

**FOR DEBATE AND GUIDANCE**

## FIRST ITEM ON THE AGENDA

**Collective bargaining and the  
Decent Work Agenda****1. Introduction**

1. The right to collective bargaining is a core value of the ILO. It is inextricably linked with freedom of association, and is an important tool of labour market governance. As a foundational element of the broader concept of social dialogue, collective bargaining continues to contribute to strengthening democracy all over the world. In the context of the Decent Work Agenda<sup>1</sup> and a rapidly changing industrial relations environment, it is a key instrument for securing rights and representation at work, promoting employment, improving working conditions and extending social protection to all workers.
2. Globalization, the introduction of new technologies, changes in the structure and composition of the world labour force, new forms of employment, changes in production methods and in business relationships, and other political and economic changes have profoundly affected national and international labour markets. These developments, together with the impact of the political choices involved in the liberalization of capital and trade markets and/or deregulation of industrial relations systems, have created new challenges for the effective implementation of the right to bargain collectively. These developments were outlined in the Director-General's Report to the 2006 International Labour Conference (ILC), *Changing patterns in the world of work*.<sup>2</sup>
3. The ILC has addressed collective bargaining issues in its reviews of the annual and Global Reports on freedom of association and collective bargaining in the context of follow-up to the Declaration.<sup>3</sup> The Governing Body has discussed aspects of collective bargaining twice since 2000,<sup>4</sup> and this Committee's consideration of the subject had to be postponed

<sup>1</sup> See ILO: 1999; 2001; 2003; 2004a.

<sup>2</sup> ILO, 2006.

<sup>3</sup> ILO, 2000; ILO, 2004.

<sup>4</sup> Most recently in March 2007 (ILO, 2007); see also November 2000 (ILO, 2000a).

in November 2006.<sup>5</sup> But since the last World Labour Report in 1997–98,<sup>6</sup> no systematic review has been undertaken by the Office to identify and evaluate the many recent developments surrounding collective bargaining.

4. This paper replaces the one prepared for the Governing Body on the same topic in November 2006. The paper's purpose is to:
  - emphasize the continuing importance of collective bargaining as a key ILO value, the need for a conducive enabling environment and for strong and effective actors;
  - examine how collective bargaining is contributing to and being promoted by implementation of the elements of the Decent Work Agenda;
  - outline how collective bargaining institutions are affected by global trends impacting on the world of work;
  - show how collective bargaining is responding, adapting and innovating in the context of these changes; and
  - seek the Committee's guidance on the direction of future ILO work.
5. In view of limitations of space, the paper must necessarily be selective in approach and focuses primarily on developments in private sector collective bargaining.

## **2. Collective bargaining: Its importance, requirements and actors**

### **2.1. The nature and importance of collective bargaining**

6. One of the fundamental objectives of the ILO, especially since the end of the Second World War, has been the furtherance of collective bargaining. The Declaration concerning the aims and purposes of the International Labour Organization, an annex to the ILO Constitution, recognizes as a solemn obligation of the Organization the furtherance among its member States of "programmes which will achieve ... [inter alia] the effective recognition of the right to collective bargaining".<sup>7</sup> Effective recognition of freedom of association and the right to collective bargaining for workers and employers are fundamental to the values, principles and objectives set out in the Decent Work Agenda.
7. "Collective bargaining" is defined by reference to the relevant ILO instruments as the process and activities leading to the conclusion of a collective agreement.<sup>8</sup> Effective

<sup>5</sup> ILO, 2006b.

<sup>6</sup> ILO, 1997.

<sup>7</sup> ILO, 1992 (ed.), annex, Part III(e), p. 24.

<sup>8</sup> More specifically, Article 2 of the Collective Bargaining Convention, 1981 (No. 154) defines collective bargaining as "all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for: (a) determining working conditions and terms of employment;

collective bargaining culminating in an agreement which is mutually beneficial to the parties concerned will occur most often where there is a framework for labour market governance that upholds the fundamental rights of workers and employers and promotes decent work.

8. Such an enabling framework is characterized by: recognition of the right of workers and employers to associate freely and to establish organizations of their own choosing;<sup>9</sup> strong, independent, representative and democratic workers' and employers' organizations,<sup>10</sup> having knowledge of key issues, access to and effective involvement in social dialogue institutions and processes and the capacity to influence social and economic discussions; governments creating an enabling policy, legislative and institutional environment, and an environment which includes effective machinery and mechanisms to facilitate and promote collective bargaining, prevent, manage and resolve labour disputes, and enforce relevant laws and regulations through labour inspection and the judicial system.
9. Given the right mix of policies, laws, institutions, issues addressed, and behaviour of the parties involved, collective bargaining is a proven method for achieving benefits for workers and employers and adjustments at various levels of the economy. At the macro level, collective bargaining is a form and reflection of democracy,<sup>11</sup> and can contribute to social and economic stability, equality of treatment, and facilitate implementation of economic reforms in a balanced manner. At the micro level, collective bargaining contributes to the prevention and settlement of labour conflicts, improved productivity, investment in workforce development, and enterprise adjustment in a more competitive environment. Collective bargaining also provides a mechanism to address social justice considerations, the absence of which can threaten social stability. In fact, "there is growing evidence of a favourable conjuncture in many countries between the presence of collective bargaining institutions, more equal distribution and smoother adjustment as countries integrate into the global economy".<sup>12</sup>

## 2.2. A conducive environment

10. The relevant ILO standards<sup>13</sup> not only establish the responsibility of governments to create an appropriate legal framework for and to promote collective bargaining, but also enumerate a list of promotional measures, which "shall be the subject of prior consultations and, whenever possible, agreement between public authorities and employers' and workers' organizations".<sup>14</sup>

and/or (b) regulating relations between employers and workers; and/or (c) regulating relations between employers or their organisations and a workers' organisation or workers' organisations".

<sup>9</sup> See the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

<sup>10</sup> ILO, 2002, pp. 21/24–21/26.

<sup>11</sup> ILO, 2006, p. 55.

<sup>12</sup> Hayter, S., 2002, p. 49.

<sup>13</sup> See the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91), the Labour Relations (Public Service) Convention, 1978 (No. 151), the Collective Bargaining Convention, 1981 (No. 154) and the Seafarers' Welfare Convention, 1987 (No. 163).

<sup>14</sup> Convention No. 154, Article 7.

11. In this regard, the role of the government is of a paramount importance in providing for an enabling environment for promoting collective bargaining. According to the ILC conclusions concerning the promotion of sustainable enterprises (2007),<sup>15</sup> among other actions, the government should act as promoter, regulator, and facilitator of sustainable enterprises through a range of policies and practices, such as participating in social dialogue, including by encouraging and supporting freedom of association and the right to collective bargaining, and ensuring labour law enforcement through efficient labour administration, including labour inspection systems.<sup>16</sup>
12. Government participation with respect to collective bargaining should be consistent with ILO standards.<sup>17</sup> In countries with longstanding social dialogue traditions,<sup>18</sup> collective bargaining processes tend to be governed by the social partners themselves and are therefore less subject to political changes as they are based on a broad and well-established societal consensus.<sup>19</sup> As the discussion below illustrates, while a number of governments in recent years have taken positive measures to advance recognition of collective bargaining, there remain many instances where national policy, legislation and institutions do not yet establish a proper framework to promote and provide effective recognition of the right to bargain collectively.
13. In recent years, government actions have included provisions for new legal frameworks governing freedom of association and the right to bargain collectively;<sup>20</sup> modifications to the scope of bargaining;<sup>21</sup> determination of bargaining partners (i.e. recognition of the most representative organizations); the setting of framework bargaining rules and procedures; the hierarchy of collective bargaining levels;<sup>22</sup> rules and conditions pertaining to administrative extension of collective agreements; and settlement of collective labour disputes, etc. While most of these legislative measures have only fine-tuned existing frameworks, some of them radically changed traditional collective bargaining systems.<sup>23</sup>
14. As discussed in section 4, democratization in many parts of the world has brought positive examples of easing or eliminating restrictions on collective bargaining and freedom of association. This encouraging development is being mitigated by the persistent gap between de jure support for collective bargaining and de facto practice, and continuing limitations of freedom of association. ILO experience at field level as well as recent academic research suggests that this gap can be significant. This is particularly the case

<sup>15</sup> ILO, 2007a.

