

*Social Dialogue:
the corporate social
responsibility 'blind spot'*



Key takeaways

- ▶ Even though social dialogue is a fundamental right enshrined and promoted by international standards, it still appears as a corporate social responsibility 'blind spot'. This is due to a global lack of company commitment on this issue, as revealed by the overall average score of 25/100 achieved by 2,400 companies under review.
- ▶ Only a small minority of companies worldwide (4%) issued a formalised commitment to promote labour relations in partnership with employee representatives – the same rate as during the 2014–2015 period. Conversely, 62% of companies make no commitment to foster social dialogue.
- ▶ Companies headquartered in Europe perform slightly better than their peers on social dialogue, with an average score of 38/100, compared to 17/100 for North American companies, 19/100 for their peers located in Asia Pacific, and 26/100 for companies listed in Emerging Markets.
- ▶ During the period 2016–2017, almost half of companies (48%) reported on issues covered by collective bargaining: 72% of companies listed in Europe reported on this, compared to 39% North American companies, 28% of Asian companies and 14% of companies located in the Emerging Markets.
- ▶ A minority of companies have employee representatives at Board level: this is the case for 5% of companies in Europe, despite disparities among countries. Outside Europe, this practice remains marginal.
- ▶ Given technological developments such as digitalisation and artificial intelligence, and emerging risks such as nanotechnologies, there is an urgent need to introduce emerging challenges in collective bargaining, such as the right to disconnection, and change of working conditions due to automation.

Introduction

Developing and fostering social dialogue stimulates interaction between employees, workers, and governments. As highlighted by the International Labour Organisation (ILO)¹, social dialogue can contribute to sustainable enterprises and inclusive growth as well resulting in **better training and the enhancement of employee skills**. In this regard, the ILO and OECD have launched a multi-stakeholder partnership known as the Global Deal to enhance social dialogue and promote sound industrial relations². This partnership is in line with the Sustainable Development Goal 17 ('partnerships for the goals') of the UN 2030 Agenda for sustainable development. It also makes a concrete contribution to several other goals, such as Goal 8 on decent work and inclusive growth, and Goal 10 on inequalities³. The aim of the Global Deal is to ensure that more people around the world have good and secure jobs, as well as more equal distribution of economic resources. Its purpose is to encourage governments, businesses, unions and other organisations to make commitments to enhance social dialogue in order to offer **a win-win opportunity to all actors in the labour market**.

In Europe, the Employment, Social Affairs and Inclusion department reports that social dialogue involves organisations from more than 40 economic sectors and covers more than 75% of Europe's workforce. According to Article 154 of the Treaty on the Functioning of the European Union (2007), the Commission shall have the task of promoting the consultation of management and labour at Union level and shall take any relevant measure to facilitate their dialogue by ensuring balanced support for the parties⁴. **The European Commission offers support to social partners to tackle challenges** inherent to each sector of activity, and ensure they can play their role in improving labour markets⁵. New challenges for European countries include **integrating a broader range of aspects of work such as employability, employee oriented flexibility, equal opportunities, stress management, and CSR issues** from the very outset of discussions.

Conversely, **in other regions** (North America, Asia Pacific, and Emerging Markets), we can observe a **lower rate of unionisation**, which may partially be due to **a lack of support from governments**⁶. According to the ILO, "evidence suggests that weakening of labour market institutions (including low unionisation rates) is strongly linked to the rise in

1 "Social dialogue can contribute to sustainable enterprises and inclusive growth" - International Labour Organisation - 18/09/2017 http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_575325/lang--en/index.htm

2 Thematic Brief: Achieving Decent Work and Inclusive Growth: The Business Case for Social Dialogue - Global Deal - September 2017

3 Sustainable Development Goals Website - accessed in September 2017 - <https://sustainabledevelopment.un.org/sdgs>

4 <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-3-union-policies-and-internal-actions/title-x-social-policy/421-article-154.html>

5 European Commission Website - accessed in September 2017 - <http://ec.europa.eu/social/main.jsp?catId=329&langId=en&furtherVideos=yes>

6 "Why is collective bargaining so difficult in the United States compared to its international peers?" - Washington center for Equitable Growth - 22/02/2017 <http://equitablegrowth.org/equitablog/value-added/why-is-collective-bargaining-so-difficult-in-the-united-states-compared-to-its-international-peers/>

income inequality among the developed economies”¹. Similarly, through the Global Deal, the organisation states that “collective bargaining can have an impact on wage dispersion and income inequalities more generally (e.g. by influencing management pay at firm level and influencing the tax and benefit system at country level), unemployment levels and competitiveness as well as the way labour markets respond to unexpected shocks.”² The **lack of sufficient data** is another factor hindering the comprehensive evaluation of the status of social dialogue and collective bargaining.

Based on the assessment of more than 2,400 companies listed worldwide, this paper analyses how businesses commit to promote labour relations, especially through the establishment of collective agreements, and the analysis of topics addressed in these agreements. The paper also touches on employee representation at Board level. Examples of best practice of labour relations are also provided, as well as an analysis of some observed controversy cases, and how companies reacted to them.

