

SUBJECTS FOR COLLECTIVE BARGAINING



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In collective bargaining, one or more trade unions and one or more employers or employers' organizations negotiate with the intention of reaching agreement on two broad subjects: terms and conditions of employment; and the rules that govern how the two sides will jointly address workplace issues and resolve any disputes that arise between them.

Bargaining about the terms and conditions of employment

The *terms and conditions of employment* can be thought of as a summary of what the employer and the worker can expect to gain from the employment relationship and what they contribute to it. Terms and conditions define work and working hours, the physical conditions under which work will be done and the total remuneration that

will be paid. Wages and working time are probably the most important elements. Indeed, in some industrial relations systems, negotiation between unions and employers does not qualify as collective bargaining unless it includes wages and working time. Nevertheless, bargaining usually also includes a wide range of other terms and conditions.

Bargaining about wages

Wage bargaining involves negotiating basic rates of pay and pay increases for different groups of workers. Although legal minimum wages may be set via collective bargaining, wage bargaining more usually concerns the pay rates that apply above any statutory minimum wage. Wage bargaining also covers the *wage payment system*, wage structure and *wage composition*.

The wage payment system is the way that the payment to which a worker is entitled is calculated. Bargaining in this area involves basic issues of principle like whether pay is related to time worked or whether there is some kind of payment by results or piece-rate system; whether pay is related to performance or productivity; and whether it is related to years of service or seniority or to skills and qualifications. A typical subject of discussion and agreement in this area might be the move away from piece-rate to an exclusively time-related payment system.

Wage structure is about the range of wages paid in an enterprise, particularly the difference between the highest and lowest rates of pay and the grades or steps in between. Worker and employer approaches to wage structure will vary depending on the local circumstances. Unions, for example, may try to reduce the difference in earnings between the highest and lowest paid workers by negotiating a higher percentage pay increase for those on lower wage rates, or eliminating the lower pay grades. Employers might aim to alter the boundaries between different pay grades in order to change incentive structures or control costs.

Wage composition is perhaps the widest area, covering as it does all the different cash and non-cash elements of workers' remuneration. It includes basic hourly rates, overtime payments, performance pay, shift allowances and so on, but also indirect payments such as free or discounted products, housing, social security benefits like sick leave or maternity leave, transport, or education allowances.

Bargaining about working time

Employment contracts specify not only particular kinds of work, but also when and for how long that work is to be carried out. Bargaining on working time includes the overall length of the working day or week, as well as topics like rest periods, shift patterns, paid vacation time, overtime rates, and extra pay for working at night and at weekends or on public holidays. Agreements

must respect the limits on hours, mandatory rest breaks and other regulations about working time that in most countries are established in the law. Negotiations about working time can also cover less traditional subjects, for example flexible working arrangements like annualized hours schemes or work sharing.

Bargaining on other terms and conditions of employment

It is difficult to provide an exhaustive list of terms and conditions of employment beyond wages and working time. Common topics of bargaining include – but are certainly not limited to – job definitions and job classification, entitlement to sick and parental leave, entitlement to

training, conditions for promotion, transfer and dismissal, provision of personal protective equipment, access to grievance procedures, the provision of company housing and the provision of health care.

Bargaining beyond terms and conditions

In many cases, bargaining also includes subjects that go beyond the terms and conditions of employment of individual workers as these are conventionally understood. It is important to understand that with the exception of any agreement to undertake illegal activities or to regulate issues already falling within the competence of an established regulatory body, there is no inherent limit to the topics collective bargaining can cover. What matters is that both employers and workers agree that a particular issue should be subject to joint decision.

Collective bargaining may cover questions of work organization, working practices and productivity, rules and policies related to occupational safety and health (OHS) and special measures to protect the rights of specific categories of workers, for example women workers or non-standard workers. The latter two categories are particularly important when it comes to protecting vulnerable workers from being trapped in unacceptable forms of work.

Work organization, working practices and productivity

Collective bargaining can be a highly effective means of ensuring that employees feel a sense of commitment and ownership in processes of change and work reorganization. For example, collective bargaining agreements (CBAs) can specify how the gains from productivity improvements will be shared between employees and businesses. Bargaining can also cover

subjects like functional flexibility and multiskilling, again in the context of agreement about how gains will be shared. Training and skills development is an increasingly important subject for bargaining. Workers and employers can strike agreements about who will be trained, in what areas, how frequently and what the consequent skills development will mean for pay and career progression.

