

Working Paper No. 6



International
Labour
Office
Geneva

Labour relations in Uruguay, 2005-2008

Graciela Mazzuchi

November 2009

Industrial
and Employment
Relations
Department
(DIALOGUE)

Working Paper No. 6

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2005–08**

Graciela Mazzuchi

**Industrial and Employment
Relations Department
International Labour Office • Geneva
November 2009**

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First published 2009

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ILO Cataloguing in Publication Data

Mazzuchi, Graciela

Labour relations in Uruguay: 2005-2008 / Graciela Mazzuchi ; International Labour Office, Industrial and Employment Relations Department. - Geneva: ILO, 2009
1 v. (Working paper ; no.6)

ISBN: 9789221228622; 9789221228639 (web pdf)

International Labour Office; Industrial and Employment Relations Dept

labour relations / collective bargaining / social dialogue / institutional framework / legal aspect / Uruguay

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Printed in Switzerland

Preface

This paper is part of a series of studies examining industrial relations developments in different countries and regions of the world. It looks at how industrial relations systems and practices have evolved, and at how they are adapting to meet contemporary labour market challenges. It is particularly concerned with collective bargaining trends and innovative agreements that contribute to employment security, social protection, and the implementation of workers' rights.

The case of Uruguay is unique, given the economic and financial crisis that it faced in the 1990s and early 2000s, the subsequent recovery, the change in government, and its impact on the industrial relations system. This paper focuses on the legislative and institutional changes that took place in the country between 2005 and 2008, which saw the restoration and expansion of collective bargaining rights to many workers. Importantly, during this period, wage councils were revived, resulting in more harmonious collective bargaining processes and increasing the number of agreements signed with tripartite consensus, amidst an environment of high economic growth.

Uruguay has achieved progress in private-sector bargaining, three examples of which are analysed extensively in this paper: specifically, in the cases of domestic workers, rural workers, and the non-alcoholic beverage sector. In the case of domestic workers, the first wage council was set up in 2008 – a first in Uruguay and in many parts of the world. Rural workers' wages have long been regulated, although in 2005, the government moved beyond this by creating collective bargaining institutions. The unique labour relations in the beverage sector – not commonly found in the country – are an example of effective collective bargaining.

The public sector has also seen substantial improvements in collective bargaining practices since 2005, including the introduction of a framework agreement allowing public sector workers to bargain collectively on wages. While bipartite negotiation has been present in the country's public sector for some time, the most recent agreements are more robust, reflecting a degree of maturity in labour relations between the partners and improving the conditions of work for many Uruguay public servants.

The paper's findings highlight the significant progress that Uruguay has made towards labour relations since 2005, through legislative and social changes, as well as through effective social dialogue and collective bargaining forums, and the impact that these changes have had on workers. Uruguay's future challenge will be adapting these industrial relations and collective bargaining achievements to different phases of the economic cycle.

We are grateful to the author for undertaking this study of industrial relations developments in Uruguay, and to Gerhard Reinecke in the SRO-Santiago for coordinating it. We commend the report to all interested readers.

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November 2009

Abbreviations

ACDE	<i>Asociación Cristiana de Dirigentes de Empresas</i> (Association of Christian Business Leaders)
AFE	<i>Administración de Ferrocarriles del Estado</i> (State Rail Administration)
ANCAP	<i>Administración Nacional de Combustibles, Alcoholes y Portland</i> (National Administration of Petroleum Products, Alcohol, and Cement)
ANEP	<i>Administración Nacional de Educación Pública</i> (National Administration for Public Education)
ANMYPE	<i>Asociación Nacional de Medianas y Pequeñas Empresas</i> (National Association of Small and Medium-sized Companies)
ANP	<i>Administración Nacional de Puertos</i> (National Port Authority)
ANPL	<i>Asociación Nacional de Productores de Leche</i> (National Association of Dairy Producers)
Antel	<i>Administración Nacional de Telecomunicaciones</i> (National Administration of Telecommunications)
APEL	<i>Asociación de Propietarios de Empresas de Limpieza</i> (Association of Cleaning Companies)
ARU	<i>Asociación Rural de Uruguay</i> (Rural Association of Uruguay)
BCU	<i>Banco Central del Uruguay</i> (Uruguayan Central Bank)
BPS	<i>Banco de Previsión Social</i> (Social Security Bank)
BSE	<i>Banco de Seguros del Estado</i> (State Insurance Bank)
CAF	<i>Cooperativas Agrarias Federadas</i> (Federation of Farming Cooperatives)
CEDU	<i>Confederación Empresarial de Uruguay</i> (Business Confederation of Uruguay)
CEN	<i>Consejo de Economía Nacional</i> (National Council for the Economy)
CFBAC	<i>Centro de Fabricantes de Bebidas sin Alcohol y Cervezas</i> (Centre of Makers of Non-alcoholic Beverages and Beers)
CGP	<i>Código General del Proceso</i> (General Trial Code)
CGU	<i>Confederación Granjera del Uruguay</i> (Uruguayan Farmers' Confederation)
CIU	<i>Cámara de Industrias de Uruguay</i> (Uruguayan Chamber of Manufacturers)
CNFR	<i>Comisión Nacional de Fomento Rural</i> (National Commission for Rural Development)
CNT	<i>Convención Nacional de Trabajadores</i> (National Convention of Workers)
COFE	<i>Confederación de Obreros y Funcionarios del Estado</i> (Public Service Confederation)
COMISEC	<i>Comisión Sectorial del Mercosur</i> (Mercosur Sectoral Commission)
CONAPRO	<i>Comisión Nacional Programática</i> (National Programme Commission)
COSUSAL	<i>Consejo Superior de Salarios</i> (Higher Wage Council)

CSNCSP	<i>Consejo Superior de Negociación Colectiva del Sector Público</i> (Senior Negotiating Council for the Public Sector)
CSR	<i>Consejo Superior Rural</i> (Senior Rural Council)
CSSD	<i>Comisión de Seguridad Social de Diputados</i> (Social Security Disputes Commission)
CST	<i>Consejo Superior Tripartito</i> (Senior Tripartite Council)
DGI	<i>Dirección General Impositiva</i> (Tax Office)
DINATRA	<i>Dirección Nacional del Trabajo</i> (National Labour Office)
ECH	<i>Encuesta Continua de Hogares</i> (Household Survey)
ENHA	<i>Encuesta Nacional de Hogares Ampliada</i> (Expanded National Household Surveys)
ETR	<i>Estatuto del Trabajador Rural</i> (Rural Workers' Statute)
FA	<i>Frente Amplio</i> (Broad Front)
FETRABE	<i>Federación del Transporte de Bebidas</i> (Federation of Beverage Truckers)
FOEB	<i>Federación de Obreros y Empleados de la Bebida</i> (Federation of Beverage Sector Workers)
FRL	<i>Fondo de Reconversión Laboral</i> (Labour Reconversion Fund)
FRU	<i>Federación Rural de Uruguay</i> (Rural Federation)
ICD	<i>Instituto Cuesta Duarte</i> (Cuesta Duarte Institute)
IECON	<i>Instituto de Economía de la Facultad de Ciencias Económicas</i> (Faculty of Economic Sciences' Economic Institute)
INAU	<i>Instituto del Niño y Adolescente del Uruguay</i> (Uruguayan Children's Institute)
INC	<i>Instituto Nacional de Colonización</i> (National Institute of Colonization)
INE	<i>Insituto Nacional de Estadística</i> (National Statistics Bureau)
INEFP	<i>Instituto Nacional de Empleo y Formación Profesional</i> (National Institute for Employment and Professional Training)
IRPF	<i>Impuesto a la Renta de las Personas Físicas</i> (personal income tax)
JUNAE	<i>Junta Nacional de Empleo</i> (National Employment Board)
LAC	<i>Liga de Amas de Casa</i> (Housewives' League)
MEF	<i>Ministerio de Economía y Finanzas</i> (Ministry of Economy and Finance)
MGAP	<i>Ministerio de Ganadería, Agricultura y Pesca</i> (Ministry of Ranching, Farming and Fishing)
MIDES	<i>Ministerio de Desarrollo Social</i> (Ministry of Social Development)
MIEM	<i>Ministerio de Industria, Energía y Minería</i> (Ministry of Industry, Energy and Mining)
MSCE	<i>Mesa Sindical Coordinadora de Entes</i> (Labour Union Council)
MSP	<i>Ministerio de Salud Pública</i> (Ministry of Public Health)

MTSS	<i>Ministerio de Trabajo y Seguridad Social</i> (Ministry of Labour)
ONSC	<i>Oficina Nacional de Servicio Civil</i> (National Public Service Office)
OPP	<i>Oficina de Planeamiento y Presupuesto</i> (Planning and Budget Office)
OSE	<i>Obras Sanitarias del Estado</i> (State Water Utility)
PANES	<i>Plan de Atención a la Emergencia Social</i> (Emergency Social Assistance Plan)
PIT	<i>Plenario Intersindical de Trabajadores</i> (Inter-union Assembly of Workers)
SIMA	<i>Sindicato de la Industria del Medicamento y Afines</i> (Union of Pharmaceutical Workers)
SOIMA	<i>Sindicato de Obreros de la Industria de la Madera</i> (Union of Workers in the Timber and Allied Industries)
SUDORA	<i>Sindicato Unico de Obreros Rurales y Agroindustriales</i> (Rural and Agroindustrial Workers' Union)
SUTD	<i>Sindicato Único de Trabajadoras Domésticas</i> (Union of Domestic Workers)
TCA	<i>Tribunal de lo Contencioso Administrativo</i> (Tribunal for Administrative Grievances)
UCUDAL	<i>Universidad Católica del Uruguay Dámaso Antonio Larrañaga</i> (Catholic University of Uruguay)
Udelar	<i>Universidad de la República</i> (University of the Republic)
UNATRA	<i>Unión Nacional de Trabajadores Rurales y Afines</i> (National Union of Rural and Related Workers)
UTE	<i>Administración Nacional de Usinas y Transmisiones Eléctricas</i> (National Administration of Electrical Generators and Distributors)

Contents

Preface.....	iii
Abbreviations.....	v
Introduction	1
1. The economic context 2003–08.....	3
1.1 The crisis as starting point.....	3
1.2 The recovery since 2003	3
1.3 The new government since 2005.....	4
1.4 The main figures for 2003–08.....	5
2. The legal framework since 2005	9
2.1 Individual relations: Legislation remains the same or increases.....	9
2.2 Collective rights: From abstention to regulated standards	10
2.2.1 Union organizations still regulated solely by ILO standards.....	10
2.2.2 Trade union immunity (<i>fuero sindical</i>): A new protective law.....	11
2.2.3 Dispute settlement mechanisms: An innovative decree	12
2.2.4 Collective bargaining: Regulations remain pending.....	13
3. The institutional framework	17
3.1 Wage councils revived.....	17
3.2 New tripartite bodies created	18
3.2.1 The Senior Tripartite Council (Consejo Superior Tripartito)	18
3.2.2 The National Rural Council (Consejo Superior Rural).....	18
3.2.3 The Public Bipartite Council (Consejo Bipartito Público).....	19
3.3 Social dialogue encouraged	19
4. The actors.....	21
4.1 Union organizations.....	21
4.2 Business organizations.....	23
4.3 The State and its role in collective bargaining.....	25
5. Social dialogue and collective bargaining: Uneven results.....	27
5.1 Social dialogue: On and off	27
5.2 Collective bargaining in the private sector	28
5.2.1 Sectoral collective bargaining regains prominence	29
5.2.2 Consensus prevails within negotiations	29
5.2.3 Longer contracts	31
5.2.4 Sector negotiations permit some flexibility	32
5.2.5 Negotiating different kinds of relationship among actors	33
5.2.6 Workers' participation in commissions.....	35

5.2.7	Relations between actors and production received short shrift.....	35
5.2.8	Wage negotiations within guidelines	36
5.2.9	Relatively low wages resulted from agreements.....	37
5.2.10	Wage dispersion improved	39
5.2.11	Wage adjustments: Within and beyond the guidelines	41
5.2.12	Increase in non-discrimination clauses	42
5.2.13	Benefits	43
5.3	Private-sector bargaining: Impact on wages and employment	43
5.3.1	Positive impact on wages:	43
5.3.2	Positive impact on employment:	48
5.4	Three special cases of private-sector bargaining.....	49
5.4.1	Collective bargaining in the domestic service sector starts in 2008	50
5.4.2	Collective bargaining for rural workers started in 2005.....	57
5.4.3	Collective bargaining in the non-alcoholic beverage sector	64
5.5	Public-sector bargaining.....	73
5.5.1	Good negotiation results.....	73
6.	Conclusions: Progress and limits on labour relations	79
6.1	Wage councils and workers covered by collective bargaining.....	79
6.2	Some rigidities in existing negotiations: Guidelines and their use.....	80
6.3	Limitations: Wage-centred contents do not cover a wide range of conditions.....	81
6.4	The tense relationship among actors and social dialogue	81
6.5	Ideas for future negotiations	82
	Bibliography	85

Introduction

Labour relations have changed significantly in Uruguay since 2005, when a new government took power. Amidst economic growth, the government carried out juridical and institutional changes that restored collective bargaining rights and expanded coverage to more workers, adding the rural sector and, most recently, domestic service to the traditional private-sector wage councils (*Consejos de Salarios*), and expanding public-sector bargaining.

The revival of the wage councils was well received by the union movement, which had been calling for action of this nature for more than a decade, since the government stopped convening them. Reactions among business people varied, however, and although many agreed to participate, they warned that this could become a mechanism that would impose some rigidity on the labour market, hurting small and medium-sized enterprises, particularly those in the interior.

During the period 2005–08, collective bargaining processes spread at the industry level, affecting virtually all formally employed workers. The vast majority of agreements were achieved through consensus: of the 213 agreements signed during the 2006 round, 184 reflected tripartite agreements. In 2008, although the percentage dropped slightly, consensus nonetheless remained the rule, with 183 of the 221 agreements signed reflecting tripartite consensus.

The main result of negotiations was an increase in employees' real wages, by 18.6 per cent on average over the four years. This occurred along with growth in employment, by almost eight percentage points during the same period. While important, these achievements have not resolved all problems: the national minimum wage remains low despite significant increases; many workers have poor quality jobs; and major groups remain vulnerable. Moreover, some limits on both the form and the contents of negotiations require enrichment, and some attitudes must be changed for progress to continue.

The first three sections of this paper examine the economic, juridical, and institutional contexts that frame labour relations. The fourth section looks at the actors involved, and the fifth deals with social dialogue and collective bargaining, presenting some general results from three case studies: negotiations in the domestic service and the rural sectors as innovative examples of bargaining, and negotiations in the beverage sector as an example of an industry with a long tradition of negotiations, innovative content, and results adapted to contexts. The final section presents the conclusions from results to date and offers some reflections on the future of collective bargaining.

1. The economic context 2003–08¹

The four-year period from 2005 to 2008 was marked by robust economic growth in Uruguay, following at the heels of an economic crisis that started to recede at the end of 2003. The economy strengthened in the ensuing years, achieving considerable equilibrium and positive results by 2008.

1.1 The crisis as starting point

The economic crisis that began in late 1998 and early 1999 in Uruguay (after the crisis ended in Brazil) reached its lowest point in 2002. That year, the economy contracted, with the gross domestic product (GDP) falling 10.8 per cent. Altogether, from 1999 to 2002, the economy suffered a 17.5 per cent drop in activity.

A financial crisis also took place, due to debtors' withdrawals and changes in the foreign exchange policy, which resulted in the devaluation of the peso and therefore serious problems for debtors in dollars and the banks to which they owed money. In the first half of 2002, the Uruguayan Central Bank (*Banco Central del Uruguay*, BCU) took over two banks and, in late July, it froze all banking activity for a week, at the end of which, four banks were suspended.

