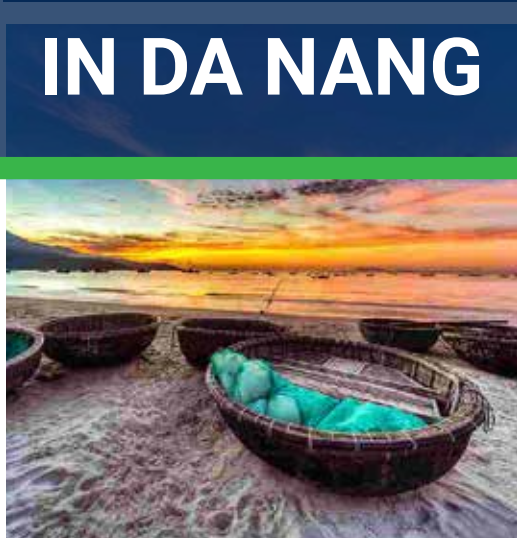




MULTI-EMPLOYER COLLECTIVE BARGAINING AGREEMENT OF TOURISM SECTOR IN DA NANG



For the rights and interests of workers and
sustainable development of enterprises

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10
Enterprises



2,385
Employees



2,363
Union members



1,110
Female employees

Enterprise	Affiliated hotel*	Total number of employees	Total number of union members
Phu An Thanh Trading and Tourism Co., Ltd	Pullmah	365	364
Bac My An Tourism Joint-Stock Company	Furama Resort	700	700
Vitours (Vietnam Tourism Joint-Stock Company)	Thu Bon Hotel	242	235
	Bamboo Green 1 Hotel		
	Bamboo Green 2 Hotel		
	Bamboo Green 3 Hotel		
Saigontourane Hotel Joint-Stock Company	Saigon Tourane hotel	65	65
Phuong Dong Viet Joint-Stock Company	Orient Hotel	41	41
Ngu Hanh Son Ocean Tourism Joint-Stock Company	Hyatt Regency	595	595
Taseco Ocean View One Member Limited Liability Company	À la carte	218	218
Kachiusa Service and Trading One Member Limited Liability Company	King's Finger Hotel	27	27
Tien Sa Ocean Invest Management Joint-Stock Company	Tien Sa Hotel	59	59
Danang Trade Union One Member Limited Liability Company	Thanh Binh hotel	73	59

* These pilot enterprises own a number of affiliations, such as hotels, restaurants and tourist services, etc. The table provides names of hotels under ownership of the pilot enterprises.

Note that the terms found in the MECBA are applied to all employees in these enterprises, including employees of the aforementioned hotels and others.

Source: Data provided by the Pilot Implementing Unit of the FoL Da Nang, May 2019

Part 1

Negotiation and Expansion of Multi-Employer Collective Bargaining Agreement of Tourism sector in Da Nang



Process of Negotiating and Expanding the Multi-Employer Collective Bargaining Agreement

The Multi-Employer Collective Bargaining Agreement of Tourism Sector (the MECBA) in Da Nang was negotiated and concluded initially in January 2016, with the participation of four enterprises and 750 workers.

Since 2017, the MECBA has been negotiating and expanding gradually.

On 22 December 2018, the Pilot Implementing Unit of the Federation of Labour (FoL) completed multi-employer collective bargaining (MECB) and signed an agreement (MECBA) with the Da Nang Tourism Association. The scope of application for this MECBA has expanded up to 10 enterprises with 2,400 employees (46% of the employees are female). This event marked a new development in the negotiation and execution of expanded MECBA in Vietnam.



The objectives

Objectives

- To substantially improve the performance of grassroots trade union (GTU) by enhancing direct support from the provincial FoL, thus strengthening genuine participation by employees.
- To ensure that the content for collective bargaining (CB) is more favourable than the conditions found in the legislation and the existing enterprise CBAs.
- To reduce turnover rates and instability in labour relations in tourism and service enterprises; to mobilize the collective strength of employees and GTUs in the negotiation process.
- To experiment with other forms of effective CB that haven't been guided by the Government.

Principles

- The genuine participation of a large number of employees in the whole process, starting from the survey through to negotiations must be ensured.
- Negotiations must be conducted by trade union groups and GTUs with the FoL. These negotiations must consist of real bargaining with real content and real implementation.
- The content for MECB must initiate from the workers and be gained through a process of surveys, dialogue and legal advice for them.
- The content for negotiation must guarantee consensus on the part of enterprise employers, in line with business conditions and activities.



