


International  
Labour  
Organization

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# Collective bargaining and precarious work

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## **Workers in need of protection?**

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- Short-term / part-time employment
- Indirect employment through an intermediary
- Subordinate and dependent contractors disguised as autonomous workers

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## Obstacles to collective bargaining

- Explicit exclusions in law
- Definition of ‘employee’
- Identification of the employer
- Tenure of employment and workplace
- Threshold for forming a trade union or for recognition as bargaining agent
- Fragmentation of bargaining unit / difficulties constituting effective collective bargaining unit





## Collective bargaining

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**Bargaining arrangements:**

- Inter-sectoral bargaining
- Multi-employer bargaining
- Single employer bargaining

Bargaining arrangement	Social partners	Examples
Inter-sectoral bargaining	Employers' confederations  Union confederations	<b>Interprofessional Agreement</b> , Belgium, FEB/VBO, UNIZO, UCM and BB, FGTB/ABVV, CSC/ACV, CGSLK/ACLVB (2011–2012)

Bargaining arrangement	Social partners	Examples
<b>Multi-employer bargaining</b>	<p>Sectoral employers' association &amp; Sectoral trade union</p> <p>TAW employer associations (e.g. Austria, Germany, France, Netherlands)</p> <p>TAW Unions (eg. France, Italy, Greece)</p>	<p><b>Automobile sector: NUMSA &amp; AMEO (2009/10)</b> South Africa, discontinue use of labour brokers, application of company arrangements for retirement, death, disability and medical aid to short-term workers.</p> <p><b>IG Metal &amp; Stahl (2010)</b>, general wage increase and equal pay for temporary agency workers.</p> <p><b>ABU, FNV, CNV &amp; De Union, LBV (2009 – 2014)</b> derogates from equal treatment, only after 26 weeks.</p> <p><b>National Collective Agreement on temporary agency workers</b>, Spain, AGETT, AETT, FEDETT, AGETT &amp; CCOO,UGT (2008)</p>

Bargaining arrangement	Social partners	Examples
<b>Single employer bargaining</b>	<p>Union &amp; enterprise</p> <p>Union &amp; Agency</p> <p>Multiple-unions &amp; Enterprise</p>	<p><b>Glaxo Smith Kline &amp; Milk Food Factory Workers' Union supported by IUF (2010)</b>, India, regularization of 443 temporary agency workers in a phased manner.</p> <p><b>South African Airways &amp; SATAWU (2009)</b>, regularisation of workers employed through a labour broker.</p> <p><b>IG Metal &amp; Adecco for Audi (2007)</b>, equal pay (departing from 3 other collective agreements TAW confederations that derogate).</p> <p><b>Neyveli Lignite Corporation &amp; AITUC; CITU; UTUC-LS; LPF (2008)</b>, regularization of contract workers.</p>



## Collective bargaining outcomes

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**Bargaining outcomes:**

- Employment security
- Improved pay and benefits
- Skills development

Issue	Types of clauses	Examples
<b>Employment security</b>	<ul style="list-style-type: none"> <li>• Limits to externalization</li> <li>• Regularizing employment</li> <li>• Continuity</li> </ul>	<p><b>Tesco &amp; SIPTU (2007)</b>, agency workers not exceed 10% of workforce ; after 26 weeks on employment panel for direct recruitment; equal pay.</p> <p><b>METRORAIL &amp; SATAWU (2009)</b>, 1063 fixed-term employed on permanent basis</p> <p><b>Tamil Nadu Electricity Board &amp; TNEB union (2007)</b>, 6000 temporary agency made permanent, progressive absorption of remaining (21,600)</p> <p><b>Road freight Bargaining Council, (2006/7)</b> labour broking not to exceed 30%, if supplied to client over two months considered ordinary employee.</p> <p><b>Jawaharlal Nehru Port Trust &amp; Nava Sheva Bundar Kamgar Sanghatana (2006)</b>, continuity for agency workers affiliated to union, equal pay.</p>

Issue	Types of clauses	Examples
<b>Wages and benefits</b>	<ul style="list-style-type: none"> <li>• Equal pay for equal work</li> <li>• Wage improvements</li> </ul>	<p><b>Port Authorities &amp; Federation of Maritime Dockers' Trade Unions of Argentina (FEMPRINA) (2005, 2006),</b> equal payment and working hours.</p> <p><b>Japan Post Holdings &amp; Japan Post Trade Union (2008, 2010),</b> 2,000 Yen increase in wages for fixed-term contract workers, hire 2,000 fixed-term as permanent</p> <p><b>Hindustan Unilever Limited &amp; Sarva Shramik Sanghatna, November (2008),</b> substantial wage increases for temporary agency workers (assisted by IUF)</p>

Issue	Types of clauses	Examples
<b>Skills development</b>	<ul style="list-style-type: none"> <li>• Equal access to training and career progression</li> </ul>	<p><b>Aeon and Aeon trade union (2004),</b> unified qualification and evaluation schemes, equal training opportunities.</p> <p><b>NUMSA &amp; AMEO (2009),</b> short-term workers entitled to participate in industry's multi-skilling programme.</p>

Other regulatory frameworks promoting collective bargaining	
<ul style="list-style-type: none"> <li>• <b>Building Industry Bargaining Council</b>, South Africa</li> </ul>	<ul style="list-style-type: none"> <li>• Agreement with financial institutions: all sub-contractors register with bargaining council and comply CBAs</li> </ul>
<ul style="list-style-type: none"> <li>• <b>National Agreement for promotion of social dialogue in construction industry</b> (2010), Argentine Construction Chamber, Construction Workers Union of Federal Republic, Ministry of Federal Planning.</li> </ul>	<ul style="list-style-type: none"> <li>• Adequate scheme for prices and wages; promote registered and decent employment; clear rules for compliance and promote investment.</li> </ul>



## Promoting collective bargaining

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- Close regulatory gaps:
  - Clarify the employment relationship
  - Allocate clear responsibility for CB (ensuring effective exercise)
  - F/A and CB for self-employed (rules excluding CBAs from competition law)
- Government measures to **promote** collective bargaining
- Inclusive strategies for collective representation
- Encompassing bargaining arrangements
- Other: IFAs, tripartite social dialogue