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**Both Enemies and Allies. Resolving the “negotiator’s dilemma”
in the context of union pluralism and ideological cleavages**

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Résumé

Le « dilemme du négociateur » (Lax et Sebenius, 1986) désigne une tension, inhérente à la plupart des activités de négociation, entre deux tactiques ou formes relationnelles antagoniques : la compétition (« value claiming ») et la coopération (« value creation »). La littérature fournit de nombreux exemples au travers desquels les négociateurs parviennent à déployer des stratégies leur permettant de dépasser ce dilemme pour aboutir à des accords plus avantageux pour les deux parties. La présente contribution rend compte de la manière dont cette tension est résolue aux différentes étapes d'une négociation sociale constituant un cas extrême de « mixed bargaining » (Walton et McKersie, 1965/1991), et saisie dans le contexte d'un pluralisme syndical et de clivages idéologiques exacerbés. Il est suggéré que les représentants des organisations syndicales en présence opèrent une division du travail tacite, autour de visions idéologiques et de lignes d'action qui leur sont propres, de manière à extraire plus efficacement des concessions de la partie managériale. La démarche adoptée permet de révéler un système d'interactions plus dense et plus complexe que la simple opposition conventionnelle syndicats/direction.

Mots clefs : relations sociales, négociation sociale, syndicalisme, restructurations

INTRODUCTION:

Traditional approaches to negotiation focus on analysing a confrontation in the course of which two parties (either individually or collectively) defend their supposedly different interests. The perception governing such analyses is that of an *instrumental* negotiation between parties who have aims that are autonomous and homogeneous, or which might become so (Putnam, 1994). When these analyses emphasize the heterogeneity of the parties liable to be engaged in the process, they make this a factor in the structure of negotiation. This tends to hinder its course towards reaching mutual benefit, which in itself needs to be resolved. Differences must be mitigated, disregarded or modified to be aligned with the interests of the chief negotiator. Observation of negotiation situations in real contexts frequently undermines this way of understanding the circumstances and the structure of negotiation (Lewicki, 1997). As the dominant models rest on the strong supposition of a homogeneity (either established or to be attained) of the interests and aims of a dyad of parties, they can only grasp imperfectly the negotiation process and the intricate play of interactions at work when the profile of the parties is more complex and transcends a simple dyadic relationship. This is often the case with social negotiations that take place in a multi-union context marked by rivalry between the different organizations. This paper demonstrates the limitations of traditional negotiation models (Part One), particularly in terms of a negotiation structure characterized by multiple rival unions, taking as its basis the system of French professional relationships (Part Two). It shows how taking into account the plurality of union parties on the scene tends to complicate analysis. Part Three introduces the notion of “negotiator’s dilemma” (Lax et Sebenius, 1986). Lastly (Part Four and Five), making use of an in-depth case study relating to the negotiation of a large-scale downsizing plan conducted in the context of fierce rivalry between two leading French union

organizations (CGT and CFDT) caught at a company level, we emphasize the existence of a complex system of interactions in which confrontations and alliances interrelate in subtle ways, transcending the barriers that conventionally limit confrontation exclusively to the dyadic labour/management relationship. The paper finally examines the way in which the study of unions' unity and division in phases of cooperation and competition against management elucidates the negotiator's dilemma and accounts for the course and outcome of a negotiation process.

I: TRADITIONAL MODELS OF NEGOTIATION

The negotiation of social plans is a field that has been strikingly little explored (Garaudel, et al., 2008). Despite major inputs into the traditional models of negotiation that have been developed, these approaches nonetheless exhibit certain limitations when it comes to accounting for the way a social plan is negotiated. What follows identifies some of these limits and through them the presuppositions about negotiating activity that they underpin.

1.1: An instrumental approach to negotiation

Negotiation literature has followed two principal lines of research. The first, which came out of models of game theory, has, following the hallowed formulation: “constructed the process from the outcome” (Thuderoz, 2000), and is almost exclusively interested in the outcome of an activity closely related to bargaining. More recently, a second vein has sought to fill out the first model, enquiring more particularly into the behaviour and the stereotypical procedures of negotiation that facilitate the achievement of this result, especially in the field of industrial relations (Walton et McKersie, 1965/1991). While the descriptive, explanatory and normative models that are still dominant today have followed different routes, they still have in common a transactional and instrumental perception that restricts negotiating activity to a strategy with the sole object of resolving a conflict or reaching an agreement satisfactory to the two parties. Researchers have thus erected a prescriptive model of the “mutual gains” type (see, for instance, the best-selling book by Raiffa (1982), see also Pruitt (1983), Fisher and Ury (1981))

Studies have shown that the instrumental perception of negotiation dominates all analysis of the negotiation process (Putnam, 1994). Thus, even when they highlight other aspects (relational, reputational, identity-based, emotional, communicational), analyses are systematically made via a virtual entry-point to instrumental objectives that are pursued by that means to the exclusion of

all others (for an exception, see Strauss (1992)). These aspects are no longer thought of in their own right, but relegated to the background, and only considered in the perspective of material and concrete aims pursued as obstacles or opportunities for the achievement of the ultimate end of the negotiation. Negotiation is thenceforward reduced to the substantive signification of its outcome: the negotiators are actors with a strategy who are supposed to approach the negotiating table with the sole aim of securing a favourable agreement, without any other factors coming into play or being pursued in their own right. The role of other aspects is thus invariably subordinated to the deployment of a tactic serving just one objective. Moreover, conventional negotiation theory views negotiating behaviours as controlled individualistic choices.