The process

THE MECBA WAS NEGOTIATED AND EXPANDED THROUGH 7 MAJOR STEPS

Step 1	CBA quality was reviewed in-depth and evaluated for each enterprise.
Step 2	Employee opinions on the 2016 MECBA as well as on the proposed content for negotiation were obtained.
Step 3	Tentative content for the MECBA for the piloting enterprises was drafted.
Step 4	Working sessions with GTU Executive Committees were organized.
Step 5	Meeting with the Department of Culture-Sports-Tourism of Da Nang, Da Nang Tourism Association, and enterprise employers participating in the MECBA pilot was organized.
Step 6	Workshop to collect input for MECB was organized.
Step 1	CB sessions were conducted with each enterprise and one joint negotiation was organized involving the participation of all employers.



Contents of The Agreement

THE 2018 MECBA IN DA NANG CONSISTS OF 5 CHAPTERS WITH 24 ARTICLES, INCLUDING 13 ARTICLES REGULATED THE CORE NEGOTIATED INTERESTS AND ADDITIONAL BENEFITS FOR EMPLOYEES.

Chapter I: General provisions

Chapter II: Main negotiated provisions

- Employment security for employees
- Wages, bonuses, allowances and wage increase
- Other issues under mutual concerns

Chapters III-IV: Duties of signatory parties

Chapter V: Implementation

Phu An Thinh Trading and Tourism Co., Ltd



Pullman Hotel is a hotel of Phu An Thinh Company. Located right on the coast of Northern My An, Pullman Danang Beach Resort is a luxurious resort with abundant services, suitable for business events, weddings or beach parties.



101 Vo Nguyen Giap street,
Ngu Hanh Son district, Da Nang, Viet Nam
+84 236 395 8888
<http://www.pullman-danang.com/>

Bac My An Tourism Joint-Stock Company



Bac My An is the company with the most significant number of employees participating in the MECBA. In addition to Furama, which is an affiliated hotel with a large number of employees, the company also provides a wide range of services such as hotel, catering services, prize-winning game centres for foreigners, travel business, tourist transportation, real estate and other services.

105 Vo Nguyen Giap street
Ngu Hanh Son district,
Da Nang, Viet Nam
+84 236 383 6189
www.furamavietnam.com



The General provisions

THE PART OF GENERAL PROVISIONS INCLUDES 3 ARTICLES. ARTICLES 1 AND 2 PROVIDE THE SCOPE OF REGULATION AND THE SUBJECT OF APPLICATION TO THE INVOLVED EMPLOYERS AND WORKERS' COLLECTIVES IN 10 ENTERPRISES IN THE TOURISM SECTOR IN DA NANG. ARTICLE 3 REGULATES THE JOINT COMMITMENTS OF THE SIGNATORY PARTIES IN THE MECBA, SPECIFICALLY:

Article 3. The joint commitments

1. Article 3. The joint commitments

- Strictly comply with the provisions of the labour law, of the collective bargaining agreements, the internal working rules, regulations and other agreements of the enterprises;
- Secure the employment, incomes for employees;
- Enable employees to learn and study in order to improve their professional skills and qualifications to fulfill their assigned tasks;
- Establish and implement the code of conduct in enterprises;
- Implement the Democratic Regulation to organize Workers' Congress, social dialogue at the workplace, and enable the employees to promote democracy;
- Facilitate grassroots trade unions operating in accordance with the Trade Union Law and Vietnam Trade Union Statute.