In this context, the labour market suffered. As the economy plunged, the unemployment rate grew, to a record high of 19.8 per cent in the September–November 2002 quarter. The real average wage fell almost 11 per cent that year, reflecting higher inflation, the government's efforts to control public spending on wages, and the high unemployment rate.

1.2 The recovery since 2003

The Uruguayan economy began to recover in 2003. Slowly, the banking system managed to consolidate amidst international and regional conditions favourable to the country. The depreciation of the real exchange rate, improvements in international prices for the main exports, the reopening of meat markets, and higher external demand boosted exports. Domestic consumption also improved, as the labour market recovered and consumer credit rose slightly. After falling for four years running, the GDP rose 2.2 per cent in 2003, soaring by 12.3 per cent in 2004 as the economy continued to rally strongly, with many sectors taking up idle capacity.

Despite these improvements and although unemployment, poverty, and social exclusion improved slightly, they remained high. Employment rose – by 63,300 jobs, according to the Faculty of Economic Sciences' Economic Institute (*Instituto de Economía de la Facultad de Ciencias Económicas*, IECON) of the University of the Republic (*Universidad de la República*, UdelaR) – but in the second half of the year, the whole process slowed, although the GDP kept growing. The unemployment rate, meanwhile, declined and the average for the urban component was 13.1 per cent. In 2004, however, 45 per cent of those employed had poor-quality jobs, in terms of being underemployed or not registered for social security.² Another problem was that the real average wage in the private sector had not bounced back, despite the stronger economy: the 2004 average was 1.4 per cent lower than in 2003, which, in turn, was lower compared to 2002.

¹ Aside from figures that we developed ourselves and secondary statistical data sources, we used specific reports from the IECON and the Cuesta Duarte Institute of the Inter-union Assembly of Workers–National Convention of Workers (*Instituto Cuesta Duarte del Plenario Intersindical de Trabajadores-Convención Nacional de Trabajadores*, ICD PIT-CNT) from different years.

² Data from the National Statistics Bureau (*Instituto Nacional de Estadística*, INE).

1.3 The new government since 2005

The new government decided that its strategy would be based on an integrated approach to development, which combined both economic and social policy. Its essential objectives included increasing investment as key to improving employment, and thereby reversing poverty and social exclusion.

Given the high **external debt** inherited from the 2002 crisis, the government began by reaching agreements with international financial bodies. Conditional debt was replaced by unconditional debt; maturities were reorganized to cover debts falling due in the coming years; and debt was reduced, thus producing savings in terms of interest payments.

In terms of **social policies** to assist the lower-income sectors, the government passed Law 17,866, which created the Ministry of Social Development (*Ministerio de Desarrollo Social*, MIDES). Its main programme was an Emergency Social Assistance Plan (*Plan de Atención a la Emergencia Social*, PANES), which began in 2005 with a budget of US\$200 million. It benefited some 80,000 households or 335,000 people living in extreme poverty. The Plan consisted of several components: the Citizens' Income (*Ingreso Ciudadano*), involving transfers of about 1,400 Uruguayan pesos (UYU) monthly; employment programmes (*Trabajo por Uruguay, Programa de Opción Productiva*); a children's food assistance programme (*Programa de Asistencia Alimentaria*); a support programme for the homeless (*Programa de Apoyo a los "sin techo"*) providing day and night-time shelter; and teams to provide assistance to street people, among others. In December 2007, the PANES finished on schedule.

In 2008, the Equity Plan (*Plan de Equidad*) began. Its purpose was to reorganize social protection in line with other reforms already in place. It established a set of structural components (including reforms to taxes, health care, employment, housing policies, equality of opportunities and rights), and a set of components that create a network for social assistance and protection (including a new family allowance system to expand coverage and provide higher assistance amounts for children under 18 years of age in exchange for simpler components in health and education, aid to the elderly, and policies for education, infant, and adolescent care).

Labour issues saw the most changes, basically with regard to wages. The State took on an active role and, in May 2005, the wage councils – suspended since 1992 – were restarted with greater coverage than before, covering the rural sector for the first time in history and, starting in 2008, domestic service.

A bipartite commission was also set up to activate collective bargaining for government employees. This succeeded through negotiations within different groups that became part of the Central Administration (*Administración Central*) (also for the first time, although some companies and publicly owned banks and companies had negotiated previously).

In terms of employment itself, there were fewer measures and these were less clear, because the government assumed that with economic growth would come a suitable business climate and a rise in investment employment.

The central objective of the **monetary policy**, meanwhile, was to control inflation, even at the expense of the exchange rate. This point became one of the key issues debated with business people, because they questioned the loss of competitiveness as a possible threat to the economy's continued expansion.

The government also began gradually to implement some structural reforms. These included reforms to taxation, health care, and the government itself.

The **tax reform**, which was applied for the first time in July 2007, eliminated some taxes, reduced value-added taxation (VAT) rates, and changed the taxable base, applying taxes

on some goods that previously were exempt, creating a single employers' contribution of 7.5 per cent. Most significantly, it changed personal income tax (*Impuesto a la Renta de las Personas Físicas*, IRPF) to require that individuals pay taxes on income from both capital investment and work.

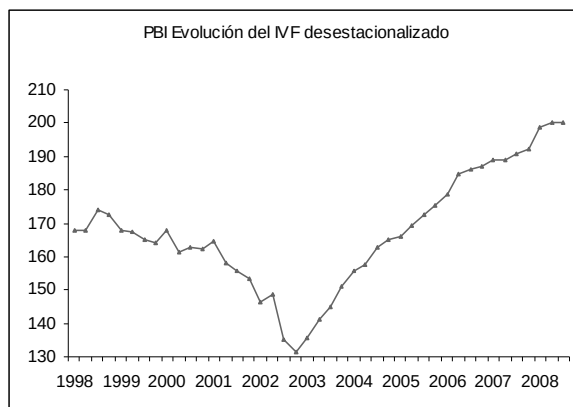
The **healthcare reforms** created a single national health care system (*Sistema Nacional Integrado de Salud*), which extended guaranteed coverage to virtually all of those formally employed in the public sector, all of those in the private sector, and all of their children under 18 years of age. This is financed using state resources and a higher contribution from workers.

State reforms were the most complex and necessarily involved a series of institutional changes focused on breaking up or decentralizing public administration. They also put in place requirements for more professional staff, with a more rational system to define wages and posts in the civil service, achieved through reformulating some processes and retraining staff.

1.4 The main figures for 2003–08

In 2003, the Uruguayan economy started to recover and flourished from then on. From January 2003 to December 2007, the GDP grew by almost 40 per cent – well above levels prior to the crisis (see Chart 1) – and in 2008, it soared above 50 per cent, as annual growth reached 8.9 per cent.

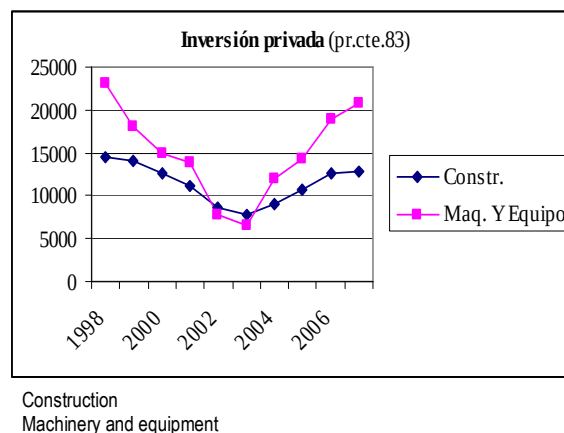
Chart 1.
GDP: Changes in seasonally adjusted
physical volume index



Up to 2006, this growth mainly reflected thriving conditions vis-à-vis the international market, marked by particularly strong demand (new markets opened up) and export prices that rose significantly. In 2006, export growth held steady, but domestic demand also rose significantly, thanks to higher employment and wages, and more state transfers to the most vulnerable sectors within the population. In 2007, domestic demand soared above levels prior to the crisis.

Domestic private investment performed remarkably well during this period. After it plunged during the crisis, it later soared, virtually doubling from 2003 to 2008. Nonetheless, it has not quite reached levels prior to the crisis (see Chart 2).

Chart 2.
Private investment
(constant 1983 prices)



Despite the generally positive averages, not all sectors did equally well. Manufacturing and agriculture grew significantly, outperforming levels prior to the crisis, while services grew less, maintaining their share of production from 1998. Construction also grew, but has not yet reached pre-crisis levels, which is particularly significant because of its importance in the labour market.

Since 2002 (when the CPI soared to 26 per cent), inflation had been falling, reaching its lowest point, 4.9 per cent, in 2005. The figure for 2006 fell within the range forecast by the government (6.4 per cent). It has, however, been a major headache for the government since 2007 when prices rose by 8.5 per cent (despite forecasts ranging from 4.5 to 6.5 per cent); it was higher still in 2008, at 9.2 per cent.

Commodity prices increased in 2007, reaching all-time highs. Rising international prices for Uruguay's main exports pressured the domestic market, hurt by bad weather, which brought scarcity in the case of some vegetables, so that food prices rose more than 20 per cent in 2007, strongly affecting the general basket. The government has applied several measures since then, ranging from changes in monetary policy to agreements with businesses to keep certain food prices steady, some of which remain in effect.

Wages, however, behaved differently during this period. In 2003 and 2004, the real average wage continued to fall, but bounded back in 2005 after the wage councils were revived. From 2005 to 2008, the real average wage rose 18.5 per cent (18.1 per cent in the private sector and 19 per cent in the public sector). The government also committed to covering the losses incurred under the previous government (estimates range from 18 per cent to 25 per cent) for the period ending in February 2010.

As mentioned, in terms of employment, the crisis struck hard. The average annual unemployment rate reached 17 per cent in 2002, before falling (although more slowly than forecast, particularly in 2005), with numerous explanations offered for the fact that although the economy was growing, employment was not reacting at a similar rate. Some analysts argued that the recovery in key sectors – such as the wholesale and retail trade, or construction – was insufficient, that labour costs had risen due to the higher minimum wage and the impact of the wage councils, that legal changes and greater control over the Social Security Bank (*Banco de Previsión Social*, BPS), which brought a lot of workers into formal employment, and the Tax Office (*Dirección General Impositiva*, DGI) caused businesses to freeze key decisions, and that there were not enough active employment policies. Only in 2006 did

employment again begin to rise in step with the stronger economy (particularly in labour-intensive sectors) and growing confidence. This was consolidated in 2007, an exceptional year in terms of demand for labour: more than 70,000 jobs were created; as the supply rose, average annual unemployment fell to 9.2 per cent. In 2008, it continued to fall to 7.9 per cent, with the creation of 60,000 more jobs.

Despite these figures, a significant number of poor-quality jobs remain (almost 40 per cent of the national total involve restrictions due to underemployment or exclusion from social security). The Cuesta Duarte Institute (*Instituto Cuesta Duarte*, ICD) of the Inter-union Assembly of Workers–National Convention of Workers (*Instituto Cuesta Duarte del Plenario Intersindical de Trabajadores–Convención Nacional de Trabajadores*, PIT-CNT) created an employment quality index (*Índice de Calidad de Empleo*) that reflects three aspects: employment wages; social security coverage for employees; and hours of work. The figures for 2006 and 2007 show few changes and only slight improvements (the general indicator rose from 61 to 62, with 100 being the optimum, while the indicator for those employed in the formal sector held steady at 71). This indicator is lower for women and young people under 25 years of age; it should be noted that improvements in the average for this indicator reflected improvements for these two groups – a positive sign.

Finally, figures for poverty and indigence also improved during the study period. In 2004, indigence reached its highest point since 2001, affecting 3.1 per cent of people, 2.6 per cent in the first half and 1.7 per cent in the second.³ Poverty, meanwhile, went down from 31.7 per cent in 2004 to 28.4 per cent in the first half of 2006, and 21.7 per cent in the first half of 2008.

³ Data from the INE.

Table 1.
Main economic indicators

Percentage change over the previous year	2002	2003	2004	2005	2006*	2007*	2008*	
GDP	-11	2.2	11.8	6.6	7	7.4	8.9	
Gross domestic investment	-34.5	18	22	7.6	20.7	11.2	15.8	
Gross fixed investment	-32.5	-11.4	30.3	17.5	26	5.8	25.6	
Imports (CIF)	-35.8	11.5	42.2	24.6	23.1	17	58.7	
Exports (FOB)	-9.6	18.5	32.3	16.6	15.7	12.8	31.8	
CPI	25.9	10.2	7.6	4.9	6.4	8.5	9.2	
Average real wage	-10.7	-12.4	-0.1	4.6	4.4	4.8	3.5	
Average public sector wage	-10.6	-12.0	2.6	5.7	3.3	5.2	3.6	
Average private sector wage	-10.9	-12.8	-1.5	4.0	5.0	4.5	3.5	
Average minimum wage	-10.2	-12.3	-0.1	70.1	16.1	3.7	10.9	
Rate (%) for each year								
Economic growth	59.1	58.1	58.5	58.5	60.9	62.7	62.5	
Employment	49.1	48.3	50.9	51.4	53.9	56.7	57.7	
Unemployment	17.0	16.9	13.1	12.2	11.4	9.6	7.6	
As a percentage of GDP								
Consolidated government balance	-4.1	-3	-2	-0.8	-0.6	0	-0.7	Jan.–May
Gross public sector debt	92.8	108.8	100.3	82.8	70.8	70.7	69.3	Jan.–May

Source: National Statistics Bureau (Instituto Nacional de Estadística, INE), BCU, and IECON.

2. The legal framework since 2005

Uruguay has always been highly interventionist and protective in terms of individual labour relations and, at the same time, virtually lacking in any legislation regarding collective rights.

Indeed, individual labour rights are protected by an extensive series of regulations that leaves actors free to establish the type of contract and very little else. In contrast, in terms of collective rights, the Uruguayan government has always tended to abstain in terms of regulations, depending on a system based on autonomy of the parties involved within a fragmented and asystematic regulatory context. This remained virtually unchanged until 2005, when the Broad Front (*Frente Amplio*, FA) government took power, reaffirming its role in regulating individual relationships by issuing new regulations to protect workers and, at the same time, starting to regulate collective relationships based on a clearly pro-union approach.

2.1 Individual relations: Legislation remains the same or increases

Uruguay's model of state intervention to regulate individual labour relations was put in place in the 1900s. This same protective approach continued until the 1990s, when legislative initiatives in this area froze, leaving individual workers' rights defined according to general benefits provided in 1989 with the passing of laws that improved payment for overtime and holiday pay (Rodríguez, Cozzano, Mazzuchi, 2001).

Analysts often considered the government's 1992 decision to suspend the wage councils to be a form of deregulation. This decision, however, did not involve repealing Law 10,449 (which created the councils), but rather took advantage of the presidency's powers to call meetings. As long as the government saw wage councils as unnecessary, there were no meetings, but in 2005, the new authorities decided that they were needed and called for them to meet, stating that the same law remained in effect.

In 2005, as part of the FA government's policies, a regulatory approach based on protecting individual workers acquired renewed force with the approval of new laws, including the following.

- (a) Law 18,065 of 22 November 2006 and its associated Regulations 224/07 of 25 June 2007 relate to the working conditions of those in domestic service, which were notoriously poor compared to those governing other workers.
- (b) Law 18,091 of 27 December 2006 changed the expiry date for labour credits (economically quantifiable benefits accruing to workers, including overtime, severance pay, and bonuses), extending from two to five years the period during which any debt of this nature can be resolved through a judicial process.
- (c) Law 18,099 of 27 December 2006 includes modifications from Law 18,251 of 17 January 2008. It provided protection for workers affected by the decentralization of production, and regulates the triangular relationships arising from new hiring systems, such as intermediation, subcontracting, or labour contractors. This law defined the contracting company's solidarity-based or subsidiary responsibilities in the event of non-compliance by the contracted company with labour obligations, and regulations concerning pensions and other benefits. It establishes that employees provided by labour contractors must receive the same wages and benefits as those in the economic sector in which they actually work.
- (d) Law 18,098 of 27 December 2006 regulates public-sector hiring through outsourcing to third-party firms, to ensure protection for those hired under this

system. To do so, the bodies responsible for receiving tenders must comply with wage council decisions, and monitor payments of wages and benefits to workers, along with contributions to social security and the state insurance system (*Banco de Seguros del Estado*); they are empowered, in the event of non-compliance, to rescind contracts and retain any outstanding balances to cover potential debts. These rules complement those established by Law 18,099 (see above), which apply to both private and public sectors.