<sup>16</sup> *ibid.*, pp. 7–8.

<sup>17</sup> ILO, 2006c, particularly paras 998–1045.

<sup>18</sup> Typically in Scandinavia and the Benelux countries.

<sup>19</sup> In northern Europe and in Ireland, governments promoted trade union participation through a series of basic agreements which contributed to a rapid spread of collective bargaining.

<sup>20</sup> For example, in Cambodia, Indonesia and Viet Nam.

<sup>21</sup> For example, the new Labour Code in the Czech Republic (2006), which eliminated remaining restrictions to collective bargaining, and legislative changes in Singapore extending to unions capacity to represent individual employees in “managerial” positions.

<sup>22</sup> For example, France in 2004.

<sup>23</sup> For example, in Australia, particularly, since 2005, and New Zealand, between 1991–99.

where strong prohibitions on collective relations have been eased recently,<sup>24</sup> where the situation of employers' and workers' organizations has not been sufficiently consolidated, and/or where the government maintains tight political control over collective bargaining. In this context, it should also be noted that in many countries developing and maintaining an efficient labour administration, able to influence economic and social policies and set an effective framework for collective bargaining, is as great a challenge as establishing free, independent and effective employers' and workers' organizations.<sup>25</sup>

### 3. Collective bargaining and decent work

15. Collective bargaining is central to all aspects of the Decent Work Agenda including as an important element in maintaining social and economic peace and stability.

#### 3.1. Collective bargaining and ILO standards

16. The promotion of collective bargaining is a key ILO objective. ILO Convention No. 98, 1949, now ratified by 158 countries (or 87 per cent of member States), contained the first international standard on this matter. Article 4 states that "measures appropriate to national conditions shall be taken, where necessary, to encourage and promote ... the regulation of terms and conditions of employment by means of collective agreements".
17. Two years later, the ILC adopted Recommendation No. 91 establishing principles regarding collective bargaining machinery and the effects, interpretation, and application of collective agreements. The Recommendation defined "collective agreements". Interpretations of the meaning of these provisions of these standards have been developed over many decades by two ILO bodies: the Committee of Experts on the Application of Conventions and Recommendations, and the Freedom of Association Committee of the Governing Body. The principles developed by these two bodies confirm and supplement each other; together, they constitute ILO policy on collective bargaining. The principles and decisions arising from various cases are not presented here. However, it might be noted that the main aspects of collective bargaining enshrined in Convention No. 98 are: governmental promotion of collective bargaining; the voluntary nature of bargaining and its procedures; and the autonomy of the bargaining parties.
18. One question, which over the years has given rise to much discussion within the ILO, is the extent to which collective bargaining should be applied to the public sector. A point of contention was the degree to which Convention No. 98 applies to employees of public enterprises, particularly those in such areas as the postal service, schools and railways.
19. As a result, in 1978, the ILC adopted Convention No. 151 which applies to labour relations in the public service. In addition, during the late 1970s, fostered in particular by ILO experience from its industrial relations activities in developing countries (e.g. advisory services, research and regional meetings), the view was formed that new standards should supplement those establishing the right to collective bargaining by creating an obligation for governments to promote collective bargaining actively through concrete measures. The outcome of these deliberations was the adoption in 1981 of Convention No. 154, supplemented by Recommendation No. 163.

<sup>24</sup> See Chor, D. and Freeman, R., 2005, in relation to the results of an Internet-based survey that seeks to measure de facto labour practices in countries around the world.

<sup>25</sup> See Heyes, J., 2004, Lecuyer, N., 2002, and World Bank, 1997.

20. An important aspect of Convention No. 154 was the new definition of collective bargaining,<sup>26</sup> according to which the subject matter for bargaining was not limited to working conditions and terms of employment. Rather, it now extended to relations between employers and workers, and to relations between their respective representative organizations. In other words, the term “collective bargaining” was extended to encapsulate that it was a method of regulation of industrial relations themselves.
21. The principles relating to collective bargaining as adopted by the ILC in the form of Conventions and Recommendations, and, to some extent, further developed by the Committee of Experts and the Committee on Freedom of Association, constitute the essential elements of the ILO’s policy regarding collective bargaining. To these principles must be added the requirements of the Declaration on Fundamental Principles and Rights at Work and its Follow-up.<sup>27</sup> All of these instruments and jurisprudence confirm the key role that collective bargaining plays in promoting and being promoted by the Decent Work Agenda.

### 3.2. Collective bargaining, employment and wages

22. Discussion and analysis of the impact of collective bargaining on employment and wages has in the past been heavily influenced by assumptions about the way labour markets function, which often did not bear much resemblance to the practical experience of employers and workers. Much microeconomics presumed that there was a clearing price for labour at which all seeking work would be employed. Restrictions to the free play of the forces of supply and demand would thus lead to less than full employment. According to this approach, if collective bargaining raised wages above the equilibrium clearing price it could only be at the expense of employment.
23. However, newer developments in labour economics offer a more sophisticated approach. While recognizing that the price of labour is important for the interplay of labour supply and demand, it is now acknowledged that the relationship between levels of employment and wages is much more complex than assumed under the market clearing argument. At the level of microeconomics, efficiency wage theory has demonstrated that there is a rationale for firms paying above any hypothetical market clearing wage to spur motivation, avoid shirking and excessive labour turnover and to increase productivity;<sup>28</sup> and, in the macroeconomics literature, the demand side effect of wages and the positive impact of rises in purchasing power for economic growth and employment is stressed, provided inflation is controlled. In addition, both work performance/productivity and aggregate demand are affected by the nature of the pay-for-work bargain, including the mechanisms such as collective bargaining by which it is settled.<sup>29</sup>

<sup>26</sup> See footnote 8.

<sup>27</sup> ILO, 1998. See also the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, 1977 (especially, Articles 49–56 inclusive); OECD, Guidelines for Multinational Enterprises, 2000 (Part 1, section IV); and the UN Global Compact, 1999 (Principle 3). The ECOSOC Ministerial Declaration, 2006 also, *inter alia*, provides strong support for implementation of the ILO Conventions on freedom of association and collective bargaining (Preamble, and especially paras 1–6).

<sup>28</sup> Stiglitz, J., 1987.

<sup>29</sup> Freeman, R.B., 2007.