2. The trade unions at the involved enterprises shall

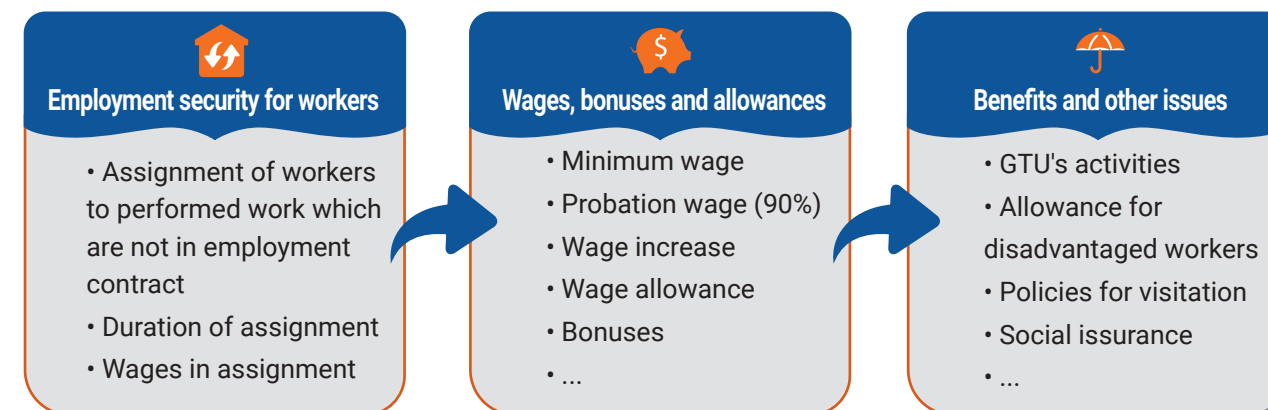
- Mobilize employees to well implement the provisions of law, rules and regulations of enterprises; share with employers of enterprises in difficult times of production and business;
- Participate in resolving labour disputes in accordance with the law;
- Participate in building harmonious, stable and advanced labour relations in enterprises;
- Participate in developing and implementing democracy regulations on organizing Workers' Congress, social dialogue at the workplace at enterprises;
- Regularly propagate and provide legal advisory service for employees;
- Organize emulation movements in enterprises, support and help employees to promote initiatives for technical and efficiency improvement to build reputation for enterprises.



The core negotiated provisions

THE CORE SUBSTANTIVE PROVISIONS INCLUDE 13 ARTICLES WHICH ARE MORE FAVOURABLE FOR WORKERS THAN THOSE OF THE LAWS, SPECIFICALLY:

Groups of core provision in the 2018 MECBA



Employment security for workers

Article 4. Assigning employees to perform a work which is not prescribed in the employment contracts (extracted)

2. The employer may temporarily assign a worker to perform a work which is not prescribed in the employment contract provided that the assignment does not exceed 60 accumulated working days within one year according to Article 31.1, Labour Code 2012. In that case, the employer must inform the workers at least 07 working days in advance and indicate unequivocally the temporary working period that workers will perform the work which is not prescribed in the employment contract.

3. The worker who performs the work as stipulated in Clause 2 of this Article shall be entitled to remuneration for the new assignment; if the wage for this assignment is lower than the previous wage, the worker is entitled to receive the previous wage in the period that worker performs the work which is not prescribed in the employment contract." The statutory prior notice of 03 working days has been negotiated up to 7 working days.



Vietnam Tourism Joint-Stock Company - VITOURS

Vietnam Tourism Joint-Stock Company VITOURS is one of the first travel companies established in Vietnam. For many years, Vitours Company has been continuously voted as one of the TOP TEN Vietnam Travel companies, with branch network in big cities Hanoi, Ho Chi Minh City, Nha Trang and Bac Lieu. Vitours has a hotel system including BAMBOO GREEN hotel, Thu Bon hotel in Da Nang city centre, Luxury hotel in Nha Trang, KOI Resort & Spa in Hoi An and KOI Resort & Residences in Da Nang.

83 Nguyen Thi Minh Khai street, Hai Chau district, Da Nang, Viet Nam
+84 236 3823 660
www.vitours.com.vn

Saigontourane Hotel Joint-Stock Company



Saigontourane Hotel is located right in the centre of Da Nang city with a hotel staff with professional service style and cosy atmosphere. Coming to Saigontourane hotel, you will enjoy the comfortable and convenient moments when travelling to enjoy the beautiful scenery of Danang and being served in a professional and thoughtful way during the conferences held at the hotel. This is also a safe and convenient place for merchants to work in Da Nang city.

05 Dong Da street, Hai Chau district,
Da Nang, Viet Nam
+84 236 3821 021
www.saigontourane.com.vn



Wages, bonuses and allowances

Article 5. Minimum wages

1. Enterprises apply the minimum wage level for (non-trained) workers, which must be higher than the regional minimum wages provided by Government by at least 3.3%.
2. The lowest wage for job or position which requires trained workers (including the ones trained by the enterprise) must be higher than the minimum wage level regulated in Clause 1 of this Article by at least 7%.