1 World Employment and Social Outlook - Trends 2016

2 “Achieving Decent Work and inclusive growth : the business case for social dialogue” - Global deal- 09/2017, in http://www.theglobaldeal.com/app/uploads/2017/09/Thematic-Brief-Achieving-Decent-Work-and-Inclusive-Growth_The-Business-Case-for-Social-Dialogue-2.pdf

Universe*

Assessment period: 2016-2017 (compared with 2014-2015)

2,402 companies in 2016-2017 (versus 1,928 companies in 2014-2015)

4 zones: Europe, North America, Asia Pacific, Emerging Markets

63 countries

40 sectors

Vigeo Eiris Findings

Vigeo Eiris analyses companies' commitments to promote social dialogue and the effectiveness of associated managerial processes in the Human Resources domain under the sustainability criterion 'Promotion of Labour Relations'.

According to International Labour Organisation Conventions (C87, C98, C135, C144, C154) and Recommendations (R91, R94, R152), as well as the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, companies are expected to:

- ▶ enable the existence and activity of representative forums without restricting freedom of membership or the rights of trade unions;
- ▶ favour the functioning of such forums: regularity of meetings, participatory means of setting the agenda, exchanging information, communicating on results, following-up on decisions;
- ▶ extend the fields covered by consultation and negotiating processes.

Our current analysis focuses on topics addressed by companies' approach to collective bargaining, as well as the extent to which employee representatives are associated in discussions concerning companies' strategic orientation.

Our results show that social dialogue is a corporate social responsibility 'blind spot'. Over the 2,402 companies of our sample, the global average score of the criterion 'Promotion of social relations' is weak and stands at 25/100.

The analysis of this global average score reveals weaknesses in corporates' commitments and a lack of communication on means and processes in place to promote social dialogue (i.e representatives bodies in place, signature of collective bargaining etc.).

Only a minority of companies report on these topics.

An analysis by angle reveals that:

- ▶ in terms of leadership and commitments, businesses' average score stands at 17/100.
- ▶ in terms of means and processes, businesses' average score stands at 19/100
- ▶ in terms of results, businesses average score stands at 38/100. This last angle takes into account the percentage of employees covered by collective bargaining on working conditions as well as stakeholders' feedback on the way companies deal with social dialogue, as well as companies' responsiveness in case of allegations or controversies.

* Vigeo Eiris published a Sustainability Focus on Human Capital and Social Dialogue in European Companies in 2014 that covered 251 companies listed in Europe only.

The table below shows the top performing companies in the sustainability driver 'Promotion of labour relations':

World Ranking - Top 50 performers on social dialogue

Company	Country	Sector	Score in Social Dialogue	Overall CSR Score
Enel	Italy	Electric & Gas Utilities	96	64
Endesa	Spain	Electric & Gas Utilities	93	62
Vallourec	France	Mining & Metals	90	61
La Banque Postale	France	Retail & Specialised Banks	89	67
Terna	Italy	Electric & Gas Utilities	87	64
Danone	France	Food	87	65
Suez	France	Waste & Water Utilities	86	67
CNP Assurances	France	Insurance	85	54
Safran	France	Aerospace	84	49
Peugeot	France	Automobiles	84	62
Solvay	Belgium	Chemicals	84	60
ABN AMRO Group	Netherlands	Diversified Banks	83	58
Caisse des Dépôts	France	Specific Purpose Banks & Agencies	83	66
Grupo Iberdrola	Spain	Electric & Gas Utilities	82	60
SNS Reaal	Netherlands	Financial Services - General	82	53
CSX	US	Transport & Logistics	82	41
Agence Française de Développement	France	Specific Purpose Banks & Agencies	81	69
La Poste	France	Transport & Logistics	81	59
Banque Fédérative du Crédit Mutuel	France	Diversified Banks	80	50
Red Electrica	Spain	Electric & Gas Utilities	80	59
Thales	France	Aerospace	79	49
Umicore	Belgium	Chemicals	79	54
Danske Bank	Denmark	Diversified Banks	79	52
Nordea	Sweden	Diversified Banks	79	47
Elia	Belgium	Electric & Gas Utilities	79	41
Mercialys	France	Financial Services - Real Estate	79	51
Orange	France	Telecommunications	79	63
Engie	France	Electric & Gas Utilities	78	61
Norsk Hydro	Norway	Mining & Metals	78	68
Crédit Foncier	France	Retail & Specialised Banks	78	54
Aéroports de Paris	France	Transport & Logistics	78	60
SNCF	France	Travel & Tourism	78	53
Airbus	Netherlands	Aerospace	77	50
BNP Paribas	France	Diversified Banks	77	64
Electricité de France	France	Electric & Gas Utilities	77	60
Komerční Banka	Czech Republic	Retail & Specialised Banks	77	37
Pernod-Ricard	France	Beverage	76	58
Icade	France	Financial Services - Real Estate	76	59
Lagardere	France	Publishing	76	56
Instituto Credito Oficial	Spain	Specific Purpose Banks & Agencies	76	40
BASF	Germany	Chemicals	75	55
UnipolSai Assicurazioni	Italy	Insurance	75	41
Unipol Gruppo Finanziario	Italy	Insurance	75	43
Boliden	Sweden	Mining & Metals	75	48
Arkema	France	Chemicals	74	54
EANDIS	Belgium	Electric & Gas Utilities	74	45
Hera	Italy	Electric & Gas Utilities	74	44
ThyssenKrupp	Germany	Mining & Metals	74	41
Fresnillo	UK	Mining & Metals	74	41
Telenet Group Holding	Belgium	Telecommunications	74	50

