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The Shift towards Single-employer Bargaining in the Italian Car Sector: Determinants and Prospects at FIAT

Paolo Tomassetti *

1. Introductory Remarks and Theoretical Background

Since the 1960s, Italian scholars have regarded FIAT¹ as a textbook case upon which industrial relations (IR) theories are based. FIAT workers called strikes to increase pay even under the Mussolini regime, contributing to the collapse of the Italian home front during World War II². When comparing post-war reconstruction in various European countries, Wolfson History Prize winner Adam Tooze concluded that FIAT cars were the real European post-war miracle³.

* Paolo Tomassetti is a Ph.D. candidate at the University of Bergamo, Italy.

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¹ In the context of this paper, the terms “FIAT”, “FIAT Group” or simply “Group” are used to identify FIAT S.p.A. and FIAT Industrial S.p.A., together with their direct and indirect subsidiaries which include, since 1 June 2011, Chrysler Group LLC and its direct and indirect subsidiaries. Unless otherwise specified, data on the Group are drawn from the company annual reports for the years 2009, 2010, 2011.

² C. Baldoli, *Spring 1943: the FIAT Strikes and the Collapse of the Italian Home Front*, in *Oxford History Workshop Journal*, 72, No. 1, 2011, 181-189.

³ A. Tooze, *Comparing Europe's Post-war Reconstructions: First Balkan Workshop*, Birkbeck College, London, 28 October 2005.

A significant number of FIAT workers are still unionized, and its plants continue to be associated with post-Taylorist work organisation and massive industrial action. As the largest Italian manufacturer, FIAT's interests have traditionally held sway within the national industrial relations system, influencing both the government and Confindustria, the main employers' association in the manufacturing sector. Despite the strength of FIAT's voice in negotiating conditions within the national sectoral collective agreement for metalworkers, and in drawing up national labour legislation, in October 2011 the Group's management announced that FIAT planned to leave Confindustria and the multi-employer bargaining system. They publicly stated that the reason for this move was that the Group "cannot afford to operate in Italy in a framework of uncertainty that is so incongruous with the conditions that exist elsewhere in the industrialised world"⁴. Immediately afterwards, FIAT completed the construction of a monistic industrial relations system by concluding a single-employer agreement at the group level, designed to cover the whole car industry.

Portrayed as an example of a multinational's disruptive impact on national industrial relations⁵, the Fiat shift to single-employer bargaining marked a revolution in the Italian industrial relations system, insofar as – despite the trend toward decentralization – the national sectoral collective agreement continues to be the cornerstone of the system. There are no official statistics on the coverage of single-employer bargaining in Italy. However, and save for a few cases – e.g. postal services – it is generally assumed not to be the country's prevalent form of collective bargaining. In the context of this paper, the term "single-employer bargaining" is used to refer to collective agreements concluded by management and trade unions at group, firm or plant level, outside the general framework set under multi-employer bargaining⁶. It is important to distinguish this category of collective agreements from other types of decentralized bargaining, the scope of which is organized and controlled centrally by peak-level associations.

Various hypotheses on the root causes of the developments at Fiat have

⁴ Sergio Marchionne, FIAT CEO. *Letter to Emma Marcegaglia, President of Confindustria*. 3 October 2011.

⁵ G. Meardi, *European Industrial Relations under International Pressure. A Six-country Comparison*, IRRU, University of Warwick, 2012.

⁶ K. Sisson, *The Management of Collective Bargaining*, Blackwell, Oxford, 1987.

been put forward⁷. Whether or not this shift to single-employer bargaining in the Italian car sector can be seen as the tip of the iceberg of an overall trend towards disorganized decentralization⁸ and market individualism⁹ in Italy is still debated.

The aim of this paper is to contribute to this debate. By casting light on the institutional and economic determinants behind the FIAT farewell to Confindustria and the shift to single-employer bargaining, an attempt is made to answer the following questions: Will other industries move towards single-employer bargaining? Will the FIAT Group revert to multi-employer bargaining? In responding to these questions, it is argued that, under the current institutional and economic scenario, the FIAT phenomenon is likely to remain an isolated one, and in all likelihood the company will revert to multi-employer bargaining.

2. The Steps towards Single-employer Bargaining

In the last decade, the FIAT Group reported net losses ranging from €529 million in 2002 and €840 million in 2004, to €345 million in 2009. The low productivity levels of the Italian subsidiaries are generally accepted to have been one of the major causes of the economic crisis affecting the Group at the turn of the century. In order to frame the extent of the problem, FIAT presented the results of a cross-plant benchmarking exercise according to which, in 2009, at their premises based in Pomigliano D'Arco, 5,000 blue-collar workers manufactured 36,000 cars, against a potential plant production of 240,000 cars. Significantly, over the same period, at the Tichy plant in Poland, 6,000 blue-collar workers produced 600,000 cars. It has also been argued that the Italian FIAT plants are 15-20% less efficient than those in the rest of Europe. FIAT branches in Poland, Serbia and Turkey operate at more than 70% of their capacity, Italian plants at 33%¹⁰. Although this gap is put down to the

⁷ T. Treu, *Gli accordi in deroga in Europa e la sfida ai sistemi contrattuali*, in *Quaderni di Rassegna Sindacale*, 1/2011; L. Bordogna, *Un decennio perduto o un declino inevitabile?* In *Europa, Lavoro, Economia*, 6/2011.