Article 6. Regulations for probation

1. Workers in the probation period shall be entitled to receive at least 90% of wage for this work.
2. In the probation period, both parties have the right to annul the contract and it must be informed at least 02 days in advance and no compensation shall be made for the remaining days prescribed in the employment contract.
3. The enterprises are encouraged to negotiate the duration of probation which is shorter than that of the laws and probation wage which is higher than that of this CBA.

Article 7. Formation of Wage Scale and Wage Table (extracted)

2. It should be ensured that at least 10 steps of wage are developed in the wage scale and table, and the differences between two successive wage steps must be at least 6%.

Article 8. Wage step increase

The enterprise shall annually increase wages for workers in line with the regulations of the enterprise and the system of wage scales and wage table that the enterprise sent to the State management agency on labour at the district level where the establishment is located. The increase of 1 step shall happen every 2 years.

Article 9. Wage allowance (extracted)

1. Category of allowances on duty in line with worker/employee's responsibilities, management tasks;
2. Category of allowances on nature of jobs, working conditions, field of action, such as commuting allowance (Fuel allowance); allowance for marketing staffs, tour guides, etc.
3. Category of other encouraging allowances: Full-attendance allowance; Allowance for meal between shifts; House-rental allowance for migrant workers or workers owning no house; Child care allowance for female workers nursing a child under 12 months of age; Inflation allowance (allowance for slippage of price), etc.

Article 10. Bonuses (extracted)

Employees shall receive a bonus at the end of the calendar year (13th-Month Wage) with the value of at least 1-month minimum wage prescribed in the Article 5.1 of this Agreement.

Article 11. Allowance for Meals between Shifts

The monthly allowance for meals between shifts for workers shall be at least 20,000 VND per working day. Enterprises are encouraged to use the allowances for meals between shifts to cook for workers at the workplace instead of distributing cash to them.



Benefits and other issues

Article 12. Allowance for disadvantaged workers (extracted)

1. Allowance for disadvantaged worker shall be from 500,000 VND up to 2,000,000 VND/time/case.

Article 13. Policy of visitation (extracted)

1. For marital event: Workers who have wedding shall receive from 500,000 up to 1,000,000 VND/case.
2. For funeral: In case an unfortunate worker passes away, the employer shall bring offerings valued up to 2,000,000 VND/case to the deceased person. In case the father, mother of the worker or father, mother of the worker's spouse, or child, or spouse passes away, the employer shall bring offerings valued up to 500,000 VND/case to the deceased person.

Article 14. Policy for holidays and sightseeing (extracted)

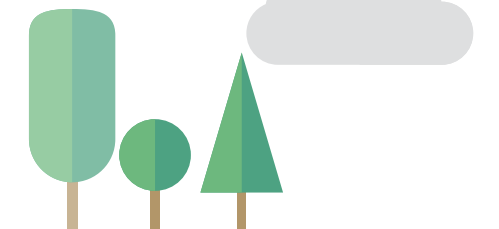
1. Enterprises are encouraged to support workers in these following holidays: 30th April and 1st May, National Day – 2nd September: Support at least 200,000 VND/worker; 8th March and 20th October: Support 200,000 VND/female worker
2. The support for Tet holidays
3. Organization of sightseeing for workers

Article 15. Social insurance (extracted)

1. Employers and workers shall commit to comply with Law on Social Insurance, Law on Health Insurance and Law on Employment to ensure the contributory payments for corresponding insurance schemes.
2. The employers are encouraged to buy the accident insurance and physical protection insurance for workers.

Article 16. GTU activities (extracted)

When receiving a petition or request from GTU Executive Committee in writing, the employer shall take no longer than 10 working days to make their direct answer to the petition or request of GTU Executive Committee in writing. Employers shall create conditions, arrange time for GTU officers to work in trade unions and be paid by employers according to the provisions of law.



Phuong Dong Viet Joint-Stock Company

Orient Hotel is a 3-star hotel located right in the commercial center of Da Nang with 75 bedrooms designed and decorated in traditional style but equally luxurious and modern. Specially, the hotel has King rooms and Queen rooms equipped with luxurious furniture, high quality from natural wood and decorated in light tones.