1.2: Negotiating: A dyadic and team-based activity

Another trap in traditional models of negotiation lies in the focus of analyses on examining the separate positions of two parties whose interests and aims pursued are deemed stable, homogeneous and independent. Conventional views focus on dyadic negotiators or negotiating dyads. The deployment of traditional models, often within the context of techniques for experimental research, turns on there being a face-to-face meeting in which there is a direct clash between the divergent interests of two individual or collective sides – monolithic, opposed and pursuing hostile interests. In the field of industrial relations, models are thus frequently applied to the conduct of chief labour negotiators explicitly assigned to represent the interests of one side. The research literature has investigated the existence of diverse interests finding expression within both sides (McKersie, et al., 1966). Nevertheless, it usually follows the hypothesis that these dissensions must be contained or eliminated as far as possible. As representatives of an organization, negotiators must manage the relationship with their constituents as well as the possible disagreements voiced within their own camp, arising for instance from the presence of a

number of different union organizations representing very distinct sectional interests. Walton and McKersie (1965/1991) use the term “intraorganizational bargaining” to describe the process by which negotiators reduce the gap between one side’s plural preferences and the aspirations of the opposite side in order to achieve an internal consensus. Different options are visualized in the case of internal conflict: parties can modify, conform with or ignore the expectations of their own organizations. Ultimately, however, negotiation sets the different interests of two sides with polarized interests against each other. More generally, traditional models of labour negotiation capture the situation where workplace interests are represented by a single decision-making unit: a lead negotiator or multiple unions operating in concert.

II. TRADITIONAL BARGAINING MODELS PUT TO THE TEST OF PLURAL UNIONISM

II.1: Union pluralism and rivalry

Each system of professional relations aims in its own way to guarantee industrial peace within businesses (Douglas, 1962). A distinctive characteristic of French industrial relations lies in the existence of a system of pluralist representation of employees’ interests. Although there are conflicting studies of this topic, union pluralism, in the countries where it holds sway should, according to a widely held belief, go hand in hand with a degraded climate of industrial relations and less effective collective negotiations. The presence of multi-unionism would most often result in an inter-union rivalry, itself the source of an increase in conflicts, strikes, an escalation of claims and barriers to social innovations and collective negotiations (Ahlen, 1989, Gylfason et Lindbeck, 1984, Pohjola, 1984, Rand Smith, 1981, Rand Smith, 1984).

Plural unionism in France is based historically in the defence of the sectional interests of distinct social groups, and is a legacy of political divisions within the working class. The Labour movement is divided and working-class representation does not rely on a single decision-making

unit, but rather on a large array of (formerly deemed representative by principle) confederations (CGT, CFDT, FO, CFE-CGC, CFTC) and autonomous trade unions (Union Syndicale Solidaires Groupe des 10, UNSA). French Trade unions are divided along ideological or (less often) confessional lines. Unlike other countries, in France union pluralism is accompanied by a low level of unionization. Unions operate separately, but compete against each other in the workplace for membership and influence.

II.2: The French case: the CGT/CFDT's rivalry and industrial conflict

Central to French industrial relations is the opposition of the two largest and most influential French confederations: the CGT (Confédération Générale du Travail) and the CFDT (Confédération Française Démocratique du Travail), with the other unions presenting lower levels of union membership and power. Despite substantial evolutions, CGT and CFDT are still divided along two different concepts of the working-class movement, identified by “political labels” (Reynaud, 1975): the primarily communist CGT singles itself out by refusing to sign national agreements. During company-level negotiations, the union represents its positions in an adversarial manner, resorting to antagonistic behaviour towards management. On the contrary, CFDT – of a reformist tradition – is more likely to accompany transformations since its ideological change dating back to the oil crisis (Georgi, 2004) and is more likely to emerge as the leading negotiator on the union’s side. Few studies explore the dynamics of French plural unionism in conflict situations. Yet, according to Rand Smith (1984), “*The history of these shifting inter-union relations suggests that the strength and orientation of the French labour movement, [...] are strongly influenced by the efforts of these two confederations both to co-operate with and compete against one another. [...] Given the sharply different ideologies and strategies of these two confederations, local strikes may be affected by which of these two unions*

more strongly determines strike demands, strategy, and collective action.” In the following section, we explore how CGT and CFDT’s competition affects the French labour bargaining process.

II.3: Plural unionism and social plan negotiation: sets of established participants

In systems of industrial relations where law determines the modalities for recognizing the legitimate parties in a negotiation, there is in general an obligation to negotiate. This is the case in the United States, where parties from outside the business (under the title of labour chief negotiators) are appointed to represent the interests of the participants. The system of collective negotiation is less restrictive in Europe, where the parties themselves initiate the process of negotiation (Lallement, 2008). Hence, the legal procedure initiated at the time of the announcement of a social plan: the obligation is upon the employer to engage in a consultation process with the members of the works council. Meanwhile, the parties are not required to come to an agreement, and the employer may unilaterally force through and enact the planⁱ. Furthermore, discussion takes place within the works council, even if only in a consultative capacity. The secretary general of the works council, a workforce representative, cannot sign an agreement and, as Colin and Rouyer (1996) stress, the organizing defence of the workforce goes through “*a union team which mobilises (or does not mobilise) over the social plan and the work’s committee is the site of the confrontation between employer’s and union’s arguments.*” (1996b, p.10)