- (e) Law 18,345 of 11 September 2008 regulates extraordinary leave granted in the private sector and extended benefits that previously were available only through collective bargaining agreements within specific sectors or firms. Under this new law, leave became available to all private-sector workers without exception. This includes: 18 days of leave to study; up to six days for an examination (under specific conditions); three days' paternity leave, or leave for adoption or related issues; three working days for a death; and three for marriage. In terms of study leave, some problems for strategic sectors were identified; the government responded by presenting draft amendments that reduce the number of leave days and regulate their use – these remain under study.
- (f) Law 18,406 of 23 October 2008 created a National Institute for Employment and Professional Training (*Instituto Nacional de Empleo y Formación Profesional*, INEFP), a tripartite body tasked with implementing a new strategy to foster more and better jobs.
- (g) Law 18,399 of 4 December 2008 introduced changes in unemployment insurance (*seguro de paro*), in terms of both periods of and conditions for receiving aid.
- (h) Law 18,441 of 24 December 2008 limits hours of work to eight per day and 48 per week for rural activities involving livestock and dry farming, the only sectors previously excluded from the eight-hour regime.

2.2 Collective rights: From abstention to regulated standards

The policy applied by the new government in 2005 marked a significant shift, with the approval of new regulations governing collective aspects of labour relations. This has not involved a general systemic approach, however, but rather addresses specific problems as they have arisen. As a result, some issues are only now regulated for the first time.

2.2.1 Union organizations still regulated solely by ILO standards

Since 1934, article 57 in Uruguay's Constitution has recognized the right to unionize, governed by the law for promoting union organization. Despite this constitutional mandate, ratification of the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and Right to Organize and Collective Bargaining Convention, 1949 (No. 98) are the only legislative initiatives in this area; despite the decades that have passed, the legislature has not passed any laws to ensure compliance with this constitutional precept.

Nonetheless, the ratification and application of the ILO standards guarantees the broadest union freedoms. In this context, in Uruguay, unions are organized (and this is also true for business associations) on the actors' initiative. There is no required registration, nor is legal status required. Organizations write their own statutes, elect their own officers, and formulate plans for action, with no intervention from the government.

2.2.2 Trade union immunity (*fuero sindical*): A new protective law

In this context of the broadest freedoms, one shortcoming is the absence of rules concerning protection from anti-union activity. As part of the regulations associated with ILO Convention No. 98, Decree 93/68 of 3 February 1968 empowered the Labour Inspection Agency (*Inspección de Trabajo*) to determine the presence of anti-union activities; if so established, the Agency can fine the employer – a sanction that did not offset the harm caused the employee. Law 17,940 of 22 December 2005 and its regulatory Decree of 6 March 2006 changed this situation.

The Law suspends any discriminatory actions that tend to make workers' employment conditional on their not joining or on their leaving a union, and any action to fire or harm workers due to their union affiliation or participation in union activities (article 1). Once an infraction is confirmed, the company must reinstate or return the worker(s) concerned to the previous situation and pay any back wages (article 3).

These measures cover all affiliated workers and those attempting to create a union organization. Workers are protected against any anti-union action – that is, any action (for example, firing or refusal to hire) or omission (for example, not providing a wage increase or a promotion) that occurs when recruiting or selecting personnel – during the labour relationship, or even at its end (Ermida, 2006).

The procedure involved (article 2) identifies two types of union member:

- (a) recognized union leaders or their alternates at any level of union leadership, delegates participating in bipartite or tripartite commissions, workers' representatives in collective bargaining, workers who promote unionization up to one year after the union has been established, and those who are appointed to participate in collective bargaining; and
- (b) all other members.

In the case of type (a), the relevant procedure is the *acción de amparo* (articles 4–10, Law 16,011 of 19 December 1988), or filing of a grievance. The worker must explain why he or she believes that firing reflects anti-union motives and the company must demonstrate reasonable doubt regarding the employee's conduct, necessity, or any other justifiable cause for severance. The period for presenting the demand in this brief procedure is 30 days, starting from the moment at which the anti-union action is alleged to have occurred.

In the second situation, articles 346 and 347 of Uruguay's General Trial Code (*Código General del Proceso*, CGP) establish the procedure. Although the legislation's intention was to ensure that this was a quick procedure, in practice, it is slower than the first grievance procedure described above.

To litigate, the law requires that the union and employee initiate the action together.

The law also provides for:

- (a) the right to union leave – that is, to receive wages for time spent on union activities, as regulated by the respective wage council;
- (b) automatic deduction of trade union dues once workers' give their signed approval; and
- (c) facilities for union activities, to enable the union to post notices in the company premises, and to distribute newsletters and other publications associated with union activities.

Because of this, some have said that this is, above all, a law to promote unionization (Ermida, 2006).

2.2.3 Dispute settlement mechanisms: An innovative decree

In Uruguay, there are no broad mechanisms for solving collective labour conflicts. The labour justice system has no authority in this field. The Ministry of Labour and Social Security (*Ministerio de Trabajo y Seguridad Social*, MTSS) has no binding procedures and although it can act on behalf of a party, no binding arbitration is possible. The whole system is based on the actors' autonomous action, with self-defence measures (strikes) coexisting with others developed by the parties themselves, including collective bargaining, non-binding mediation (*conciliaciones facultativas*), or arbitration (*arbitraje facultativo*).

Intervention by third parties: Still non-binding

In terms of collective conflicts, no rule empowers the MTSS or any other body to carry out a binding intervention before measures are adopted. Any request for third-party intervention, whether to help to find a solution (non-binding reconciliation or mediation) or directly through volunteer arbitration, depends entirely on the actors' autonomous action.

Practice has shown that in using their autonomy, actors tend to regulate themselves, generating their own mechanisms for preventing or resolving conflicts; once dealt with through bipartite means, generally speaking the final resolution is left to the MTSS (Rodríguez, Cozzano, Mazzuchi, 1997).

This procedure, based on straightforward customs, became the basis for articles 1 and 2 of Decree 165/06 of 30 May 2006. Article 1 confirms the autonomous nature of the choice of mechanisms for solving or preventing conflicts, leaving actors free to establish them, while article 2 places competency within the MTSS, in the event that the actors request that it intervene, and specifically the National Labour Office (*Dirección Nacional del Trabajo*, DINATRA) or the wage councils.

In short, with these articles, the new Decree generates no binding mechanisms for preventing or settling disputes, but rather upholds traditional means.

Prior negotiations required: Mandatory under new regulation

Despite the above, article 3 of Decree 165/06 regulates the stages prior to adopting conflictual measures. It requires negotiations between the parties, which must be announced suitably in advance of any measures, based on the appropriate provision of information, and carried out in good faith. Only workers belonging to companies that go out of business, that exit the country without leaving representatives, or that face imminent closure or liquidation are excepted.

The Decree also specifies penalties for those who do not comply, based on those applied by the General Labour Inspection Agency (*Inspección General del Trabajo*) to companies that disregard legal regulations or established practice. These essentially involve fines or closures, and do not apply to union actions, suggesting that this provision will probably not offer solutions in the event that workers themselves do not comply.

In short, in Uruguay, some negotiation is required prior to the application of measures involving force – a rule that is not always kept. Aside from this item, there is no other requirement for declaring a strike.

The strike: A broad concept

Article 57 of the Constitution recognizes the right to strike, using wording that means that Uruguay is one of those countries in which this right can be exercised without exclusion and much more broadly than elsewhere:

The right to strike is intrinsic to the right to organize and associate. On this basis, its use and effectiveness will be regulated.

There is no juridical instrument in Uruguay that defines a “strike”. Traditionally, a strike involved the collective and concerted abandonment of tasks, with the intention of resuming when the conflict giving rise to the strike is finally resolved. The current definition refers to a strike as a “break with the day-to-day”.

In this sense, workers apply everything from the simplest of measures (such as the use of graffiti and banners) to more complex ones (such as occupation of the workplace, picketing, and hunger strikes). Until 2005, occupation was not allowed, as a Decree empowered the Ministry of the Interior (*Ministerio del Interior*) to dislodge workers upon the company’s request. But the new government repealed this Decree as soon as it came to power in 2005; in 2006, Decree 165/06, article 4, recognized occupation of the workplace as “one way of exercising the right to strike”. This article requires that the occupation be peaceful. Specifically, it states that those involved in the occupation must provide: “a) written confirmation of the state in which goods are received, b) prevent damage to facilities, c) apply measures to preserve perishable goods or processes that cannot be interrupted, and d) refrain from running the business as usual, unless it has been abandoned ...”

Article 6 empowers the MTSS, in conjunction with the ministry responsible for the respective sector, to employ the police to remove the occupiers in the event that “continuing the occupation endangers the life, safety or health of all or part of the population or seriously affects public order”.

This indicates that, today, the government has established its position on the occupation of the workplace, through a Decree, that is enshrining it within jurisprudence and making it practically the sole internal regulation regarding strikes.

This measure sparked public debate,⁴ and business organizations rejected it and threatened to report it to the ILO. Notwithstanding, the government’s draft law on negotiations includes a chapter that quotes verbatim the provisions from Decree 165/06 (including those regarding occupation of the workplace). In November 2008, the Chamber of Deputies’ Commission on Labour Legislation (*Comisión de Legislación del Trabajo*) received a technical report from ILO experts suggesting some changes that would explicitly consider the right to work of non-strikers and the right of the company’s management to enter its facilities.

2.2.4 Collective bargaining: Regulations remain pending

The lack of a regulatory framework is also apparent when it comes to collective bargaining. Existing legislation is limited to a few specific issues and, while it is not restrictive, neither is it supportive of bargaining.

⁴ See, e.g., N. Larrañaga, “Occupations of the workplace: Trampling the right to work and property rights”, in *El Empresario* (published in *El País*, 24 February 2006), Montevideo; Juan Andrés Ramírez, “The occupation and the strike”, in *Economía y Mercado* (section in *El País*, 27 February 2007), Montevideo; Marín Risso Ferrand, “Workplace occupations”, available online at <http://www.ucu.edu.uy>

Aside from some specific laws on measures regarding leave and laws establishing who can negotiate, which have become inapplicable, ILO Convention No. 98 – created as a mechanism to set wages, and ratified in Uruguay by Law 12,030 of 27 November 1953 and Law 10,449 of 1943 – serves as the main support for all collective bargaining efforts to encourage unionization and strengthen the union movement in Uruguay. But Law 10,449 has not always been applied, weakening collective bargaining and revealing the shortcomings that arise from the lack of a more complete regulatory framework.

Thus, in Uruguay, two kinds of negotiation exist: an informal, non-standard version that almost always occurs spontaneously as a way of solving conflicts at the company level; and formal negotiations institutionalized under the Wage Council Law, at the sectoral level. These two models are disconnected, in practice, allowing for bargaining to take place anywhere, at different levels, on the same issues. Consequently, because of the absence of a regulatory framework, different dogmatic interpretations and enormous uncertainty can arise.

The lack of regulation governing the private sector holds for the public sector as well. There, although the idea that unionization automatically involves collective bargaining is recognized, it is often carried out within the unusual juridical framework of the ILO Labour Relations (Public Service) Convention, 1978 (No. 151) and the Collective Bargaining Convention, 1981 (No. 154), both ratified by Law 16,039 of 8 May 1989.

The lack of a legal framework governing collective bargaining worked for a certain period – it became apparent that there was a need for an institutional framework that offers legal certainty and security, something that Uruguay has been unable to achieve to date, despite diverse attempts. There is now considerable consensus regarding the need for a coherent national approach, with the PIT-CNT itself (which had been reluctant to accept any supervision of collective labour relations) now more open to the need to establish the ground rules necessary to ensure that the system is reasonably predictable.

A draft law currently under study for the private sector

Early in 2008, the MTSS prepared a draft law on collective bargaining, currently under study by Parliament, stating that it aspires to regulate the national bargaining system for promoting collective bargaining at every level. The draft law is generally in line with ILO standards, although, in some cases, it reflects current practice in Uruguay and, in others, it introduces innovations. It contains draft articles reflecting unwritten, but tacitly recognized, procedures in Uruguay, include those defining:

- (a) the principles behind the negotiating system (article 1);
- (b) the recognition of collective bargaining as a fundamental right, with the corresponding obligation of the State to guarantee and promote it (articles 2 and 3);
- (c) the obligation to negotiate in good faith and exchange information that facilitates negotiations (article 4); and
- (d) the subjects already negotiated by unions (article 14).

The most innovative provisions provide:

- (a) the requirement that public authorities train negotiators, should they request this (article 6) – a service that currently does not exist;
- (b) the legalization (under articles 7–10) of a Senior Tripartite Council (*Consejo Superior Tripartito*, CST), establishing its membership and operations, as well as assigning it new competencies

to expedite, prior to the setting of the national minimum wage or the wage by economic sector, in the event that the parties involved reach no agreement; classify the branches of economic activity; advise in the event of resources resulting from companies' placement within specific economic sector groups; make decisions on issues arising from bi- or tri-partite levels of negotiation; and adopt initiatives to foster collective bargaining and the development of labour relations...

- (c) amendments to Law 10,449 governing wage councils, in terms of how they are formed, the election of members, and the issues for negotiation (articles 11–13);
- (d) the authority to negotiate when there is more than one organization and no means agreed on by them to act together, recognizing as the most representative the organization with the most seniority, continuity, independence, and the highest number of members (which previously was not considered) (article 15);
- (e) the authority to negotiate in companies with no union, assigned to the highest level organization (article 16), thereby superseding the provision of Law 13,556 that permits negotiations through representatives elected by workers;
- (f) an extension of the coverage of agreements negotiated at the sector level, which, for all companies and workers, will be the respective negotiation levels, with no need for the State to intervene to extend the effects, as currently occurs with wage council negotiations; and
- (g) that the agreement remains in effect until a new agreement is approved, unless the parties establish something else.

There are three levels of negotiation: the highest level is the CST, a body for coordinating and supervising labour relations; sector-level negotiations are carried out in bipartite instances or by the wage councils; and company-level negotiations, which cannot set wages lower than the minimum approved by the wage councils, without specific authorization.

Another draft bill of law for the public sector

The proposed bill of law on collective bargaining for the public sector, presented to Parliament in 2008, aims to build a legal framework guaranteeing internationally recognized labour rights (Lust Hitta, 2008).

It contains two chapters, the first of which describes the principles governing the labour relations system – particularly the key elements: participation; consultation; and collective bargaining. The second article institutionalizes these mechanisms, committing public authorities to solicit opinions, assessments, and assistance from workers' organizations on issues of common interest, using the most appropriate means.

Articles 3–8 refer to collective bargaining and specify:

- (a) who the negotiating parties are (one or more public institutions representing the employer and one or more organizations representing employees);
- (b) the State's obligation of promoting and, indeed, guaranteeing such negotiations;
- (c) the obligation to negotiate (which does not imply an obligation to agree);
- (d) the obligation to bargain in good faith (with the rights and obligations that the term entails);

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- (e) the right to the necessary information that would allow bargaining with fair knowledge; and
 - (f) negotiators with suitable training.

