

# Social Dialogue

## Table of contents

<b>Key international labour standards</b> .....	<b>3</b>
<b>Introduction</b> .....	<b>4</b>
Building effective Social Dialogue.....	5
<b>Guidance from International Labour Standards</b> .....	<b>6</b>
Tripartite social dialogue.....	6
Bipartite Social Dialogue.....	9
Workplace cooperation.....	11
Other forms of Bipartite dialogue – (Sectoral or Transnational).....	12
<b>Sample session 1: Fostering social dialogue</b> .....	<b>14</b>
<b>Sample session 2: Social dialogue - what's in it for workers and employers?</b> .....	<b>16</b>
<b>Further references</b> .....	<b>19</b>

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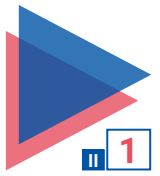
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## Key international labour standards

- C144** Tripartite Consultation (International Labour Standards) Convention, 1976
- R152** Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)
- R113** Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)
- C098** Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- C154** Collective Bargaining Convention, 1981 (No. 154)
- R091** Collective Agreements Recommendation, 1951 (No. 91)
- R094** Cooperation at the Level of the Undertaking Recommendation, 1952 (No. 94)



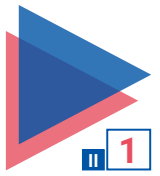
# Introduction

Social dialogue is defined by the ILO to include *all types of negotiation, consultation or exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy*. It can exist as a **tripartite process**, with the government as an official party to the dialogue. It may also be a **bipartite** process between labour and management (or trade unions and employers' organizations), with or without indirect government involvement. Collective Bargaining is a special form of bipartite social dialogue in which the employer and worker organisations negotiate on terms and conditions of employment including wage and working hours. Other forms of bipartite social dialogue include workplace consultative mechanisms dealing with issues related to occupational health and safety, productivity or technological change.

An effective process of social dialogue has the potential to bring benefit to all players within the labour market. It is based on the premise that groups who are affected by any economic or social issue must be party to the decision-making process as they are then more likely to respect the final decisions and outcomes. For example, it can ensure inclusive labour markets that keep workers in the system and in employment rather than forcing them out. Social dialogue processes can be informal or institutionalised, and often it is a combination of the two. It can take place at the national, regional or at enterprise level. It can be inter-professional, sectoral or a combination of these.

Sound labour legislation is at the heart of a productive and growing economy. It is thus crucial to ensure that all parties concerned participate in the formulation and application of the legislation through **social dialogue**. The participation of all parties not only promotes social justice in a society, but also has a direct impact on economic growth and social stability.

For employers, social dialogue provides employers' organizations the opportunity to provide guidance and services such as advice and capacity enhancement through training for enterprises to operate more efficiently and effectively. Through social dialogue, workers'



organisations can protect and promote the interests of workers they represent. In addition, through workplace cooperation and collective bargaining, workers and their organizations can improve their working conditions, negotiate higher wages, enable skills upgrade through training, protect workers by improving health and safety conditions in the workplace as well as ensure social security.

## Building effective Social Dialogue

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The 2018 International Labour Conference (ILC) resolution on social dialogue recognised the many challenges facing social dialogue and stressed the importance of strengthening social dialogue mechanisms in the context of fast-changing technology, demographic shifts and growing precarity in the world of work. However, in several countries, employers and workers still face fundamental obstacles which prevent them from exercising their rights to associate freely and to engage in social dialogue and collective bargaining. In some cases, the institutions for social dialogue either do not exist or where they do exist, they do not function effectively.

The 90th ILC in 2002 adopted a resolution on tripartism and social dialogue which identified the following precondition for effective social dialogue:

- ▶ Strong, independent workers' and employers' organizations with the technical capacity and access to relevant information to participate in social dialogue;
- ▶ Political will and commitment to engage in social dialogue on the part of all the parties;
- ▶ Respect for the fundamental rights of freedom of association and collective bargaining; and,
- ▶ An enabling legal and institutional framework.