European Ranking: Top 10 performers on social dialogue

Company	Country	Sector	Absolute Score in Social Dialogue (/100)
Enel	Italy	Electric & Gas Utilities	96
Endesa	Spain	Electric & Gas Utilities	93
Vallourec	France	Mining & Metals	90
La Banque Postale	France	Retail & Specialised Banks	89
Terna	Italy	Electric & Gas Utilities	87
Danone	France	Food	87
Suez	France	Waste & Water Utilities	86
CNP Assurances	France	Insurance	85
Safran	France	Aerospace	84
Peugeot	France	Automobiles	84
Solvay	Belgium	Chemicals	84

North America Ranking: Top 10 performers on social dialogue

Company	Country	Sector	Absolute Score in Social Dialogue (/100)
CSX	US	Transport & Logistics	82
Kansas City Southern	US	Transport & Logistics	58
Air Canada	Canada	Travel & Tourism	58
United Continental Holdings	US	Travel & Tourism	58
Alcoa	US	Mining & Metals	56
The Mosaic Company	US	Chemicals	54
Lear	US	Automobiles	52
Kimberly-Clark	US	Luxury Goods & Cosmetics	52
Hydro One	Canada	Electric & Gas Utilities	51
Pacific Exploration & Production	Canada	Energy	51

Asia Pacific Ranking: Top 10 performers on social dialogue

Company	Country	Sector	Absolute Score in Social Dialogue (/100)
Nippon Paper Industries	Japan	Forest Products & Paper	69
KDDI Corporation	Japan	Telecommunications	68
NEC Corporation	Japan	Technology-Hardware	64
Telstra	Australia	Telecommunications	62
Konica Minolta	Japan	Technology-Hardware	61
Westpac Banking Corporation	Australia	Diversified Banks	60
Mizuho Financial Group	Japan	Diversified Banks	60
Toppan Printing	Japan	Publishing	60
JSR Corporation	Japan	Chemicals	56
Osaka Gas	Japan	Electric & Gas Utilities	56
T&D Holdings	Japan	Insurance	56
South32	Australia	Mining & Metals	56

Emerging Markets Ranking: Top 10 performers on social dialogue

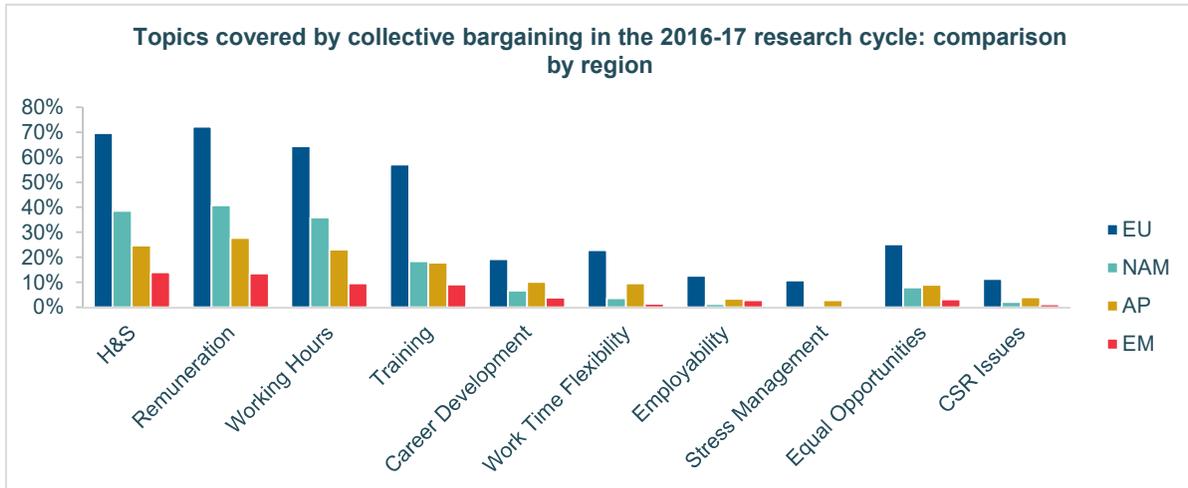
Company	Country	Sector	Absolute Score in Social Dialogue (/100)
BRF	Brazil	Food	70
LafargeHolcim Maroc	Morocco	Building Materials	69
Tata Steel	India	Mining & Metals	68
Managem	Morocco	Mining & Metals	67
KT Corporation	South Korea	Telecommunications	66
Sul America	Brazil	Insurance	65
Samsung Fire & Marine Insurance	South Korea	Insurance	63
Banco do Brasil	Brazil	Diversified Banks	57
Gazprom	Russia	Energy	55
China Pacific Insurance Group	China	Insurance	55

Topics addressed in collective bargaining

a) Overall findings

Overall during the period 2016-2017, almost half of companies (48%) reported on topics

covered by collective bargaining. 72% of these companies are headquartered in Europe, 39% in North America, 28% in Asia Pacific and 14% are based Emerging Market countries.



As indicated by the European Commission, social partners face new challenges such as globalisation, aging workforce, new forms of work, digitalisation of work and the emergence of new technologies, climate change, and growing inequalities. Vigeo Eiris therefore evaluates companies' approach to these topics as part of their collective bargaining discussions, such as: training, professional development, equal opportunities, flexibility, employability, stress management and other CSR issues, which can include mobility plans or environmental awareness.