Furthermore, although enshrined in legal texts promoting the setting up of an integrated negotiation, the way in which the parties make use of the legal framework hinders the initiation of a negotiation process and frequently leads to the adoption of conflictual practices (disturbance of the production process, resort to the media, to the labour court, etc.). By these means union

participants seek to readjust a balance of power that is initially unfavourable to them. The judge's decision can thus lead to a suspension of the social plan and may induce the management to open up areas for negotiation (Beaujolin-Bellet, et al., 2006). They thus become engaged in negotiations designed to arrange social measures in a manner more favourable to the employees. In order to reach an agreement endorsing modifications to the first version of a plan, the representative organizations command a negotiating monopoly through the union delegates, who are the only ones legally qualified to sign agreements, but who are not directly elected by the workersⁱⁱ. More generally speaking, the representation of the workforce is problematicⁱⁱⁱ and what holds union members together is less an agreement between delegators and delegates than a political linkage (Andolfatto, 2007). Besides, achieving an internal consensus among the different factions is not a prerequisite of signing an agreement or of putting one into effect. In fact the French system allows for agreements with a variety of signatories, and to be valid the agreement must be approved by one or more union organizations representing at least 30% of the votes cast in the last elections, or not be opposed by one or more organizations representing more than 50% of the votes cast in the last elections to the works council. Furthermore, the non-signatories enjoy the advantages created by the signed agreement. Once signed, the agreement applies equally to all the employees, irrespective of their union affiliation. The system is a weak incentive to negotiation. In practice, the process undertaken by the parties becomes the arena for unbridled competition between the union organizations, which, in a context of dwindling union membership, are battling to maintain or increase their membership.

While union labelling no longer constitutes a relevant grid for decoding the reasoning behind union action (Labbé et Reynaud, 2001), in the context of a social plan, sets of local participants who position themselves ideologically in the wake of union confederations seem to find their place in the gaps in the legal procedure for enacting a downsizing plan. So there is a stereotypical

scenario of the conduct of local collective participants in the context of restructuring, often organized around competition between two major union organizations: CGT/CFDT (Garaudel, Noël et Schmidt, 2008, Colin et Rouyer, 1996). The announcement of a plan favours the forming of unity between the union forces on the spot. A division in the unions then comes into play between the CGT, which usually demands the cancellation of the downsizing plan, and the CFDT – more marked by economic realism – which, taking note of the unity of the forces at work, generally elects to go along with the plan. So the CFDT usually emerges as the negotiator, deploying strategies of alliance with other less influential participating organizations (CFTC, CFE-CGC) in order to reach a majority agreement. The CGT marginalizes itself from the negotiating process, enacting a “culture of refusal”, rejecting all “collaboration de classes” (social class collusion) and denouncing the CFDT’s willingness to compromise. It often expresses a refusal on principle to commit itself to signing an agreement. On the other hand the CFDT can draw support from the combative energy and the nuisance value of the CGT in the context of an unspoken agreement aimed at keeping pressure on management during the negotiations. Rivalries and tacit coalitions form on the fringe, but are also very closely related to the labour–management confrontation.

Union organizations command interests, positions and distinctive identities that they claim and call on particularly in the event of major negotiations and substantial industrial conflict. In respect of the issues and lively challenges incited from below, negotiation of a social plan seems particularly inclined to exacerbate this union interplay. These events constitute “tests^{iv}” by which the participants (re)invigorate the domain of their relations and their “rapports de force” (Filleule, 1993). In this sense, industrial negotiation can approximate to the process of a negotiation of identities in the workplace. Beyond the simple pursuit of an agreement or the frustration of a negotiating process, the labour movement engages in a struggle in which “symbolic resources”

(image, reputation, legitimacy) are mobilized (Cefaï et Trom, 2001, Cefaï, 2007), and which is manifest as much in the encounter with the management as it is to the detriment of other union participants, with which they are engaged in a competition.

This section concludes with the observation that traditional models do not allow us to understand the dynamic and the games operating between the parties when the context of the negotiation is marked by strong inter-union rivalries based on ideological cleavages and where there is no obligation on the parties to come to an agreement.

III : THEORETICAL FRAMEWORK. THE NEGOTIATOR'S DILEMMA: A TENSION BETWEEN COOPERATION AND COMPETITION

Most of the literature on negotiation and conflict resolution addresses the negotiation activity as either a matter of cooperation and problem solving, or as a matter of competition between disrupting parties.

Although in recent years the negotiation literature has paid much attention to the conditions that lead to “integrative bargaining” (i.e. cooperative negotiation), it has also been suggested that labor negotiations are best captured through the lens of the “mixed bargaining” models than through the ones of cooperative approaches (Walton et McKersie, 1965/1991, Walton, et al., 1994/2000, Fells, 1998) The notion of “mixed motive games”, first introduced by Schelling, outlines the ambivalent nature of most negotiations. The term refers to *“the mixture of mutual dependence and conflict, of partnership and competition”* between the negotiating parties (Schelling, 1960/1980, 89).

For his part, Kochan referred to the *“mixed motive nature of employment”* (Kochan, 1993 cited by Boivin, 2004) to emphasize the inherent two-sided character of industrial relations, and Walton & McKersie defined “mixed bargaining” as a labor negotiation characterized by

“significant elements of conflict and considerable potential for integration” (Walton et McKersie, 1965/1991, 161-162).