# Guidance from International Labour Standards:

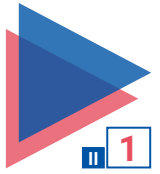
## Tripartite social dialogue

- C144** Tripartite Consultation (International Labour Standards) Convention, 1976
- R152** Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152)
- R113** Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)

Tripartism is defined by the ILO as the interaction of government, employers and workers (through their representatives) as equal and independent partners to seek solutions to issues of common concern. It refers to institutions, mechanisms and processes for consultation, negotiation and/or joint decision-making. These may be done on an ad hoc basis, or institutionalised.

The aim of Convention No. 144 and Recommendation No. 152 is to promote in each member State procedures which ensure effective consultations between the government and representative organisation employers and workers as equal partners specifically on 'matters concerning the activities of the International Labour Organisation', including , questionnaires, ILO reports and the ratification and or review of conventions.

In promoting tripartite social dialogue as a tool of sound labour market governance, the ILO advances and promotes certain preconditions for effective social dialogue which are valid across different national contexts. These preconditions include inter alia: the need for strong



and independent social partners; freedom of association and collective bargaining; institutional support for social dialogue by labour administrations; political willingness to engage in social dialogue from all actors; and the willingness to listen and engage in good faith with a view to finding an agreed solution.

The need for adequate institutional support is highlighted in C144, which specifically gives the government the responsibility to offer training to social partners, which is particularly relevant when dealing with complex policy and reform measures.

Recommendation No. 113 promotes consultation and cooperation between government ( public authorities ) and workers and employers organisations at industry or national level ' with a view to developing the economy as a whole or individual branches thereof, improving conditions of work and raising standards of living'. It specifically encourages joint consideration of matters of mutual concern and in the preparation and implementation of laws affecting workers and employers. Most ILO members have national level tripartite institutions in place that deal with issues related to ILO activities and matters affecting labour related policy and legislation. The decision-making process, structures and procedures of these institutions vary greatly across the ILO member countries. The instruments flowing from national/industry level tripartite social dialogue also vary from situation to situation.

In some instances national level tripartite dialogue has resulted in social pacts , and or declarations on significant socio-economic changes. In Tunisia, for example, social dialogue helped to facilitate a peaceful democratic transition.

**Instruments: Social pact, tripartite agreement or declaration, laws and regulations and economic or social policies adopted following consultation with the social partners.**

### **Social dialogue for peaceful and democratic transition**

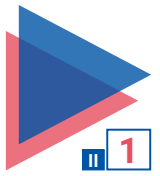
In 2013, just two years after a revolution which ended an authoritarian regime in Tunisia, a social contract was signed by the Tunisian National Dialogue Quartet composed of : the Tunisian General Labour Union (UGTT), the Tunisian Confederation of Industry, Trade, and Handicrafts (UTICA), the Tunisian Human Rights League and the Tunisian Order of Lawyers. Four years later, on 24 July 2017 Law no. 2017-54 was enacted, establishing a National Council for Social Dialogue, defining its competencies and functioning. These were the milestones toward the participatory democratisation of the country and establishment of a new model of governance built on social dialogue. The signatory quartet of the social contract was awarded the Nobel Peace Prize in 2015 for its “its decisive contribution to the building of a pluralistic democracy in Tunisia in the wake of the Jasmine Revolution of 2011”<sup>1</sup> .

<sup>1</sup> The Nobel Peace Prize 2015 – Press release - <https://www.nobelprize.org/prizes/peace/2015/press-release/>

### **Tripartite Social Dialogue: examples from Southern Africa**

The Labour and Economic Social Council (LESCO) is the main body for social dialogue in Tanzania, it is established in terms of the Labour Institutions Act 2004. LESCO is a tripartite-plus body with a mandate to advise on socio- economic and labour market policy. It is also empowered to deal with issues arising from ILO membership and on the prevention and reduction of unemployment. There is a general appreciation of social dialogue amongst all the social partners. LESCO meetings are held on a quarterly basis but meetings may also take place on an ad hoc basis if necessary. Key policy issues dealt with so far include the Employment Policy, labour rules and regulations, occupational safety and health (OSH) and social security.