Approximately a third of companies based in Europe report that they negotiate on issues relating to the quality of employment conditions - namely training, career development and flexible working hours. This is compared to 10% in North America, 13% in Asia Pacific and only 5% in Emerging Market countries. The relatively higher percentage observed for European companies is mainly due to more stringent regulation in this area. In fact, the role of social dialogue is recognised and promoted by the European Union through the Treaty on the Functioning of the European Union.¹

The United States recently experienced changes when 19 states including Massachusetts, Washington, California and Connecticut started

raising their minimum wage in 2017², taking a step towards tackling income inequality. However according to the ILO³, further measures will be required to reach a level of equality. According to the IMF, rising income inequality in the US is directly attributable to the decline of the labour movement and union membership⁴.

In the Asia Pacific region, countries such as Japan and China are home some of the world's largest trade unions. However all unions, including those in the public sector, face significant barriers, both in law and in practice⁵. According to Public Services International, a global union federation, collective bargaining in many countries "is absent or restricted in scope and, where it exists, limited rights for the participation of unions or lack of enforcement procedures are common."

The ILO¹ states that in the Emerging Markets, many countries do not have a democratic and legislative framework to guarantee the respect of workers' rights through representative and democratic trade unions.

¹ European social dialogue - European Foundation for the Improvement of Living and Working Conditions Website

² A Higher Minimum Wage in 2017 - The New York Times - 05/01/2017

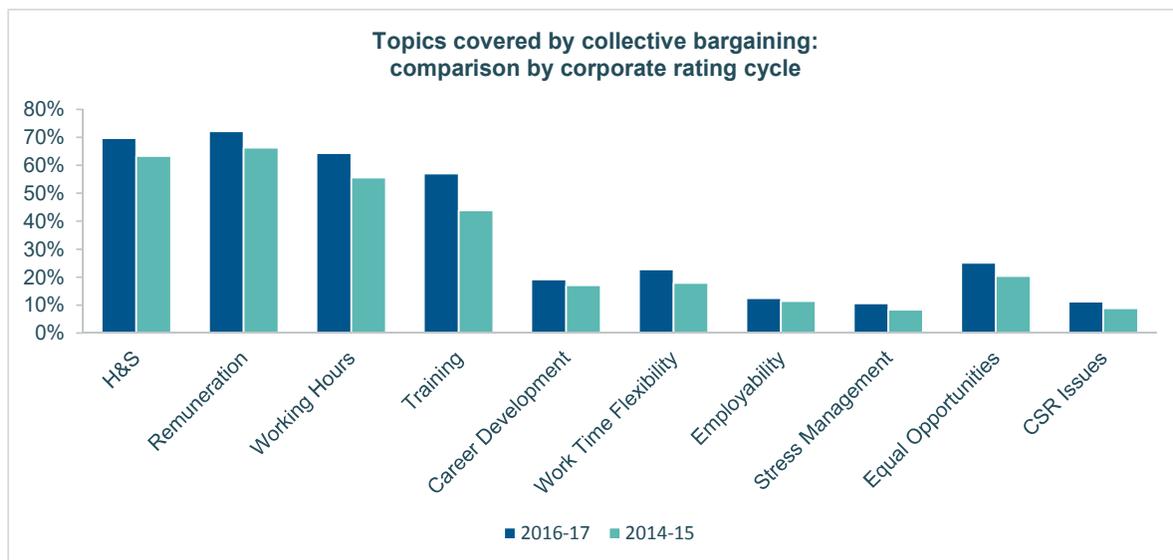
³ ILO's World Employment Social Outlook Trends 2016 - 39

⁴ IMF agrees: Decline of union power has increased income inequality - Los Angeles Times - 25/03/2015

⁵ Trade Union Rights In the Asia-Pacific region - Public Services International (PSI) - August 2016 -p3

b) European companies' commitments and actions

The majority of companies headquartered in Europe (72%) report that collective bargaining covers topics linked to working conditions: mainly health & safety, remuneration and working hours. Training is the most frequently addressed topic (57%) relating to employment conditions. However, several fundamental CSR issues such as employability, professional development, internal mobility, environmental awareness, compliance, and stress management are less frequently part of the collective bargaining process.



1 ILO's World Employment Social Outlook Trends 2016 - p46

Topics addressed by collective bargaining in European sectors

The table below shows the percentage of companies across 33 sectors¹ that report on topics relating to the quality of working conditions covered by their collective bargaining.