The second chapter refers to how the collective bargaining system is structured within the public sector. Article 9 establishes its sphere of action, including: the executive, legislative, and judicial branches; autonomous commercial and industrial entities; decentralized services; universities; government departments; and other specific bodies and agencies, including the Tribunal for Administrative Grievances (*Tribunal de lo Contencioso Administrativo*, TCA), the Tribunal of Accounts (*Tribunal de Cuentas*), the Electoral Court (*Corte Electoral*), and the National Administration for Public Education (*Administración Nacional de Educación Pública*, ANEP).

The MTSS is in charge of coordinating this system (article 10), which consists of three levels: the highest or senior level (*nivel superior*); the economic sector level (*rama o sectorial*); and the organizational body level (*de inciso u organismo*). At the senior level, a National Council for Collective Bargaining (*Consejo Superior de Negociación Colectiva*) is created by the public sector, and consists of two representatives from the Planning and Budget Office (*Oficina de Planeamiento y Presupuesto*, OPP), two from the Ministry of Economy and Finance (*Ministerio de Economía y Finanzas*, MEF), two from the OSC, two from the MTSS (who chair the council), and eight representatives of public employees.

Article 16 has a two-level mechanism for settling grievances, starting in a bipartite mechanism and, if no solution is achieved, going on to a higher body.

Unlike the private-sector bill, the draft law for the public sector includes no innovations, but rather consolidates and is inspired by ILO standards, and enjoys the support of trade unions.

3. The institutional framework

The new government that took office in 2005 significantly changed labour policy, far beyond the legal sphere, going on to change the State's role in labour relations. The passive role of the State, in place for over a decade, gave way to an active position that fostered tripartite agreements and created institutional spaces for negotiations.

3.1 Wage councils revived

The foundations for labour relations in Uruguay were developed in 1943 through Law 10,449, which created the wage councils. The wage councils were charged with negotiating minimum wages in each economic sector and category; their structure was tripartite, involving three representatives of the executive branch of government, two workers' representatives, and two employers' representatives, with their respective alternates.

The councils' first period (1943–68) occurred within the framework of a protectionist economic model, which determined that the workers' main interest was the distribution of profits. Companies did not strongly oppose this approach, provided that the State maintained protections and subsidies. Executive branch representatives were also receptive to workers' demands, since this was an honorary position and they made no attempt to represent national economic policy.

In the next phase (1968–84), however, the political context changed. In the presence of a non-elected government, the judicial framework for negotiating wages changed radically, wage councils were suspended, and real wages plunged.

The return to democratic rule in 1985 brought with it the resumption of wage council meetings, albeit with some modifications:

- (a) sector delegates were to be elected directly, rather than through national elections, as previously stipulated;
- (b) to resolve this formal flaw, the government issues a Decree clarifying that the results of these negotiations applied to all companies and employees within the sector; and
- (c) the State became an active player, proposing guidelines for negotiations and pressuring for compliance.

The distributive focus of the previous period was maintained.

In 1990, the government called on the wage councils to meet for the last time and virtually all private sector groups reached agreements. Once these expired, however, no further meetings or negotiations took place, the result of radical changes that deepened Uruguay's integration into the regional and global economies, and which, along the way, transformed the labour relations model, resulting, above all, in weakened collective bargaining.

The newly elected government that took power in 2005 – concerned about the lack of collective bargaining and weakened unions – reinstated the wage councils within the private sector and, for the first time in the country's history, created new ones in the rural sector. It also announced plans to create a wage council for domestic workers, which came to pass only in 2008.

The wage councils' third round of negotiations in 2008 obtained overall positive results, achieving by consensus higher wages for workers, improvements to their quality of life, and

strengthening unions and collective bargaining. As in 1985, their functioning did not follow exactly the provisions in Law 10,449, a clear sign that the manner in which representatives are selected requires modification.

3.2 New tripartite bodies created

Decree 105/05 of 7 March 2005 created two tripartite councils with representatives from trade unions, business organizations, and the government.

3.2.1 The Senior Tripartite Council (Consejo Superior Tripartito, CST)

The CST consists of nine representatives from the executive branch of government, six delegates, and six alternates representing the workers, with equal numbers representing employers. Its specific objectives included: updating the categories of economic sectors, which had remained unchanged since 1985 and were thus out of date; and modifying the Wage Council Law. It meets when wage council rounds are scheduled to discuss the applicable guidelines. On occasion, special meetings deal with specific issues for which the wage councils require its intervention.

The CST reached its first agreement, identifying 20 economic sectors and calling upon them to begin, on 2 May 2005. This promising beginning, however, was the CST's only known success. Although results were not officially published, some results were leaked to the press, revealing that it did not meet often and that although it was charged with changing the Wage Council Law, this was not discussed in any meeting. The CST has thus limited its main activity to supervising the wage councils (Rodríguez, Cozzano, Mazzuchi, 2007).

3.2.2 The National Rural Council (Consejo Superior Rural, CSR)

The National Rural Council (*Consejo Superior Rural*, CSR) consists of nine delegates from the MTT and the Ministry of Ranching, Farming and Fishing (*Ministerio de Ganadería, Agricultura y Pesca*, MGAP), representing the executive, along with six workers' representatives from the National Union of Rural and Related Workers (*Unión Nacional de Trabajadores Rurales y Afines*, UNATRA) and six employers' representatives from the Rural Association (*Asociación Rural*), the Rural Federation (*Federación Rural*), the National Commission for Rural Development (*Comisión Nacional de Fomento Rural*, CNFR), the Federation of Farming Cooperatives (*Cooperativas Agrarias Federadas*, CAF), and the National Association of Dairy Producers (*Asociación Nacional de Productores de Leche*, ANPL).

Initially, the CSR was created to identify the relevant groups within this sector not currently covered by the Wage Council Law. In this sense, it achieved the same results as the CST, through agreement of the three groups involved. With this agreement, its authority was expanded to include discussing and agreeing on the general principles of labour policy for this sector with regard to setting wages, working conditions, and guarantees to ensure the right to unionize and bargain collectively, monitoring wage council activities, and studying the reorganization of groups – for example, according to production chains.

The CSR works through ordinary meetings and, as with the CST, no other contracts are legally recognized in this sector other than those resulting from work by subsector groups (Ciarnello et al., 2006).

The first issue with which it dealt, once the rural subsector groups were formed, was to seek guarantees to ensure the full exercise of the rights to unionize and to bargain collectively

in this sector. The debate culminated in a document approved by the majority (with the executive and workers voting in favour), which provides guidelines to encourage dynamic relations between rural employers' and workers' organizations, and guarantees to ensure the full exercise of union and collective bargaining rights (that is, "*Pautas que permitan una relación fluida y dinámica entre las organizaciones de empleadores y trabajadores rurales y garantías que aseguren el efectivo ejercicio de la sindicalización y la negociación*", as the document is titled). Employers' representatives argued that they did not have time to sign it, because they were concurrently analysing a draft law (which was passed shortly thereafter as Law 17,940). While the parties continued to study the issue of limits to hours of work in agricultural sectors and subsectors, their efforts failed yet again, leading to the passing of another law in late 2008.

In recognition of the CSR's role as an instrument for negotiating and regulating the sector's labour relations, and given the need to strengthen its functions, on 17 September 2008, the different actors agreed on a new set of procedures regarding its operations and decision making; this agreement became a Decree on 2 January 2009.

3.2.3 The Public Bipartite Council (Consejo Bipartito Público)

While the public sector has always accepted employees' right to unionize, to strike, and to bargain collectively, negotiations were subject to problems. Until 1989, research revealed that only informal agreements between staff and State led to their inclusion in budgets (*Presupuestos*) or accounting reports (*Rendiciones de Cuentas*). The government and its employees did not sign collective agreements.

In the early 1990s, collective bargaining began in some areas within the public service. These included:

- (a) publicly owned corporations, which negotiated in two levels – that is, in the OPP to resolve general issues and with companies themselves on more concrete issues;
- (b) public banks, which signed their first agreement in September 1990; and
- (c) some regional governments (*Intendencias*), such as Maldonado and Canelones, which started to put their wage agreements in writing.

Elsewhere in the public sector, negotiations were practically non-existent. At the same time as the wage councils were reinstated, the new authorities issued Decree 104/05 of 7 March 2005 (that is, on the same day that they assumed office), creating a bipartite commission to develop a regulatory framework that would make collective bargaining over wages and working conditions possible within the state sector. This was a substantial change over policies applied in previous periods.

As discussed below, this bipartite commission produced the expected guarantees, leading to the signing of several documents – most importantly, a framework agreement that established criteria for collective bargaining and mechanisms to prevent conflicts (Sosa and Bajac, 2005).

3.3 Social dialogue encouraged

On 20 May 2005, the National Commitment for Employment, Income and Responsibility (*Compromiso Nacional para Empleo los Ingresos y las Responsabilidades*) was convened. It brought together the organizations most representative of businesses and workers to discuss issues with the government – primarily, the MTSS and the MEF.

The purpose of this process was to have the different players present and justify their sectoral aspirations. The group divided into subgroups to handle specific issue areas (such as macroeconomic policy, employment, labour legislation, tax reforms, public spending priorities, investment climate, and international participation), some of which later merged.

This dialogue process went through different stages over a period of time. First, the different players met often to present their proposals. Later, this interest faded, as they began to see this as a forum within which the government announced its proposals, but did not discuss them. In December 2006, it regained momentum through a new invitation that brought together representatives of workers, business, the president of Congress, mayors, universities, the MEF, the Ministry of Industry, Energy and Mining (*Ministerio de Industria, Energía y Minería*, MIEM), the MGAP, and the MTSS. At that point, the round table became more independent, able to call its own meetings, and members established three working groups: a commission to remedy informal activities; another to draft a law on collective bargaining; and a commission to reform the State. It was suggested that this group also function on a sectoral basis, to find solutions to and proposals for development in Uruguay (*Uruguay Productivo*).

At that point, the government, companies, and workers signed a basic document that established the terms of reference and priorities for a national commitment (*Compromiso Nacional*). They agreed to create 35,000 new jobs in 2007 and to create a central commission responsible for implementation, to facilitate tripartite debate and the forging of a consensus on a new law governing labour relations. But although employment figures did rise, there was no progress toward consensus regarding labour laws.

4. The actors

Workers and employers are represented in bodies involving labour and business organizations in collective bargaining, as described in this section.

4.1 Union organizations

In Uruguay, union organization is based on the autonomous action of the actors involved. In this context, a single national union body, the PIT-CNT, was created. This was the result of a process that began with the National Convention of Workers (*Convención Nacional de Trabajadores*, CNT), which was held between 1964 and 1966, and which culminated in the approval of a declaration of principles, a programme of solutions to the crisis, and a statute (*Declaración de Principios, el Programa de Soluciones a la Crisis, y el Estatuto*). These documents call for: guarantees of union democracy; independence from the State, business, and political parties; non-affiliation with any international union body; and the promotion of union unity in the international sphere.

After the 1973 coup, the CNT was outlawed, although it continued to function underground. On 1 May 1983, a group of unions came together to organize a public event, which later gave rise to the Inter-union Assembly of Workers (*Plenario Intersindical de Trabajadores*, PIT). Commemorative events on 1 May 1984 expressed the symbolic union between the PIT and the CNT, using the slogan “one union movement only”.⁵

The 1966 statutes, amended during the 1971 congress, define the organizational structure. The highest authority is the Convention, which brings together delegates from all affiliates. The Convention elects the senior officers or members of the representative body (*Mesa Representativa*), which currently consists of 39 unions or federations, and the extended national representative body (*Mesa Representativa Nacional Ampliada*), which comprises the 39 unions or federations and delegates from each interdepartmental assembly. The *Mesa Representativa*, which meets on a monthly basis, elects the executive secretariat (*Secretariado Ejecutivo*), which currently has 16 members and meets on a weekly basis. A number of institutes and departments also exist (including research and training, young people, gender, legal, health, and productive development). Each member of the secretariat is responsible for a department.

The PIT-CNT is the sole union organization that brings together all public-sector and private-sector workers belonging to unions and federations in every sector of the economy, including manufacturing, services, and rural workers. This has given it a personality of its own. For example, unlike elsewhere in the world, it is not associated with any political party or current opinion, but rather includes leaders from all of the different parties. This is also the case with the unions and federations belonging to the national body.

This characteristic has meant that the unions and the national body itself must provide all members with “guarantees”. One guarantee, for example, is the importance assigned to internal democracy, which makes it possible for the current minority membership to hold the majority vote within the union, provided that it enjoys the support of enough workers. This occurs at both the individual union and the PIT-CNT levels. Uruguay’s union leaders are not elected for life, so major leaders may lose a local election and leave their posts until they once again enjoy the majority support of their affiliates. There is, however, enormous continuity among the leaders, which reflects the importance of strong ties between leaders and the

⁵ See online at <http://www.pitcnt.org.uy>

unions' rank-and-file members. Because of this and unlike elsewhere in the world, many union leaders in Uruguay continue to work at their jobs, at the same time dedicating part of their time to their responsibilities as leaders.

Another characteristic specific to the PIT-CNT is that it is not actually a national organization, but rather an assembly, born from a convention. This difference is reflected in the much higher autonomy on the part of its affiliated unions and federations. The statutes explicitly recognize that each federation has the right to define its own actions in its own sector and even refrain from complying with resolutions adopted at the assembly, if they do not agree with them. Obviously, this approach is regarded poorly because it affects unity. This is, however, a guarantee that was included in the statutes during the unification process in the 1960s, to achieve the support of different federations with differing ideological perspectives.

Specifying the exact number of PIT-CNT members is difficult. Few unions have up-to-date figures on their own affiliates and their characteristics (such as age, sex, and location). The number of union members is usually estimated based on delegates to the PIT-CNT congresses. The statutes allow each member one delegate for every 200 affiliates or fraction greater than 100 members paying dues to both the union and the PIT-CNT. But this figure underestimates the actual number of members, for two reasons: many unionists, even those who participate actively in unions, do not pay their fees; and there are several unions with more dues-paying members that have opted to make only partial payment to the national body, for various reasons.

To illustrate the bias in these membership estimates, Richard Read, a union leader, stated that the Federation of Beverage Sector Workers (*Federación de Obreros y Empleados de la Bebida*, FOEB) had three delegates to the Ninth Congress, representing 600 dues-paying members, despite that this federation actually has more than 2,500 members. Edgardo Oyenart, from the Union of Pharmaceutical Workers (*Sindicato de la Industria del Medicamento y Afines*, SIMA), mentioned around 1,200 members, but sent 600 delegates.⁶ Thus, because the number of delegates to the national congress depends on members being up to date in their payments to the PIT-CNT, this figure underestimates actual membership (Rodríguez, Cozzano, Mazzuchi, 2007).

On this issue, several union leaders estimated that, in the past four years, membership has risen by around 150,000 in more than 400 new company unions.⁷ Estimates from the end of 2008 place the number of PIT-CNT members at 300,000 (about 36 per cent of the workforce),⁸ almost double the figure for 2003. According to data from the PIT-CNT, however, the unionization rate has held steady and, in 2008, grew little, as Table 2 illustrates. Employment figures rose, so the rate calculated using the number of delegates to the congress (907, representing 184,000 members) over the higher number of employed people places this rate at 21.7 per cent, suggesting moderate growth, despite union leaders' own higher estimates.

⁶ Richard Read in *El Observador*, 20 June 2006, and Edgardo Oyenart, leader of SIMA, in *Voces del Frente*, July 2005.

⁷ *El Observador*, 22 January 2006 and 24 April 2006.

⁸ Calculated as members/employees.

Table 2.
Unionization rate
(% over total formal sector employment)

Year	Public	Private	Total
1985	42.4	34.7	37.5
1987	48.2	27.2	34.0
1990	50.3	21.5	30.2
1993	33.8	11.1	17.2
1996	37.6	9.8	16.9
2000	39.8	8.5	15.9
2001	41.9	10.3	18.5
2003	41.3	11.6	19.7
2006	41.0	11.0	19.0
2008	41.0	12.8	21.7

Source: Own estimates, based on PIT-CNT congresses and INE figures.