Labor negotiations are complex and challenging processes, frequently fraught with impasses. Integrative bargaining is difficult to initiate between parties that hardly conceive each other as potential partners. Management-unions relations are infused with mistrust insofar as the parties represent antagonistic interests. By contrast, “principled negotiation” (Fisher et Ury, 1981) or “integrative bargaining” (Walton et McKersie, 1965/1991) require that alternative forms of relations be envisioned and the exploration of solutions jointly pursued. For this reason, the prescriptive force of such theoretical frames often loses (at least part of) its salience when confronted to concrete collective bargaining situations.

The frontier between cooperative and adversarial negotiation isn’t clear cut. In their seminal work “The Manager as Negotiator” (1986), Lax & Sebenius introduced a clear distinction between two contrasting yet intertwined activities “value creation” and “value claiming”. Instead of assuming that competition and negotiation are antinomic practices, the authors affirm that they actually exist in tension.

Value-creation

Engaging in value creation requires from the parties a willingness to come to a mutually beneficial agreement. Value creation relies on the underlying assumption that there exist common interests between the involved parties. Negotiators are assumed to hold the potential to “expand the pie” and it is believed that there are ways for the parties to jointly improve their initial situations. Creating value typically involves honest communication, information sharing, inventing alternative solutions to settle disagreements, expressing openness, and being akin to

adopt and maintain a cooperative attitude towards the other party throughout the negotiation process. It is assumed that through win-win negotiations, parties derive greater mutual gains.

Value claiming

By contrast, ‘claiming value’ refers to the resort to adversarial tactics aimed at capturing the largest share of the resources at stake. “*Value claimers tend to see the drive for joint gain as naïve and weak-minded. For them, negotiation is hard, tough bargaining.*” (Lax et Sebenius, 1986, 32). Value claiming lies upon the assumption that one party’s win must come at the expense of the other party (in the literature, this situation is frequently referred to as “win-lose” or “zero-sum” games).

The adversarial approach typically involves misleading the other party about ones’ concerns and minimal requirements, exaggerating diverging positions, concealing, exercising threat of sanctions and defecting. “*To “win” at negotiating, and thus make the other lose – one must start high, concede slowly, and exaggerate the value of concessions, minimize the benefits of the other’s concessions, conceal information, argue forcefully on behalf of the principles that imply favorable settlements, make commitments to accept only highly favorable agreements and be willing to outwait the other fellow.*” (Lax et Sebenius, 1986, 32)

While the distinction between adversarial and cooperative tactics isn’t new, the main contribution of Lax and Sebenius’s work lies in the recognition of an interweaving of the two logics: “*the competitive and cooperative elements are inextricably entwined. In practice, they cannot be separated. This bonding is fundamentally important to the analysis, structuring and conduct of negotiation. There is a central, inescapable tension between cooperative moves to create value*

jointly and competitive moves to gain mutual advantage.” (Lax et Sebenius, 1986, 30).

Negotiators can ignore or try to minimize this tension by resorting to problem solving tactics, yet they cannot completely escape the dilemma. Every negotiation is characterized by elements of cooperation and competition: for instance, once the pie has been enlarged, the question of the division of the gains remains, and still presents a potential for disputes.

In practice, negotiators face a tactical dilemma at each stage of the negotiating process in the adoption of the most adapted strategy. Negotiators are interdependent and the result of the disputed resources for one party depends on the moves of the other party. Resorting in isolation to a cooperative tactic put the negotiator at risk of being exploited. If one negotiator impulses a cooperative strategy, he immediately places himself in a vulnerable position and risks losing the greatest share of the disputed outcomes if the other party, acting rationally, decides on his part to claim the largest value. In this case, the first party (party A) receives a ‘terrible’ outcome, whereas the latter (party B) receives a ‘great’ outcome. If both parties choose to create value, they both receive a superior mutual outcome: both parties come up with a ‘good’ outcome. If both parties decide to jointly claim value, they end up with the less desirable outcome: a ‘mediocre’ value. The below table, based on the payoff structure of the “Prisoner’s dilemma”, summarizes the possible scenario of the bargaining game.

FIGURE 1. The negotiator's dilemma (Lax et Sebenius, 1986, 39)

		PARTY A's CHOICE	
		Create	Claim
PARTY B's CHOICE	Create	GOOD	GREAT
	Claim	GOOD	TERRIBLE
	Claim	TERRIBLE	MEDIOCRE
		GREAT	MEDIOCRE

The negotiator's dilemma outlines the fact that in a “once-for-all” bargaining game a value claiming strategy pursued individually is more advantageous a tactic than a value creating one. Yet, in practice, negotiators face the tactical dilemma at each stage of the bargaining process. Furthermore, this tension increases with time deadlines, and constituents' pressure.

“The essence of effective negotiation involves managing this tension, creating while claiming value” (Lax and Sebenius, 1986, p.41) The literature provides recommendations for how this inherent tension can be managed effectively (Lax et Sebenius, 1986, Walton et McKersie, 1965/1991, Fells, 1998, Cutcher-Gershenfeld, 1994). For instance, negotiators can deny the dilemma. This attitude is exemplified by the “win-win philosophy” that impregnates the “mutual gains” or “principled negotiation” literature (Fisher et Ury, 1981). Meanwhile, the assumption of a complete elimination of hostility between the partners is highly questionable and taken literally “win-win negotiation” appears elusive. The partners can also try to change the rules of the game by resorting to the assistance of a mediator, or “by bargaining over how to bargain”(Cutcher-Gershenfeld, 1994).