Sector	#	Training	Career Development	Flexibility	Employability	Stress Management	Equal Opportunities	CSR issues
Aerospace	14	79%	29%	21%	14%	7%	36%	7%
Automobiles	19	84%	16%	32%	16%	11%	21%	21%
Beverage	11	27%	0%	0%	0%	9%	18%	9%
Broadcasting & Advertising	16	81%	25%	63%	38%	6%	38%	19%
Business Support Services	37	43%	14%	16%	14%	3%	30%	14%
Chemicals	24	42%	25%	29%	21%	13%	13%	6%
Diversified Banks	31	71%	35%	39%	19%	19%	48%	23%
Electric Components & Equipment	11	45%	9%	9%	9%	18%	18%	18%
Electric & Gas Utilities	47	72%	32%	38%	15%	13%	30%	11%
Energy	14	36%	14%	36%	7%	21%	36%	21%
Financial Services - General	35	23%	9%	14%	6%	0%	11%	3%
Financial Services - Real Estate	37	43%	14%	14%	8%	11%	16%	5%
Food	17	41%	6%	12%	0%	6%	24%	18%
Health Care Equipment & Services	16	25%	6%	13%	6%	13%	19%	13%
Heavy Construction	11	91%	18%	27%	9%	27%	36%	9%
Hotel, Leisure Goods & Services	14	43%	7%	7%	14%	14%	14%	14%
Industrial Goods & Services	21	67%	0%	10%	0%	0%	24%	0%
Insurance	38	53%	26%	34%	21%	18%	32%	5%
Luxury Goods & Cosmetics	13	23%	31%	23%	8%	31%	31%	15%
Mechanical Components & Equipment	24	75%	4%	17%	0%	0%	13%	0%
Mining & Metals	27	41%	30%	26%	19%	7%	19%	19%
Oil Equipment & Services	12	25%	8%	8%	8%	8%	17%	0%
Pharmaceuticals & Biotechnology	18	22%	6%	17%	11%	0%	6%	6%
Publishing	13	77%	23%	0%	8%	8%	62%	38%
Retail & Specialised Banks	74	78%	27%	26%	14%	12%	24%	8%
Software & IT Services	19	89%	32%	11%	5%	0%	32%	16%
Specialised Retail	42	60%	10%	19%	17%	10%	29%	7%
Specific Purpose Banks & Agencies	13	46%	31%	38%	20%	20%	38%	20%
Supermarkets	15	60%	33%	33%	20%	13%	27%	20%
Technology-Hardware	16	94%	6%	6%	6%	0%	31%	0%
Telecommunications	32	78%	16%	19%	9%	16%	13%	13%
Transport & Logistics	28	64%	18%	36%	14%	11%	29%	11%
Travel & Tourism	15	53%	40%	20%	13%	20%	47%	27%
Total companies in Europe	808	57%	19%	23%	13%	11%	25%	11%

¹ The 33 sectors mentioned in the table comprise each at least 10 companies

Sector disparities can be observed among companies' approach to issues relating to the quality of working conditions in their collective agreements, partly explained by sector specific challenges, and their impact on the working environment. However, in all sectors, training is the most frequently included issue in collective agreements. This is most striking for the Technology-Hardware, Software & IT Services sectors and for the Broadcasting & Advertising sectors, which are confronted with major structural changes due to the digitalisation of their work and the transformation of their business models, which could explain a high level of awareness on issues such as employee training and career development.

Manufacturing companies operating in the Beverage, Pharmaceuticals & Biotechnology, and Health Care Equipment & Services sectors have the narrowest scope of bargaining among the twenty sectors analysed. Despite being labour intensive, these sectors continue to integrate only traditional topics related to working conditions in collective bargaining, such as health and safety or remuneration, and do not appear to be proactive at including emerging topics such as the employment of older and disabled staff. Only 4 out of 45 companies reported they included CSR issues in their collective bargaining. One best practice example can be observed by **Sanofi**, who claim to have agreements in place to support employees caring for dependent relatives.

In the Travel and Tourism sector, social partners' focus on issues such as undeclared work and illegal working practices, illustrating the need to address the issue of equal opportunities. In the Supermarkets sector, the issues most commonly dealt with are training, career development and flexible working.

In the extractive industry (Mining and Metals and Energy sectors), collective agreements mainly cover traditional topics such as H&S and remuneration, since they still remain a challenge for these sectors. However, flexible working and climate change emerged as new topics for the sector, as highlighted by the European social partners' Summary of joint conclusions on adaptability and flexible forms of employment in the Metal industries (2013) and by the joint reaction to the 2030 climate and energy package (2014), which contribute towards increasing

company awareness of these challenges.

In the Automobiles sector, many companies have well-structured policies and measures that promote social dialogue. During the last sector review in September 2017, half the companies had developed a global framework agreement. For instance, **Peugeot** signed a Global Framework Agreement on Social Responsibility with IndustriALL and IndustriALL Europe, as well as local union federations. The agreement deals with subjects relating to working conditions, employment conditions, and the quality of the work environment including professional development, stress management and CSR issues. These issues include non-complicity in the violation of human rights, anti-corruption measures and shared social responsibility with suppliers. Furthermore, half the companies in the sector reported a commitment to consulting employee representatives. For example, **Valeo** commits to integrating principles of social dialogue into discussions with organisations representing employees. However, only a quarter of companies appear to actively integrate emerging CSR topics into collective bargaining, such restructuring, environmental or social protection and abolition of forced or child labour.

Practices within the financial sectors are heterogeneous: banks not only deal with traditional topics such as Health & Safety or remuneration, but also with topics that are fundamental to financial systems, such as restructuring, financial education, bank supervision, industry's reputation, digitalisation and professional ethics, linked to the issue of variable pay within the sector. **La Banque Postale** for example, reported that it negotiated agreements concerning Health & Safety, salaries, internal mobility, remote working, equal opportunities, diversity, inter-generational contracts, personnel representation and electronic voting for trade union elections. Regarding Diversified Banks, the sector which achieves the best average overall performance on our social dialogue criterion (58/100), the vast majority of companies (90%) address at least one of the issues relating to the quality of employees' working conditions, namely Health & Safety, remuneration, working hours and training. Half of them report including equal opportunities in their collective agreements, and around a third of companies in the sector report covering professional development and flexible working. Only 7 of the 31 companies analysed in the sector reported the inclusion of emerging

¹ European Commission website - accessed in September 2017 - <http://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPageId=1837>