⁸ F. Traxler, *Farewell to Labour Market Associations? Organized versus Disorganized Decentralization as a Map for Industrial Relations*, in C. Crouch and F. Traxler (eds.), *Organized Industrial Relations in Europe: What Future?* Aldershot, Avebury, 1995.

⁹ J. Purcell, *Ideology and the End of Institutional Industrial Relations: Evidence from the UK*, in C. Crouch and F. Traxler (eds.), *Organized Industrial Relations in Europe: What Future?* Aldershot, Avebury, 1995.

¹⁰ The Economist, *Arrivederci, Italia?*, 5 November 2011.

management choice to produce cars elsewhere, and also partly to varying levels of demand, the extent of the difference is mostly the result of lower productivity¹¹.

The year 2011 marked a turning point for the Group. The alliance established with Chrysler in 2009 was further strengthened over the same year, with FIAT taking up to 58.5% stake in January 2012. Between 2010 and 2011 profits bounced back again and indicators for 2012 suggest the year will end positively.

In addition to its financial and market response to the crisis, in April 2010 the Group's management revealed a 20-billion-euro *Fabbrica Italia* plan to double domestic production by 2014. The project was intended to reorganize production in Italy in line with the World Class Manufacturing standards, by overhauling labour relations and introducing greater flexibility and collective bargaining governability¹².

Accordingly, FIAT negotiated three plant-level agreements for the production sites¹³ in Pomigliano (15 June 2010), Mirafiori (23 December 2010) and Grugliasco (4 May 2011). Manufacturing at these plants is currently managed by three Fiat subsidiaries, which the Group's management disassociated from Confindustria. The foregoing agreements were therefore concluded outside the framework of the national sectoral collective agreement for metalworkers. A 'take it or leave it' strategy and whipsawing practices were adopted by the management at the negotiating table. Under the threat of lower investments and plant closure, union concessions¹⁴ on organizational flexibility were made in exchange for

¹¹ FIAT has experienced issues in term of productivity in its plants since the outbreak of the crisis that affected the auto industry in Western Europe and the United States in the late 1970s. Because of insufficient capital investment and extremely confrontational and inflexible industrial relations throughout the 1970s, FIAT's productivity, profitability and plant utilization rates were all lower than those of its major competitors at the time (R. M. Locke, *The Demise of the National Union in Italy: Lessons for Comparative Industrial Relations Theory*, in *Industrial and Labor Relations Review* 45, No. 2, 1992, 229-249).

¹² "Bargaining governability" is defined by scholars as the legal enforceability of collective agreements, which makes collective agreements legally binding for the signatories, and the existence of a peace obligation prohibiting industrial action during the term of a collective agreement (F. Traxler, B. Kittel *The Bargaining System and Performance: A Comparison of 18 OECD Countries*, in *Comparative Political Studies* 33, No. 9, 2000, 1154-1190). Likewise, FIAT management refers to the concept of "bargaining governability" as the condition under which a collective agreement, once concluded, must be complied with by its signatories and the workers.

¹³ The three plants employ: 4,000, 10,000 and 1,100 workers, respectively.

¹⁴ Concession bargaining is commonly defined as "an explicit exchange of moderation in labour costs for improvements in job security" (P. Cappelli, *Concession Bargaining and the*

wavering commitment on the part of management to produce some vehicles in Italy, instead of moving their production elsewhere.

The agreements provide a system of employee representation which only includes the signatory unions; Fiom-Cgil –the most representative metalworkers’ trade union – is therefore not represented at the plants in Pomigliano, Mirafiori and Grugliasco, as it rejected the deals and the relevant concessions. Such concessions include, among others, a more flexible system of shifts and working hours: the number of breaks in an 8-hour shift – three 10-minute breaks instead of two of 15 and one of 10 minutes, respectively – has been reduced, while the number of shifts has increased from 15 to 18 over 6 working days. The agreements also target widespread absenteeism by curbing pay for workers who take sick leave repeatedly around holidays, allowing FIAT to call on each worker for 120 hours of overtime per year without union approval, plus 80 hours agreed upon with the unions. Moreover, trade unions have explicitly undertaken to fulfil the commitments agreed upon, so that wildcat strikes over conflict of rights can be avoided.

Prompted by FIAT urging for innovation and bargaining governability, Confindustria amended the rules on collective bargaining by concluding an Interconfederal agreement on 28 June 2011 with Cgil, Cisl and Uil, the largest trade union confederations at a national level. The most innovative provision is that firm-level agreements signed under the majority rule (assessed through a specific procedure) are generally binding on the whole workforce. However, as the Interconfederal agreement was not then retroactive, it did not apply to agreements concluded at the plants of Pomigliano, Mirafiori and Grugliasco, although the majority of workers had ratified them. Fiat therefore started lobbying for a provision to make the agreement of June 28 retroactive.

The attempt eventually succeeded, following a letter from the Presidency of the European Central Bank which called for a review of the collective bargaining mechanisms in order to improve the productivity and competitiveness of Italian companies. In September 2011, the government passed Article 8 of Law No. 148/2011 (the Budget Law).