The case study that follows has two aims. The first is to show how the negotiator's dilemma is resolved in the context of plural unionism at the company level marked by a diversity of union ideological stances. It is based on the in-depth analysis of negotiation process of a major social plan in a company where CGT and CFDT are the two main union forces and are historically engaged in a severe competition for membership and influence. The second aim is to illuminate the negotiation process in the case of a restructuring marked by a major conflict in industrial relations and social unrest. The existing literature is sparse and usually only deals with the process at work in the case of relatively uncontested restructurings (Garaudel, Noël et Schmidt, 2008). More importantly, the negotiation of the restructuring plan presented here exemplifies a "mixed bargaining", as it is characterized by elements of conflict but also presents a good potential for "value creation" activity.

IV : THE EMPIRICAL STUDY

IV.1: The methodology

This case study is the product of a study conducted in the context of a research contract with a public actor. Eighteen semi-structured and comprehensive interviews were conducted with human resources officers (four interviews), union (CFDT) delegates and the works council secretary (six interviews), experts (lawyers, experts for the works council) (six interviews) and a mediator (two interviews). All the interviews were recorded or were the subject of extensive note-taking later validated by the people interviewed in order to be used correctly during the analysis. The average duration of the interviews with the main parties was two hours and a half. The topics covered in the meetings comprised: the context before and after the announcement, which parties were involved, the chain of events and the paths and outcome of the negotiation

process. This study is also extensively based on documentary archives (several hundred documents were collected and analysed): articles in the press, reports of works council meetings, leaflets produced by all the union organizations involved, the official documentation of the plan, institutional reports and internal communications. Analysis of the documents resulted in the production of a report setting out the context of the implementation of the plan. This report was sent and validated by the commissioning body.

IV.2: The case

The company

CombSys is a group of industrial establishments, with the status of a large-sized national company, working in the field of devising and maintaining heavy machinery and electronic components for vehicles. It deploys an essentially industrial workforce devoted to factory production work. For a long time it was in the public sector; at the beginning of the 1990s it underwent a very controversial change of status and its operating rules from that time were subject to private law. As a consequence of this history in the public domain, its staff enjoys significant status and social advantages. The State represents its first client.

Over the years, the environment in which the company works has been subject to profound changes, concluding in a drastic reduction in the state's industrial commitment. Along with major managerial errors, these changes explain the main financial and commercial difficulties that the company experienced at the beginning of the years 2000. In the course of a few years the company has lost its place as a leader among the businesses in the sector. The scale of its structures and workforce increasingly becomes a constraint in the face of competitors with more agile structures.

A series of restructuring plans was put in place to halt the decline. In the space of a dozen years the company saw its workforce virtually halved, and industrial sites closed for the first time. The accompanying reduction in manpower was achieved by “soft” measures (internal mobility, early-retirements, and reduction of working time). These measures proved insufficient to counteract the excessive structural size of the industrial establishments. Despite the efforts of the supervisory body to make up the abysmal deficits created through the years, the business has still not managed to find a secure place in its new economic environment, and at the turn of the century it recorded unprecedented losses. In this situation, which could be considered catastrophic, the idea of resorting to a new and more drastic restructuring plan has been gaining ground in the minds of the directors.

The history of industrial relations at CombSys: very distinctive union identities

Industrial relations at CombSys are described as tense and embattled: “very substantial, very hard and very coded” (a mediator). They are the product of a long history, the industrial past of the company (with more than a century in manufacturing) having fostered very strong cultures in both employees and unions: *“The union organizations are institutions and they function as alternative powers. You don’t negotiate, you confront each other. Then you go from truce to truce, the management makes its decisions, and these are considered to be gains”* (mediator). The union apparatus is firmly planted. “Union reality” is a very solid institution: all the structures for representing the workers are active, and the level of participation in union elections is close to 90%. While five confederations (CGT, CFDT, FO, CFE-CGC, CFTC) are represented there today, union activism is principally the concern of two organizations, the CGT and the CFDT, whose long-standing rivalry has strongly marked industrial relations at CombSys. The CGT was the first union organization to be established there, almost from the very start. It still commands a strong influence in a business where over 30% of employees are factory workers. Through its chief union delegate in particular – a charismatic leader – it deploys a hard union attitude and sometimes resorts to violent actions overtly aimed at thwarting management plans. The first CFDT sections did not emerge until the middle of the 1970s. Their establishment was not achieved easily and required a bitter struggle, since the CGT exercised great ascendancy and firm control over the groups of workers. The CFDT was carried from the beginning by a handful of technician and engineer cadres who were seeking to construct an alternative union to the CGT. Influenced by professionals sharing the aims of a reformist unionism (experts, lawyers) with whom they had steadily forged close links, the CFDT union representatives (full-time professionals) acquired skills in management affairs in just a few years. Faced with profound