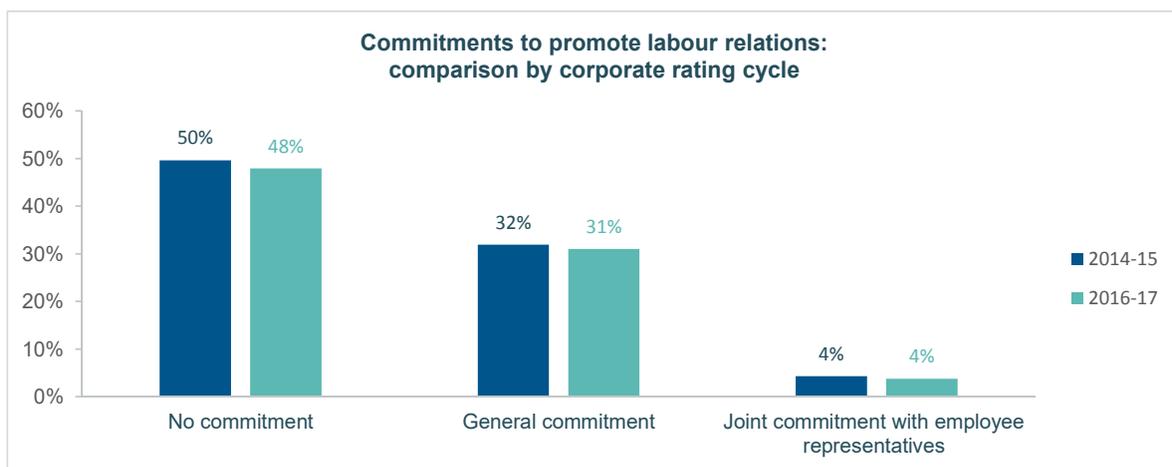
and CSR issues in their collective agreements. For example, **Banco Santander** signed a joint declaration on labour relations that aims at ensuring the sustainable and responsible sale of their financial products.

Compared to others sectors, the Electric & Gas Utilities sector has the broadest scope with regards to collective bargaining. This sector benefits from well-established industrial relations and negotiations with employee representatives that tend to focus upon employment issues such as training and job security, particularly through short-time measures. However, areas for improvement include the integration of subjects such as remuneration and the quality of the work environment, including CSR and emerging issues like environmental considerations and the consistency of electricity networks service. Around 30% of companies in the sector reported that their collective bargaining covers at least one issue relating to the quality of the work environment. Only 5 out of 48 companies reported covering CSR topics in their collective bargaining. For example, at **Terna**, during the last renewal of the National Collective Labour Contract, Employee Safety Representative roles were expanded to include environmental issues. Representatives may ask the Company to conduct inspections, and they are consulted about risk assessments and the identification of preventive measures. **Enel** is the best performing company in Vigeo Eiris' universe in terms of this criterion with a score of 96/100. The company signed a CSR Protocol with Italian trade union federations, through which it promotes collective bargaining and covers all issues linked to working and employment conditions.

To what extent are employee representatives involved in defining company strategies on social dialogue?

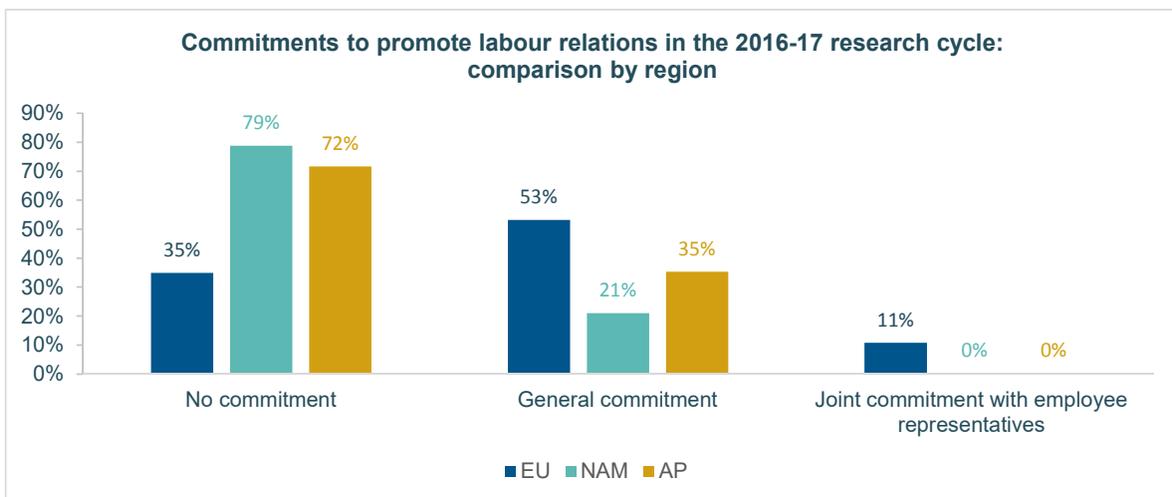
Vigeo Eiris' analysis looks at whether companies commit to promoting social dialogue, and whether their labour relations policy has been formalised into collective agreements jointly signed by senior management and employee representatives.

At global level, only a minority of companies (4%) have jointly formalised their commitment with employee representatives - a rate that hasn't deviated during the last two cycles of research. Conversely, half of the companies do not report a commitment to promoting social dialogue; a rate that hasn't deviated compared to the most recent research cycle (2014-15).



During 2016-2017 companies headquartered in Europe had the most instances of jointly established collective agreements with employee representatives. In particular, more companies from the Electric & Gas Utilities and Diversified Banks sectors disclosed a formalised

commitment on this issue compared to other sectors. Almost a third of companies assessed by Vigeo Eiris made reference to social dialogue in their annual reporting or through their ethical codes and policies; half of them are based in Europe.