97 Phan Chau Trinh street, Hai Chau district, Da Nang, Viet Nam
+84 236 3821 266
<http://phuongdong.com.vn>



Ngu Hanh Son Ocean Tourism Joint-Stock Company



Hyatt Regency Danang Resort & Spa is the ideal destination for visitors to explore the charming beauty of coastal region of the Central of Vietnam, which brings great experiences for events, meetings or holidays together with your family. The resort includes 198 guest rooms, 160 apartments and 22 villas with beautiful sea sight and extremely rich culinary experiments.

5 Truong Sa street, Ngu Hanh Son district,
Da Nang, Vietnam
+84 236 398 1234
www.hyatt.com/fr-FR/hotel/vietnam
hyatt-regency-danang-resort-and-spa/danhr



The procedural provisions

THE PROCEDURAL PROVISIONS ARE EMBEDDED IN 8 ARTICLES (FROM NO. 17 TO 24) UNDER CHAPTERS III, IV AND V. IT REGULATES SPECIFIC DUTIES OF THE INVOLVED PARTIES IN ORDER TO IMPLEMENT AND SUPERVISE SUCH IMPLEMENTATION.

Article 22. Amendment and revision of the MECBA (extracted)

Within 6 months from the effective date, [...] amending and supplementing the MECBA shall be made when there are requests from more than 50% signatory employers or GTUs in the MECBA.

Article 23. Labour disputes emerged from the MECBA

Once the labour disputes occur, Da Nang Tourism Association and Da Nang FoL shall appoint their representatives to collaborate with State management agency on labour and enterprises to follow and comply with the laws.

Article 24. Enforcement (extracted)

2. The MECBA shall enter into force after 60 working days from the date of sending this CBA to the Ministry of Labour-Invalids and Social Affairs. And the duration of validity is two years.

3. Within 03 months from the effective date of the MECBA, the Executive Committee of GTUs and employers of 10 enterprises named in Article 1 of this Agreement must review the contents of their enterprise CBAs, if available in the following cases:

a / If the enterprise has already had an enterprise CBA, whose provisions are lower than those of the MECBA, it's necessary to adjust at least equal to the level set by the MECBA.

b / If the enterprise has already had an enterprise CBA, whose provisions are higher than those of the MECBA to the employees or are more beneficial but not yet specified in the MECBA, then the provisions of the enterprise CBAs will has priority in implementation.

c/ The enterprises are encouraged to sign the enterprise-level CBAs with more beneficial contents than the MECBA.

4. In case the enterprise does not build and sign the enterprise CBAs, the rights and obligations of the employers and the employees shall comply with the contents of this MECBA.

Part 2



International
Labour
Organization

The ILO's Standards and Significance of CB

The ILO's Standards and its Instrument

THE INTERNATIONAL LABOUR ORGANIZATION (THE ILO) CONSTRUCTS STANDARDS AND INSTRUMENTS TO CONCRETIZE THE PRINCIPLES OF PROMOTING GENUINE AND VOLUNTARY CB.



Definition on CB

CB is defined 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:

- determining working conditions and terms of employment; and/or
- regulating relations between employers and workers; and/or
- regulating relations between employers or their organisations and a workers' organisation or workers' organisations."

(Source: Article 2, the ILO's Convention No. 154 on Collective Bargaining)



Taseco Ocean View One Member Limited Liability Company

À La Carte Danang Beach is located in a prime location, right in the heart of Da Nang city, next to Pham Van Dong beach. With its location, À La Carte Da Nang Beach is very convenient for tourists to move to tourism-attracted sites such as Hoi An, Da Nang City, Ngu Hanh Son area and Ba Na Hills tourism, My Son world-heritage holy land and Hue ancient citadel. At À La Carte Da Nang Beach, guests can choose from different style apartments from one-bedroom or two-bedroom apartments and balconies with views of the mountains and sea.

200 Vo Nguyen Giap street, Ngu Hanh Son district, Da Nang, Viet Nam
+84 236 3959 555
alacartedanangbeach.com

Tien Sa Ocean Invest Management Joint-Stock Company



Situated in the middle of the regional nature reserve of Son Tra peninsula, the legendary Ma Coi beach and the poetic Duyen beach, Tien Sa eco-tourism resort is considered an ideal destination for picnics, camping, travel, business ... with 8 beautiful bungalows and 35 luxurious bedrooms which are fully equipped, cool seafood restaurants and rich entertainment services.