changes in CombSys's circumstances, the CFDT would emerge as the leader in negotiations in the breach opened up by the refractory posture of the CGT and the increase in the number of technicians and executives. The CFDT representatives have enjoyed a relationship with the Director of Human Resources (DHR), marked by mutual respect, and mutual consideration. During his career at CombSys, the DHR would find his men to be very able in discussion and reliable partners in dialogue, in a business where the culture of negotiation had been absent for a long time. In this new era, negotiating activity remains weak in a business burdened with the legacy of past practices. On its side, the CGT claims itself to be the only challenging power in CombSys. Despite taking part in negotiations most of the time, and even going so far as to make proposals (deemed demagogical by the CFDT), it seems to endorse a systematic refusal to put its signature to agreements, while accusing the representatives of the CFDT of signing all accords without distinction. Through the use of leaflets, which were produced very prolifically at CombSys, or verbal jousting at meetings of the works council, the organizations systematically attacked one another: the CGT accusing CFDT representatives of compromising themselves with the management, and the CFDT not failing to remind the CGT and the workforce of industrial gains achieved thanks to claims that they alone had made. There is a climate of mutual suspicion. The identities of the union participants are strongly marked by stereotypical behaviour that is very apparent to outside observers: "*The union positions are different: the CGT says 'no' and leaves it at that, the CFDT says 'no', but signs*" (Works council expert).

If the CGT has the greater membership and audience, the CFDT is hot on its heels and commands a majority on the works council. This neck-and-neck race reinforces the pattern of a deeply divided labour movement. Thus it was in this context of very strong inter-union rivalry that the new restructuring plan was announced.

IV.3 : Union dynamic and moves behind the negotiation of a social plan

The restructuring plan

As it is presented, the restructuring plan aims to prevent the dismemberment and eventual disappearance of the group. Its first version anticipates a drastic reduction in the number of employees by more than 50%, and subsequent moves towards industrial rationalization comprising a refocusing on core activities, outsourcing of some activities and closures of production sites. The first version of the social package comprises a few percentage of early retirement measures (compared to previous restructurings), internal and external redeployment solutions based in part on voluntary participation. Very advantageous arrangements (outplacement process, redeployment pay), mostly well beyond the legal standards. The redeployments were secured by clauses guaranteeing equal status and equal pay. Concerned about conveying the image of a socially responsible institution, the management announced that the plan would be an exemplary one. Although they agreed to generous social measures, management soon refused to negotiate on the industrial side of the plan.

On the ground, and despite the generous social packages offered, the announcement of this *new* restructuring plan was immediately rejected by the workforce and the unions. The number and extent of the job losses gave rise to real fear and was perceived as a tragedy in the different establishments.

A unified protest dynamic

In the face of this announcement the union participants set a unified protest dynamic in motion: setting aside their divisions over ideology and identity, the organizations acted together and decided to form a “holy alliance”. A large national demonstration was organized that attracted

much media attention. It aimed to prompt the management to open real negotiations on the industrial proposals and to allow the union delegates and those elected to put forward industrial alternatives to the reorganization project resulting in job losses. In order to create a show of strength, strikes and walkouts took place on a large scale and all the industrial sites were mobilized. The CFDT mobilized its forces but also relied for support on the capacity for action and the nuisance value of the CGT, and exploited its know-how in organizing collective action by forming a common front with it. Pressure intensified with the approach of the first meeting of the works council, which had to set in motion the formal procedure for information and consultation over the job-saving plan (PSE).^v

In the face of the mounting tension the union organizations (CFDT, CFE-CGC, CFTC, CGT, FO) and the management finally agreed to open negotiations on an agreement of method.^{vi} The CGT let itself be convinced by the CFDT of the value of launching discussions capable of attaining a modification of the original arrangements in the plan. Besides, negotiating an agreement of method makes it possible to freeze the actions of an organization that is prepared to commit itself as soon as the plan is announced. Above all, it would allow union organizations, with the help of an appointed expert, to draw up counter-proposals to the management plan, in the industrial field as well as the social, and to establish a new timetable for meetings.

Negotiation of an agreement of method begins while there is still tension in the establishments.

The CFDT aspired to lay the foundations for a real social dialogue by way of this agreement. For its part, the CGT sent out an unambiguous official message to the workforce: it wanted to see the plan withdrawn in its entirety. The agreement of method nevertheless failed to get a negotiation going: the management position remained firm, and it refused to discuss the industrial element or

to take note of the alternative proposals devised by the union organizations and their experts. Discussions at the bargaining table became bogged down. On the ground the struggle intensified, as the prospect of achieving an agreement satisfactory to both parties retreated into the distance. At this time the works council, through its lawyer, and the CGT, through its own intermediary, decided to embark on a joint lawsuit. The question for the CFDT was to induce the management to open real negotiations on the social element. As for the CGT, who according to the CFDT representatives wanted to secure this option all along, it was explicitly a matter of having the direction withdraw the project of the plant closures and job destructions. Recourse to the law turned out to be a fruitful decision: the labour court judged the plan to be unsatisfactory in certain respects (notably in the differential treatment of some staff of uncertain status) and ordered that it be suspended. The announcement of the legal decision was not well received in the management ranks, and this had the effect of interrupting the delicate social dialogue instituted at the time the procedure was launched. Furthermore, the business was subject to major interruptions of production resulting from industrial disruption, and this led to some months' delay with some orders and made its economic difficulties worse. The general management of the business seemed to be taken by surprise by the pronouncement, which would involve a minimum of several months' delay to the project. The plan comprised very advantageous social measures for the personnel affected, far above normal levels, and there was nothing in these, as far as the management was concerned, that predicted their being thrown off course by the law.