The National Economic Development and Labour Council (NEDLAC) is the main apex level social dialogue institution in South Africa. It is a statutory body established in terms of the NEDLAC Act. The procedures and inputs for social dialogue are governed by the NEDLAC Constitution and the NEDLAC Protocol. NEDLAC has a broad mandate to deal with socio-economic and labour policy and all aspects of labour legislation. The Minister of Labour is compelled to take labour laws through the NEDLAC process before submitting them to Parliament. NEDLAC is a tripartite-plus institution which includes amongst its members groupings from the women, youth and community sectors. NEDLAC has made many significant contributions to the policy and legislative landscape of South Africa over the years, including the conclusion of the National Minimum Wage system and the negotiation of a Jobs Summit Framework Agreement to promote employment, especially amongst the youth. It has also recently concluded a Joint declaration and plan to combat COVID-19.

## Bipartite social Dialogue

Bipartite social dialogue involves two parties - employer(s) and/ or employers' organisations, and workers' organisations (i.e. trade unions) – that agree to exchange information, consult each other or negotiate together. It is often practised through collective bargaining or workplace cooperation which may result in a collective agreement or framework agreement.

### Collective bargaining

- C98** Right to Organise and Collective Bargaining Convention, 1949 (No. 98),
- C154** Collective Bargaining Convention, 1981 (No. 154)
- C91** Collective Agreements Recommendation, 1951 (No. 91)

**Collective bargaining:** Also see related **module 3** on freedom of association and collective bargaining.

Collective bargaining is defined in the Collective Bargaining Convention, 1981 (No. 154), 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; 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”.

### Instrument: Collective agreement

#### Regularizing casual workers

Transnet SOC Limited is a freight and transport handling company in South Africa. It has five divisions, including Transnet Port Terminals (TPT) and Transnet Freight Rail, the largest division. TPT includes both the Durban Container Terminal and the Port of Richards Bay’s mineral bulk operations (imports and exports), which operate 24 hours a day, 7 days a week. They are subject to considerable fluctuations in shipping volumes entering and leaving port, and subsequently in the demand for labour.

For years, the Terminals were staffed by a combination of full-time employees on indefinite contracts, and casual employees engaged through labour brokers. Despite performing identical work, casual workers earned less, had fewer benefits and no job security as compared to permanent staff. The Transnet Bargaining Council reached a collective agreement on fixed-term workers, committing to regularize into indefinite contracts 300 employees in TPT, and 1,472 in Transnet Freight Rail by end March 2016. The agreement provides that Transnet directly employs fixed-term workers on terms and conditions (including remuneration, bonuses, leave and a variety of other allowances and benefits) set out in the collective agreement. As a result, these workers will no longer be employed through labour brokers. Through social dialogue, parties were able to address the issue of the use of labour brokers.

The atmosphere for industrial relations has shifted from mistrust and





confrontation to more positive relations. The number of days lost due to industrial action in TPT fell from an average of 13.5 days (2010-2011) at the Durban Container Terminal and Port of Richards Bay, to 0.5 days and 0.35 days (August 2014), respectively.

This is a success story from one of the ILO's Infostories series. To learn more about other good practices of collective bargaining please consult: Can collective bargaining create a fairer economy? Bargaining can cover many issues that benefit both businesses and workers. Choose a country to learn about successful case studies - <https://www.ilo.org/infostories/en-GB/Stories/Labour-Relations/collective-bargaining#bargaining-can-cover>

## Workplace cooperation

**R094** Cooperation at the Level of the Undertaking Recommendation, 1952 (No. 94)

Workplace cooperation is defined as “consultation and cooperation between employers and workers at the level of the undertaking on matters of mutual concern not within the scope of collective bargaining machinery, or not normally dealt with by other machinery concerned with the determination of terms and conditions of employment”. Collective agreements may nonetheless establish the framework for such consultation and cooperation. It is a bipartite process that is voluntary and is based on open communication, information sharing and consultation.