Occupational safety and health

CBAs that include occupational safety and health measures can act as statements of principle or policy, but they can also be more concrete, specifying the characteristics of processes like the election of safety representatives, rights to consult outside experts and information sharing. CBAs can also include substantive standards like the prohibition of certain hazardous materials, the provision

of health services or the right to stop work in case of imminent danger. Collective bargaining can also be an effective means of developing and introducing workplace HIV/AIDS policies. The workplace is a critical location for the prevention of HIV transmission and workers living with HIV and AIDS have specific needs that are not always recognized.

Mainstreaming HIV & AIDS at the Workplace in Uganda

In cooperation with the ILO, the National Organization of Trade Unions in Uganda has drafted a standard form collective bargaining agreement that has a special focus on the prevention of HIV transmission and on the needs of workers living with HIV and AIDS. As well as examples of 'best practice' clauses in all the traditional areas of collective bargaining, the agreement suggests language for

- the development of a joint employer-union HIV/AIDS workplace committee
- the outlawing of discrimination on the grounds of HIV status, including an employer commitment never to require workers to undergo testing
- the provision of HIV awareness sessions for workers and the encouragement of HIV testing and counselling
- the development of joint union-employer support services for workers living with or affected by HIV/AIDS
- the inclusion of HIV/AIDS health services in employer-provided healthcare

Protecting specific categories of workers

CBAs can be designed with special attention to the needs of specific groups like women workers, or vulnerable categories of workers like migrant workers. For example, provision could be made in CBAs for equality of treatment between migrant workers and nationals. Employers could commit to ending certain practices like that of retaining workers' passports or using recruitment agencies that

charge fees to workers. CBAs can also specify measures like training and skills certification that help workers to upgrade their skills or have their existing competences formally recognised. One final example might be the inclusion in CBAs of measures to accommodate the needs of workers who are facing problems outside the workplace.

Bargaining to close the gender pay gap in Europe

The European Commission's Justice Department has published a checklist on integrating pay equity into collective agreements. Among other points, it suggests that bargainers should:

- Check that there are no discriminatory clauses that disadvantage women, for example, based on assumptions about the value of the skills held by women.
- Monitor and check that all benefits are paid to male and female staff equally.
- Promote women's participation on collective bargaining negotiating teams.

http://ec.europa.eu/justice/gender-equality/gender-pay-gap/depth-info/pay-equity/index_en.htm

Bargaining about relations between workers and employers

The second broad category of collective bargaining subject covers procedures for making joint decisions and resolving disputes – or as the ILO calls it, 'regulating relations' between workers and employers or between their organizations. This includes procedures for dealing with matters affecting individual workers, like grievance claims or disciplinary action, as well as rules for the conduct of the collective bargaining relationship, the rights of worker representatives, the resolution of collective disputes, consultation, cooperation, information sharing and other similar issues.

Industrial relations systems vary considerably in the extent to which industrial relations procedures are established in law rather than being left to agreement between workers' and employers' organizations. While in some countries governments have introduced detailed regulation about the way in which employees are represented and how joint (bipartite) decision-making and problem-solving should be conducted, in others these matters are almost entirely at the discretion of workers and employers themselves.

In a number of jurisdictions, procedures are specified in regulation but apply only in cases where the regulated topic is not covered by a collective agreement.

To the extent that it is open to workers and employers to determine for themselves how these matters will be dealt with, common topics of regulating relations between the parties include issues such as:

- the rights and duties of worker representatives, including facilities to which they have access in the workplace and arrangements to attend training related to their trade union activity;
- arrangement to collect trade union dues;
- union security;
- individual grievance and disciplinary procedures;
- collective dispute resolution procedures;
- no-strike or 'peace' clauses; and
- deduction of trade union dues.

Time off for training for union leaders in Cambodia

A 2011 CBA between Cambodia Airport Management Services and two trade unions, the International Airport Independent Employees Union and Siem Reap Airport Cambodia Tourism Industry Workers Trade Union, provides for paid time off for trade union leaders to undertake training. The agreement also specifies that the employer will not try to influence who benefits from this leave: "The employer shall provide a total of 12 days of paid leave per year for training for each Union. The attribution of "Union training leave" is agreed between Union leaders; the Employer shall not interfere."

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