National Economy, in Industrial Relations Research Association, Proceedings of the 35th annual meeting (New York, Dec. 28-30 1982), Madison Wis., IRRA, 1982, 362-371). In the context of this paper, however, the concept of “concession” is referred to as a general deterioration in employment conditions or, from another perspective, as an increase in organizational flexibility. Thus, in the short term, concessions can imply an increase in labour costs since organizational flexibility tends to be compensated with increased pay.

Besides making the Interconfederal agreement concluded on 28 June retroactive, the new provision allows bargaining at lower level to derogate from sectoral agreements and national legislation, even those concerning employment protection.

Trade unions were taken aback, and committed themselves to reject any agreement concluded at company level that departed from existing legal provisions. On 21 September, they reached a new bipartite agreement with Confindustria, which reasserts the autonomy of social partners in issuing rules on collective bargaining. In this sense, the agreement of 28 June was regarded as the only legal framework for bargaining at lower levels, thus considerably watering down the scope of Article 8.

This state of play led the FIAT Group to announce that, starting from 1 January 2012, it would no longer be a member of Confindustria. This move allowed the group to apply the new bargaining conditions set down by Article 8 to all its branches.

Soon afterwards, FIAT unilaterally withdrew from all existing collective agreements to “reorganise and harmonise collective contractual provisions at company and territorial levels which have been introduced at different times, and in order to make them consistent and compatible with conditions of competitiveness and efficiency”¹⁵.

By resorting to concession bargaining, FIAT then drew up a comprehensive agreement through which the Group planned to invest some 20 billion Euros in Italy, provided that trade unions were open to the new accord. However, Fiom-Cgil left the negotiating table when it realized that FIAT intended to consider the Pomigliano deal and *Fabbrica Italia* as the baseline for talks. The negotiations resulted in a group-level agreement concluded on 13 December 2011, which Fiom-Cgil did not sign.

On 1 January 2012, FIAT replaced the national sectoral collective agreement for metalworkers with the comprehensive group-level agreement of 13 December 2011. This new single-employer agreement broadly sets forth the same conditions as the agreements concluded at Pomigliano, Mirafiori and Grugliasco, although certain provisions have been amended, and some elements that need to be applied across the entire FIAT Group have been incorporated. The agreement was ratified by the majority of employee representatives and provides a set of conditions which apply to all the companies in the Group, viz. a more

¹⁵ Giorgio Giva, H. R. Industrial Relations, FIAT Group. *Letter to Trade Unions Federations' Secretariats*. 21 November 2011.

flexible system of shifts and working hours, responsive to changes in production; a system of employee representation that only involves the signatory unions; and a mechanism intended to discourage industrial action against existing collective agreements.

The pay increases foreseen by the national sectoral collective agreement for metalworkers are also applied, as well as the adjustments to basic pay established under the national sectoral collective agreement for managers of industrial companies. Most importantly, the closing article of the new agreement provides that: “The signatories agree on the nature of this agreement as a specific collective labour agreement, as it is designed to provide a comprehensive first-level economic and normative discipline, and replaces the relevant national sectoral collective agreements for those companies that intend to implement it [...]”¹⁶. This provision extends the scope of the agreement beyond the Group companies to the entire Italian automotive industry.

3. Analysis

Employers base their strategies on their own evaluation of situations and perception of their own interests. Multinational companies can probably be best described as operating “self-referentially” in production markets, and –to some extent – also in the labour markets. It is therefore difficult to understand the root causes of their industrial relations strategies. Bearing these assumptions in mind, this section analyses what lies behind the official reason given by FIAT management for exiting Confindustria: the Group “can’t afford to operate in Italy in a framework of uncertainty that is so incongruous with the conditions that exist elsewhere in the industrialised world”. Possible motives are investigated for FIAT’s departure from Confindustria and the national sectoral collective agreement for metalworkers, as well as the institutional and economic conditions that permitted the company to shift to single-employer bargaining.

¹⁶ FIAT S.p.A., Fim-Cisl, Uilm-Uil, Fismic, Ugl-Metalmeccanici, Associazione Quadri e Capi FIAT, *Contratto collettivo specifico di lavoro di primo livello*, 29 December 2010.

3.1. Institutional determinants

A key factor allowing FIAT to leave the multi-employer bargaining system was that collective agreement does not have an *erga omnes* effect in Italy. In an industrial relations system where national collective agreements have *erga omnes* application, this would have not been possible, neither in countries where collective agreements are legally binding – e.g. Spain – nor where affiliation to employers' associations is compulsory – e.g. Austria. Indeed, in cases in which collective bargaining at the sectoral or central level is legally binding, companies under its scope are required to implement it, irrespective of their affiliation to an employers' association. In contrast, it is possible to exit multi-employer bargaining in industrial relations systems with a low degree of bargaining governability – like Italy – where the collective bargaining system is currently self-regulated¹⁷, and affiliation to employers' associations is voluntary¹⁸.

