnie 1991).

Over the last 15 years, the distribution of votes among the different unions and nonunion candidates changed dramatically (table 5.4). The most important trend was the continuous decline of the CGT vote. Mainly based among blue-collar workers and advocating class unionism, the CGT is today in a deep crisis. However, the other, more reformist unions were unable to take advantage of this, resulting in the second trend, a rise in the vote for nonunion candidates. The union monopoly in the first round of enterprise committee and per-

**Table 5.4** Results of Enterprise Committee Elections (%)

Union	1976-77	1978-79	1980-81	1982-83	1984-85	1986-87	1988-89	1990-91
CGT	39.8	36.8	34.5	30.7	28.6	27.0	25.9	22.7
CFDT	19.6	20.5	21.8	22.4	21.1	21.3	20.9	20.2
FO	9.2	10.0	10.6	11.5	13.3	12.8	12.4	12.2
CFTC	2.9	2.9	3.0	3.5	4.4	4.3	4.2	4.0
CGC	5.4	6.3	6.1	6.8	6.7	6.7	6.1	6.5
Other unions	6.7	5.1	4.7	4.7	5.4	5.5	5.6	5.6
Non unions	16.5	18.5	19.3	20.5	20.6	22.5	24.9	28.7
Total	100	100	100	100	100	100	100	100

*Source:* Ministry of Labor, Employment, and Professional Training, *Dossiers statistiques du Travail et de l'Emploi*.

*Note:* Results for 1985-89 include the French National Railroad Company, which is strongly unionized.

sonnel delegates elections normally should help establish a strong union presence among elected representatives. But in the 1989 enterprise committee elections, nonunion candidates obtained 26.4 percent of the votes, making them "the largest union in France." By comparison, the CGT obtained 25.1 percent, the CFDT 21 percent, and the FO 11.2 percent. This decline in union influence is particularly strong in small and medium-sized establishments, as shown in table 5.3. Little by little, a dual system has come into being. In large companies, works councils and union locals work together. In many small and medium-sized companies, unions are not present, making company-level bargaining impossible. Some employers want a reform to unify the various bodies, to enable them to negotiate with nonunion, elected representatives.

#### 5.4.2 Actual Structures of Workplace Representation

Presence or absence of union locals leads to two models of workplace representation. In addition, where unions exist, the links between the different representative bodies may fit several types. One source of difference is the frequent *de facto* grouping of representative bodies around the enterprise committee, especially where there are no personnel delegates. In establishments with between 50 and 200 employees, the enterprise committee is often the only, or at least the most active, representative body. Moreover, workplaces differ in the way in which the representative bodies interact, especially in the links between union locals and enterprise committees. A study of 41 companies (Le Maître and Tchobanian 1992) found four main types of interaction. In the first, activities do not overlap. Each body plays its own role, the enterprise committee concentrating on the management of the social budget and the union generally not getting involved in the life of the company, except for annual bargaining. In the second type, the enterprise committee is dominant despite the presence of a union. The employer's desire to use it for dialogue, lack of interest in this on the part of union locals, and the weight of its activities make the enterprise committee the most influential representative body. This does not diminish the company-level negotiations carried out by the union delegates. But since these are limited to wages, they are of no consequence for other representative activities.

In the third type, works council activities are coordinated by the union locals, which use the enterprise committee's legal rights to information and consultation. The enterprise committee becomes a union instrument, but with its own place and role in areas such as the organization of work. Finally, in the fourth type, the union locals dominate all representative bodies, using the personnel delegates or the enterprise committee to put forward union demands regardless of their legal functions. Including those situations where no unions are present, then, there are at least five possible types of interaction between the representative bodies.

The purposes to which the representative system is thus put differ according to the actors present and their modes of action. Three kinds of representative

activity are allowed in the system as defined by the law: the raising of demands, centered around the activities of the personnel delegates and union pressure; joint regulation, centered around negotiation and consultation; and the provision of benefits and indirect wages, especially the management of the social budget. All three exist in all workplaces, but the actors, and in particular the unions, tend to place different emphasis on them. The traditional situation stresses the raising of demands. Negotiations were nothing but a pause in the conflictual process, making it impossible to develop a joint definition of the rules. Neither the employers nor the unions really wanted a negotiated procedure for regulating the workplace.

