1. Definitions
   1.1 What is the definition of the collective agreement in your country?
   A Collective agreement is an agreement entered into between an employer, or one
   or more organisations of employers, and one or more organisations of employees
   regarding conditions of employment in accordance with the provisions of any law
   in force in Malta.

   1.2 Is there a distinction made between different types of collective agreements
   according to their source, content or scope (occupational or territorial)?
   No.

2. Please summarize the history of collective agreements in your country.
   Between 1954 and 1964 the main institutionalized form by which wages and the general
   conditions of Maltese workers were determined by a loose and unorganized machinery.
   However, labour bargaining continued to increase and by 1967 the workers enjoyed far
   better conditions. The draft of the very first Model Collective Agreement was approved
   by the Malta Employers’ Association in December 1966. It was formally signed in
   October 1967.

3. Collective agreement as a source of law
   3.1 What are the constitutional or/and legal grounds of collective agreements?
   Collective agreements are regulated by the Employment and Industrial Relations
   Act.

   3.2 Does a collective agreement have a contractual or statutory status (or both)?
   A contractual status.

   3.3 The relationship between collective agreements and other sources of law

   3.3.1 How do collective agreements receive legal status from the
   Constitution and the constitutional principles in force in your country?
   They do not.

   3.3.2 Relationships between collective agreements and general principles
A) Hierarchy of standards

1) Principle of hierarchy
   a) Are collective agreements and covenants subject to superior standards?
      No.
   b) Does a hierarchy of levels exist between collective agreements?
      No.

2) Derogations
   a) Are collective agreements subject to the “principle of favour” (exemption “in melius” from the laws or higher-ranked agreements)?
      They can be more favourable than the minimum recognized conditions of employment.
   b) Can they be less favourable than the latter or is it acceptable that lesser ranked agreements contradict unfavourably (“in pejus”) to higher ranked agreements?
      They cannot be less favourable.

B) Principle of equality: non-discrimination and “equal pay for equal work”

1) May collective agreements set conditions of unequal treatment and are these upheld as legal?
   No, they cannot.

2) Are collective agreements subject to the principle of equality?
   Yes, they are.

C) Law and order

1) Is there a definition of “social” law and order (which is different from “economic” or “management” law and order)?
   No.

2) Is there a distinction between absolute and relative law and order?
   No.

D) Is there a duty of good faith in collective bargaining?
   Yes.

3.3.1. Collective agreements and other sources of law
A) Collective agreements and law
1) Are collective agreements allowed to abridge rights that employees have been given by law?
   No.
2) May the law itself annex a collective agreement?
   No. This has never happened to date.
3) May a law delegate some of its powers to a collective agreement?
   Yes, but only on a voluntary basis.

B) Collective agreements and regulations
1) Should collective agreements be extended by a regulation to govern the whole profession, even businesses that are not members of the signatory unions?
   No.
2) Are some collective agreements subject to approval by ministerial order?
   No.

C) Collective agreements and customs
1) Does a collective agreement challenge custom when its object is the same?
   No.
2) Does the voluntary enforcement by the employer of a collective agreement that normally does not apply to him/her constitute a custom?
   No.
3) Have you something else to say about this point?
   No.

E) Collective agreements and the labour contract
1) Is the contract of employment allowed to contain clauses less favourable to the employee than the relevant collective agreement?
   No.
2) Is the collective agreement incorporated into the contract of employment or does it remain independent from it?
   It is part of the contract of employment.
3) May a new collective agreement modify the contract of employment?
   Yes.

4. Elaboration of collective agreements

4.1. Collective bargaining

4.1.1 How many levels of bargaining exist in your country?
   One – at union level.

4.1.2 How are they related?
   N/A.

4.1.3 Is collective bargaining freely decided or mandatory?
   Freely decided.

4.1.4 What subjects may collective bargaining include?
   Wages, Hours of work, vacation and sick leave, overtime, and related matters.

4.2. Conclusion of collective agreements

4.2.1. Signatories
   a) Who can be parties to the collective agreement?
      (1) Only unions (or their representatives)?
      (2) Also the employees, or work-council, or workforce delegates?
      (3) Other responses?
         Unions, employers and employees.
   b) Must the parties meet a condition of representativity?
      Yes.
   c) May the agreement be signed by only one union, though in the minority, or is it necessary that a majority of unions do not oppose the text of the agreement?
      The majority of unions must be in agreement.
   d) Does a right of opposition exist?
      Yes.

4.2.2 Formal requirements

   a) Must collective agreements be made in writing?
      Yes.
b) Must a notice be given?
   No.

c) Must collective agreements be registered?
   No.