Although the non-binding nature of collective agreements made FIAT's move possible, the low bargaining governability resulting from the scant effectiveness of peace obligation clauses probably influenced the company's decision to exit the multi-employer bargaining system. As in Italy's case, peace obligation clauses are only binding on the parties to a collective agreement, and unaffiliated employees or non-signatory trade

¹⁷ The Italian industrial relations system is currently based on the tripartite framework agreement signed at the inter-professional level on 22 January 2009 and on the Inter-confederation agreement of 28 June 2011. These agreements have created a voluntary, comprehensive multi-employer bargaining model, with the national sectoral collective agreement regarded as the basis of the system. The multi-employer bargaining model is articulated thus: peak-level associations of employers and workers define rules governing the relationships between the bargaining levels, including the following principles: a) *ne bis in idem*, i.e. decentralized bargaining cannot deal with matters already covered by national sectoral collective agreements; b) the scope of decentralized bargaining is defined by national sectoral collective agreements; c) opening clauses entitle decentralized bargaining to deviate from the standards set by national sectoral collective agreements under certain circumstances. These rules, however, are contractual in nature: they are self-regulated and only apply for as long as enterprises voluntarily choose to stay within the multi-employer bargaining structure. Case law on the structures of collective bargaining allows employers to choose between multi-employer and single-employer bargaining.

Inter-professional and sectoral collective agreements do not have *erga omnes* effect, i.e. they are binding on the parties and on the rank and file. However, although not legally binding, voluntary extension mechanisms and case law have increased coverage, now concerning up to 80% of the workforce.

¹⁸ Provided that employers' association membership is voluntary, affiliated companies are obliged to implement the collective agreements signed by their employer's association.

unions can organize industrial action, including lawful strikes over conflicts of rights. This mechanism produces uncertainty at the company level. Yet a shift to single-employer bargaining does not resolve the dilemma, since the latter stems from case law on constitutional provisions, and not just from contractual rules provided by multi-employer bargaining (the Inter-confederation agreement of June 28 acknowledges this principle). However, the uncertainty of the collective bargaining framework probably jeopardized the stability and labour peace achievable under multi-employer bargaining¹⁹, making it less attractive to the FIAT Group.

On the other hand, existing model of multi-employer bargaining in Italy are unlikely to have prompted FIAT's pursuit of more competitiveness in single-employer bargaining. In multi-employer bargaining systems how possible it is to trade organizational flexibility off against investment and employment guarantees largely depends on the collective bargaining architecture, on precisely those provisions which articulate bargaining levels.

In times of economic crisis and faced with international price competition, inelastic articulation between bargaining levels has proven disruptive to multi-employer bargaining institutions. In processes of disorganized decentralization²⁰ companies leave employers' associations and shift to single-employer bargaining in order to negotiate measures beyond the scope of sectoral collective agreements.

Otherwise, flexibility between bargaining levels would counteract – or restrict – the effects previously discussed. Opening clauses – or derogation clauses – on wage and labour settings can be expected to play a key role in the implementation of strategies to increase company competitiveness in times of crisis²¹. Usually drawn up at sectoral level or based on statutory provisions, opening clauses provide the space for company-level bargaining to derogate from standards set under sectoral agreements, in order to adapt them to the circumstances of individual companies, while preserving multi-employer bargaining. In Italy, opening clauses are highly regulated, both by law and by collective agreements

¹⁹ K. Sisson, *op. cit.*

²⁰ F. Traxler, *Farewell to Labour Market Associations? Organized versus Disorganized Decentralization as a Map for Industrial Relations*, *op. cit.*

²¹ M. J. Keune, *Decentralising Wage Setting in Times of Crisis? The Regulation and Use of Wage-related Derogation Clauses in Seven European Countries*, in *European Labour Law Journal*, No. 1, 2011, 86-96.

reached at inter-confederation and sectoral level²². This provides the bargaining system with the necessary flexibility to accommodate management demands for derogations. Accordingly, the concessions yielded through the single-employer agreement at FIAT could have been arranged alternatively under multi-employer bargaining, by implementing those opening-clauses²³.

3.1.1. Conflict-related Determinants

In this analysis of the FIAT case, conflict-related determinants require special attention. Anti-union sentiments and confrontational relationships between management and labour have historically characterized industrial relations at FIAT, where some 40% of the work force is unionized – with even higher estimates for blue-collar workers²⁴.

After World War II, trade unions in FIAT plants were so powerful that they were able to achieve their goals by merely threatening strike action. On the other hand, management increasingly resorted to union-avoidance strategies. FIAT policy was to avoid dealing with internal commissions – the traditional form of workplace representation in Italy – only negotiating with cooperative members, usually not from Cgil, the General Confederation of Italian Workers²⁵.

Soon after the rupture in relations with the unions following massive restructuring in 1980, FIAT began to take a harder line on industrial relations. This translated into discriminatory practices, including layoffs to rid the plants of union activists²⁶.

²² Both statutory legislation – Article 8 of Law No. 148/2011 – and collective bargaining provide for opt-out clauses allowing social partners at firm or local level to deviate from the standards set by sectoral collective agreements and statutory labour legislation.