With the Auroux reforms, periodic bargaining became an independent function aimed at establishing a joint definition of rules. This may be strengthened by enterprise committee consultations, which sometimes may attain a dominant position. This was one of the implicit goals of the Auroux reforms. In reality, however, joint regulation remains restricted to a few well-defined themes, and indirect wages often take up most of the activity, especially at the enterprise committee level. The distribution of companies among the three types depends on several, often interdependent factors. The logic of the actors partially explains the choice of models (Reynaud 1989).

Some employers consider representation as nothing more than a legal constraint. Others try to use the representative bodies for internal communication. They prefer the enterprise committee for its closer contact with the employees. Employers may also want to formalize their human resource management methods by agreement with a partner. Agreements are signed by the union delegates, while the enterprise committee is consulted for the implementation. Employers' attitudes appear to have changed during the 1980s. Some are concerned about the decline in union membership and the risk of uncontrollable demands by workers. Such employers increasingly accept the idea that economic, technical, and organizational transformations must be accompanied by social dialogue.

Three main attitudes are found on the union side. The CGT, attached to conflictual unionism, seeks control over the works councils to ensure that a "union logic" prevails at the workplace. Thus, union delegates are assigned great importance, the personnel delegates are maintained as a tool for expressing grievances, and the enterprise committee must not be used for collaboration with the employer. There is, however, a debate in this union on the kind of unionism needed at the present time. Class unionism remains the ideological reference, but some CGT leaders want to devote a greater share of the union's activities to work reorganization. The CFDT, for its part, would like workplace representation to have influence on management's organizational choices. While the local union branch decides on its goals and strategies, the enterprise committee must be free to perform its distinct role, particularly in consultation. Similarly, the health and safety committee should have an impact on safety and working conditions, questions that are very important to the CFDT. For these

reasons, the goal of the CFDT is union coordination of the works councils and a joint definition of rules through negotiation and consultation. The other unions generally leave the enterprise committee free to do what it wants, with the result that it spends most of its time managing the social budget. The CGT and the CFDT each publish a journal for their enterprise committee representatives, which gives policy directions and describes models of action in line with the unions' strategies. The CFDT's position, now resolutely reformist, has shown a major transformation since the 1970s.

The position of the workers themselves is harder to determine. Their expectations concerning the representative bodies in the workplace have rarely been studied. As to unions, workers express low motivation to participate in their activities yet have great expectations regarding their outcomes (Beauville 1989). Concerning enterprise committees, worker attitudes do not necessarily contribute to expanding their role in consultation. Workers know the enterprise committee first and foremost for the material benefits it provides. In committee elections, these strongly affect workers' choices. Since election results indicate the relative strength of unions in the workplace, the activities of enterprise committees on indirect wages are an important factor in interunion competition. It is important to note that by voting, nonunionized employees may influence the unions' position at the workplace, thereby affecting the legitimacy of union activities.

In recent years, the relationship between workers and their representatives has widely been perceived as problematic. Deunionization is not the only concern. Human resource management has often become more individualized, while the personnel delegates are on the decline. Neither the unions nor the works councils have much direct influence on day-to-day personnel management, although the capacity to make a difference for workers' daily experience at the workplace is of highest importance for the legitimacy of representative bodies (Hassenteufel 1992). At the same time, new forms of collective activity, aimed at the defense of particular occupational groups, are making their appearance. This can be seen in the "coordinations" that have sprung up to compete with the unions. The occupational interests of these groups, which are concerned with employment and work organization, are difficult for the unions to represent. The enterprise committee could help by including employees from these categories in its work, or by taking the initiative on employee expression and offering this more participatory form of representation as an alternative to traditional mobilization through conflict.

#### 5.4.3 A New Role for Works Councils?

The Auroux reforms had contradictory results. While the institutional space for representative bodies was expanded, the decline of the unions threatens the future of the industrial relations system. Probably, the legal framework defined in by the reforms has not yet had its full effect. Company-level negotiation could be extended in the future to subjects of a more qualitative kind (Lagrande

1990). Several large companies have signed agreements in recent years on employment and skills, work organization, and human resource development. Consultations with the enterprise committee could become an effective instrument for implementing such agreements, provided the attitudes of the actors change. Several proposals have been put forward to promote this, two of which redefine the jurisdiction of representative bodies, in particular the enterprise committee.