The court decision was a victory for the CGT, who wanted the plan to be cancelled. On their side the employees rejected the plan as it was, but from then on many of them were becoming impatient and wanted to know quickly what fate held for them and to see concrete re-grading measures put into effect. For the CFDT, the suspension of the plan was only a first stage. Staying

faithful to its economic realism and taking as fact that the management would not reopen discussions on the industrial element, the CFDT wanted to find a way out in order to launch a negotiation on the social element alone. However, it found itself at an impasse, faced as it was with the stubborn attitude of the CGT and the refusal of the workers. Since the announcement of the plan, social troubles and the paralysis did not lessen, and would get worse as they went on.

CFDT engaging solely in “value-creation” with DHR

For its part, the management finds itself in a difficult position. Faced with this legal setback, the prospect of having to work out a second restructuring plan was scarcely imaginable, and would have entailed revising the whole of the timetable.

At the invitation and with the support of a mediator, the representatives of the CFDT and the DHR (Director of Human Resources) decided to cooperate on another social scenario in order to find modifications to the plan on which they hoped they could build and consolidate a “negotiation pathway”. The DHR, who wanted to find a quick way out of the crisis and to, in his words, “save the furniture”, convinced the management to set out on the path of negotiation again. Once this was done they hoped to get it accepted by the other participating union organizations and by the other employees.

The parties sat at a table and explored the possible adjustments to the social measures. The arrangements essentially concerned the readjustment of treatments amongst the different employees’ statuses and an increase in the amounts of redeployment allowances and severance pays. The DHR admitted he made the most concessions. As advances in parallel discussions go on in step, an agreement takes shape that gradually gathers in the consent of the participating union organizations, mainly brought to that point by the CFDT.

The union organizations (including the CGT) complete the arrangements for the agreement in official meetings in numerous rounds of final negotiations. At the official closing of the negotiation process, several months after the official beginning of the job-shedding procedure, the works council unanimously rejected the restructuring plan, but approved by a majority vote the protocol of the agreement enshrining the social measures that alone have been negotiated. The final document was agreed upon by all union delegates except the CGT and FO representatives. The CGT decided, however, to abandon its activities against the restructuring plan, their lawyer stating in a press interview that the organization could not dissociate itself from the other unions in the record of the legal action. Some isolated CGT members, however, continued to oppose the industrial reorganization of the business and, several weeks after the official closing of the negotiations, continued to organize sporadic actions as a sign of protest against the management and the union organizations that signed the agreement. In the end the process of negotiation (including the agreement of method) lasted 11 months. The industrial dispute gave rise to major industrial disturbances and delayed some orders by several months.

V : DISCUSSION. UNITY AND DIVISION AROUND IDEOLOGICAL CLEAVAGES AS A UNIONS' RESPONSE TO THE NEGOTIATOR'S DILEMMA

Negotiation theory puts a paradox inherent in the very nature of all negotiation at the heart of its analysis. This is a tension between two rational, antagonistic entities: cooperation and competition (Lax et Sebenius, 1986, Schelling, 1960/1980, Podell et Knapp, 1969, Stevens, 1963)^{vii}. For the negotiator this tension concludes in a negotiator's dilemma and role conflict that needs to be resolved. In the case of the CombSys restructuring, everything inclines one to think

that, throughout the events that studded the negotiation of the social plan, the two union organizations (CGT and CFDT) acted the role of the negotiator in a joint fashion.

At the beginning they bore jointly the negotiator's dilemma in associating themselves with each other as much in the competition (mobilizing speeches and protest actions in the public arena, refusing to comply with management's projects) as in cooperation (negotiating the agreement of method), even though the ends they were pursuing had been very different from the start. The announcement of the restructuring plan introduced a phase of almost unheard-of unity; the severity of the plan, the inflexibility of management justified and promoted this alliance between "enemy brothers". At that time, value-claiming was jointly pursued by both organizations: organizing the resistance and resorting to competitive strategies (threat of riots) served as a lever to keep up pressure on the management in order to extract concessions at the time of the negotiation of the agreement of method.

Extract 1 (CFDT Central union delegate): "And I had a pretty memorable hand-to-hand with the CGT. They probably led me into doing things – tough things – that I certainly wouldn't have thought of doing at the beginning, the things we did at the Town Hall and elsewhere^{viii}, but on my side I led them into negotiating – the agreement of method – they'd never have done that. The CGT (in industry), they're tough guys!"

Soon after the method of agreement episode, the organizations nevertheless took on different responsibilities in parallel to reaffirm their distinct union identities and differentiated strategies. The CGT representatives turned back to what was essentially protest action and "value claiming", which was linked to the way it projected its identity, proclaiming itself to be the "only force for resistance". From that time, it concentrated on the struggle using their repertoire of actions, by

way of protest, refusal to engage in negotiations on social measures and a call to mobilization in the public arenas. This had the effect of relaxing and easing the negotiator's dilemma for CFDT which tasked itself with engaging in "value creation". It appears that CFDT representatives could indeed engage in value-creating activity only as far as CGT was continuing to pursue "value claiming" strategy: the intransigence of the CGT and its refusal to cooperate in negotiations served as a lever for the CFDT in putting their negotiation strategy into effect.

Extract 2 (CFDT Central union delegate): "...This is what made our position strong. It was a bit of role-play ... The CGT was always extremist: '*We won't sign, we're going to burn them down*'. OK, they've always had this really violent attitude. But in some ways it wasn't that simple. **Paradoxically, it made us stronger.** What I say is, when our colleagues in the CGT take part, whenever we come in after them, whatever we say, we seem like reasonable people. **That's what gave us a strong position.** We said, '*OK, listen now, if you don't want to give way on such and such a point, you're going to have to sort things out with the CGT, us – we're not going to sign.*' And then we knew very well that the company's management was really rattled and that they'd do everything possible to get us to sign."