24. Some economic arguments suggest that the exercise by trade unions of bargaining power places upward pressure on aggregate wages and, to the extent that unions pursue an egalitarian agenda, compress wage differentials. This, so it is argued, will negatively affect employment on two accounts: firstly, wages in general shoot above market clearing (and productivity) levels and thus affect employment creation and unemployment; and, secondly, wage compression may result in the exclusion from employment of those at the lower end of the distribution, such as unskilled or lower productivity workers.<sup>30</sup> It is also argued that the exclusion of formal jobs that can only be profitable at very low wage levels may have implications for the growth of the informal economy in both the developing and developed countries. In addition, if unions raise aggregate wages to levels that are too high relative to overall productivity, firms will pass this increase in labour costs on to consumers resulting in inflationary pressure and theoretically higher levels of unemployment.<sup>31</sup>
25. On the other hand, there are many positive economic effects associated with collective bargaining. Responsible unions and employers will take into account the general stance of the economy in their collective bargaining arrangements and, if sufficiently strong, can provide the means to coordinate wage agreements across the economy so that these take the costs implied by high wage demands into account. This may lead to low inflation, lower unemployment and the growth of employment.
26. Given the complexity of the issue, what then is the crux of empirical findings on the effect of collective bargaining on labour market performance? While there have been limited studies of the impact of collective bargaining institutions<sup>32</sup> on employment and wages in developing countries, some clear results have emerged. One of these results is the positive effect of bargaining coordination on labour market outcomes. While former studies used levels of bargaining (e.g. centralized, intermediary, decentralized) for determining labour market outcomes and found positive effects both at the central and decentralized levels, later studies also examined the impact of bargaining coordination across the economy and showed that intermediary, but coordinated, bargaining levels may also entail good labour market performance.<sup>33</sup> One of the arguments in favour of coordination is that, similarly to centralized bargaining, coordinating wage rounds across the economy would respond to the needs of the macroeconomy and thus internalize the possible negative externalities of high wage increases in particular sectors of the economy.
27. While some researchers found a negative relationship between union density and employment,<sup>34</sup> they do not argue that this was caused by trade union exercise of power in collective bargaining per se but rather by the context in which unions operated. For example, weak product market regulation enabled employers to pass wage increases onto consumers. In addition, collective bargaining arrangements were underdeveloped and did not include coordination mechanisms or encourage employers' and workers' organizations

<sup>30</sup> See Blau, F. and Kahn, L., 1999.

<sup>31</sup> Nickell, S., Nunziata, L., and Ochel, W., 2005. This argument is also used to explain the performance of decentralized bargaining systems: in order to pre-empt such a pass-through of wage hikes to consumers, unions would exert wage restraint.

<sup>32</sup> Including trade unions, employers' organizations and different forums for social dialogue.

<sup>33</sup> For example, Calmfors, L. and Driffill, J., 1988 and, for coordination, Elmeskov, J., Martin, J.P., and Scarpetta, S., 1998.

<sup>34</sup> Rama, M., 1995 and McGuire, J., 1997.

to consider broader interests beyond those of their members.<sup>35</sup> In other cases, when unions and employers were strong and wage bargaining institutions well developed, centralized and/or coordinated bargaining has led to competitiveness enhancing wage moderation (a fact that was supporting the employment success of many European economies in the last decade)<sup>36</sup> rather than to competitiveness reducing wage increases.

- 28.** Apart from the impact of wage pressure on equilibrium unemployment, it has been suggested that collective bargaining contributed to wage inequality through the wage mark-up – the difference between market and bargained wage rates. The effect of the exercise of bargaining power by trade unions on wage inequality depends on the role that collective bargaining institutions play. Most studies find that union involvement in wage setting compresses wage structures and that the effect on the reduction of wage inequality is highest where collective bargaining coverage is high. There is also evidence of a strong relationship between centralized and/or coordinated bargaining and lower wage dispersion, including a narrower gender pay gap.<sup>37</sup>
- 29.** At a broader level, unrelated to the impact of collective bargaining, it should be noted that there is growing evidence of a decline in the labour share of national income, accompanied by increasing income inequality. These developments are consistent with the perceived shift in the relative market power of labour and capital following the integration of several highly populated countries into the global economy and the effects of labour-saving technological change originating in the advanced countries. Further analysis of these trends has to be pursued, particularly to seek to establish how income and wealth outcomes and labour/capital shares interact with the functioning of labour markets, especially in developing countries.<sup>38</sup>
- 30.** Evidence of an inequality/employment trade-off is mixed.<sup>39</sup> Compressed wage structures associated with centralized and/or coordinated bargaining arrangements do not appear to price low-skilled workers out of work, at least in developed countries. Less is known about developing countries and the effects of collective bargaining institutions on the informal economy. Some research studies also show that the decentralization of a system of collective bargaining can lead to an increase in earnings inequality.<sup>40</sup>
- 31.** Indeed, new evidence on the significance of centralized and coordinated systems of collective bargaining in addressing employment challenges and promoting equality led the OECD in 2006 to review the recommendations underlying the 1994 jobs strategy to decentralize collective bargaining. Noting the good labour market performance of some of the centralized and/or coordinated bargaining systems (mainly, in what are called the North European countries), the OECD now recognizes that: “It would be useful to take fuller account of the fact that national industrial relations practices are part of the social and

<sup>35</sup> See Rama, M., 1997.

<sup>36</sup> Auer, P., 2000.

<sup>37</sup> See Blau, F. and Kahn, L., 1996 and 1999; Bertola, F. Blau, F. and Kahn, L., 2002; and OECD, 2004. More recently, see Baccaro, L. and Simoni, M., 2007.

<sup>38</sup> See ILO, 2007c, pp. 8–10.

<sup>39</sup> OECD, 2004. See also Blau, F. and Kahn, L., 1999; and Bertola, F. et al., 2002, for indirect evidence.

<sup>40</sup> See, for example, Riveros, L.A., 1994 (Chile); Kristal, T. and Cohen, Y., 2007 (Israel); and Hall, R., 2007 (Australia).



political fabric, implying that bargaining structures are not easily changed by government action ... Recent experience also suggests that greater allowance be made for the potential contribution of centrally coordinated bargaining to achieving wage restraint.”<sup>41</sup>

32. Globalization and demographic and technological changes are exerting their sometimes contradictory pressures on the labour market and require adequate responses at policy and regulatory levels. In those countries which rely on collective bargaining for labour market governance, the adaptability of the collective bargaining system to change has been witnessed through the introduction of “opening clauses” and concession bargaining, very often used for employment maintenance, showing a joint responsibility of employers and workers for managing change.

### 3.2.1. *Collective bargaining and competitiveness*

33. Evidence from cross-country studies shows that manufacturing wages tend to be higher in countries that respect freedom of association and collective bargaining rights, even after accounting for productivity.<sup>42</sup> However, rather than affect the competitiveness of these economies, studies find a strong relationship between countries that respect these rights and higher total manufacturing exports.<sup>43</sup> In addition, respect for these rights is positively associated with foreign direct investment flows.<sup>44</sup> Overall evidence suggests that collective bargaining as an institution does not necessarily adversely affect a country’s global competitiveness.
34. There is reason to believe that collective bargaining institutions provide countries with the institutional capacity to manage adjustment processes associated with globalization. During the Asian financial crises of the late 1990s, those countries that had stronger industrial relations institutions provided firms with the possibility of reaching agreements on reduced working time and wage cuts that provided alternatives to liquidation.<sup>45</sup> At the national level, strong industrial relations institutions provided countries with the means to reach the bargains and make the policy adjustments needed to restore macroeconomic stability and avert destabilizing conflicts during the shocks of the late 1970s and 1980s.<sup>46</sup>
35. Recent research on the interaction between economic shocks and collective bargaining institutions over time suggests that in OECD countries with high degrees of bargaining coordination, real wages were responsive to employment conditions.<sup>47</sup> The organization of collective bargaining and existence of strong employers’ and workers’ organizations do appear to provide the institutional means to coordinate wages and employment during the period of economic adjustment.