5. **The enforcement of collective agreements**

5.1 Scope of collective agreements

5.1.1 Geographic area
   a) National, regional, local?
      National.
   b) International?
      No.

5.1.2 Professional sphere
   What jobs, professions or branches are concerned?
   All.

5.2 Determining which collective agreement is enforceable

5.2.1 Is the main activity of the business a criterion?
   Yes.

5.2.2 What about the mandatory application of “extended” collective agreements?
   N/A.

5.2.3 Is it possible for an employer to voluntarily apply a collective agreement that does not apply to his/her business? Then, how to prove this voluntary enforcement?
   Yes. By evidence, according to the Code of Organisation and Civil Procedure.

5.2.4 Which collective agreement is to be enforced in case of coincidence of several agreements? According to what criteria?
   This has never happened in Malta.

5.3 Binding force of collective agreements

5.3.1 Are collective agreement enforceable upon signing?
   Yes.

5.3.2 Do collective agreements apply automatically?
   No.
5.3.3 Are collective agreements binding (imperative)?
Yes.

6. Content of collective agreements

6.1 Is the content mandatory, or can the parties choose it freely (or both)?
Both.

6.2 Different subjects dealt with

6.2.1 Freedom of collective industrial organization?
No, that is protected by the Constitution.

6.2.2 Form and content of the contract of employment

• Requirements concerning the use of fixed-term contracts?
The duration of the agreement must be specified. Also, employment conditions.

• Form of the contract: in writing; compulsory mentions?
It does not have to be in writing.

• Various clauses
  o Covenant not to compete?
    Yes.
  o Compensation (financial) for covenant not to compete?
    Yes, but it is not mandatory.
  o Probationary period?
    Yes.

6.2.3 Minimum wages?
Yes.

6.2.4 Classification and career of staff members?
Yes.

6.2.5 Hours of work

  ▪ On-call time and hours of “equivalence”? Yes.
  ▪ Vacation? Yes.
  ▪ Overtime and fixed wages? Yes.
  ▪ Compensatory rest? Yes.
  ▪ Part-time work? Yes.
  ▪ Minimum rest time and maximum work time? Yes.
6.2.6 Rights of an employee who is on sick leave?
- Suspension of performance of the contract of employment?
  No suspension.
- Guaranteed resources?
  He is paid for sick leave.
- Job security?
  Not tampered with.

6.2.7 Discipline
Yes.

6.2.8 Vocational training?
Yes.

6.2.9 Follow-up of the agreement?
No.

7. Interpretation of and litigations relating to collective agreements

7.1 Which bodies are responsible for interpreting the collective agreements?

7.1.1 Joint boards?
No.

7.1.2 Other bodies or organizations?
  The Industrial Tribunal and boards especially set up under the collective agreement.

7.1.3 What is the scope of their interpretation?
  a) Is it binding for the judge?
     Yes.
  b) Can it be retroactive?
     No.

7.1.4 Is the judge entitled to interpret him/herself collective agreements?
Yes.

7.2 Remedies against breach of collective agreements

7.2.1 Are penalties provided?
No.

7.2.2 Which body or authority ascertains violations?
As in 7.1.2.
7.2.3 What are the civil remedies?
   a) Individual claims?
      Yes.
   b) Collective lawsuits?
      Yes.

7.3 Proceedings related to collective agreements
7.3.1 Is there a distinction made between individual and collective litigations in this matter?
   No.
7.3.2 Which court(s) or body(ies) have jurisdiction over legal matters relating to collective agreements?
   The Industrial Tribunal, The First Hall of the Civil Court and the Court of Appeal.
7.3.3 How is the judge informed of the existence and content of a collective agreement? What is the role of the judge and the parties in litigation relating to collective agreements?
   By evidence produced at the trial. The role of the judge and the parties is the same as in all other cases.

8. Altering and challenging of collective agreements
8.1 Cases and procedures
8.1.1 Do procedures exist for the review and termination of collective agreements?
   Yes, one can resort to litigation.
8.1.2 What happens to collective agreements in the case of a transfer of undertaking or change of employer?
   They remain in force.
8.1.3 What happens before and during the time of expiration of the agreement?
   The parties try to negotiate a new agreement.
8.1.4 What is the procedure for substituting a collective agreement with another one?
   The negotiation, after termination, and the signing of a new collective agreement.
8.2 Can employees retain vested or established rights (“droits acquis”) in case of termination of collective agreements?
   No.
9. **Conclusions**

9.1 Is there a policy promoting collective bargaining and contractual collective law?
   Yes.

9.2 Are there problems concerning the relationship between contract of employment and collective agreements?
   Yes, a few.

9.3 Does the connection between law and collective agreements operate in favour of employees (principle of favour, ratchet effect), or does it allow less favourable conditions?
   Yes it does. No less favourable conditions are allowed.

9.4 Are there any additional conclusions or problems you want to mention?
   No.