4.2 Business organizations

Business organizations in Uruguay have deep roots and a long tradition. Although there are no exact figures, there are many such organizations and, in some sectors, such as construction, there are more than one.

Two kinds of business organization exist: chambers representing large sectors of the economy, such as manufacturing (*Cámara de Industrias*), the wholesale and retail trade (*Cámara de Comercio y Servicios*), and services and products (*Cámara Mercantil de Productos del País*); and associations that belong to these bodies and represent specific sectors, such as textiles (*Asociación de Industrias Textiles*), clothing (*Cámara de la Vestimenta*), metal producers (*Cámara Metalúrgica*), stores (*Cámara de Tiendas*), and cleaning companies (*Asociación de Propietarios de Empresas de Limpieza*, APEL). There is, however, no organization at the top that represents the entire business sector.

Although most of these organizations are sector-based, some are organized on the basis of other criteria.

- (a) Membership of the Business Confederation of Uruguay (*Confederación Empresarial de Uruguay*, CEDU) is geographically defined, regardless of economic sector. Similarly, a builders' association (*Coordinadora de la Construcción del Este*) also functions on the basis of shared geography, specifically within the Maldonado and Punta del Este area.
- (b) Membership in the National Association of Small and Medium-sized Companies (*Asociación Nacional de Medianas y Pequeñas Empresas*, ANMYPE) depends on company size rather than the economic sector in which the firms are active.
- (c) Another organization, the Association of Christian Business Leaders (*Asociación Cristiana de Dirigentes de Empresas*, ACDE) defines membership on the basis of a common philosophical or ideological perspective.

This organizational diversity, combined with the lack of a central leadership, could be considered a handicap. Notwithstanding, the awareness of the need to participate has led business people to carry out joint action through an *Intercameral* (interorganizational framework). In practice, this consists of occasional meetings for the purpose of exchanging

ideas and outlining common actions, without any of the organizations losing their independence.

The main characteristics of these business associations include the following:

- **Associative nature.** All have an associative structure, starting with a contract to associate, and other members join upon accepting the preset conditions. These associations are formed by private employers and do not include public firms. A diverse range of firms participate, including transnationals. There are, however, differences in company size: generally, multi-sector organizations, such as the Chamber of Commerce or the Manufacturers' Association, bring together medium and large firms; sectoral organizations tend to reflect company size more, with some organizations bringing together small firms and others the large ones, as, for example, in the refrigeration industry.
- **Fragmentation.** There are diverse organizations, often with overlapping agendas. Internal tensions can lead to the creation of new organizations, which is a tendency that people are now trying to overcome through the creation of large sectoral organizations – a trend that would not counteract the current practice of decentralization, because there are no centralized intersectoral bodies. According to Carlos Filgueira (1989), these organizations behave ambiguously: on one hand, they proliferate and diversify; on the other, “mother” associations still play the leading role.
- **Autonomy.** The founding or dissolution of an organization is based on the autonomous will of members, given that these are not legally regulated.
- **Internal democracy.** These organizations tend to function democratically, in terms of both the election of leaders and daily management.
- **Political neutrality.** They are neutral in terms of political parties. Entrepreneurs accept the current political system and clearly hold themselves apart from party politics (Zurbriggin, 2006). Notwithstanding this self-declared apoliticism, the representatives of the major organizations have been associated with traditional parties, albeit on a personal, rather than an organizational, basis (Caetano, 1992).
- **Low membership rates.** Although there are no concrete data on membership, the general perception is that it is low – but neither the government nor unions have questioned their representativity.

The functions of these business organizations include the following:

(a) **Defence of their members' interest** is achieved in four main ways:

- by seeking to influence the government despite the general lack of formal ties with political parties – business organizations typically lobby on behalf of policies regarding wages and prices, along with monetary, foreign exchange, and customs tariff policies, and the government's various social policies;
- by seeking to influence public opinion through publicity campaigns, which have become increasingly important, given the role that the media plays in society – the most current issues being those regarding strikes and their impact on society; wage-related policies and their impact on inflation and employment, and collective bargaining by branch of industry and its impact on companies' competitiveness;
- by belonging to state bodies, such as the BPS or the National Employment Board (*Junta Nacional de Empleo*, JUNAE); and
- by belonging to tripartite bodies, wherever this type of institution has been created.

-
- (b) In relation to **representation of members**, business organizations represent their members everywhere, whether before the State, the ILO, public opinion, or unions. Every business organization, without exception, represents its members in government issues by lobbying or participating in parliamentary commissions, for example. This is also true as regards the ILO: since 1920, Uruguay has been sending tripartite delegations that include business representatives. These bodies also strive to highlight the role of business before the general public. When it comes to representation before unions and hence accepting them as valid spokespeople, however, regulated relations are the exception, because these essentially result from specific circumstances, union pressure, or legal requirements.
 - (c) In terms of **service provision**, small teams of technical advisers are the backbone of these organizations, developing proposals for submission to the government or the public. They also carry out surveys, opinion polls, and hold courses and training seminars. Legal and economic consulting has become increasingly important, in addition to the provision of information on issues of general interest.

4.3 The State and its role in collective bargaining

The State participates in wage negotiation through delegates, mainly from the DINATRA.

A temporary rule in the 1967 Constitution created the MTSS, although similar bodies have existed in Uruguay since 1907.⁹ Currently, it comprises six national agencies,¹⁰ one of which is the DINATRA. Its objectives include ensuring justice and social peace in the field of labour relations, and in the area of working conditions, and coordinating and mediating among parties concerning wage-setting.¹¹

There are four divisions within the DINATRA. Of these, the collective bargaining division is responsible for voluntary mediation and reconciliation in the event of conflicts. It helps to regulate labour relations in the broad sense (including wage negotiations), and generally fosters a climate that is friendly to debate on all labour-related issues. It achieves this mainly by setting up tripartite negotiating bodies.

But not all negotiations in the private sector involve the State. Although the legislation establishes tripartite bodies to set wages at the economic-sector level, company-level agreements are not banned. The latter type of agreement complements any sector-level agreement, whether by setting higher minimum wages or other content.

Law 10,449 of November 1943, which created the wage councils, determines how tripartite bodies work. As explained in the second section of this paper, it also establishes the requirements for appointed representatives – specifically, that private-sector delegates be elected by secret ballot. This last requirement has not been met since the wage councils resumed functioning in 1985, so their resolutions have no legal authority. This issue was resolved with the issuance of presidential (executive) initiatives in the form of legally binding Decrees containing the same text as Council Resolutions.

⁹ See details in *Relaciones de Trabajo en Uruguay*, Relaciones de Trabajo series N° 66, ILO, 1987.

¹⁰ Involved in labour policy in general (*Dirección Nacional de Trabajo*), social security (*Dirección General de la Seguridad Social*), labour inspection (*Inspección General del Trabajo y Seguridad Social*), interior coordination (*Dirección Nacional de Coordinación del Interior*), the National Food Institute (*Instituto Nacional de Alimentación*), and the employment agency (*Dirección Nacional de Empleo*).

¹¹ See online at <http://www.mtss.gub.uy>

Thus has the system has functioned for more than 20 years. Today, the executive branch plays a much stronger role than the 1943 law intended. Under that system, it had three of seven voting members, which meant that if business people and workers reached agreement and voted together, the government would be a minority. In contrast, today, the executive branch holds the veto: if the Council's resolutions are incompatible with its definitions or macroeconomic goals, it can choose to not issue the relevant decree. This makes an agreement optional rather than compulsory for sector firms, and applicable solely to companies belonging to the body signing the agreement, essentially turning it into a private matter.

The government's veto power has been applied differently at different times. In every case, the executive branch has chosen the role that it wanted to play in wage negotiations. From 1991 to 2004, it chose to stand back and participate solely as a mediator among social actors (when requested by the latter). As to wage council resolutions, the government did not choose to make them law, thereby limiting their application to a few companies and resulting in less collective bargaining.

In contrast, from 1985 to 1990, the government played a more active role, and has been doing so since 2005, in several ways. Aside from promoting negotiations by reinstating the wage councils, it also created the agenda for agreement in every case. These agendas, proposed by governmental delegates at the outset, contained general wages guidelines (including the timing of adjustments, the indicators used for the same, and the amounts for real recovery). In some cases, these criteria permitted some flexibility, allowing workers and business people to negotiate. Sometimes, the government directly pressured actors to accept its criteria for adjusting wages, which, in practice, meant that only those agreements reflecting these criteria were made into decrees. On other occasions, it was more flexible, approving agreements that did not follow the proposed guidelines.

In recent years, the ministries most directly involved in collective bargaining have been the MEF and the MTSS. Some coordination typically exists between the two, with the former developing the guidelines – given wages' impacts on inflation and macroeconomic functioning, and deciding whether to approve agreements (all agreements achieved by the MTSS go to the MEF for approval). The MTSS carries out the actual negotiations. The CST discusses the national minimum wage and executive branch guidelines, before sending them to the wage councils. Both Ministries participate in this body, but it is the MEF that presents and defends governmental guidelines.

In conclusion, despite the fact that the legislation on which private negotiations are based calls for a regime involving majority-backed resolutions, and the fact that the tripartite structure of wage councils makes the government a minority in these bodies, in reality, the executive branch has the final veto on these decisions.

5. Social dialogue and collective bargaining: Uneven results

This section will analyse collective bargaining in Uruguay at two main levels: the highest level, which is social dialogue; and the sector level, both in wage councils involving private-sector activities (including rural councils) and in the public sector.

5.1 Social dialogue: On and off

Social dialogue has a long history in Uruguay, although it was seldom institutionally run. In 1984, the National Programme Commission (*Comisión Nacional Programática*, CONAPRO) was convened, bringing together representatives from political parties, union and business leaders, and other social organizations. This social dialogue proved to be a rich experience and while it produced no great social agreements, it did act as a mechanism that made possible multiple social and labour agreements, highlighting the viability of joint effort to deal with political and social crises (Brezzo and Vispo, 1988).

When the CONAPRO completed its task, the government considered creating a Higher Wage Council (*Consejo Superior de Salarios*, COSUSAL) to promote consensus at the national level on economic issues, with participation from the highest levels of government – that is, the Ministers of Labour and of the Economy, and the head of the OPP – and top union and business representatives. This body never really got off the ground in legal terms, although when the government summoned, the different parties came. It failed to meet its objective of reaching agreements on top-level policies to coordinate collective bargaining at the sectoral and enterprise levels (Pérez del Castillo and Rosenbaum, 1985). It did, however, serve as a body for the consultation and presentation of ideas, setting the stage for coordinated wage policy mechanisms.

In May 1990, the new government called on employers and workers to develop a social pact against inflation, but this failed due to differences with the PIT-CNT over wage increases. Two commissions were created, however: one to analyse issues involving state reforms, and another to deal with wage and employment issues. While the first made no progress, the second reached an agreement that ensured that virtually all private-sector workers signed collective agreements in wage councils to recover wages lost during the previous year. But no agreement was reached in the public sector, due to the government's concerns about the impact of public spending and the fiscal deficit on inflation.

In December 1990, a new commission for reconverting production (*Comisión de Integración y Reversión Productiva*) was created. A draft law on the right to strike and another to eliminate the monopoly of the State Insurance Bank (*Banco de Seguros del Estado*, BSE), however, brought the PIT-CNT and the government into direct conflict, and the national union body suspended participation in social dialogue. Nonetheless, the executive branch went on to institutionalize several tripartite bodies:

- (a) it added representatives to the board of the BPS;
- (b) it created the Mercosur Sectoral Commission (*Comisión Sectorial del Mercosur*, COMISEC), a tripartite body, to advise the executive branch on regional integration; and
- (c) it created the JUNAE, a tripartite body, to manage the Labour Reconversion Fund (*Fondo de Reversión Laboral*, FRL) for active employment policies.

In 1995, social dialogue became particularly important in reaching consensus on the regulatory framework for collective bargaining. At several points, an agreement seemed close, but the PIT-CNT decided that the draft law did not meet some of its basic concerns and that workers were giving up more than they were getting; it consequently rejected the agreement, ending the negotiating process. In 1997, a national dialogue for “Competitiveness and Employment” was initiated, but this also met with failure. In 2000, the government’s decision to call the parties together informally and in separate meetings also ended without success.

On 20 May 2005, the new government convened the most representative workers’ and employers’ organizations in a working group to establish a National Commitment For Employment, Income, and Responsibilities (*Compromiso Nacional para el Empleo, los Ingresos y las Responsabilidades*). This body did not meet expectations for several reasons:

- (a) meetings became increasingly infrequent;
- (b) it began to function merely as a forum for the government to present its proposals (regarding national production and tax reforms) unilaterally, with little debate;
- (c) the government presented draft laws on labour standards to Parliament with no prior tripartite debate – and once these were approved, employers withdrew from the labour legislation commission that formed part of the National Commitment, “to leave the way open for the government to get on with its targets ... without bothering it, because whatever happens, our decisions won’t change the outlook because our contributions have not been taken into consideration ...”¹²

In late 2006, the authorities tried to revive this initiative, but it faded after a few meetings.

5.2 Collective bargaining in the private sector

The revival of the wage councils meant that collective bargaining, which had been weakened considerably, regained vigour at the sectoral level.

The CST established the bargaining groups; from then on, the councils functioned in terms of the different groups and subgroups. An analysis of the wage council rounds in 2005, 2006, and 2008 reveals solid results:

- (a) sector-level groups were created for the private sector (20 were set up in 2005, with three in the rural sector and domestic service added in 2008);
- (b) 176 subgroups started up in the 2005 round, expanding to 186 in 2006 and 221 in 2008, thus covering almost all private-sector workers; and
- (c) a high percentage of agreements were achieved through consensus.

These negotiating rounds were based on wage guidelines established by the executive branch, which, in some cases, were modified after debate in the CST. The next section provides details of the results of these rounds.

¹² Statement by Andrés Fostik, President of the Labour Relations Commission (*Cámara de Industrias*) in El País, 10 February 2007.

5.2.1 Sectoral collective bargaining regains prominence

As a result of the Wage Council Law and because of the lack of other regulations encouraging enterprise-level negotiations, sectoral collective bargaining once again became prevalent and enterprise collective bargaining became rare.¹³

From 1985 to 1989, when the wage councils were reinstated, 94 per cent of collective bargaining took place at the centralized level. From 1990 to 1994 (through wage council organization for the first two years and then by free negotiations), this trend towards centralized bargaining held (83 per cent), but enterprise-level bargaining began to rise, reaching 99 per cent of negotiations in 2004. This did not reflect growth in absolute terms (as Table 3 illustrates, even enterprise-level bargaining declined), but rather the decline in sector-level negotiations, reflecting the fact that the wage councils were not meeting.

Table 3.
Quantity of agreements
(annual average)

	Sector	Company
1985-89	107	7
1990-94	65	13
1995	63	21
1996	26	54
1997	39	67
1998	21	69
1999	8	73
2000	11	72
2001	8	73
2002	5	66
2003	5	80
2004	1	50
2005	177	No data
2006	206	No data
2008	204	No data

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

After 2005, with the wage councils functioning again, sector-level collective bargaining increased, although there are no figures on bargaining at the enterprise level.

5.2.2 Consensus prevails within negotiations

Table 4 shows how the wage councils identify cases within a single subgroup when more than one agreement (for example, one for wages and another for union leave) exists within that single subgroup. They also differentiate between agreements reached through consensus of the three delegations, those approved by majority (two of three votes, in different combinations),

¹³ It is difficult to obtain information on company-level bargaining, given its disparate nature.

and instances in which no agreement was reached, requiring an executive branch decree to set the wage increase.