The first proposal deals with the workplace representation system in small and medium-sized companies. The law is often not effective in these because union delegates and personnel delegates do not exist. The Center of Young Leaders (CJD) has suggested that a *conseil d'entreprise* (company council) be created. This would be a single elected body combining the rights of all existing bodies. While joining the functions of the enterprise committee and the personnel delegates is not difficult—it will be legally possible after 1994—this is different for the union delegates. The CJD has proposed that the union delegates be designated from among the elected representatives. The *conseil d'entreprise* would thus have twofold legitimacy: as a mixed body, it could negotiate like the union delegates and would be consulted like the enterprise committee. The proposal tries to safeguard company-level bargaining in spite of declining union presence, preventing the emergence of a dual system of industrial relations in which unionized companies would be better able to engage in social dialogue than nonunionized, usually small firms.<sup>3</sup> A single works council system for small companies would make for a more active social dialogue.

The second idea tries to improve the coordination among representatives bodies. A number of economywide, interoccupational “modernization agreements” signed in 1988 and 1989 promote development of advanced methods of human resource management as part of economic restructuring, addressing questions of technological change, working conditions, working hours, and equal opportunity. The idea was that economic modernization cannot succeed without social modernization. This was the conclusion of a report submitted to the government in 1987 by the head of a major company (Riboud 1987). The report emphasized that the modernization of the French economy must be carried out in cooperation with employees, enterprise committees, and unions; that the social consequences of modernization must be anticipated; and that measures must be taken to preserve employment and improve the content of work.

The interoccupational agreement on technological change specifies the place of social dialogue in the change process, providing for three negotiating levels. Interoccupational agreements lay down general procedures and themes,

3. Small firms are where most new jobs are being created. In 1974, nearly 36 percent of all jobs in the private or competitive public sectors were in establishments with more than 200 employees; in 1990, this figure had dropped to 24 percent.

mandating proactive plans concerning employment, requiring that attention be paid to qualification and training, and defining the role of information and employee participation. Industry-level agreements provide more details in these areas, depending on the special characteristics of each industry. For example, an agreement signed in the chemical industry defines the roles of the enterprise committees and the union delegates in case of major technological transformations. The enterprise committee is to be consulted on the project as a whole. Having to deal with difficult technical matters, it needs information, the means to analyze it, and the time required to produce informed advice. Technology experts are mentioned among the resources the committee may need. The union delegates are promised that negotiations will be held on the social consequences of technical change. None of these elements is really new; in fact, they correspond to the spirit of the Auroux laws. But the agreement recognizes the importance of social dialogue and shows that enterprise committee and union delegates have their distinct but related functions.

Some company-level agreements also deal with procedures to regulate change and its consequences. A recent agreement in the Pechiney group clarifies the place of dialogue in changes in work organization. The goal is to set up a system of anticipatory, proactive management by getting the enterprise committee involved early. The union delegates are informed, and training concerning changes in work organization is planned for them.

Agreements like these redefine the various representative bodies by promoting a new interpretation of the idea of bargaining. The government has called this "negotiated modernization." It includes not only formal bargaining but the entire social dialogue related to modernization at the workplace: negotiations with the unions, consultations with the enterprise committee, and involvement of workers and the management hierarchy. The logic of the Auroux reforms can be seen here. Attitudes among unions and employers differ widely on this. While the CFDT signed the agreements, the CGT has not. The FO is torn between its fear of becoming involved in management and its interest in controlling the social consequences of change. Positions among employers are just as varied. The employer confederation signed the interoccupational agreements, but so far they seem to have been applied only in the largest companies.

## **5.5 Economic Effects of Works Councils**

One of the goals behind the creation of enterprise committees was to involve employees in the economic life of the company. Likewise, the Auroux reforms were meant to favor cooperative change at the workplace and to contribute to economic progress through social dialogue. Their economic effects are difficult to assess, however, as the economic efficiency of representative bodies is strongly linked to the market conditions faced by firms.