²³ It is also true, however, that the national sectoral collective agreement for metalworkers covers an extremely wide area, although there are substantial technical and economic differences between the various companies concerned. Perhaps this partly explains the FIAT demands for differentiation of working conditions on a company-by-company basis. Attempts to outline a specific sectoral collective agreement for the automotive sector were put forward by Confindustria through its branch organization Federmeccanica, but the proposal was never acted upon.

²⁴ Data presented on 13 November 2007 at the Marco Biagi Foundation by Paolo Rebaudengo, former Senior Vice President of Industrial Relations at FIAT S.p.A. www.fmb.unimore.it. (last accessed 31 December 2012)

²⁵ G. Giugni, *Bargaining Units and Labor Organization in Italy*, in *Industrial and Labor Relations Review* 10, No. 3, 1957, 424-439.

²⁶ M. Locke, *op. cit.*

Although the attitude of most trade union organizations in FIAT plants – Fim-Cisl, Uilm-Uil, Fismic, UglMetlameccanici – has become more cooperative over the years, FIAT management still considers the Fiom-Cgil presence in the workplace antithetical to competitiveness and collective bargaining governability²⁷.

The problem of bargaining governability has become more pronounced since 2009, when, on 22 January, Cgil refused to sign the tripartite cross-industry agreement – the main document of the multi-employer bargaining system in Italy – and Fiom-Cgil did not take part in the renewal of the national sectoral collective agreement for metalworkers. As well as encouraging industrial action against FIAT, Fiom-Cgil attempted – by taking the matter to court – to have the separate national sectoral collective agreement for metalworkers declared not to be binding on its members.

Industrial relations on the factory floor further deteriorated in 2010, subsequent to a change in the management practices in order to align them with the World Class Manufacturing and Ergo-Uas standards. These changes include methods such as management by stress, a system which stretches production arrangements to eliminate any slack. In order for the plants in Pomigliano and Mirafiori to operate at their full potential, blue-collar workers are required to work as hard as they can, and pervasive monitoring of their performance exposes them to ongoing pressure from their principal. This has led labour relations in FIAT plants to worsen and workers to mobilise even in the form of work stoppages.

Thus, management at FIAT has had to cope with an unprecedented state of uncertainty, both in and out of the workplace. It is reasonable to suppose that this uncertain scenario has undermined the stability and the “managerial control” that multi-employer bargaining is expected to guarantee²⁸, making the system unattractive for a company explicitly

²⁷ Yet in some cases the position of the different trade union federations represented in FIAT plants has been misinterpreted. For example, the concessionary agreement to restructure the Pomigliano plant in 1987 was reached between Alfa Romeo – at that time not yet part of the FIAT Group – and Fiom-Cgil and Uilm-Uil. Fim-Cisl rejected the deal and tried to mobilize the local workforce against it.

²⁸ Alongside “market control” – i.e. taking wages out of competition – “managerial control” is considered a fundamental benefit to employers during collective bargaining (A. D. Flanders, *The Tradition of Voluntarism*, in *British Journal of Industrial Relations* 12, 1974, 352-370; K. Sisson, *op. cit.*). It usually refers to the employers’ need to secure union assistance “in making and upholding rules to regulate work and wages for the sake of gaining employee consent and co-operation and avoiding costly strikes” (A. D. Flanders, *op. cit.*).

asking for measures to neutralize conflict in the workplace. Moreover, by shifting to single-employer bargaining, FIAT succeeded in excluding Fiom-Cgil from representation in its plants. Confindustria was one of the signatories to the tripartite cross-industry agreement of 23 July 1993, pursuant to which union channel representation structures would be turned into works councils, elected by the whole workforce²⁹. Having left Confindustria, FIAT is no longer required to apply the foregoing agreement and can replace works councils with trade unions' workplace representative bodies under Article 19 of the Workers' Statute. However, as Fiom-Cgil did not sign the new FIAT Group agreement, it is no longer entitled to set up its own representative bodies in FIAT plants. This is because Article 19 of the Workers' Statute only allows members of trade unions which have signed a sectoral and/or company level collective agreement currently in force to stand for election as employee representatives.

3.2. *Economic Determinants*

The transnational activities of the Group may be one reason behind the decision to move out of Confindustria. If we accept that companies opt for multi-employer bargaining to take wages out of competition³⁰, economic internationalization and global competition give national employers' associations a minor role in the pursuit of this goal. It is therefore argued that, once the costs of membership exceed the benefits, affiliated employers are likely to leave and newly-established companies will probably not join³¹. It is thus not surprising that even as it bid farewell

²⁹ In Italy there are two channels for workplace representation. The first is the union channel, regulated by Article 19 of Law No. 300/1970 (Workers' Statute). According to Article 19, only organisations signatory to a sectoral and/or company collective agreement in force in the workplace are entitled to set up plant-level union structures (so called *Rappresentanze Sindacali Aziendali*). As for works councils, they were introduced by the cross-industry tripartite agreement signed on 23 July 1993, in which the parties agreed to convert the union channel representation structures into works councils (so called *Rappresentanze Sindacali Unitarie*). Works councils are formally independent from unions and are appointed by employees, regardless of their trade union affiliation. In enterprises joining employers' associations which signed the 1993 agreement, the works council model applies. If a company is not affiliated to an employers' association, trade union representative bodies are elected according to Article 19.