Table 4.
Type of council resolution
(quantity)

	2005	2006	2008
Involving wages and other issues	176	186	214
By consensus (agreements)	162	161	178
By majority (majority agreements)	10	18	23
Total through agreement	172	179	201
Total through decree	4	7	13
Non-wage contents	5	27	3
By consensus (agreements)	5	23	3
By majority (majority agreements)	0	4	0
Total through agreement	5	27	3
Total through decree	0	0	0
Total agreements signed	181	213	217
By consensus (agreements)	167	184	181
By majority (majority agreements)	10	22	23
Total through agreement	177	206	204
Total through decree	4	7	13

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

Note: Does not include rural-sector agreements, which are dealt with separately, and does consider domestic service (2008).

In 2005, agreements were reached within 172 subgroups, with 177 contracts signed (five included more than one agreement, essentially to provide a more detailed interpretation of the agreement).¹⁴ Of the total that reached agreement, 93.6 per cent were achieved through consensus (three of three votes), while 6.4 per cent were resolved by majority vote (two of three votes).

In four subgroups, no agreement was reached – not even by majority vote – either because one of the parties refused to vote or did not attend the vote, or because both parties voted against, requiring the executive branch to issue a decree on the mechanisms for wage increase. Only five subgroups failed to meet due to the absence of one or both delegations, which made negotiations impossible.

In 2006, negotiation was on the rise, with 186 subgroups – an even higher figure, because, in 2005, five subgroups had reached multi-year agreements, making renegotiation unnecessary. Of these, 97 per cent reached agreement (90 per cent through consensus and the rest by majority). Altogether, 206 agreements were signed – that is, more than those of the subgroups, because several agreed on wages and then went on to negotiate union leave or to fine-tune the description of categories.

Seven subgroups proved unable to reach agreement, requiring an executive branch decree to settle, while four failed to meet for lack of representatives.

¹⁴ This figure does not include decrees issued to correct typing errors in wage values or to include categories accidentally missed.

In 2008, the number of subgroups rose again; only three agreements with non-wage contents were achieved. This probably reflected several factors:

- (a) subgroups having to resolve the issue of union leave had time to negotiate this issue within the wage agreement (in previous rounds, they were separate);
- (b) subgroups developing new categories nonetheless created a single final agreement; and
- (c) subgroups dealing with other issues, such as those arising from the organization of work, remained the exception.

In terms of agreements reached, the number achieved through consensus fell to 83 per cent, with those reached by majority vote rising to 11 per cent.

5.2.3 Longer contracts

As Table 5 indicates, contract duration almost always reflects executive branch guidelines.

Table 5.
Contract duration
(%)

Year	Open-ended	Less than a year	One year	More than a year	Total
1985	0	96.6	3	0.4	100
1986	0.4	79.8	10.5	9.3	100
1987	0	93.8	4.7	1.5	100
1988-89	0	0.8	0	99.2	100
1990	0	0	11	89	100
2005	0	1	96	3	100
2006	12.5	0.5	4.5	82.5	100
2008	0.4	0	0	99.6	100

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

When democracy was reinstated in 1985, the main negotiations were for four-month periods; from 1986 to 1987, the number of longer contracts increased, becoming more prevalent in 1988. In the 2005 round, the guidelines required contracts of one year, while in 2006, the norm was 18–24 months, meaning that agreements lasted more than a year. Finally, in 2008, guidelines called for agreements to last 24–30 months, with almost 60 per cent opting for two-and-a-half years.

In Table 5, agreements with no fixed duration stand out in 2006 (before which time they were virtually non-existent). Most were the result of Law 17,940 on union freedoms, which gave councils authority over union leave; some arose when parties negotiating categories reached the deadline for wage negotiations, and opted for closing this issue and continuing with descriptions.

In this case, an interesting development appeared: the parties begin to use negotiating tools that would lengthen (automatically extend) or shorten (through the use of safety clauses that move up the closing date in periods of crisis or grievance due to non-compliance) contract duration. This became particularly important in the 2008 round, when the world economic

crisis broke out during negotiations. Until that time, only six contracts per round included this kind of clause; in 2008, the number reached 171.

Of the safety clauses, 80 per cent (136) were simply transcriptions of the executive branch proposal, a very general formula that seems difficult to implement because:

- (a) it does not specify the economic conditions;
- (b) it requires the support of both parties;
- (c) it requires a prior report from Ministry technicians (that is, a review of contract terms); and
- (d) the agreement remains in effect and must be fully implemented until it is replaced by another, which requires a lengthy preliminary process that may prove useless.

5.2.4 Sector negotiations permit some flexibility

When the wage councils were reinstated, many debated the usefulness of sector-level bargaining, given its disadvantages in terms of treating unequal parties as equals and preventing companies from negotiating the issues that really interest them. But when the different actors wanted to provide for special conditions, they found that they were able to do so without breaking the law, thereby turning the disadvantages of sector-level negotiations to their advantage. In effect, whether different companies are treated equally, or whether only wages are addressed within collective bargaining depends not on the Wage Council Law, but rather on its operators and how they negotiate.

The 2005–08 negotiations allowed for a range of situations, including:

- (a) differences associated with geographical locations, so that Montevideo and the interior¹⁵ negotiated separately, or received differential treatment within the same agreement;¹⁶
- (b) differences reflecting a variety of company sizes;¹⁷
- (c) situations during negotiations affecting specific companies that were unable to meet some of the terms and which were therefore exempted from the general provisions;¹⁸
- (d) situations during negotiations affecting specific companies that were unable to comply and which, instead of exemption, were given different treatment within the same agreement;¹⁹
- (e) situations affecting companies in which contract obligations pose a risk to jobs, allowing them to opt out (*descolgarse*) should it become necessary.

¹⁵ For example, agreements within Group N° 18 “Cultural, recreational and communications services”, in the subgroups “Press-radio-open” and “Subscription TV”, which created specific chapters for Montevideo and the interior, negotiating in different form.

¹⁶ For example, the agreement achieved by Group N° 19, subgroup 04 “Undertakers”, and subgroup 10 “Service stations”, under the rubber chapter.

¹⁷ For example, the agreements by: Group N° 15 “Health services”, subgroup “Homecare providers”, which distinguishes among companies by number of affiliates; Group N° 18 “Cultural, recreational and communications services”, subgroup 2, chapter “Interior press”, which groups companies according to their circulation; Group N° 13 “Transport and storage”, subgroup 5.2 “Taxi operators”, which differentiates by number of vehicles.

¹⁸ For example, Group N° 14, subgroup 2.1 “Credit cards”, expressly excluded the OCA firm, which received permission to sign a company-level agreement; subgroup 4 “Securities transport”, which expressly excluded Prosegur, given that it “demonstrated an economic situation deserving of exceptional treatment”, along with others.

¹⁹ Group N° 7, subgroup 4 “Paint”, in the 2005 round; Group N° 18 “Cultural, recreational and communications services”, subgroup 4, chapter “Subscription TV”, in Montevideo.

The difference is that with exemption (d), the company is never bound by the contract signed, while with the opt-out (*descuelgue*) clause (e), the company remains bound by the contract, receiving permission to opt out if, at some point, compliance poses a risk to jobs.

There were very few agreements allowing companies to opt out (six in 2005, six in 2006, and five in 2008) and there was no unanimity in terms of the mechanism used. Some required that companies present documented justification to the relevant authority. The mechanism used by the MTSS added consent from the sector union, and the presentation of documents for joint evaluation by MTSS and MEF officials. Some agreements took this suggestion and explicitly negotiated this procedure;²⁰ others decided that the competent body was the wage council itself.²¹ While this instrument is seldom used, the possibility of opting out is increasingly seen as a tool for bringing workers' and employers' interests into the equation, to maintain employment and companies' competitive edge. This shows that negotiations, such as those carried out by the FOEB, can take into consideration the specific conditions facing some companies, but still avoid leaving workers out in the cold by negotiating substitute agreements.

In terms of the lack of negotiations regarding non-wage issues, this is not intrinsic to sector-level negotiations either. Because of the lack of regulations governing collective bargaining, other negotiating levels are not encouraged. If there were agreements at different levels, dealing with the same issues in different ways, the judicial uncertainty of how to coordinate them would remain.

Articulating different bargaining levels, which depends on the autonomous initiative of the parties, is another tool that has seldom been used in Uruguay. When used, it tends to follow the principle of applying the regulation that is most favourable to workers and which does not involve a substantial modification of labour law principles. Few agreements cover a variety of issues and those that do deal mostly with very specific ones.²² Only sector-level agreements in metallurgical manufacturing, textile manufacturing, and knitted articles industries include a framework for later negotiations by companies on different issues of common interest. These agreements, however, clearly demonstrate that both negotiating levels can coexist. If company-level negotiation is not more developed, responsibility lies with all three actors: workers and employers, who do not exercise this possibility, and the State, which makes no effort to encourage it.

5.2.5 Negotiating different kinds of relationship among actors

As Table 6 reveals, the typical issues covered by collective bargaining were mechanisms for the prevention of conflict (whether legal or non-legal), a peace clause, and some aspects of union activities.

²⁰ Agreement developed by Group N° 13 "Transport and storage", subgroup 7.2 "Bulk dairy transport", and subgroup 7.1 "National cargo transport", both from the 2005 round.

²¹ Agreement developed by Group N° 14 "Financial intermediation, insurance and pensions", subgroup 5.1 "Capitalization cooperatives", during the 2005 round; agreement developed by Group N° 1 "Food, beverage and tobacco processing and conserves", subgroup 7.5 "Coffee mills", in the 2005 and 2006 rounds; agreement developed by Group N° 20 "Associative, social and sporting bodies", subgroup 2 "Associative bodies", and subgroup 3 "Social bodies", in the 2006 round.

²² For example, the 2005 agreement by "Print workshops" authorized company-level negotiations to establish union dues; the agreement for the same year among "Capitalization cooperatives" authorized company-level bargaining to eliminate a half-day's work on Saturdays; agreements in 2005 and 2006 by the "Non-alcoholic beverages" subgroup established that benefits would be negotiated at company level; the agreement for "International news agencies" established company-level negotiations for wage increases for workers earning in dollars.

Table 6.
Types of relationship among actors
(annual average)

Year	Preventative mechanisms	Peace clause	Union regulations
1985	11	0	13
1988	59	85	9
1990	176	110	13
2000–04	20	27	20
2005	95	59	67
2006	78	101	122
2008	87	127	86

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

Conflict prevention mechanisms were included in all negotiations, both under the wage councils and during periods of free collective bargaining. They were most common in 2005, but declined in number in 2006, when the union licence was negotiated under Law 17,940; they rose again in 2008.

If we look at the measures that the parties took to prevent or settle disputes, there was never a single common criterion: they swung between exhausting all possibilities of dialogue before applying any measures and a double-edged approach involving the wage council or the DINATRA in mediation or reconciliation.

The peace clause generally prevents or limits the contract signatories from resorting to certain measures while the contract is in effect. In 1985, while agreements were negotiated on a four-monthly basis, the peace clause did not exist, but in 1988, they became part of the longer duration contracts and continued in 1990 as part of the same policy. In 2005, when one-year agreements were the norm, these types of agreement declined, but rose again in 2006 and in 2008, when most agreements extended contract durations. This suggests that, in Uruguay, business people are more willing to acquire long-term commitments if these guarantee them labour peace.

In terms of the scope of the peace clause, it has always been limited to issues involving wages, directly or indirectly associated with negotiations, except for general measures applied by a union federation or the sector union.

In terms of regulating union activities, until 2006, negotiations covered payment of union dues, posting of notices, union leave, and the holding of assemblies in the workplace. In a few cases, the parties also negotiated union immunity from layoff (*fuero sindical*). But since 2006, it has been unnecessary to regulate these issues, because they have become rights guaranteed by law; collective bargaining has therefore focused on leave for union business, established in three-quarters of agreements.

Agreements governing leave for union business apply a series of common conditions:

- (a) advance notice of 24–72 hours, except for unforeseen events that make reducing this period possible;
- (b) a union-issued certificate indicating who used the leave and the time involved;
- (c) the coordination of its use, to prevent disruptions to the normal functions of the company;

-
- (d) the fact that hours of union leave per month cannot be accumulated and are forfeited if not used; and
 - (e) the fact that leave for union business is remunerated.

Other issues, such as the number of days per leave period, the number of representatives allowed to take them, and differential treatment for sector representatives, were negotiated in different ways.

In relation to the number of paid days for union business: in the manufacturing sector, these are usually less than 50 hours; in the service sector, they are negotiated and range from 50 to 100 hours; and in the wholesale and retail trade (in which the agreement was approved by majority vote against the companies), the total is 430 hours in companies employing fewer than 1,000 workers and 500 hours in the case of companies employing more.

In relation to the number of eligible representatives: while some agreements do not mention this issue, others establish a scale according to the number of workers on the payroll, and still others impose more stringent limits, such as minimum seniority in the company.

In terms of how sector-level leaders are treated, some agreements use hours of leave corresponding to the company in which they work; others offer special treatment, which also varies widely, because these additional hours can be paid or unpaid.

5.2.6 *Workers' participation in commissions*

Negotiations from 2005 to 2008 encouraged workers to become involved in some aspects of company problems. The resulting commissions deal with specific issues, such as establishing new categories or safety and health concerns, but there were also some instances designed to encourage the analysis of a broader range of issues.

5.2.7 *Relations between actors and production received short shrift*

The issue of flexibility in all of its forms (numerical, functional, or wage-related) was virtually non-existent during the 2005–08 negotiations, as it had been previously, probably because debate focused on wages and job categories, rather than competitiveness or employment.

Movement among different functions is hampered by strictly defined job categories that are typically closed and very limiting. Performance and productivity bonuses are also virtually non-existent.

The only element that gave rise to considerable concern within collective bargaining was hiring, through intermediaries, subcontractors or labour supply companies. The first response was a “labour supply” company agreement, which established that workers provided in this way would earn the same wages as others in the sector in which they are hired. Several subsequent agreements, mainly in the manufacturing sector, limited these forms of hiring or placed very strict condition on their use.²³

²³ For example, within Group N° 1 “Food, beverage and tobacco processing and preserves”, the subgroups “Sweets, chocolates, cookies, candies and *alfajores*”, “Industrial bakers”, and “Pasta producers”, defined the conditions for hiring temporary help: that is, when production exceeds normal levels of activity and the permanent payroll is insufficient. The subgroup “Coffee mills” indicates that third-party labour cannot be used for machinists or others responsible for machines, and that anyone working for one year or more must become part of the permanent workforce. Similarly, the agreement developed by Group N° 5 “Manufacture of leather, wearing apparel and footwear”, subgroup “Tanning”, does not permit outsourcing for tasks involved in the productive process and stipulates a period after which temporary employees must be added to the regular payroll.

5.2.8 Wage negotiations within guidelines

As mentioned, in the 2005, 2006, and 2008 rounds, wage guidelines applied. In 2005, these proposed one-year agreements with two half-year adjustments to take place during July 2005 and January 2006.

The July 2005 wage adjustment included three cumulative components:

- (a) a cost-of-living adjustment covering inflation during the previous year (*less* any increases provided during the previous 12 months, should they exist), with the aim of levelling out wage increases, which, after more than 13 years without agreements and negotiations, varied widely among companies in each sector;
- (b) an adjustment for expected inflation; and
- (c) a percentage for the purpose of recovering purchasing power lost due to the economic crisis (referred to as “recovery”), to be no more than 2 per cent.

The January 2006 adjustment included only components (b) and (c).

To ensure recovery – as defined in (c) – a correction was included at the end of the agreement to adjust for any differences (up or down) between real 12-month inflation and the expected rate used in the agreements.

Guidelines for negotiations during the second half of 2006 were very similar to those of 2005. They contemplated three half-year adjustments, with the option of a fourth. Each wage adjustment involved only two components:

- (a) a percentage for expected inflation; and
- (b) a percentage for recovery (to be decided by each wage council and a correction guaranteed), totalling 3.5–5.5 per cent for the three adjustments (and up to 7.6 per cent, if there were a fourth).