<sup>41</sup> OECD, 2006, p. 88.

<sup>42</sup> Rodrik, D., 1999 and Kucera, D., 2001.

<sup>43</sup> Kucera, D. and Sarna, R., 2006.

<sup>44</sup> Kucera, D., 2001.

<sup>45</sup> Lee, E., 1999.

<sup>46</sup> Rodrik, D., 1999a.

<sup>47</sup> Blanchard, O. and Wolfers, J., 2000. Bassanini, A. and Duval, R., 2006 find that highly centralized wage bargaining arrangements increase the resilience of an economy to negative shocks.

36. Empirical evidence that collective bargaining in industrial relations settings with cooperative employer and worker relations underpins good economic performance has been provided by the World Economic Forum (WEF).<sup>48</sup> Their indicators show that among the ten top world performers in 2006, all have a grade 5 or above in relation to employer–worker relations, i.e. they appear to demonstrate cooperative relations.<sup>49</sup> As far as the level of bargaining is concerned (centralized vs. decentralized) five countries have relatively centralized bargaining and five more decentralized systems.<sup>50</sup> “Sound” labour–management relations are an important factor and countries with smoothly functioning collective bargaining machinery show a high degree of cooperation.<sup>51</sup> In general, it seems that having fairly centralized and/or well-coordinated bargaining and non-adversarial relationships between employers and workers and their organizations yield good results in terms of competitiveness.

### 3.3. Collective bargaining, working conditions and social protection

37. Wages, working time, work organization, arrangements to adapt working life to the demands of life outside work, and working conditions are core elements of the employment relationship and of workers’ protection. They are therefore major dimensions of collective bargaining. As section 4 shows, rapid changes in the industrial relations environment has given rise to new subjects for bargaining and have altered the ways in which more traditional conditions of work are being addressed. This is particularly the case in Europe and in a number of other developed countries, but is also emerging elsewhere.

38. In terms of social protection, collective bargaining on social security is widespread in Europe, North America, and more and more in developing countries in other regions.<sup>52</sup> In some countries,<sup>53</sup> occupational systems relying on sectoral bargaining play an important role. In others,<sup>54</sup> supplementary pension schemes are provided directly by individual employers and reflected in the individual employment contract or enterprise-level agreement. In recent years, many countries have introduced measures to encourage the development of occupational pensions or other supplementary pension provisions, often in conjunction with basic public pension system reforms (reducing future benefits, increasing retirement age and tightening other eligibility conditions), making collective bargaining on

<sup>48</sup> World Economic Forum, 2006. Performance is measured by the global competitiveness index which provides an overview of factors critical to driving productivity and competitiveness. These factors are grouped into nine pillars: institutions, infrastructure, macroeconomy, health and primary education, higher education and training, market efficiency, technological readiness, business sophistication and innovation.

<sup>49</sup> Measures run from 1 adversarial to 7 cooperative.

<sup>50</sup> In this respect, the WEF index reflects not so much the level at which bargaining takes place but rather whether wages are set by a centralized bargaining process (score 1) or left to each individual company (score 7).

<sup>51</sup> World Economic Forum, 2006. The positive relationship between the degree of cooperation and economic performance seems also to hold at the level of 125 developed and developing countries covered by the report.

<sup>52</sup> See Kaar, van het, R., 2004.

<sup>53</sup> For example, the Netherlands, Sweden, Denmark and the United Kingdom.

<sup>54</sup> For example, Austria, Belgium, Finland and Germany.

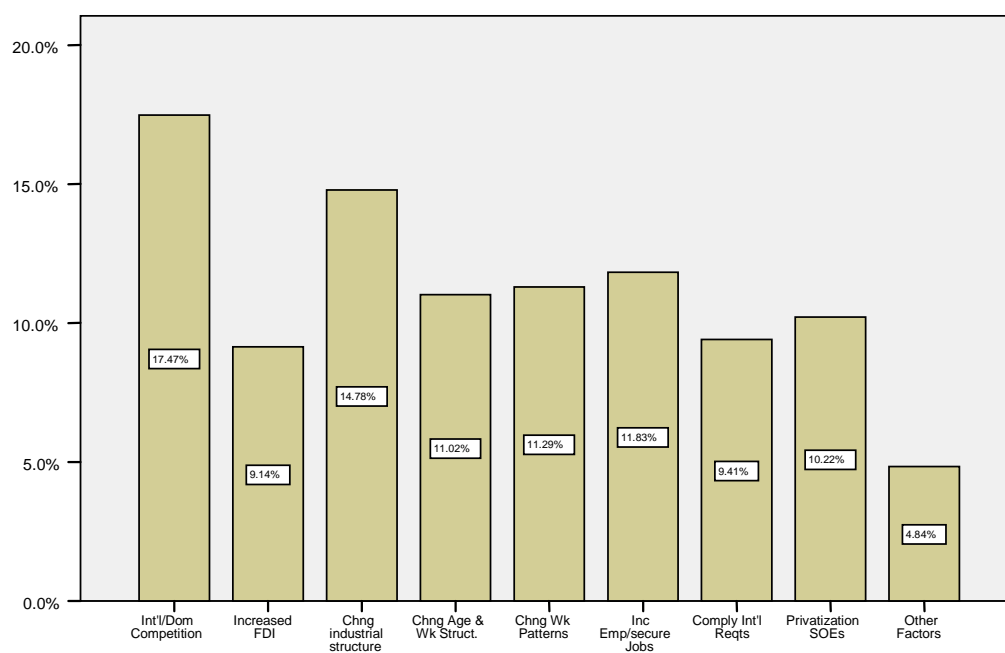
this particular issue even more important. In many countries of Africa and Asia, where public social protection is weak, collective agreements at different levels (e.g. sectoral or enterprise) do provide some important elements of social security to a limited number of workers.

39. It should also be noted that in a good number of countries there is a long tradition that social protection issues, particularly social insurance schemes financed and supervised jointly by employers and workers, are the subject of national-level bipartite or tripartite negotiations. In this context, the social partners may act as “guardians” of proper governance of overall national social security systems and/or individual social security schemes, while ensuring that agreements reached are implemented.

#### 4. A rapidly changing industrial relations environment

40. What are the challenges facing collective bargaining institutions in the context of pursuing the Decent Work Agenda? In this respect, the industrial relations environment, nationally and globally, has been changing dramatically in recent years. Figure 1 identifies the main drivers of change.

Figure 1. Drivers of industrial relations change, 1990–2006<sup>55</sup>



<sup>55</sup> Figure 1 is adapted from an analysis of responses to a survey in 2006 of ILO tripartite constituents in over 40 countries. The survey was carried out in the context of a DIALOGUE research study on changes in industrial relations systems since the early 1990s, with particular reference to collective bargaining (“the ILO Social Dialogue Survey 2006”).