Employee representation at board level

Between 2016 and 2017, 5% of European companies reported having employee representatives sitting on the Board. However national disparities can be observed, which can be classified into three groups¹.

- ▶ 10 countries have no existing regulations on employee representation at Board level: Belgium, Bulgaria, Cyprus, Estonia, Italy, Latvia, Lithuania, Malta, Romania and the United Kingdom. However, this does not mean that there are no employee representatives at all at Board level in these countries – it is a case by case basis. In the United Kingdom for example, **FirstGroup** (Travel & Tourism sector) and **Randgold Resources** (Mining & Metals sector) report having employee representatives on the Board.
- ▶ 6 countries where Board representation is limited by law to state-owned or privatised companies: Czech Republic, Greece, Ireland, Poland, Portugal and Spain.
- ▶ 13 countries that allow employees to be represented on the Boards of private companies once they reach a certain size. These thresholds vary greatly however, as do other elements of the national arrangements. The countries in this group are: Austria, Croatia, Denmark, Finland, France, Germany, Hungary, Luxembourg, the Netherlands, Norway, Slovakia, Slovenia and Sweden. The thresholds for representation range from 25 employees in Sweden to 1,000 in France. As well as the thresholds, there are differences in the proportion of Board seats taken by employee representatives, ranging from one out of twelve in large private sector companies in France, and one out of an undefined number in Croatia, to a half in some companies in Germany and Slovenia. These arrangements can also vary, depending on whether the companies are privately or publicly owned. It is worth noting that for employees and their representatives, a key benefit of Board participation is accessibility to information.

This practice of employee representation at Board level is marginal in North America, Asia Pacific and the Emerging Markets. Legislation can play a key role in regulating this area.

¹ ETUI website - accessed in September 2017 - <https://www.worker-participation.eu/National-Industrial-Relations/Across-Europe/Board-level-Representation2>

Controversies

Vigeo Eiris' analysis also considers stakeholder feedback and the company's responsiveness to controversies.

To determine the severity level of a controversy, Vigeo Eiris' assessment considers the alleged facts, the scale of impact on stakeholders, the level of management involved, and the reputational, financial, legal and operational implications for the company.

Results from our controversy database show that the allegations linked to this topic mainly relate to social conflicts expressed in employee strikes over pay disputes, redundancies or working conditions. Companies are accused of alleged violations of union or employee rights, including health & safety, remuneration and fair labour practices. Labour unions also express their discontent with corporate management of employee rights:

- ▶ Around 3.3% of companies are involved in controversies relating to social dialogue; more than half of them are European. Out of the 129 companies that have faced a controversy on this topic, 66 are headquartered in Europe.
- ▶ In total, 164 controversies have been recorded on this topic, representing 2.34% of cases observed in the Vigeo Eiris database.
- ▶ The severity of cases is considered 'critical' in 1% of cases, 'high' in 32% of the cases, 'significant' in 44% of cases, and 'minor' for 23% of cases.

Regarding company responsiveness, defined as the ability to engage in stakeholder dialogue from a risk management perspective, and based on explanatory, preventative, remediating or corrective measures, it appears that:

- ▶ In around 41% of cases, there is a lack of transparency and detail in companies' response to the controversy.
- ▶ In 46% of cases, companies provide concrete explanations on their position in relation to the allegation; in some cases corrective measures are implemented, but these are generally imposed by a third party (judge, court, national administration) and not on a voluntary basis. These measures can be included in settlements reached between

the companies and the affected parties, or in agreements signed with individuals, employee representatives or labour unions.

- ▶ In 11% of cases, companies have implemented corrective measures on a voluntary basis, mainly to remedy or correct the allegation. For instance, voluntary or reconciliatory agreements can be announced by the company in response to employee or union requests.
- ▶ In only 2% of cases, companies have implemented remedial measures to prevent a controversy from recurring, such as structural changes to internal processes and policies. Systemic actions can also involve stakeholder dialogue/cooperation.

Examples of controversies:

1/ In October 2015, **Air France – KLM** launched a restructuring plan for its long-haul network, after negotiations with its pilots' unions on a cost saving program failed. Air France's long-haul capacity was expected to decline by around 10% between 2015 and 2017 and therefore would result in some 2,900 job losses, comprising approximately 300 pilots, 900 cabin crew and 1,700 ground staff. This is in addition to the termination of five routes and 35 weekly long-haul flights, primarily in Asia and the Middle East. This restructuring plan was part of the Company's Perform 2020 strategic plan launched in September 2014, that met with employee and trade union opposition. The company later reported having no choice but to enforce the plan involuntarily, for the first time in its history. Trade unions called a nationwide strike to coincide with the announcement over job cuts. The loss of 2,900 jobs triggered protests and outrage amongst employees, some of whom physically assaulted the company's senior HR staff and also called for the firing of the Air France Chief Executive. Air France – KLM issued statements declaring that it would continue with restructuring plans and pursue legal action against the strikers for 'aggravated assault'. The company also announced its willingness to reopen discussions in favour of voluntary departure plans instead of forced redundancies. In February 2016, the introduction of an alternative plan for job losses was announced, taking into account some of the union's demands. The company reduced the number of jobs to be lost to 1,600 instead of 2,900, stated that job losses would take place on a voluntary basis, and that this would be its final job cutting plan.