In 2008, wage guidelines were different. There were three components: two alternatives (presented in Table 7) and one required for all sectors in which the lowest wage category was a nominal monthly wage of less than UYU4,300 – in this case, about US\$180.

Table 7.
Wage guideline alternatives for the 2008 round

	Alternative 1		Alternative 2	
Duration	24 months		30 months	
Adjustment period	Every six months		1 semester and 2 annually	
Real base increase	0.5% per semester		1% per semester; 2% annually	
Additional increase, by sector	Min. 0%	Max. 1% per semester	Min. 0%	Max. 2% annually and 1.5% annually, depending on future performance
Expected inflation	BCU (minus the first, which could be the average expected BCU, private sector)		BCU (minus the first, which could be the average expected BCU, private sector)	
Correction	One at contract's end (1 July 2010)		Three (at the end of each adjustment)	
Minimum recovery	0.5% per sem.	2.2% total	2% per year	5.08% total
Maximum recovery	0.5–1% per sem.	6.16% total	2%, and 2% and 1.5% annually	14.60% total

Recovery will be corrected using GDP in 2010.

Note that a longer duration was rewarded with the possibility of a higher recovery of wages. The 24-month agreements offered a real recovery of 0.5 per cent per semester and a conditional recovery, depending on the sector's performance, ranging from 0 to 1 per cent per semester. Clearly, the longer adjustment period was rewarded by the possibility of a larger recovery in wages. In the case of 24-month agreements, the contract provides for a real recovery of 0.5 per cent per semester and an additional amount, depending on trends within the sector, which ranges from 0 to 1 per cent semester. For 30-month agreements, the real base increase was double: 1 per cent per semester to 2 per cent per year, with the increase depending on trends within the sector, as in the previous case (0–1 per cent per semester or 2 per cent per year, depending on the case), but an additional increase of up to 1.5 per cent has been added, which depends on forecasts for sector performance, for which participants must also agree on indicators.

Thus we can see that, in 2008, the guidelines became more flexible to include the idea of an adjustment based on sector performance and so differentiate between trends within each sector. In practice, however, as we will see below, this did not work as planned.

5.2.9 Relatively low wages resulted from agreements

As explained above, the Wage Council Law requires that sector agreements set minimum wages per category. When, in 2005, negotiations were resumed after many years, several sectors did not have the categories designed and, in some cases, companies in the same sector were paying very different wages. Dealing with this issue took more time than any other.

In almost every case, the solution applied was one proposed by the executive branch: the parties were to agree on the required minimum for a representative category and, based on that amount, re-establish the wage scale, using existing categories from the last legally approved agreement as a basis. The problem was that, in some sectors, category definitions dated back to 1964 and were, therefore, completely obsolete.

In general, then, the agreed minimums were low. The information available is insufficient to calculate the number of workers who actually charged the minimum agreed upon for the sector, although it is likely to reflect the amount actually received by a significant

number of workers. To form some idea of the level, a table quantifies the percentage of agreements in each minimum wage range, using the lowest representative category²⁴ for 2008.

The national minimum wage (*Salario Mínimo Nacional*) was the floor for the lowest category (about US\$176 from July to December 2008). As Table 8 shows, almost 80 per cent of agreements set minimum wages for the lowest categories at somewhere between one and two national minimum wages. For these categories, wages in manufacturing (unskilled workers) were slightly higher than in the wholesale and retail trade (sales people) and services (administrative or others). The wholesale and retail trade is the sector with the lowest minimum wages: 81 per cent of agreements set the minimum wage for the lowest category very close to the national minimum wage.

Table 8.
Minimum wage for the lowest category*
(% over the value in effect, July–Dec. 2008)

US\$	Manufacturing	Wholesale and retail trade	Services	Total
176–212	15.1	46.7	17.5	22.1
213–255	13.2	36.7	35.0	28.2
256–298	24.5	0.0	16.3	16.0
299–340	20.8	6.7	10.0	12.9
341–383	13.2	3.3	7.5	8.6
384–468	9.4	3.3	6.3	6.7
469+	3.8	3.3	7.5	5.5
Total	100	100	100	100

* The lowest category in manufacturing was unskilled workers (*peones*), and in the wholesale and retail trade, sales people; in services, the most representative was used.

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

As mentioned in 5.2.4 above, some sector agreements set different minimums for the same category, depending on company characteristics, but the number of cases that considered different financial conditions for companies in the same sector were very few (Table 9). One case that permitted differences was hotels, among which minimum wages vary according to location. The basic assumption was that a hotel in Punta del Este (one of Uruguay's main tourist centres) would be different from that of a hotel in a small interior city. Another case was that of those caring for the sick, which established different minimums by company size, with the lowest minimums applying to the companies with the fewest employees.

²⁴ Each agreement includes the wages for several labour categories. To create Table 8, we used the lowest category most representative of the sector – for example, unskilled workers (*peón*) in manufacturing, and sales people in the wholesale and retail trade; in services, we used the most representative category, because this sector includes everything from bars to banks – that is, very different activities. Thus each table reflects the minimum wages for each agreement.

Table 9.
Agreements setting different minimum wages
(by number of agreements)

	2005	2006	2008
By zone	9	6	6
By company size	4	3	3
By seniority	1	0	1
Total	14	9	10
% over total agreements	8.1	5.0	4.5

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

5.2.10 Wage dispersion improved

The signing of agreements brought minimum wages into line for each sector and improved disparity over previous years – particularly 2004. These agreements set minimums, but each company was free to set higher wages, which is what determines the sector's level of disparity. At the same time, major differences exist between sectors. For example, from July to December 2008, in manufacturing, unskilled workers (*peones communes*) earned minimums of US\$176–600, whereas supervisors and forepersons earned minimums of US\$203–1,350.

Table 10.
Gini index for private wages

Year	Index
2000	0.456
2001	0.462
2002	0.476
2003	0.479
2004	0.481
2005	0.473
2006	0.474

Source: Calculated based on the Household Survey (*Encuesta Continua de Hogares*, ECH).

Table 11.
Minimum wages in agreements
(US\$ in July of each year)

Sector	2005		2006		2008	
	Lowest category	Highest category	Lowest category	Highest category	Lowest category	Highest category
Industry						
Minimum	106	149	134	197	177	199
Maximum	537	1190	573	1269	779	1277
Min./max.	5.1	8.0	4.3	6.5	4.4	6.4
Average	215	411	231	414	316	544
Mean	196	352	218	380	292	493
Wholesale and retail						
Minimum	113	162	132	193	195	213
Maximum	283	1102	314	1224	488	871
Min./max.	2.5	6.8	2.4	6.4	2.5	4.1
Average	158	354	175	361	246	417
Mean	145	305	162	338	223	393
Services						
Minimum	111	140	128	149	180	213
Maximum	1566	2610	1698	2809	2082	3471
Min./max.	14.2	18.6	13.3	18.9	11.6	16.3
Average	237	497	216	589	314	744
Mean	170	332	181	402	255	504

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

Table 11 summarizes data from all wage-related agreements.

Clearly, in some cases, the difference between minimums has declined: in 2005 agreements, for example, the difference between the manufacturing industry was 5.1 to 1 in the lowest category and 8 to 1 in the highest; in 2008, this had fallen to 4.4 to 1 and 6.4 to 1, respectively. This reflects the fact that, during the first round, some agreements established differential adjustments to ensure a greater recovery in the lowest wages and a smaller recovery (zero in some cases) for higher wages, in order to shrink the wage pyramid.

In the wholesale and retail trade, differences for the lowest category remained virtually unchanged, while in the highest categories, they declined.

In services, the minimums in the lowest categories vary widely (in 2008, for example, they ranged from US\$180 to US\$2,080), but this only illustrates how different wages are within the sector: a bartender can hardly be compared to an airline pilot, for example, although both work in the service industry.

Table 11 also offers information on average and mean wages for each economic sector. Average wages fall closer to the minimum, indicating that agreements for high wages are few and far between.

5.2.11 Wage adjustments: Within and beyond the guidelines

In the first two rounds, the wage-related content of most agreements followed executive branch guidelines. Some, however, set adjustments using different criteria and were nonetheless legally recognized. In 2005, agreements with results beyond the guidelines accounted for 7.5 per cent of the total and included cases in which increases occurred over a different period (over four months or three months in two cases, with one adjustment annually at the other extreme) or which used different criteria (besides CPI, future estimates or corrections, or a minimum base wage and percentages of revenues).²⁵

In 2006, the number of agreements involving different criteria rose, but because the total also rose, these accounted for only a slightly higher percentage (7.8 per cent). These agreements apply different adjustment criteria from the guidelines because they remain in effect less time (one or two adjustment cycles) or because wages are set in dollars, or because they are based on a basic wage and a percentage of revenues.²⁶ Similarly, some agreements differed from guidelines in terms of the agreed recovery rate, which was generally higher than recommended. Indeed, recovery was the main area in which agreements differed from the established guidelines.

In 2008, given the nature of the guidelines, it is very hard to classify agreements. Two alternatives exist and although the government specifically announced that it would not approve agreements combining alternatives, in practice, this was not the case. As a consequence, 24-month agreements with three adjustments instead of one final one were signed, for example, or negotiators agreed on recovery rates well beyond guidelines. Strictly speaking (in terms of periods, corrections, and real recovery rates), very few agreements actually followed the guidelines.

Table 12 provides the structure of agreements according to their wage contents.

Table 12.
Classification of wage-related agreements and decrees
(% of total wage-related agreements)

	2005	2006	2008
Agreements with a single adjustment	90.5	67.9	62.1
Within guidelines	81.8	52.1	7.9
Over guidelines	8.8	14.5	54.2
Under guidelines	0	1.2	0
Agreements with adjustments by ranges	9.5	32.1	37.9
Total	100	100	100

Source: Programa de Modernización de las Relaciones Laborales, UCUDAL.

Starting in 2006, some agreements established different adjustments for minimum wages depending on wage levels (such as higher increases for minimum and lower increases for higher wages). By setting minimums by category in 2005, many workers received much larger wage increases than those established for adjustments with the guidelines: in many

²⁵ Examples include G1sg1, G12sg1, G13sg4, G5sg1, and G16sg5.

²⁶ Examples include G3 sg2, G5sg5, G7sg6, and G13 sg12.

cases, wages increased by as much as 100 per cent. Once the minimums were established, 32.1 per cent of 2006 agreements established adjustments for the different minimum wages established for each category and economic sector (*laudos*), calculated on the basis of one of the following formulae:

- (a) some set the recovery for minimums at the maximum level established by the guidelines, with a lower percentage for the highest wage groups;
- (b) others set the maximum recovery rate for the highest wages to the minimum, setting larger recovery rates for the lowest wage earners.

Most agreements demonstrated the latter option.

In 2008, the percentage of varying adjustments rose to 38 per cent of the total. The strategy of setting wages according to a scale was very clear in the wholesale and retail trade (three-quarters of agreements); it was, however, very unusual in the manufacturing industry, in which only 16 per cent exercised this option.

In every case, the goal was the same: that is, to increase minimum wages and thus shrink the differences within the overall wage scale.

Table 12 clearly shows that, as time passed, agreements stopped setting their adjustments according to the guidelines: in 2005, 81.8 per cent did so; in 2008, only 7.9 per cent did so. Moreover, this moving beyond the guidelines generally involved adjustments that were higher than recommended.

It is worth noting that, in 2008, upon signing, a significant number of agreements (42 per cent) added percentages reflecting sectoral recovery, which moves beyond the guidelines and the logic that they propose: if this percentage depends on whether the sector grows or contracts, how is it possible that, just 18 months earlier in July 2008, the January 2010 adjustment included a recovery rate of 1.5 per cent based on sectoral trends? Undoubtedly, this went beyond the spirit of this approach, reflecting a strategy for increasing real wages independently of prevailing economic conditions.

5.2.12 Increase in non-discrimination clauses

Some agreements from both 2005 and 2006 added clauses outlawing wage discrimination, in terms of categories, training, and promotions, by reason of sex (the majority), but also in some cases due to other factors, such as skin colour, religious beliefs, and sexual orientation. In 2008, this figure soared (Table 13).

Table 13.
Agreements with non-discrimination clauses
(by number)

	Agreements with clauses	Total agreements	% non- discrimination, total
2005	7	177	4.0
2006	31	206	15.0
2008	101	204	49.5

Source: Programa de Modernización de las Relaciones Laborales , UCUDAL.

Despite the fact that Law 16,045 of 1989 bans all discrimination that violates the principle of equal treatment and opportunities for both sexes in any economic sector, women's

average wages in the private sector are 34 per cent lower than those of men. This may justify the inclusion of this type of clause within agreements.

In 2006, the number of agreements with non-discrimination clauses rose in both absolute terms and as a percentage of total agreements. The ten agreements (2005) that again included this type of clause, were joined by 21 more. Of the 31 agreements in 2006, two-thirds included clauses banning discrimination on the grounds of sex, creed, or race. Eight also required compliance with Law 17,514 on domestic violence, and three more expressly required compliance with Law 17,242 on the prevention of genital and breast cancer. The remaining third contained clauses referring solely to non-discrimination by sex. In 2008, half of the agreements included clauses of some kind, most referring to gender equity and equality of opportunities, with the minority also mentioning measures to support women's participation in the workforce, including day care and special days for medical examinations for both women and men.

5.2.13 Benefits

In 2005, 40 per cent of agreements established benefits (such as leave for the birth of a child, study leave, special holidays, premiums for seniority, the sector's day for workers, provision of work clothes, and per diems). Most of these benefits were already contemplated in previous agreements and these were simply ratified. Benefits were new in only 9 per cent of cases. Although hard to quantify, benefits clearly involve economic impacts for workers.

In the 2006 round, 42 per cent of agreements established benefits; in this case, 41 per cent were new – that is, benefits had not previously been available to workers through agreements.

These percentages held steady in the 2008 round of negotiations.

5.3 Private-sector bargaining: Impact on wages and employment

Wage-related negotiations involved significant increases in real wages for all workers, although not everyone recovered by the same amount. Generally speaking, these increases did not hurt employment, which began to rise in 2005 and continued through 2008, despite slowing in the last quarter, as the world crisis hit some sectors.

5.3.1 Positive impact on wages

From 2005 to 2008, the average private-sector wage rose 18.5 per cent,²⁷ posting a steady recovery after a deep decline in the previous period – particularly in 2002 and 2003. According to estimates by PIT-CNT experts, this recovery amounts to 50 per cent of the amount necessary to return to 1999 levels (*Instituto Cuesta Duarte*, 2008), as the figure clearly illustrates. At the same time, the figure includes a line representing GDP per employed person. It reveals a constant recovery starting in 2003, reflecting a rise in GDP and a decline in the number of those employed during that year, and, in subsequent years, the fact that GDP rose much more swiftly than employment; by 2007, this had pushed GDP 10 per cent higher than its 1998 levels. This means that there was a significant recovery in the real wage, with no implications for the economy.

Within this average, an analysis of the INE average wage index (*Indice Medio de Salarios*) reveals uneven results by economic sector. The wholesale and retail trade (22.2 per

²⁷ Calculations based on the monthly wage index (*Indice Medio de Salarios*) estimated by the National Statistics Office (*Instituto Nacional de Estadísticas*, or INE) based on a survey of establishments.

cent) and manufacturing (18.4 per cent) recovered the most in real terms; private education (9.8 per cent) and financial intermediation recovered the least (10.2 per cent). In the latter case, this is likely to reflect the fact that private banking maintained bipartite negotiations from 1985 onwards, meaning that the real wage rose more than in other sectors in which there were no such negotiations.

Examining each sector by subsector (Table 14), the differences become more acute. Between 2005 and the first semester of 2008, some recovered more than 20 per cent (particularly rubber and plastic, vehicle manufacturing, metallic products and machinery, and some subsectors of the wholesale and retail trade), while some failed even to reach 10 per cent (such as manufacture of chemicals or teaching).