## 4.1. Intensified global competition

41. Figure 1 indicates that globalization (and related policies) has had the most decisive influence on collective bargaining during the last decade, as it has impacted on collective bargaining procedures and content as well as the behaviour of its actors. Trade and financial liberalization have led to direct competition between goods and services produced by countries and world regions having very different labour costs and strikingly diverse labour conditions. Policy orientations emphasizing the advantages of unfettered markets, together with a dramatic reduction in transport and communication costs, has led to competitive pressures that have called for new bargaining strategies in order to increase efficiency and productivity. In addition, both capital and labour have been on the move. International migration of workers, both highly qualified and unskilled, has created a considerable challenge for collective bargaining all over the world. In many instances, trade liberalization has not been accompanied by implementation of measures at national and regional levels to support and strengthen labour market governance. This has contributed to growing uncertainty for both employers and workers and has had a significant impact on both the content and processes of collective bargaining. This situation is discussed further below.

## 4.2. Democratization, but a continuing lack of the rule of law

42. The spread of democratic values in all world regions has provided opportunities for employers and workers and their organizations to assert the rights to freedom of association and to bargain collectively as the foundation for establishing sound labour-management relations, even in countries where these concepts never previously existed.<sup>56</sup>

43. However, cases brought before the ILO's supervisory bodies indicate that while instances of violation of freedom of association and of the right to bargain collectively may vary in intensity between one country and region and another, they are by no means rare.<sup>57</sup> Reasons for such anti-union or anti-bargaining behaviour are not always ideological; sometimes, it is due to lack of awareness by managerial staff about the advantages of cooperative labour relations.<sup>58</sup> Especially in the case of rapidly expanding businesses<sup>59</sup> and enterprise relocations and foreign "greenfield" investments, where a rapid return on investment is sought, hastily hired and inexperienced lower and medium-level managerial staff may not comply with local laws or an established company's industrial relations culture, rules and/or practices. This confirms the necessity to strengthen the responsibility of parent companies for the fairness of employment relations in their subsidiaries and partner organizations in line with the ILO Tripartite Declaration of Principles concerning

<sup>56</sup> In fact, related reforms sometimes lead to "hybrid" systems of employment relations, which are regulated by market forces as well as by continuing important government interventions (e.g., Cambodia, China, Viet Nam, and countries in the Caucasus region and Central Asia).

<sup>57</sup> Since its inception in 1951 the Committee on Freedom of Association has considered nearly 2,600 cases. Also, each year the Committee of Experts examines a substantial number of reports from governments which raise issues concerning the implementation of Conventions Nos 87 and 98.

<sup>58</sup> Such advantages are identified in a number of studies in terms of fewer industrial conflicts, lower labour turnover, greater investment in human capital, easier introduction of new working methods, easier adoption of necessary changes in particular situations (e.g. sale of a business), etc.

<sup>59</sup> For example, in the commerce sector.

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Multinational Enterprises and Social Policy<sup>60</sup> and the ILC resolution concerning the promotion of sustainable enterprises adopted in 2007.<sup>61</sup>

### 4.3. Technological and environmental challenges

44. Globalization in terms of the liberalization of trade and financial flows is closely interlinked with the development and diffusion of new technologies (e.g. information and communications technology). These technologies have extended the reach and impact of liberalization and its social consequences, by facilitating international connectedness, bringing about changes in production, distribution and patterns of exchange, as well as changes in work location, management methods and forms of employment. Technological changes have also had a direct impact on productivity, the structure of the workforce and on the skills required by the labour market. All of this is necessarily reflected in the content and process of collective bargaining, as continuing innovation requires rapid organizational adaptation as well as higher education levels and more versatile skills among workers. At the same time, in the context of global supply chains, changed relationships between manufacturers and the companies that eventually market goods mean that workers may no longer have access to the real decision-makers in order to bargain collectively.
45. In the near future, it is anticipated that “globalization” and “new technologies” may be joined as significant drivers of change by environmental considerations, especially in connection with measures to address global warming. Such measures are likely to bring new investment opportunities,<sup>62</sup> changes in production technologies, the use of new sources of energy, shifts in consumer preferences and/or pressure for changing the location of ecologically damaging production. No doubt these changes will have an influence on the future conduct of collective bargaining.

### 4.4. Transformation of labour force structures

46. Structural changes in the labour force (including an increased proportion of employed women and a growth in part-time and casual work), the rapid growth of the services sector, privatization and commercialization of public services, diversification of production methods (e.g. through outsourcing), the use of labour supplied by agencies and intermediaries, as well as diversification within traditional economic sectors (e.g. in the chemical industry) have important consequences for the actors of collective bargaining. Needless to say, employers’ and workers’ organizations have been faced with increasing challenges to provide high-quality services to their members in a more diverse labour market environment. In addition, as can be seen in section 4.6 below, the reach of collective bargaining has been substantially reduced by a growing informal economy in many countries where the decent work deficit is most visible.

### 4.5. New forms of employment relationships

47. The continuing emergence of various forms of ambiguous, disguised or atypical employment relationships represents a major obstacle to the right to organize and

<sup>60</sup> Last revised by the ILO in 2000.

<sup>61</sup> ILO, 2007a.

<sup>62</sup> In relation to measures addressing the impacts of climate change, including in relation to the atmosphere, water pollution and solid waste.

collective bargaining.<sup>63</sup> Unions may have difficulties in representing workers engaged by a company through various atypical employment arrangements. Also employers' organizations can face difficulties in organizing and representing enterprises and individuals involved in non-transparent employment relationships. Collective agreements themselves sometimes contain provisions leading to exclusion from coverage of "non-regular" employees, even though they may work on the same site as normal employees.<sup>64</sup> Governments have a responsibility to regulate these tendencies through labour legislation and other regulation, guided by the provisions of the ILO Employment Relationship Recommendation, 2006 (No. 198), the Private Employment Agencies Convention, 1997 (No. 181), and associated Recommendation (No. 188).

#### 4.6. The informal economy

48. Finally, the large informal economy<sup>65</sup> throughout the world, not only in developing countries, represents from the perspective of collective bargaining both a significant obstacle and opportunity. Informal work reflects inherently a governance problem and needs to be tackled at that level. Work performed under informal relationships poses very specific obstacles to collective bargaining. For example, can there be a bargaining relationship in a particular situation? In this respect, is the work being performed by genuinely self-employed workers? In addition, would an employment relationship be established if the work activity was to be formalized? And, if so, who would be the parties to a bargaining relationship, noting that the role of agents and intermediaries in arranging the services of workers present particular difficulties in this respect?
49. During the past few years, there have been increasing efforts by trade unions in all regions directly and with NGOs to seek to organize workers in many sectors of the informal economy.<sup>66</sup> While it is difficult to develop traditional forms of collective bargaining in the informal sector, the relevant principles of freedom of association and the right to collective bargaining should be applied whatever the form of economic activity and wherever it is located. In the larger context, collective bargaining is one component of the solution, as both social partners and the government are equally interested in addressing the issue of undeclared and unregulated work, as this phenomenon represents specific risks for all of them. Moreover, the demonstration effect of healthy industrial relations and its outcomes in the formal sector cannot but have positive impacts in the informal economy.

<sup>63</sup> It might be noted, however, that in some sectors (e.g. media and entertainment), where self-employment is the norm, collective bargaining can take place on rates for a job.

<sup>64</sup> See ILO, 2003a and 2006a for an overview of recent developments in the scope of the employment relationship.