01 Yet Kieu street, Son Tra district,
Da Nang, Viet Nam
+84 236 3921 502
<https://tiensadanangbeachresort.com/>



The ILO's Core Conventions on CB

There are a number of ILO instruments relating to the promotion of CB, including:

- Convention No. 87 The Freedom of Association and Protection of the Right to Organise Convention, 1948
- Convention No. 98 Right to Organise and Collective Bargaining Convention, 1949
- Recommendation No. 94 Co-operation at the Level of the Undertaking Recommendation, 1952
- Convention No. 151 Labour Relations (Public Service) Convention, 1978
- Recommendation No. 159 Labour Relations (Public Service) Recommendation, 1978
- Convention No. 154 The Collective Bargaining Convention, 1981
- Recommendation No. 163 Collective Bargaining Recommendation, 1981
- Recommendation No. 91 Collective Agreements Recommendation, 1951
- Recommendation No. 92 The Voluntary Conciliation and Arbitration Recommendation, 1951
- Recommendation No. 198 The Employment Relationship Recommendation, 2006
- Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of 1977
- 1998 Declaration on the Fundamental Principles and Rights at Work



The Principles of Genuine CB

Recognition of the right to bargain collectively is integral to fundamental principles and rights at work and ILO member States have an obligation to respect, promote and realize in good faith such principles by virtue of ILO membership itself. The right to bargain collectively should be accessible by employers and their organizations and by workers' organizations at whatever level.

The right to bargain collectively covers all workers in the public and private sectors. The only exceptions that may occur concern the armed forces and the police, as well as public servants engaged in the administration of the State, and such exceptions must be strictly defined.

CB must be free and voluntary, and respect the principle of the autonomy of the parties.

While it is acceptable that the union that represents the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights, in cases where no union meets these conditions, or does not enjoy such exclusive rights, minority trade unions should at least be able to conclude a collective or direct agreement on behalf of their own members.

CB must be possible at all levels, both national and enterprise levels. It must also be possible for federations and confederations.

The principle of negotiation in good faith takes the form in practice of various obligations on the parties involved, namely:

- (i) recognizing representative organizations;
- (ii) endeavouring to reach agreement;
- (iii) engaging in real and constructive negotiations;
- (iv) avoiding unjustified delays in negotiation; and
- (v) mutually respecting the commitments made and the results achieved through bargaining.

Kachiusa Service and Trading One Member Limited Liability Company



King's finger Hotel is a 3-star hotel only 300m from My Khe beach, 2km from the city centre and a convenient location to reach the airport, railway station and famous touristic destinations of Da Nang. King's finger Hotel has 16 floors with 115 bedrooms and apartments that are sophisticatedly designed, comfortable and full of quality services and friendly, elite staff.

171 Nguyen Van Thoai street, Son Tra district,
Da Nang, Viet Nam
+84 236 3 959 678
kingsfingerhotel.com

Danang Trade Union One Member Limited Liability Company



Thanh Binh Hotel locates in the heart of the City, with a total of 135 fully equipped rooms. This is also the place to organize domestic and foreign tours and events, conferences and seminars. Coming to Thanh Binh Hotel Union, you will enjoy a comfortable relaxation, satisfied with the professional, enthusiastic, friendly service.