In many countries workplace structures exist to ensure mechanisms for consultation on occupational health and safety matters. In South Africa for example the labour legislation gives representative trade unions the right to establish workplace forums for consultation on a range of issues including, training, job grading, changes in the organisation of work and payment of discretionary bonuses. Workers organisations also have the right to disclosure of information on matters within the scope.

Workplace cooperation can also be externally facilitated. For example in Australia, the Fair Work Commission is responsible for resolving

workplace disputes related to collective bargaining. A few years ago it adopted a New Approaches programme to promote more cooperative and less adversarial labour relations. This programme helped to promote better relations between unions and employers and save many jobs, especially in the manufacturing sector. The Better Work programme and IFC also promotes workplace cooperation and recommends the establishment of workplace mechanisms for improved communication and consultation with workers to improve productivity<sup>1</sup>.

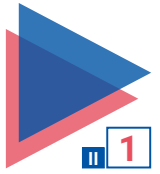
## **Other forms of Bipartite dialogue – (Sectoral or Transnational)**

### **International Framework Agreements**

#### **International Framework Agreement between UNI and Carrefour to advance labour rights in food retail chain**

Six companies in the food retail sector have signed IFAs with UNI Global Union. These companies include Carrefour SA (IFA signed in 2001, renewed in 2015), Takashimaya Co., Ltd. (2008), Shoprite International Ltd. (2010), Metro Group (2013), Aeon Co., Ltd. (2014) and Auchan Retail (2017). UNI Global Union is the global union federation for services, representing 20 million workers from over 150 countries worldwide.

In 2001, Carrefour and UNI concluded the first IFA in the retail sector. Carrefour is a French multinational food retail chain that at the time of writing operates 11,935 stores and e-commerce sites in more than 30 countries. The company employs 384,000 people worldwide, including 12,200 people with disabilities. The document captured the joint intention to monitor the respect of the principles of key ILO Conventions towards industrial peace and social consensus, i.e. the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the Workers' Representatives Convention, 1971 (No. 135). It outlined the company's inherent respect for the fundamental principles and rights at work as well as the condemnation of child labour, slavery, and forced labour – explicitly stating that the company will include these principles in its requirements for suppliers in the clause's applicability.



Learn about other examples of International Framework Agreements in the food retail sector, garment sector and chemical industry: ILO Working Paper “International Framework Agreements in the food retail, garment and chemicals sectors: Lessons learned from three case studies”, 2018 - [https://www.ilo.org/sector/Resources/publications/WCMS\\_631043/lang-en/index.htm](https://www.ilo.org/sector/Resources/publications/WCMS_631043/lang-en/index.htm)

Learn more about the importance and benefits of social dialogue: National Tripartite Social Dialogue: An ILO guide for improved governance, 2013 - [https://www.ilo.org/ifpdial/information-resources/publications/WCMS\\_231193/lang-en/index.htm](https://www.ilo.org/ifpdial/information-resources/publications/WCMS_231193/lang-en/index.htm)

# ▶ Sample session 1: Fostering social dialogue



## OBJECTIVE

- ↓ To become familiar with the process of and the conditions for successful social dialogue on labour related issues



## SETTING

- ↓ Participants to be divided into small groups- each group to be made up of employers and workers.
- ↓ Each group will select a reporter on the exercise.



## DURATION

- ↓ 20 minutes for discussion in each group
- ↓ 5 minutes of presentation from each group
- ↓ 15 minutes of challenges for meaningful/successful dialogue



## TASK

1. One group to negotiate improvements in Occupational Safety and Health (OSH) in a fictitious workplace. They will together decide what the workplace or sector will be. As the discussions and negotiations will be on OSH, the workplace they should choose poses risks by the nature of the work they do. Workers' representatives will explain the risk factors at the workplace and give examples of accidents that took place and suggest improvements to eliminate risks. The employers will argue that there are no health or safety issues as conditions for work were greatly improved



recently. They will also argue that any further improvements will be costly.