<sup>65</sup> ILO, 2002a, p. 1: "Contrary to earlier predictions, the informal economy has been growing rapidly in almost every corner of the globe, including industrialized countries – it can no longer be considered a temporary or residual phenomenon." Informal employment as a share of non-agricultural employment in the second half of the 1990s was 48 per cent in North Africa, 72 per cent in sub-Saharan Africa, 51 per cent in Latin America and 65 per cent in Asia. More recent research indicates some reduction in the faster growing economies of East and South-East Asia, but limited changes elsewhere.

<sup>66</sup> ILO, 2007b. Examples of organizing efforts, including through ILO advice and support, can be found in Argentina, Brazil, Burkina Faso, Ghana, India, Kenya, Mongolia, Mozambique, Peru, Rwanda, United Republic of Tanzania, Turkey, Uganda, Zambia and certain countries in Central and Eastern Europe.

## 5. Collective bargaining: A capacity to respond, adapt and innovate

50. Collective bargaining emerged from the industrial revolution, which brought about a new specific relationship between manager and worker: the employment relationship. Employers and workers, often through their representatives, participate in this relationship through bargaining in order to achieve their own objectives, which cannot be accomplished without mutual respect, cooperation and, sometimes, conflict.<sup>67</sup> The ILC acknowledged in 2006<sup>68</sup> that the original purpose of collective bargaining remains valid as the employment relationship continues to be the predominant framework governing work.
51. A particularly important feature of collective bargaining is its applicability to different situations and changing economic conditions. In this respect, the ILO definition of “collective bargaining” and the jurisprudence of the ILO supervisory machinery provide a framework which can be adapted to very different national situations. The last two decades of industrial relations development have produced many examples of the innovative capacity of collective bargaining in successfully coping with new challenges. In other words, collective bargaining is a governance method well adapted to the needs of the modern world.

### The new agenda of collective bargaining

Box 1. Elements of the new agenda of bargaining	
Collective bargaining process	Family, gender and equal treatment
<ul style="list-style-type: none"> <li>■ More flexible multi-level bargaining</li> <li>■ International and regional dialogue</li> </ul>	<ul style="list-style-type: none"> <li>■ Different forms of parental and family leave</li> <li>■ Working time arrangements</li> </ul>
Labour market and employment	<ul style="list-style-type: none"> <li>■ Time-saving accounts</li> <li>■ Positive action and equal opportunities</li> <li>■ Combating child labour</li> <li>■ Sexual harassment</li> <li>■ HIV/AIDS</li> </ul>
<ul style="list-style-type: none"> <li>■ Agreements on employment and competitiveness</li> <li>■ Addressing unregistered work</li> <li>■ Relocation of production</li> </ul>	Social protection and social inclusion
Lifelong learning and competence building	<ul style="list-style-type: none"> <li>■ Supplementary occupational pensions</li> <li>■ Flexible retirement</li> <li>■ Active ageing</li> </ul>
<ul style="list-style-type: none"> <li>■ Personal development plans</li> <li>■ Employability agreements</li> <li>■ Sabbatical and training leave</li> <li>■ Savings accounts for training and education</li> </ul>	Working conditions and work organization
	<ul style="list-style-type: none"> <li>■ New forms of work organization</li> <li>■ Human-friendly technologies</li> <li>■ Health and safety at work</li> </ul>

52. Originally, collective bargaining was predominantly a wage-setting instrument. To some extent this is still true. But, as box 1 indicates, many social partners now use it to settle a

<sup>67</sup> For more details, see Kaufman, B.E., 2004.

<sup>68</sup> See the Preamble to ILO Recommendation No. 198.

wide range of issues concerning terms of employment and working conditions which were not negotiated a few decades ago. Through collective bargaining at various levels of an economy<sup>69</sup> social partners have been increasingly able to achieve agreements on issues dealing with labour and employment, skills enhancement, gender and equal treatment issues, harmonization of work and family responsibilities, HIV/AIDS, occupational pensions and many others, including the rules governing their mutual relations.

## 5.2. “Dynamic and qualitative” bargaining strategies

53. More and more collective bargaining is dealing with “dynamic and qualitative” aspects of employment conditions, such as smooth labour–management relations, healthy working environment,<sup>70</sup> equal treatment issues, combining of work with family responsibilities and/or investment in education and skills. In fact, one of the “dynamic effects” of collective bargaining is that greater equality resulting from compressed wage structures can provide incentives to firms to invest in general skills training which in turn enhances productivity and competitiveness.<sup>71</sup> Many recent agreements<sup>72</sup> deal with evaluating training needs, setting up of training plans, etc. In countries with training levies and training funds, these have been provided with a framework through bipartite and tripartite agreements signed at sectoral or inter-sectoral level. In this context, collective bargaining is contributing to investment in training in a large number of countries.

54. In the past, and with the exception of maternity leave, the concerns and interests of women have in many cases been overlooked during collective bargaining. Substantially increased union membership among women in many countries and changes with respect to gender equality in the labour force and shared family responsibilities have resulted in greater consideration for reconciling work and family life through collective bargaining. In this context, ensuring equal pay for equal work, maternity leave, paternity leave, adoption leave and parental leave, flexibility in working time and organization, as well as establishing grievance procedures against discrimination and harassment, are increasingly part of collective negotiations.<sup>73</sup>

## 5.3. Security and flexibility: Negotiated solutions

55. Increasing attention is being given to reaching bargaining outcomes which will contribute to improving enterprise competitiveness and/or creating conditions for greater job

<sup>69</sup> To simplify, four levels of bargaining, not necessarily mutually exclusive, may be distinguished: economy-wide, sectoral, company/establishment and local/regional.

<sup>70</sup> More negotiations are featuring flexible use of working time and work organization arrangements, including greater use of part time, flexitime, time banking, job sharing and telework. Provisions for limiting temporary work, managing outsourcing and workforce restructuring are also appearing in a number of countries.

<sup>71</sup> See Nubler, I., 2007.

<sup>72</sup> For example, in France, vocational training was the second most important bargaining issue in 2001.

<sup>73</sup> See Goodson, E. et al., 1998.



security.<sup>74</sup> Recent agreements seek to improve an enterprise's ability to meet changes in demand; that is, to enhance its flexibility concerning working time arrangements, pay systems and/or work organization.<sup>75</sup> Some pursue only short-term objectives, such as avoiding, totally or partially, redundancies or relocation. Others have been more complex, combining recourse to reduced hours, increased working time flexibility, increased part-time work and greater skill flexibility in exchange for the protection or creation of employment.

- 56.** Relocation of production from one country or one region to another, probably the most visible effect of globalization, poses a number of challenges to industrial relations. In particular, it may disrupt existing bargaining arrangements, especially in the case of greenfield investments. On the other hand, there are now many examples of comprehensive agreements in this area.<sup>76</sup> A further set of examples can be found in the form of pacts for employment and competitiveness (PECs). These are company-level agreements containing specific provisions directed at maintaining competitiveness and employment, of which many have now been concluded. Such agreements would not have been possible without national-level bargaining, often with government involvement.

#### **5.4. Fewer industrial conflicts**

- 57.** As suggested by the ILO Social Dialogue Survey in 2006 and confirmed by available statistical data, there is a general trend towards fewer instances of industrial action. The ILO research also suggests that industrial conflicts are now being resolved more quickly and more effectively; this tendency is evident in all regions, but is most pronounced in Europe.
- 58.** Collective bargaining has contributed to this positive record. A collective agreement creates an atmosphere of mutual trust and establishes social peace. But it is also an important normative source for dispute resolution (e.g. by establishing mutually acceptable rules for resolving a dispute through, for instance, conciliation, mediation and/or arbitration). It is also of interest to note that, on the basis of some recent bargaining outcomes, certain social partners are seeking to resolve future issues in dispute themselves rather than through government intervention.<sup>77</sup>

#### **5.5. Coordination between bargaining levels**

- 59.** Collective bargaining takes place at different levels of an economy. It is increasingly recognized that effective coordination across and within bargaining levels is the key factor

<sup>74</sup> In some collective bargaining systems, a distinction is made between wage agreements and other collective bargaining agreements dealing with employment conditions, e.g. in China, Japan and the Republic of Korea.