2/ In February 2016, the Association for Dutch Cabin Staff (VNC) and FNV union launched legal proceedings against **KLM** in a dispute about filling a funding gap in the company's 2.6 billion Euro pension fund for cabin staff. KLM allegedly refused to make 30 million Euros available. The sum was demanded by unions as KLM claimed to have been relieved of mandatory payment obligations since the contract for pensions provision with the scheme had changed. Dutch financial newspaper Het Financieele Dagblad (FD) said the unions argued that KLM changed the contract without consulting or informing them.

1/ In April 2015, representatives of IndustriALL Global Union, Building and Wood Workers' International (BWI) and European Federation of Building and Woodworkers unions and their affiliates attended the annual Holcim shareholders' meeting raising workers' concerns and demands, which was neglected in the mega-merger between **Holcim and Lafarge**. Unions insisted on a fair deal for employees of the companies to be sold during and after the merger. A world works council with regional consultative bodies for each continent should be created urgently in order to establish a good social dialogue. The company does not appear to report transparently on these events.

2/ In April 2016, after the merger between Lafarge and Holcim, concerns were raised by IndustriALL and BWI regarding employees' health and safety conditions. According to global unions, 70 indirectly-employed workers died each year working for LafargeHolcim. The unions launched an online petition calling on LafargeHolcim to respect workers' rights and improve health and safety in the form of a formal partnership agreement with trade unions. The company stated that 'LafargeHolcim management started a new scheme of relations with global union federations (BWI and IndustriAll) soon after the merger was completed. Regular contacts have been followed up by LafargeHolcim Group Human Resources Department. Preliminary discussions about key social aspects have been started, in order to define a framework for LafargeHolcim social dialogue and policies for the new LafargeHolcim Group.'

3/ Before the merger, Holcim faced protests against job cuts and plant closures at its European sites. Representatives of both IndustriALL and European Workers Council (EWC) denounced the company's damaging restructuring programme in Europe and its lack of consultation. In January 2014, IndustriALL's Swiss affiliate UNIA's coordinator of the Holcim European Works Council, Rolf Beyeler, reported on the Company's damaging restructuring programme in Europe, during which trade unions were ignored. As Holcim disregarded the EWC's right to be consulted on its restructuring programme several times, the EWC was forced to take legal proceedings and had to terminate the existing EWC agreement with Holcim's management. The company does not appear to report transparently on the case.

Lonmin, a primary producer of Platinum Group Metals (PGMs), faced a five-month strike in January 2014 by nearly 70,000 AMCU (the South African Association of Mineworkers and Construction Union) platinum workers demanding an increase to the minimum wage. The strike, that affected all three of South Africa's major platinum producers, resulted in the shutting down of 40% of the world's platinum production. Collectively Lonmin, Impala Platinum Holdings Limited (Implats) and Anglo American Platinum Limited (Amplats) participated in negotiations to reach a three-year wage agreement in June 2014. This was the first time that the platinum industry collaborated on union negotiations.

In August 2015, a number of miners filed civil claims against Lonmin and Protea Coin Security for the irreversible damages caused by the Marikana massacre. In August 2012, at least 44 miners were killed at the Marikana platinum mine in South Africa when police opened fire during a strike over pay dispute. Lonmin mine has been under pressure since August 2010 when nearly 3,000 workers initiated a strike over unjust pay. Ten people have died in violence since the strike began. Lonmin stated that they need to improve their dialogue with all stakeholders, and in particular with workers at the mines. The company also committed to providing funding for the education of children of employees who lost their lives, covering costs from primary school through to university. After a three-year investigation by a special Judicial Commission of Inquiry, findings revealed that Lonmin 'failed to employ sufficient safeguards and measures to ensure the safety of its employees'. The commission also found that the Association of Mineworkers and Construction Union (AMCU) lost control of its members. The company stated that they are in the process of making Lonmin a safer, better place to work with an emphasis on living conditions and employee remuneration.

Conclusion

As noted in our 2014 publication, collective bargaining in Europe is broadening slowly but steadily. Areas to improve include agreements around the quality of the work environment and current topics such as employees' right to disconnect. Agreements also have to take into account emerging challenges linked to technological developments, such as the digitalisation and automation of working conditions, and the growing use of artificial intelligence, which are currently only rarely addressed.

Issues around human resources, and social dialogue in particular, are among the least addressed by companies in their CSR strategies. Companies' overall social dialogue performance is weak due to limited disclosure on the policies and efforts deployed to deal with labour relations. This is particularly striking when we compare average corporate disclosure on other core challenges such as climate change for instance, where international regulation and demands from stakeholders such as NGOs, investors and governments are increasing. Nevertheless, labour relations represent an asset for companies seeking to provide their employees with good working conditions and make them motivated. From a corporate responsibility perspective, it is important for companies to transparently report on their commitments, efforts and initiatives to promote labour relations. Our findings show that the majority of companies that report transparently on social dialogue generally achieve a robust CSR performance overall.

The quality of human resource management is fundamental to the success of a corporate organisation. Enhancing employee motivation, competencies and working environment through social dialogue and collective bargaining provides an opportunity for companies to foster cooperation between employees and senior management, and to solve problems in a constructive, collaborative spirit. Social dialogue, including collective bargaining, can be a strong driver of stability, equality, productivity and sustainable business growth. Labour market policies and institutions play a significant role in shaping the future of social dialogue amongst all regions.

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