2. The other group will negotiate for higher wages for all workers. The workers are to base their demands on the higher cost of living. They can give examples like the increased cost of transport, limited buying power for work ware and other essentials. Employers maintain that granting higher wages is not possible because production costs have risen, and the company's profit margin is already at a minimum.



### TIPS FOR TRAINERS:

- ↓ Either on a flipchart, a handout or on screen, write the basic definition of social dialogue
- ↓ Establish the level of prior knowledge of participants have on the topic
- ↓ Briefly go over the two key ILO conventions, Convention No. 144 and Convention No. 154 (and their respective Recommendations as necessary)
- ↓ Explain the process and expected outcome of the group work
- ↓ Following the group presentations, encourage further discussion by posing questions like:
  1. *Has any agreement been reached?*
  2. *Was the outcome of the negotiation satisfactory for the parties, if not why not?*
  3. *How would you have approached the situation if the negotiation did not produce the desired result?*
- ↓ Evaluate the session by both asking feedback from the participants and by reflecting on the outcomes of each group.

## **Sample session 2:** **Social dialogue - what's in it for workers and employers?**



### **OBJECTIVES**

- ↓ To understand better and appreciate the many benefits of social dialogue for parties involved in the process;
- ↓ To gain skills for preparing and taking part in the social dialogue process.



### **SETTING**

- ↓ Two groups will be formed- one group consisting of employers and the other consisting of workers.
- ↓ They will be provided with a flipchart, pens, markers, to record the main points of their discussions and ideas.



### **DURATION**

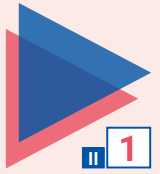
- ↓ 20 minutes to exchange views and ideas in groups;
- ↓ 5 minutes for each group to present the results in plenary;
- ↓ 15 minutes to discuss in plenary.



### **TASK**

1. The workers group will discuss the value and the benefits of social dialogue for their members. They will discuss how they can change working conditions for the better, negotiate for higher wages, further skills training, social security and





any other issues they think they can address through the social dialogue process. They will also discuss ways to promote social dialogue among workers.

2. The employers group will discuss ways of providing guidance and advice to workers on safety at work, benefits of skills training and advice on issues like how to be better organised, more effective ways of representing their members and how to work with employers to overcome disputes.

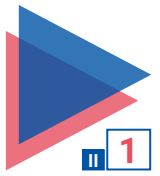


### TIPS FOR TRAINERS

- ↓ Explain the objective of the group work, how it will be organised
- ↓ Have printed materials such as copies of relevant conventions, reports, etc. that are useful reference and for the discussions
- ↓ Invite each group to nominate a member to guide the discussions, a spokesperson to present the points discussed in the group and a note taker to capture the main points
- ↓ Before the group work begins, prepare a number of probing questions such as:
  1. *How can your group make sure that the groups (workers and employers) you represent benefit as much as possible from social dialogue- how should your group be organised and represented during the social dialogue process?*
  2. *What are the benefits and disadvantages of a large number of members taking part in the discussions?*
  3. *What strategies would your group have to overcome disputes or an impasse?*
  4. *Have any of the group members participated in a real social dialogue situation in the past and if so, what lessons were drawn from that experience?*

5. *In what ways has (or can) the ILO Conventions and Recommendations help(ed) the process of social dialogue in your country? If the ILO instruments have not been helpful, what do you think are the reasons for this?*

↑ Ask the groups to base their exercise on real issues they are aware of either in their own work environment or some other work setting.



## Further references

- ▶ Can collective bargaining create a fairer economy? Infostory (ILO, 2019)  
<https://www.ilo.org/infostories/en-GB/Stories/Labour-Relations/collective-bargaining#bargaining-can-cover>
- ▶ Building Trust in a Changing World of Work (ILO/OECD, 2018)  
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- ▶ Social Dialogue, finding a common voice (ILO, 2012)  
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