<sup>75</sup> See Ozaki, M., 1999.

<sup>76</sup> For example, Siemens and Daimler-Chrysler (2004) and Thyssen Krupp Steel (2006).

<sup>77</sup> For example, Finnish road transport agreement (2006); UK papermaking industry (papermaking partnership, 2007); and cooperation pact in the Bulgarian chemicals sector (2007).

in determining efficiency and equity in collective bargaining systems.<sup>78</sup> Coordination creates a more predictable and stable economic environment, contributes to fair competition, can lift the overall productivity of an economy and last, but not least, reduces bargaining costs. Coordination of bargaining can also prevent the creation of inflationary wage pressures.<sup>79</sup> Such coordination can be achieved not only by establishing a hierarchical relationship between existing bargaining levels, but also by less formal arrangements such as policy guidelines provided by “umbrella” employers’ and workers’ organizations, “pattern” outcomes established by big companies<sup>80</sup> and/or coordinated negotiations campaigns.<sup>81</sup>

- 60.** The mutual relationship between bargaining levels is not static: it has been adapting to the needs of social partners throughout the years. While each set of national arrangements might be very different, each level of bargaining has its own specificity and potential role.
- 61.** In many countries, economy-wide and sectoral-level bargaining set the general framework on policies and issues for lower levels, matters which could otherwise not be addressed efficiently through enterprise-by-enterprise agreements.<sup>82</sup> In the last 20 years, negotiations at the national level have multiplied, demonstrating that “social concertation has undergone an astonishingly lively and broad-based revival”,<sup>83</sup> especially in Europe, where it was mainly linked to the introduction of the European single currency and EU enlargement. In Asia, national-level concertation contributed to overcoming many of the consequences of the 1999 financial crisis.<sup>84</sup> In Latin America, there are positive examples of national social dialogue addressing key economic and social issues.<sup>85</sup> In Africa too, national social pacts have been negotiated as a way out of a major civil crisis and many are regarded as having provided a solid foundation for democracy and economic and social reconstruction.<sup>86</sup>
- 62.** It is argued by some that a large-scale decentralization of collective bargaining (or even the individualization of bargaining) would have beneficial economic effects. But it seems that these positions remain marginal. In fact, the 2002 World Bank study on collective bargaining suggests that “... there are grounds for believing that a centralized, union-based system of wage bargaining may be less costly to society than an individually based

<sup>78</sup> Marginson, P. and Sisson, K., 2004, provide a rich source of evidence and analysis of the emergence of a multi-level system of governance of labour markets and of collective bargaining as a consequence of European Union integration.

<sup>79</sup> For example, through consultations on inflation and productivity forecasts between social partners at the national level and central banks, as is the case in the Czech Republic and Finland.

<sup>80</sup> For example, in the automotive industry in the US. See also, for example, the coordinated bargaining approach adopted by the United Electrical, Radio and Machine Workers of America (UE) in its 2007 negotiations with General Electric ([www.ueunion.org/php/uwebprn.php?wsfn=unity2007\\_barghist.html](http://www.ueunion.org/php/uwebprn.php?wsfn=unity2007_barghist.html)).

<sup>81</sup> For example, the “spring offensive” in Japan.

<sup>82</sup> See Ishikawa, J., 2003.

<sup>83</sup> See Pochet, P. and Fajertag, G., 2000, p. 1.

<sup>84</sup> For example, Republic of Korea and Singapore.

<sup>85</sup> For example, Chile and Panama.

<sup>86</sup> For example, Mali (2001), Senegal (2003) and Algeria (2006).

negotiating system in terms of both transaction costs and dispute costs”.<sup>87</sup> The same study argues that coordinated systems seem to “facilitate faster and more flexible response to shocks”.<sup>88</sup> This conclusion confirms the validity of ILO Recommendation No. 163<sup>89</sup> which encourages coordination of collective bargaining levels. It also reinforces the fact that national and sectoral bargaining may be the only way that workers in high turnover or precarious or temporary work arrangements can effectively exercise their right to bargain collectively.

## 5.6. The development of transnational labour relations

- 63.** In addition to national levels of collective bargaining, there is an emerging move towards a transnational level of labour relations. The so-called international framework agreements (IFAs), which are agreements between a Global Union federation and a multinational company, are the result of a genuine negotiation at company level. Companies headquartered in France, Germany, Italy and the Nordic European countries are represented in this process, together with US companies operating in Europe. The current IFAs are disparate in terms of form, procedure and context. Their content also varies. Many reference core labour rights linked to the relevant ILO Conventions and other multilateral standards. A number deal additionally with issues such as employment, wages, and working time, but, in that regard, tend not to set specific conditions but rely on the broad provisions of relevant national legislation. Where health and safety, training or restructuring are addressed, they are dealt with differently depending on the circumstances of the company and the agreement. There are also increasing discussions directed to exploring how these texts might have legal effects.<sup>90</sup>
- 64.** At another level, the European Works Councils are increasingly going beyond their information and consultation role and, either with or without the national, European and international trade union organizations, are drawing up transnational texts that are intended to apply in several European countries, notably on health, safety and the environment, data protection, equal treatment at work, mobility management, mergers, closures, relocation and restructuring.<sup>91</sup> During the last few years, agreements have been negotiated between companies and parties representing the workers at European and/or international level on

<sup>87</sup> Aidt, T. and Tzannatos, Z., 2002, p. 37.

<sup>88</sup> *ibid.*, p. 120.

<sup>89</sup> See Paragraph 4(2).

<sup>90</sup> The absence of a legal framework is raised throughout the literature as one of the major stumbling blocks to effective international bargaining in this area. In an effort to get around this problem, and enshrine the agreements in national law, many IFAs have been signed by union and employer representatives of both the parent company and its subsidiaries. This approach is seen to be setting the stage for encouraging local bargaining, and while not without its problems, it could have interesting applications within subcontracting networks (Sobczak, A., 2006; Ales. E. et al., 2006). Additional legal issues that could potentially shape transnational bargaining and implementation of cross-border agreements, related to the exercise of the right to strike and freedom of movement in the European Union, are currently being considered by the European Court of Justice (Bercusson, B., 2006).

<sup>91</sup> This point also illustrates that information and consultation can evolve into a bargaining relationship and it is sometimes difficult to identify when the border between the two concepts is crossed.

issues related to corporate social responsibility (CSR), notably on fundamental rights, and which in scope go far beyond Europe.

## **5.7. Labour–management relations in global supply chains**

**65.** It should also be noted that the ILO has been involved in fostering sound labour relations within global supply chains through ongoing sectoral meetings and a number of ILO technical cooperation projects<sup>92</sup> aimed at facilitating a dialogue between the national social partners and multinational buyers. What has become clear from these experiences, and would be applicable in the context of both codes of conduct and IFAs, is that no CSR initiative is sustainable unless it is connected to and supported by strong national industrial relations systems and actors. Many of these initiatives have created space for unionization, dialogue and bargaining, but these gains must be supported by labour market institutions, such as dispute resolution systems, an independent judiciary and a public administration that works effectively and transparently and which has the confidence of all parties.