Inversely, as suggested by CFDT reps, CGT representatives are likely to have used CFDT to keep on resorting to a competitive behaviour:

Extract 3 (CFDT Central union delegate): "Me, what I say is '*There had to be two organizations*'. The CGT mobilized, and we mobilized too. I'm not ashamed; we did some great things, but we'd got these hard guys beside us: it wasn't easy to debate with them. **But we made use of them as a counterbalance. And they made use of us** so that they [CGT] could say: '*Them, they're really going to negotiate. Those people have good ideas*'"

CGT displayed hostility and a competitive inclination that the cooperative stance of the CFDT could counterbalance. In fact, the dynamic of the play of the unions seems to rest on an implicit functional division of labour between two rival organizations, where CGT takes on most of the “value-claiming” activity, while CFDT take on most of the “value-creation” activity.

During the negotiation process, the CFDT made use of the CGT in order to open up space for “value-creation” when faced with a management seriously constrained by the judicial reverse recorded against them. Nevertheless, the subtle game of interactions makes possible the final stabilization of an “identity compromise”^{ix} between two parties whose collective identities are strongly linked^x.

In addition, the approach adopted suggests that beyond mere substantive goals, symbolic objectives are attained through negotiation and its conflictual elements. In the outcome of the negotiation of the restructuration plan, the CFDT, which led the negotiations, emerged again as the spearhead. In the face of this, the CGT emerged as the leading force in the dispute, refusing up to the end to compromise itself over signing the accord that deals with the social measures enshrining job losses. The established play between the parties, which existed before the announcement of the plan, is in fact broadly reproduced and the social order maintained. The negotiation of the social plan here comes as a “test” through which the parties confirm their interrelations and balances of power in “identity-negotiation scenes”^{xi}.

CONCLUSION:

We have in this paper sought to throw light on the existence of a more complex system of interactions than the traditional models of negotiation theory suggest. The in-depth study of the

negotiation of a social plan that we have conducted has revealed a dynamic of confrontation and cooperation between the involved parties. In particular, subtle rivalries and tacit alliances between CGT and CFDT representatives transcend the too simplistic conventional frontiers of the union/management dyad. Disentangling the processes of competition and cooperation reveals the existence of a functional (although implicit) labour division between CGT and CFDT that, first jointly, than separately, take on “value-claiming” and “value-creation” activities. The approach based on the concept of the “negotiator’s dilemma” accounts for the way the two organizations ultimately succeed jointly in achieving an agreement more favourable to employees and in participating to construct the “social acceptability” (Beaujolin, Bruggeman, Paucard, 2006) of the downsizing plan.

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FOOT NOTES

ⁱ Provided the restructuring decision is based on a “real and serious” cause (economic reasons)

ⁱⁱ French Trade Union delegates must have obtained no less than 10% of the total number of votes of union and works council’s elections to be appointed by a representative union.

ⁱⁱⁱ A law modifying the rules of union representativity came into force in 2008; it might eventually modify this situation.

^{iv} Term borrowed to Demazière (2007), in French “épreuve”

^v In French labour law the announcement of a restructuring plan obliges the employer, by virtue of a principle of employer responsibility – in businesses of at least 50 employees and when the intended job losses concern at least 10 people within a period of 30 days – to apply a procedure for collective job losses for economic reasons accompanied by a redundancy programme (PSE). The PSE, which is designed to avoid dismissals or to limit their number, encompasses a set of measures offering alternatives to dismissal, redeployment measures (internal and external) as well as compensation packages. The programme must also be submitted to the Labour Inspectorate. If the employer refuses to comply with these obligations, the arrangements in the plan are considered null and void. The formal procedure by which the works council is consulted comprises two stages. The first of these stages relates to the reorganization project and its economic aspects whereas the second stage to the economic aspects of the dismissals, the criteria of ordering of the dismissals, as to the social element of the plan (PSE): definitions of the accompanying social measures to be put in place. These procedures follow a relatively rigorous timetable. Before providing their opinion, the members of the works council may receive assistance from an expert. It is, however, possible to derogate from legal arrangements in matters of formal procedure when the union delegates (representatives named by the representative union organizations) agree to negotiate an agreement of method.

^{vi} An agreement of method allows derogation from the formal procedure of the PSE and notably from the timetable for the procedure. According to (Garaudel, Noël et Schmidt, 2008), it can resemble the argument described by (Cutcher-Gershenfeld, 1994) In the framework of negotiating an agreement of method, the parties (employer and union delegates) may agree on the appointment of an expert in the scrutiny of industrial options, as in the determining of a negotiation timetable.

^{vii} Referred to by Stevens (1963) as “inherent paradox”, and by Podell and Knapp (1969) as “bargainers’ dilemma”, conceptualized by Schelling (1960/1980) and Walton and McKersie (1969) under the notion of “mixed-motive games” and “mixed bargaining”

^{viii} During the events, union delegates and employees invaded town hall meetings several times to protest against the restructuring plan and raise public awareness

^{ix} Following the expression suggested by (Thuderoz, 2007)

^x The CFDT having constructed its identity, image and reputation at CombSys by taking the opposite line to the confrontational attitude of the CGT.

^{xi} Here we borrow two expressions from (Demazière, 2007)