³⁰ A. D. Flanders, *op. cit.*, K. Sisson, *op. cit.*

³¹ F. Traxler, *Economic Internationalization and the Organizational Dilemma of Employer Associations: A Comparison of 20 OECD Countries*, in W. Streeck, J. R. Grote, V. Schneider

to Confindustria, FIAT's voice within the European Automobile Manufacturers' Association (ACEA) gained strength, with the Group soon being appointed head of the association.

The standardization of assembly procedures between Italian plants and manufacturers abroad, as well as overcapacity, may have played an important role in the successful whipsawing strategy adopted by FIAT. Indeed, the threat to disinvest and close plants proved not to be empty when the production of new car models was moved from Mirafiori to Kragujevac in Serbia, and the closure of its historic production site in Termini Imerese took place. Apart from making the coercive comparison between locations more effective³², the ability to shift production easily between plants and the numbers of factories with surplus capacity and facing falling demand may also have contributed to increase the company bargaining power sufficiently to leave multi-employer bargaining.

However, the FIAT case seems to suggest that it was not the mere availability of exit options that allowed the company to implement an effective whipsawing strategy and to impose structural constraints on trade unions. Elsewhere economic hardship and weak job growth have proven to be important – if not necessary – conditions for the threat of plant shutdowns to become credible³³. It is also likely that the FIAT Group's dominance in the Italian vehicle labour market has been a major factor in making sectoral trade unions take the threats seriously. The position of the company in the labour market could be described in terms of monopsony³⁴, as labour demand in the Italian automotive industry is

and J. Visser (eds.), *Governing Interests: Business Associations Facing Internationalization*, Routledge, London, 2006, 93-114.

³² I. Greer, M. Hauptmeier, *Political Entrepreneurs and Co-managers: Labour Transnationalism at Four Multinational Auto Companies*, in *British Journal of Industrial Relations* 46, No. 1, 2008, 76-97.

³³ L. A. Bell, *Union Concessions in the 1980s*, in *Federal Reserve Bank of New York Quarterly Review / Summer*, 1989, 44-58.

³⁴ The term "monopsony" literally means a market with a single buyer. A monopsony occurs in the labour market when there is a single dominant buyer of labour (W. M. Boal, M. R. Ransom, *Monopsony in the Labor Market*, in *Journal of Economic Literature* 35, No. 1, 1997, 86-112). This is the case with the FIAT Group, which includes brands such as Ferrari, Maserati, Alfa Romeo, Lancia, Abarth, Case New Holland, Iveco, MagnetiMarelli, Jeep and Chrysler. The other carmakers in Italy – Lamborghini, Fornasari and Pagani – produce custom-built cars and have a minor impact on the occupational figures. The FIAT Group, together with its subsidiaries and its supply-chain, therefore covers almost the entire labour market demand in the automotive sector, employing 62,583 workers in the Italian plants. Component manufacturers and coachworks employ an estimated 112,000 workers (A. L. Gigio *et al.*, *Indotto FIAT o Motor*

dependent on a single group. Furthermore, the prospect of the threatened plants being taken over by other (foreign) investors was – given the prevailing conditions – unrealistic³⁵. There were talks of an unconfirmed Volkswagen interest in purchasing Alfa Romeo and reconverting an Italian plant, which was eventually discovered to be the one in Cassino. Due to the fear of unemployment and the lack of occupational alternatives³⁶, negotiations in the form of concession bargaining could hardly be evaded, and signatory trade unions to the new FIAT agreements were not in the bargaining position to resist the shift to single-employer bargaining.

4. Recent Developments and Prospects at FIAT

The general public is concerned that Fiat will stop investing in Italy. Worries that Italy's biggest manufacturer may leave do not stem only from national affection for the brand. In recent decades, the Italian government has allocated massive investments – both directly and indirectly – to help it to recover. The implicit deal was that FIAT would maintain production in Italy, where almost half of its employees and 40% of its plants are still based. Although doing business in Italy is far from easy³⁷, FIAT is a privileged player in a country that continues to supply the company with one-third of its revenue. If history, duty and public money talk louder than industrial relations, then FIAT has a reason to stay.

Analysts are more preoccupied with the question of whether the Group will revert to multi-employer bargaining, and whether the FIAT

City? La filiera dell'auto torinese di fronte alle nuove catene globali del valore, Banca d'Italia, 2011).

³⁵ The FIAT plant in Termini Imerese employs 1,500 workers and still awaits reconversion. In June 2010, the company announced that it would close in December 2011. An invitation to tender for the revival of the site was issued by the Italian Ministry for Economic Development on 17 June 2010. It describes the geographical and logistical characteristics of the plant and argues that it is available “under certain conditions with particular attention to safeguarding the current employment levels”. There have so far been no expressions of interest. A version of the tender can be found at the following link to the Wall Street Journal edition of 17 June 2010: www.jstic.com. (Last accessed 31 December 2012).

³⁶ According to McKersie and Cappelli, if a company announces that it is shutting down a facility, the response of the workers to this prospect will depend upon what they see as their alternatives for finding other work. R. B. McKersie, P. Cappelli P., *Concession Bargaining*, WP 1322-82, 1982.