### 5.5.1 Costs and Advantages

It is relatively easy to determine the direct costs of enterprise committees. These consist of wages for the elected representatives during the time spent on enterprise committee activities, other operating costs paid by the employer, preparation of the information supplied to the enterprise committee, meetings, and so forth. Some firms try not to exceed 50 employees to avoid these expenses. On the other hand, in many firms enterprise committees receive more resources than required by law, and several recent agreements even provide financial assistance to the unions present in the companies. In both cases, these expenses help set up structures of joint regulation. The legal requirements are perceived as a burden by some companies, while others go beyond them; their personnel management strategies are different.

The same observations can be made about the social budget. The sum of all social budgets managed by enterprise committees and equivalent bodies in the competitive public sector has been estimated at 15 billion francs. However, these can hardly be considered a pure expense. A study of large companies has shown that absenteeism is lower in companies with larger social budgets. Similarly, profit sharing, which is a supplement to normal wages that sometimes reaches significant proportions, is linked to the economic results of the company or to productivity. This seems to increase economic efficiency, although the effect is difficult to establish.

Similar considerations apply to human resource management and work reorganization. Through its right to information and consultation, an active enterprise committee can make a firm seek higher qualifications, make greater efforts in occupational training, and implement career planning and internal mobility. In some cases, such measures run up against management strategies driven by market conditions, which prefer lower wages, less recognition of special skills, and the use of fewer permanent workers. In such firms, legally required training expenses, subject to enterprise committee consultations, are considered a burden unrelated to the firm's needs. In other cases, management strategy is already aimed at the development of human resources in response to economic conditions, and enterprise committee pressure has different economic consequences.

During the time of high growth up to the mid-1970s, industrial employment increased strongly in France under Taylorist principles using a low-skill workforce. The human resource choices of that period were compatible with fast growth. Today, however, companies often lack skilled workers. Part of their workforces, who were trained in the Taylorist era, are not able to adapt to new skill requirements. Performance is reduced, and unemployment due to failure to adjust is on the rise. An evaluation of the economic benefits of enterprise committees therefore cannot be separated from economic and market conditions. The enterprise committee's intervention can help make management adopt and apply new policies. But such intervention is possible only because

it has become possible to go beyond Taylorism. Demands that used to be considered costs are now often considered investments in skills and adaptability. Social dialogue can help make such investment choices easier.

### 5.5.2 Works Councils and De-Taylorization in French Companies

Taylorist principles have been contested for over two decades. But the resulting practices have not been uniform. Schematically, three phases can be identified. After 1968, the social crisis of the Taylorist organizational model led firms to try to improve the quality of working life, the goal being to respond to the workers' new expectations and to increase their motivation to work. In the late 1970s, French industry had lost in competitiveness, and the economic crisis began to be seen as lasting. Companies began to look for more flexible employment and work organization (Boyer 1988). Finally, in the mid-1980s, structural solutions were sought and a new paradigm of flexible production emerged as an alternative to Taylorism (d'Iribarne 1989).

That new paradigm has several dimensions: total quality management, just-in-time production, group work, and so forth. Technical change alone was not felt to be enough; it had to be part of a wider modernization strategy that included human resource development. A study of companies with 50 or more employees in 1989 showed that managers anticipated skill shortages for 60 percent of their respective workforces. Facing unstable markets, firms look for higher work skills and workers more adaptable to future changes. Training, flexible work schedules, and human resource management in line with the firm's environment became central factors in enterprise restructuring (Bechet and Huiban 1992; Stankiewicz 1988).

The place of the works councils in this development depended on the nature of change and the attitudes of the social actors. The priority of the quality of working life policies of the 1970s was to restore dialogue with employees. They were also often used to destabilize collective representation, including the enterprise committee. Redirecting its activities toward company organization was not facilitated by this, despite encouragement by the government. The flexibility policies that started in the late 1970s were better suited for applying the new system created by the Auroux reforms, especially when it came to negotiations on working hours.

In general, worker expression seems to provide a framework for transforming the relationship between employees and the management hierarchy on the one hand, and between employees and their representatives on the other hand. Enterprise committees and health and safety committees would seem ideally suited to help improve union procedures for worker participation in the life of the company. But in this respect the results have been disappointing. The economic effects of enterprise committees can therefore be considered mainly in terms of the "negotiated modernization" of the production system, dealing with new technologies, training, and proactive employment and skills management.