## **6. Conclusions**

**66.** The right to bargain collectively is not only a core ILO value but is a universal human right which is basic to the pursuit of democratic values all over the world. This message has been broadcast more widely in recent years with the increased publicity given to the ILO core labour standards by international public institutions, governments and non-governmental organizations.

**67.** Moreover, the growth of democracy throughout the world in the past decade has led to a broadening in the potential geographical scope of collective bargaining. But an overall increase in its incidence has been limited by factors such as intensified global competition, technological advances, transformation of labour market structures, new forms of employment relationship, growth in the informal economy, the continuing lack of freedom of association and difficulties faced by employers' and workers' organizations in many countries. At the level of government, lack of political will and/or the lack of capacity at policy, legislative and programme levels to encourage and support collective bargaining remain significant obstacles. In addition, deregulation and individualization of determination of working conditions represent a potential long-term risk to the practice of collective bargaining.

**68.** Collective bargaining institutions have evolved within individual national contexts and their diversity reflects the very different social, economic and political development paths of the countries concerned. This paper confirms that the main value and enduring strength of collective bargaining lies in its capacity to address issues in different economic and social contexts and to innovate and evolve.

**69.** It should also be noted that precise, quantifiable "indicators" of the quality of industrial relations are difficult to define. It is therefore necessary to rely on proxy measures, none of which are wholly satisfactory. Especially outside the major industrialized economies, there are considerable deficiencies in the current knowledge base in relation to collective

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<sup>92</sup> See, for example, the Better factories Cambodia, Global better work, and Decent work in the Moroccan garment industry projects.

bargaining.<sup>93</sup> Continuing and recently launched ILO research and other work should throw more light on these issues.<sup>94</sup>

70. While further research is needed, the available evidence indicates that the effects of collective bargaining on micro and macroeconomic performance depend on the complex interplay between the “package of policies and institutions” and the economic and political conditions prevalent in a country at a particular point in time. The importance and impact of collective bargaining depend very much therefore on whether there is a conducive policy, legal and institutional environment. In this area, much still needs to be done to establish proper enabling conditions for effective collective bargaining in many countries. Ultimately, what makes the difference seems to be not so much the specific institutional arrangements in place, but much more the soundness of capacities and the quality of dialogue between labour and management at all levels. In addition, it is becoming increasingly clear that collective bargaining operates best in an environment where coordinated multi-level arrangements exist: at national, sectoral/branch, regional, local and/or enterprise levels.
71. Although there is substantial variation in its coverage and influence from one country and region to another, collective bargaining is being promoted by and making a strong contribution to advancing the Decent Work Agenda. It helps to balance efficiency with representation, equity and security in the workplace. It has proven to be an important element in developing efficient, productive and competitive enterprises at a time of rapid change in national and international markets. Accordingly, collective bargaining continues to be a key tool for achieving sound labour market governance and for maintaining social peace.
72. For all of these reasons, the Office has a very important continuing role in advancing and supporting the effective recognition of the right to collective bargaining. This role must include promotion, provision of technical advice, capacity building and knowledge development.

## 7. Future ILO work

73. Against the above background, there are several broad areas where continuing work by the Office is needed to promote collective bargaining as a key element of pursuing the ILO’s Decent Work Agenda:
- **Promoting ratification and effective implementation of the international labour standards related to freedom of association and the right to bargain collectively should be given particular priority. By this means, the preconditions for genuine bargaining should be created or reinforced.** Attention needs not only to be given to Conventions Nos 87 and 98, but also to the following related Conventions: the Workers’ Representatives Convention, 1971 (No. 135); the Rural Workers’

<sup>93</sup> For a discussion on conceptual and methodological issues surrounding social dialogue/industrial relations indicators, see Ishikawa, J. and Lawrence, S., 2005; ILO, 2005; and Visser, J., 2000, 2002 and 2006.

<sup>94</sup> For example, the continuing Office work on developing decent work indicators and the DIALOGUE research study on changes in industrial relations systems since the early 1990s, with particular reference to collective bargaining. In addition, DECLARATION through its follow-up procedures is undertaking ongoing work on freedom of association and collective bargaining, including in the context of preparing the related 2008 Global Report and INTEGRATION has carried on related work around follow-up to the World Commission report. The Institute of International Labour Studies has also been addressing collective bargaining issues in its ongoing research and publications programme.

Organisations Convention, 1975 (No. 141); the Labour Relations (Public Service) Convention, 1978 (No. 151); and the Collective Bargaining Convention, 1981 (No. 154). The programme of work supporting implementation of the Employment Relationship Recommendation, 2006 (No. 198), and measures to promote the Private Employment Agencies Convention, 1997 (No. 181), should also assist in improving prospects for collective bargaining.

- **Technical advisory services to the ILO constituents in pursuance of the social dialogue strategic objective, including in relation to collective bargaining, should continue to be provided and improved.** They should focus on areas which are essential for creating enabling conditions for the effective implementation of the right to bargaining collectively: establishing an appropriate legislative framework, including the provision of participatory models of labour law drafting; developing facilitative and supportive labour administrations, including in the operation of tripartite and bipartite bodies; and strengthening enforcement through labour inspection and judicial bodies, as well as machinery to facilitate labour dispute resolution. In addition, as an input to strengthening the Office's technical advisory services, it is proposed that a high-level tripartite meeting should be held in 2008–09 on collective bargaining: its role and future impact in the context of a globalizing world. The costs for this meeting would be met from within the approved budget allocations for the next biennium.
- **ILO capacity-building services should be extended, existing tools (e.g. promotional, information and guidance documentation and training materials) reworked and new tools developed.** This approach would be directed to equipping constituents to use collective bargaining and other forms of social dialogue, in an integrated manner and at various levels, to address key elements of the Decent Work Agenda around rights and representation at work, employment, productivity, working conditions and social protection. Such services and tools could then be adapted to a particular local context and delivered through the relevant Decent Work Country Programme. The approach would rely on and should encourage further ILO cross-sectoral collaboration, both at headquarters and in the field.
- **The ILO's knowledge base around collective bargaining (and other elements of social dialogue) must be strengthened to anticipate as well as respond to the new challenges facing the world of work.** This will involve working more closely with ILO constituents to develop more reliable national labour statistics series and associated methods of measuring social dialogue, so that changes can be tracked over time. It also requires well-defined research on trends and key emerging issues in the private and public sectors, carried out separately or in collaboration with other partner institutions. Specific areas for attention include analysing the impact of collective bargaining on economic and social policy and on macroeconomic and microeconomic outcomes, including the complementarities between economic integration, different institutional arrangements and their effect on such outcomes; labour relations issues in the public sector, including in essential services; the interplay between collective bargaining and the minimum wage system; and social dialogue developments in individual economic sectors. Initiatives in these areas could be facilitated and supported by extending the ILO knowledge network and access to knowledge. For example, the possibility of establishing similar arrangements in other regions based on the model of the newly developed ILO East Asian Industrial Relations Network should be examined, and existing links with the International Industrial Relations Association and International Society of Labour and Social Security Law strengthened.

**74.** The Committee may wish to offer guidance to the Office on the issues raised in the paper.

Geneva, 2 October 2007.

*Submitted for debate and guidance.*

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