02 Ong Ich Kiem street, Hai Chau district,
Da Nang, Viet Nam
+84 236 3829 135
www.codatours.com.vn

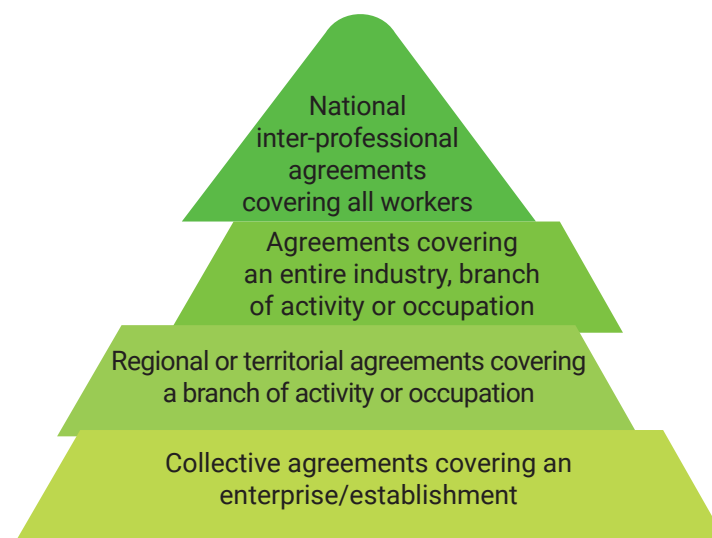


The Bargaining levels

The level at which negotiations will take place is a crucial consideration. The CB framework needs to enable employers, employers' organizations and trade unions (and their federations and confederations) to conclude collective agreements at their chosen level of negotiation.

CB may take place at:

- the workplace, establishment or plant level;
- the enterprise level;
- the level of industry, sector or branch of activity
- the municipal or regional level;
- the occupational or inter-professional level;
- the national level; and
- or a combination of these levels.



The typical hierarchy of collective agreements



Definition of MECB

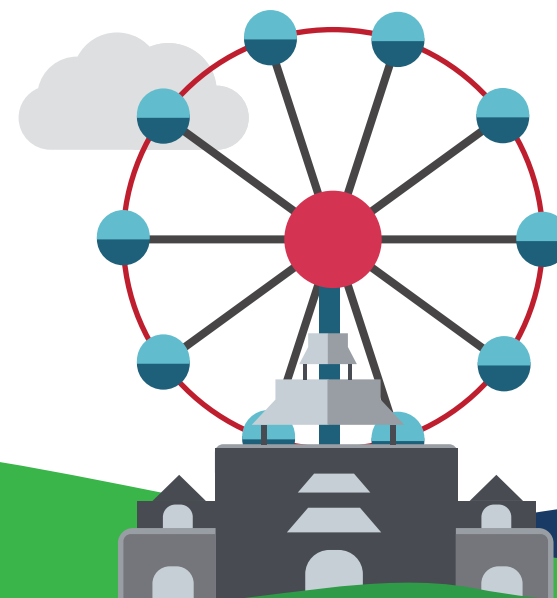
The MECB is the negotiations between employers and labour unions of a number of companies cooperatively on pay, employment conditions and other labour relations related topics.

The MECB is often favoured by companies that share commonalities such as similar labour skills, similar locations, the same industry and similar employment conditions.

Benefits of the MECBA

The MECBA tends to benefit these employers in the following ways:

- Enhance their bargaining power by forming a united front;
- Secure industrial peace and bring stability to the industry;
- Save time negotiating an enterprise CBA especially in homogenous industries and in respect of small and medium-sized firms that do not have the capacity to independently deal with unions;
- Generate a moderating effect on wages, benefit more productive enterprises in an industry due to the coordinated nature of bargaining.



Benefits of Multi-Employer Collective Bargaining Agreement

The MECB also benefits labour unions and workers for the following reasons:

- The engagement of the upper-level unions in the negotiations will help overcome the weaknesses of enterprise unions and increase the labour's bargaining power.
- It tends to offer more inclusive labour protection for vulnerable categories of workers, such as migrant workers, those in non-standard forms of employment and workers employed in small firms.
- It can help to establish minimum standards for working conditions in an industry or sector, taking these out of competition.
- Establish a 'common rule' and joint regulation, reducing the need for, and costs of statutory intervention. Some public authorities rely on the MECBA as an important regulatory tool, for instance, in regulating flexible working hours and variable wage standards in particular industries, obtaining employer cooperation in training policies, and establishing and administering voluntary pension schemes. They also support multi-employer bargaining through the extension of collective agreements reached by representative parties. (Traxler, 2000)
- Besides when CB takes place at the national, industry and/or branch level in multi-employer settings with coordination across levels, a larger proportion of workers are covered and inequality is likely to be reduced both within and between enterprises.

Reference: Collective Bargaining – A Policy Guide, ILO Publication (2015).



NEW INDUSTRIAL RELATIONS FRAMEWORK PROGRAMME - JAPAN COMPONENT STRENGTHENING REPRESENTATIVE FUNCTIONS OF TRADE UNIONS AND EMPLOYERS