³⁷ The World Bank, The International Finance Corporation, *Doing Business Report, 2012*, www.doingbusiness.org, 2012.

phenomenon will involve other sectors. Predictions in the field of industrial relations are difficult to make, but, by looking at the intersection between the causes and the recent developments at FIAT, a possible scenario can be conceived.

4.1. *Will FIAT Revert to Multi-employer Bargaining?*

If the plan is to keep investing in Italy, it is likely that the FIAT Group will revert to multi-employer bargaining. Some of the institutional factors encouraging FIAT to shift to single-employer bargaining are becoming irrelevant, making the cost-benefit of the exit strategy less favourable for the company³⁸. Firstly, a number of tribunals ruled against the attitude of the Group companies, seen as anti-unionist, for *Fiom-Cgil* was denied representation in the workplace. These decisions are based on a new and more extensive interpretation of Article 19 of Law No. 300/1970 (Workers' Statute), according to which trade union workplace representative bodies can be set up by trade unions that participated in the negotiation of agreements in force, even if they did not actually sign any of them³⁹. If the Italian Supreme Court (*Corte di Cassazione*) upholds this case law, *Fiom-Cgil* will be able once again to stand in elections for workers' representatives in the Group companies, undermining one of FIAT's main aims when it left Confindustria.

In addition, in *Fiom-Cgil v FIAT Group* of 23 April 2012, the court ruled that the new FIAT single-employer agreement does not fall within the scope of Article 8 of Law No. 148/2011 (see par. 2), arguing that Article 8 refers to decentralized collective agreements under multi-employer bargaining⁴⁰. Therefore, although the majority of sectoral trade unions joined the new FIAT agreement, this cannot be regarded as generally binding under Article 8, thus not applying to the members of *Fiom-Cgil*.

³⁸ A. O. Hirschman, *Exit, Voice, and Loyalty*, Harvard University Press, Cambridge, 1970.

³⁹ Case *Fiom-Cgil v Iveco*, Bolzano Court, 22 June 2012; Case *Fiom-Cgil v FIAT Group*, Larino Court, 23 April 2012; Case *Fiom-Cgil v MagnetiMarelli (FIAT Group)*, Napoli Court, 12 April 2012; Case *Fiom-Cgil v MagnetiMarelli (FIAT Group)*, Bologna Court, 27 March 2012. In contrast to this case law, in Case *Fiom-Cgil v FIAT Group*, Torino Court 13 April 2012 and Case *Fiom-Cgil v Case New Holland (FIAT Group)*, Lecce Court, 12 April 2012, the tribunal rejected the claim filed by *Fiom-Cgil*, providing a literal interpretation of Article 19, Law No. 300/1970 in order to reaffirm that only signatory trade unions to a sectoral and/or a company-level collective agreement currently in force were entitled to set up a workplace representative body.

⁴⁰ Case *Fiom-Cgil v FIAT Group*, Larino Court, 23 April 2012.

It is also worth recalling that every year since 2008, governments have passed exemptions on the income tax and social security contributions for additional wage linked to productivity, such as incentive pay and flexible working time arrangements. Aimed at incentivizing decentralized bargaining, these fiscal measures only apply to variable pay resulting from decentralized collective agreements concluded at district, company or plant level. Since the new FIAT agreement is a group-level one and designed to cover the entire automotive sector, it is reasonable to suppose that tax relief will not be applied in this case. In order to be eligible for fiscal incentives, companies making up the FIAT Group would need to renegotiate additional firm-level agreements, which would increase the level of distributional conflict that results from supplementary bargaining. The relationship between the legal framework and the collective bargaining system is also of relevance from another perspective. A body of statutory rules other than Article 8 empowers collective bargaining to enable the flexible implementation of labour legislation. Yet these forms of devolution of power to collective bargaining – including those introduced by the latest labour market reform (Law No. 92/2012)– mainly refer to national sectoral collective agreements⁴¹ or – in compliance with their rules – to lower levels of bargaining⁴².

This means that, in practical terms, such agreements can be concluded only within the framework of multi-employer bargaining, hence narrowing the scope for single-employer bargaining over organizational flexibility.

If the assumption is that collective bargaining governability and organizational flexibility affect competitiveness, the developments discussed here are likely to draw FIAT back into the multi-employer bargaining.

⁴¹ M. Tiraboschi, *Italian Labour Law after the so-called Monti-Fornero Reform (Law No. 92/2012)* 1, No. 3-4, ADAPT University Press, 2012.

⁴² Some examples from the recent labour market reform (Law No. 92/2012) passed on 28 June 2012: Article 1 paragraph 9, b) and c) allows for collective agreements reached by employers' associations and trade unions at the sectoral or company level to conclude first fixed-term employment contracts that can be agreed upon without providing a justified reason, either technical or organizational. This can also be said of collective agreements in the context of multi-employer bargaining for temporary agency contracts, part-time work, job-on-call and some other employment schemes. The statutory regulations on occupational health and safety also assign multi-employer bargaining a key role in the implementation and integration of the legal framework.