In principle, one might compare the practices of companies with enterprise committees to those of others without them. But enterprise committees exist mainly in medium-sized and large companies. It would therefore be better to distinguish between different types of enterprise committees with different practices. This information, however, exists only in unquantified, monographic form. Enterprise committees whose activities are coordinated by the unions appear better adapted to influencing choices made by management (Le Maître and Tchobanian 1992). For example, the CFDT has developed a "skills network" for use by enterprise and health and safety committees in dealing with the effects of computerization, ergonomic analyses, and training practices. Likewise, management choices may strongly affect the place of the enterprise committee. Personnel planning may be conducted together with the enterprise committee, depending on the goals and methods of management (Gadille 1992). Similarly, the intervention of a technology expert will have very different effects depending on whether it is imposed on the employer or is the result of company-level negotiations.

Another way of analyzing the economic impact of enterprise committees is to look at differences between firms in human resource management and its evolution in recent years. Vocational training provided to employees is an example of a link between social dialogue and human resource management. Training is both human resource policy and the result of institutional pressures. However, while the enterprise committee has to give advice on a firm's "training plan," occupational training has always been more widespread in large companies than in small ones and has always been used more by skilled workers than by others. Moreover, these differences have increased since the mid-1980s. More than ever, larger companies today consider training a necessary step in the adoption of new organizational models (Podevin and Verdier 1989), increasing the gaps that have always existed between firms.

Training effort may be measured by training expenditures as a percentage of total payroll. Table 5.5 shows the differences between firms of different size over time. The ratio of employees getting training in 1990 was 7 percent in establishments with 10 to 19 employees, and 53 percent in establishments with 2,000 employees or more. Small companies create the most jobs, but they also use the greatest number of unskilled workers. Large companies, on the other hand, have reduced their workforces but attach more importance to skills (Echardour and Maurin 1992). Two alternative approaches to personnel management can be observed, one leading to a flexible relationship with the external labor market, the other managing a stable group of employees with growing skills. Companies with enterprise committees and union delegates are generally in the second category, although it is difficult to demonstrate a causal relationship.

The results show that when works councils exist in small firms, they are not strong enough to ensure that human resource development strategies are implemented. Larger units seem to be needed to accomplish this. In fact, the

**Table 5.5** Vocational Training Expenditures of Firms as a Percentage of Total Payroll (%)

Year	Size of Establishment (number of workers)					Total
	10-19	20-49	50-499	500-1999	2000 or More	
1974	0.66	0.86	1.11	1.45	2.59	1.63
1982	1.00	1.10	1.33	1.81	3.06	1.96
1989	1.30	1.43	2.02	2.92	4.67	2.89

Source: Centre d'Etudes et de Recherches sur les Qualifications (CEREQ—Center for Research on Education, Training, and Employment) *CEREQ-Bref* (Paris, 1991).

objectives of further training, and the resources to be used for it, are periodically negotiated at the industry level so as to affect the training policy choices of small firms. Likewise, the government provides financial encouragement and technical support for reorganization of work and proactive employment management in small firms. Works councils are then mobilized for implementing the new policies.

In general, the economic effects of French works councils with respect to the adoption of a post-Taylorist work organization cannot be studied apart from external conditions. The goal for the future is to make it possible for most employees to influence the human resource policies adopted by their employers.

## 5.6 Conclusion

Works councils in France vary widely from one firm to another. The complexity of the legal framework makes this inevitable. But high variation is also the result of changes in the environment of works councils. In particular, the decentralization of collective bargaining has tipped the internal balance of the industrial relations system toward the company level, making works councils, in particular the enterprise committees, more influential than ever.

The new importance of company-level bargaining and of enterprise committees proves that the Auroux reforms did help unions and employers change their relations. At the same time, as developments at the company level have become crucial to the future of industrial relations, unionization has rapidly declined. The growing number of firms without union representation has led to the emergence of a large nonunionized sector. Joint regulation in this sector is increasingly rare. In particular, new practices in human resource management have raised the problem of how either works councils or unions may intervene in the organization of work.

How can a system of decentralized industrial relations be developed in a country with weak unions? Can the mixed representation system, consisting of

unions as well as elected workforce representatives, be maintained in small companies? Will the differences in union strategies continue to grow, or can they be reconciled? The Auroux reforms tried to deal with these problems by setting up a new legal framework for increased social dialogue. But today, 10 years later, basic problems remain.

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