4.2. Will Other Sectors Move towards Single-employer Bargaining?

Turning to the second question, it appears unlikely that other industries will move towards single-employer bargaining. Away from the manufacturing sector, the link between the national legal framework and multi-employer bargaining institutions is even stronger. This is particularly the case in those industries where bilateralism has been established⁴³. Bilateral bodies originated in the building sector, as instruments for the joint administration of funds collected for use in critical circumstances (illness, occupational injuries, mutual assistance in the event of reduction of working hours, and so forth). Outside the building sector, in the early 1980s employers' associations and trade unions started setting up bilateral bodies in other industries where industrial relations were weak, and where there was a prevalence of micro enterprises, unstable employment, high employee turnover, widespread use of contingent and undeclared work, and a limited trade union presence. These factors characterise the artisanal, commercial and services sectors, tourism and the liberal professions. The increasing importance attached to the tertiary sector in economic terms has contributed to the development of bilateral bodies over the last decade. From 2003 onwards, that is subsequent to the enforcement of the Biagi Law (Law No. 276/2003), the Italian legislator has entrusted bilateral bodies with more and more power, regarding them as the privileged channel for labour market control⁴⁴. Exiting multi-employer bargaining would thus imply doing away with the system of

⁴³ Bilateral bodies are joint committees consisting of workers' and employers' representatives set up by national sectoral collective agreements. Funded by contributions paid by employers and workers, they provide employment services and safeguards to both management and labour. A comprehensive description of bilateralism is provided in M. Tiraboschi, P. Tomassetti, *Bilateralism and Bilateral bodies: The New Frontier of Industrial Relations in Italy*, in Proceedings of the 16th World Congress of ILERA, Philadelphia, USA, 2–5 July 2012.

⁴⁴ The special – yet not exhaustive – nature of the functions carried out by these sectoral joint committees pursuant to Article 2, sec. h of Law No. 276/2003, includes the promotion of more stable employment and good-quality jobs; the provision of placement services; the setting-up of vocational education and training; the dissemination of anti-discrimination practice, the promotion of the integration of disadvantaged groups into the labour market; the setting-up and administration of mutual assistance funds to provide income support for workers operating in industries where ordinary wage guarantees are not afforded; the certification of employment contracts and their compliance with norms and contribution schemes; the development of initiatives on occupational health and safety; other activities assigned to them by collective agreements.

bilateralism that has been contributing to the efficient governance of highly complex, dynamic and fragmented labour markets since the 1980s. It can also be argued that what happens at FIAT will remain an isolated case because of the exclusive dominance of the Group in the relevant labour market. In this sense, most Italian companies do not seem to have the necessary bargaining power⁴⁵ to impose structural constraints on trade unions, including the shift to single-employer bargaining. This is also the case for companies operating in industries with high labour demand fragmentation (e.g. tourism, commerce and services in general), where opening clauses, in fact, are not implemented or decentralized bargaining is actually non-existent⁴⁶.

5. Conclusion and Implications on IR Theory

While the absence of statutory intervention in the post-war Italian industrial relations system results in uncertainty, the analysis of the FIAT case suggests that legal mechanisms do exist to prevent the erosion of the multi-employer bargaining architecture experienced elsewhere⁴⁷. This is because in Italy the legal framework seems to induce – if indirectly – the industrial relations system (and the process of decentralization) to be organized through multi-employer bargaining. Indirect legal inducements for companies to stay in multi-employer bargaining may further explain why collective bargaining coverage has remained steady in recent decades, although the absence of an *erga omnes* effect of collective agreement in Italy.

⁴⁵ Within this paper, the concept of “bargaining power” refers to the power of companies to obtain concessions, lower labour standards and to impose structural constraints on trade unions.

⁴⁶ This may be because in competitive labour markets the bargaining power of each company is likely to decrease, to the extent that possible employment within the sector is not linked to the fate of a single employer. The general model of the perfectly competitive labour market would suggest this, as it is based on the assumption that employees have a free, no-cost choice of a large number of employers for whom they might work. Competition among these employers then leads to a single market wage – and similar employment conditions – for all workers. Any attempt by an employer at cutting wages – or reducing labour standards – will cause all existing workers to stand down immediately.

⁴⁷A. Hassel, *The Erosion of the German System of Industrial Relations*, in *British Journal of Industrial Relations* 37, 1998, 483–505.

One might argue that functional equivalents to extend the efficacy of multi-employer collective agreements have played a major role in this respect. The Italian judiciary refers to national sectoral collective agreements when deciding whether or not employment contracts are consistent with the economic indicators set out in the Constitution. However, this extension mechanism neither obliges employers to enforce the relevant collective agreement, nor to stay in multi-employer bargaining: while required to abide by the minimum standards set by sectoral collective agreements at a national level, employers can still pursue this avenue through single employer-bargaining or even unilaterally. It is therefore reasonable to suppose that other incentivizing forces are also at work to attract companies to multi-employer bargaining. Excluding the interplay of other variables, the FIAT case seems to confirm the positive relationship between the bargaining power of a company and the degree of labour demand concentration in the industry concerned: the more labour demand is concentrated, the more the dominant company holds sway over trade unions, shifting the distribution of power to its own advantage. A second theoretical implication of the FIAT case may therefore be that when an employer's ascendancy in the labour market is associated with low (foreign direct) investment attractiveness, monopsony is far from being just a textbook model.

Adapt International Network



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