These results indicate that although there were guidelines, collective bargaining itself resulted in some differences, partly because the setting of minimum wages in 2005 brought large increases for some sectors and smaller ones for others, and partly because negotiators agreed on different recovery amounts or more frequent corrections, which ultimately improved results.

Table 14.
Changes in real private wages, by sector and subsector

Sector (ISIC 3)	Change (%), 1st semester, Aug. 2004
Private sector wages and benefits	17.3
D. Manufacturing	18.4
15. Manufacture of food products and beverages	21.5
16. Manufacture of tobacco products	14.8
17. Manufacture of textiles	10.0
18. Manufacture of apparel; dressing and dyeing of fur	15.0
19. Tanning and dressing of leather; manufacture of luggage, handbags, saddlery, harness and footwear	15.5
21. Manufacture of paper and paper products	15.2
22. Publishing, printing, and reproduction of recorded media	19.2
24. Manufacture of chemicals and chemical products	7.5
25. Manufacture of rubber and plastics products	36.8
26. Manufacture of other non-metallic mineral products	20.5
28. Manufacture of fabricated metal products, except machinery and equipment	23.7
34. Manufacture of motor vehicles, trailers, and semi-trailers	25.5
F. Construction	15.3
45. Construction	15.3
G. Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods	22.0
50. Sale, maintenance and repair of motor vehicles and motorcycles; retail sale of automotive fuel	30.2
51. Wholesale trade and commission trade, except of motor vehicles and motorcycles	19.1
52. Retail trade, except of motor vehicles and motorcycles; repair of personal and household goods	22.2

H.	Hotels and restaurants	14.9
	55. Hotels and restaurants	14.9
I.	Transport, storage and communications	15.4
	60. Land transport; transport via pipelines	13.9
	61. Water transport	17.4
	62. Air transport	9.9
	63. Supporting and auxiliary transport activities; activities of travel agencies	22.7
	64. Post and telecommunications	17.4
J.	Financial intermediation	10.2
	65. Financial intermediation, except insurance and pension funding	10.2
K.	Real estate, renting and business activities	19.6
	71. Renting of machinery and equipment without operator and of personal and household goods	20.2
	72. Computer and related activities	19.4
	73. Research and development	7.1
	74. Other business activities	20.3
M.	Education	9.8
	80. Education	9.8
N.	Health and social work	18.0
	85. Health and social work	18.0

Source: Based on figures from the INE.

If we analyse results by gender, we can see that a gap remains after the reinstatement of wage councils. Several studies (Amarante and Arim, 2005; Buchelli and San Román, 2005; Amarante and Espino, 2002; Rossi and Rivas, 2000) explain the wage gap between men and women on the basis of several causes:

- (a) discrimination;
- (b) occupational segregation, given that some jobs (including those in research, teaching, health care, administration, personal services, and the textile industry) concentrate a large number of women workers, and that those with the largest concentrations of women pay the lowest wages and, in several cases (as Table 14 shows) have posted smaller recoveries in wages; and
- (c) the presence of a “glass ceiling” for women that blocks their advancement at certain points in their careers.

In 2002, a woman’s average monthly wage was 63 per cent of that of a man, while in 2005, the gap had fallen (women’s wages amounted to 66 per cent of men’s); in 2006, however, the gap widened again, remaining at 2002 levels. As mentioned in 5.2.12 above, very few agreements include non-discrimination clauses, although if the law were respected, these would be unnecessary.

It is likely that the above factors have changed little in the past three years. An examination of a longer period, however, reveals that, 11 years ago (in 1995), the gap was larger (women’s wages stood at 59 per cent of men’s). The closing of the gap in this period reflects an increase in women’s human capital and also changes in their participation in the labour force (Amarante and Espino, 2002; Rossi and Rivas, 2000).

Table 15.
Private-sector wages of men and women

Year	Average private monthly wage		Women's/ men's wages (%)
	Men	Women	
1995	3370.7	1995.8	59.2
2002	6674.5	4249.5	63.7
2003	6482.0	4280.8	66.0
2004	7062.6	4436.6	62.8
2005	7289.8	4836.6	66.3
2006	8660.3	5437.5	62.8

Source: Estimated using the ECH.

Tables 16 and 17 support the “glass ceiling” hypothesis: data broken down by occupation reveals that the largest gap occurs among management posts and that the gap holds steady regardless of education – even post-secondary degrees.

Table 16.
Hourly wage gap by sex and by type of occupation

Year	Senior management	Professionals and technicians	Office workers	Sales people and manual workers
1995	86.8	80.2	70.7	62.6
1996	92.8	68.2	72.9	62.1
1997	96.9	77.1	71.3	65.1
1998	72.6	79.6	70.9	63.4
1999	91.2	77.7	77.0	66.9
2000	83.3	80.5	81.0	68.2
2001	66.6	85.8	75.3	69.4
2002	70.1	77.9	82.0	72.0
2003	57.9	83.2	79.9	71.8
2004	64.0	81.2	79.1	68.7
2005	67.9	81.6	83.5	71.0

Source: IECON, based on the ECH.

Table 17.
Wage gap by sex, public and private sectors,
and other income from work
 (women's/men's wages, %)

Year	No formal education	Primary	Secondary	Technical institute (UTU)	Teacher training	University or similar
1995	45.1	55.7	60.2	59.2	70.9	54.4
2001	86.3	62.2	64.9	71.3	55.4	58.2
2002	76.1	67.7	67.7	68.5	77.2	57.7
2003	69.4	66.7	66.8	68.2	77.4	58.6
2004	69.5	64.6	64.5	70.2	71.8	52.4
2005	53.2	61.6	64.5	70.2	87.5	60.0
2006	58.8	60.2	62.0	63.9	84.2	58.6

Source: IECON, based on the ECH.

It should be noted that, in recent years, workers' involvement in the formal economy has soared, as captured in the ongoing Household Survey (*Encuesta Continua de Hogares*, ECH) data and in the number of workers registered with the BPS. As Table 18 indicates, in June 2004, 718,960 private workers contributed to social security; this had risen to over one million by June 2008. In three years (June–June), the number of workers registered with social security had risen by 43 per cent.

Table 18.
Number of private sector employees paying into the BPS
 (June of each year)

Year	Contributors	Change (%) over the previous year
2003	659,559	
2004	718,960	9.0
2005	808,287	12.4
2006	890,430	10.2
2007	955,614	7.3
2008	1,029,061	7.7

Source: BPS

This shift reflects the reinstatement of the wage councils and greater control applied by the BPS, combined with a larger supply of formal sector jobs, thanks to economic growth (Instituto de Economía, 2006). As the next section explains, however, the problem of unregistered work persists.

5.3.2 *Positive impact on employment*

The economic crisis hurt the labour market. In 2003, the average number of jobs was 85,500 fewer than in 1998 (Instituto Cuesta Duarte, 2005).

If we look at the demographics of the unemployment figures, we find that:

- the urban interior was harder hit than the capital city, Montevideo (2003 unemployment rose 44,600 over 1998 figures for the interior, compared with a rise of 42,900 for the same period in Montevideo);
- the crisis hit women harder than it did men in both areas (the 2003 unemployment rate in Montevideo was 19.6 per cent for women and 14 per cent for men, compared with 22.4 per cent for women in the urban interior and 13 per cent for men); and
- it hit young people more than it did adults.

As the crisis faded, employment picked up, but then stagnated in late 2004. As mentioned in 1.4 above, possible explanations included uncertainty over reinstatement of the wage councils, but this is hard to confirm, because it could be one explanation among several and because it is hard to isolate the different effects.

Some labour market theories suggest that wage increases – especially those affecting minimum wages – may impact employment negatively, leading to workers displaced due to cost increases. In fact, if we examine trends in wages and the employment rate since 2005, starting with the reinstatement of the wage councils, we can see that both rose, contrary to the idea that wage increases hurt employment.

What this means is that while some changes in the labour environment – including new laws, reinstatement of the wage councils, and a very significant increase in the national minimum wage, as described here – may have produced uncertainty and some paralysis in decision making, once the new scenario shifted to a period of economic growth, the labour market improved.

In 2005, the MEF carried out some estimates based on the ECH and found that, during that year, the number of wage earners in the private sector rose by 5.4 per cent on average. If we break this figure down by company size, we find that employment rose even in small companies (4.5 per cent in companies with nine employees or fewer), at a time when many business people were arguing that the wage councils would make smaller firms go bankrupt when they were unable to deal with the agreed wage levels.

Table 19.
Trends in real wages and employment

Years	Change in real national minimum wage	Change in private real wage	Employment rate			Unemployment rate		
			Total	Men	Women			
2003	-11.7	-12.8						
2004	-0.1	-1.5	50.9	62.8	40.7	13.1	10.3	16.6
2005	70.3	4.0	51.4	62.7	41.9	12.2	9.6	15.3
2006	16.0	5.0	53.9	65.4	44.4	11.4	8.8	14.4
2007	4.0	4.5	56.7	68.4	46.9	9.6	7.1	12.6
First semester 2008	24.6	2.7	57.1	68.0	48.0	8.3	5.9	11.0

Source: Calculated using INE data.

A recent study analyses the impact of the minimum wage on employment for 2005 and 2006, finding that a strong rise in the national minimum wage came with growth in employment for skilled and unskilled workers. Only for one group of workers does employment not recover – that is, young people with the least skills – but, as the report notes, this offers strong reasons for encouraging better training (*Informe Nacional de Desarrollo Humano*, 2008).

These important achievements have not, however, solved all problems: a significant number of workers remain in poor-quality jobs. In the first half of 2008, for example, 40 per cent of those working were underemployed (that is, working less than 40 hours per week and wanting to work more) and/or without social security.

Table 20.
Percentage of those employed by the job quality

	Underemployed	Underemployed and not registered for social security	Not registered	Employed with no restrictions
2004	40.1	11.9	28.9	55.3
2005	4.7	12.4	26.4	56.6
2006	4.1	9.5	25.4	61.0
2007	3.7	9.1	25.4	61.7
First semester 2008	8.4	9.4	23.1	59.1

Source: INE.

5.4 Three special cases of private-sector bargaining

In this section, we will analyse three spheres of private negotiation that, due to their special conditions, deserve some comparison – that is:

-
- negotiations representing domestic employees, which took place for the first time in 2008;
 - collective bargaining in the rural sector, which started in 2005; and
 - negotiations in the non-alcoholic beverage sector, which have gone on uninterrupted since the wage councils were first created in 1943.

As we will show, the passing of time brings greater maturity to the different actors, generating trust and credibility, and helping to turn collective bargaining into a richer tool, which involves everyone in processes of change that nonetheless respect each group's different interests.

5.4.1 *Collective bargaining in the domestic service sector starts in 2008*

For the first time in Uruguay's history – and for one of the first times in the world – a wage council representing domestic service was established in August 2008.

This was planned from the moment that the new government took power. In his speech on 1 March 2005, President Tabaré Vázquez²⁸ announced the reinstatement of tripartite negotiations as a factor to encourage better labour relations, decent work, and social dialogue, adding: "We have set ourselves the medium-term goal of creating a Wage Council for domestic service in our country."

This process was complex – essentially because it was hard to determine who could represent this sector's "business people" – but, three years into the new government, negotiations finally began within a newly created wage council.

To understand this issue, we will now provide a brief overview of the sector, its current legal conditions, how its actors are organized and how their roles in collective bargaining are defined, along with a summary of progress made and difficulties to date.

Sector with special characteristics

Domestic workers replace or complement the work of homemakers (primarily women) in their households, but this is an economic activity, because they receive a monetary wage and, in some cases, payment in kind, involving room and board. The labour relationship involves a wage, but work takes place in private households, and covers all or some tasks involved in the production of goods and services, along with tasks involving relationships and values. In fact, it is hard to distinguish between the care of children, the elderly, or the sick in the household, cooking or cleaning, and other management tasks (including paying bills and doing the shopping). This difficulty arises from the nature of the work itself (whether remunerated or not), which involves a wide range of activities that may take place in the same period of time, depending on the society, the cultural factors, and the socio-economic conditions of those involved (Amarante and Espino, 2008).

As many studies have found, women's participation rate in the workforce has increased significantly in recent decades, reflecting changes in attitudes that favour women's autonomy, their rising levels of education, the need for higher household income, demographic changes (fewer children per adult woman), and so on. Uruguay has been no exception. While, in 1986, women's participation rate for the whole urban sector was 41.4 per cent, by 1996, this had risen to 46.7 per cent; in 2000, it had risen to 49.1 per cent and in 2007, it stood at 53.7 per cent (all figures from the INE).

²⁸ Accession speech by the President of the Republic, made in Congress on 1 March 2005 (our translation).

Abramo and Valenzuela (2006) found the same trend throughout Latin America, and note that this has led to a rise in employment in domestic service. Much of this rise in women's participation rate overall and the participation rate of the poorest women reflects the fact that domestic service, self-employment, and microbusiness is the employment segment that grew the most. In Latin America, in the past decade, the participation rate of women from households with different income levels rose the most: from 28.7 per cent in 1990 to 39.6 per cent in 2000. One reason behind the fact that a significant percentage of women in the region still work in domestic service is precisely the fact that more women from medium and high-income levels have entered the workforce. Many of those entering the workforce from the poorest income groups do so, then, by carrying out tasks for higher-income sectors.

In Uruguay, around 109,000 workers were employed in domestic service in 2006²⁹ – that is, about 8 per cent of those employed throughout the country – with 99.2 per cent being women (Amarante and Espino, 2008).

As far as the main characteristics of these women workers, Amarante and Espino indicate that their educational level is low and below that of other working women (48.6 per cent of domestic workers have not completed primary education and 35.4 per cent have not completed secondary education); most (48 per cent) are aged 35–54 years, while 31 per cent head their own households – a figure that is rather higher than the general average for employed women (27 per cent).

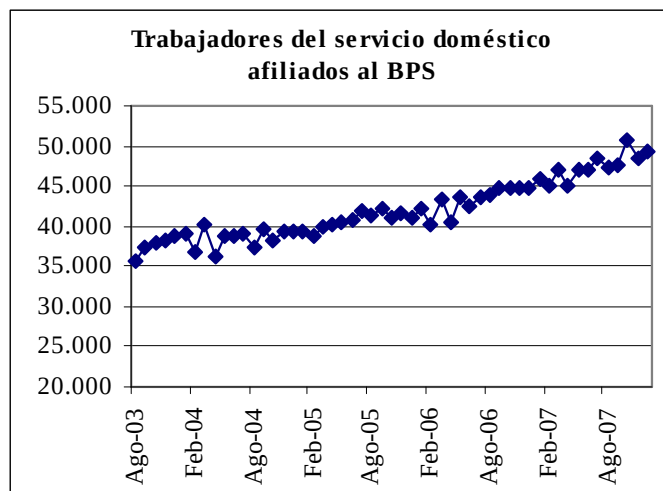
Domestic workers actually work fewer hours than other working women, averaging 28.2 hours per week compared with almost 35 hours for all employed women, but there are noteworthy differences according to the type of work: those involved in caring for the sick work more than 44 hours, while those involved in domestic labour work 26 hours per week.

According to data from the BPS, in 2006, of 43,300 workers in domestic service (annual average), only 40 per cent of the total were covered by social security and formally employed, compared with 65 per cent of working women overall.

The number of employees in this sector registered with social security has risen steadily, as has been the case with other groups of workers. In the case of domestic labour, controls are mainly through official reports, there are no routine inspections, and the wage council (and other measures to encourage formal employment in this sector) has barely begun to function, meaning that one explanation for the rise is that publicity campaigns have helped to raise awareness of this issue.

²⁹ This includes maids or those providing cleaning, domestic cooking, home assistance, and care for children or the sick.

Workers in domestic service affiliated with the BPS
(covered by social security)



Despite the relatively low percentage of workers covered by social security, based on processing ECH data, Amarante and Espino note that 45.1 per cent receive bonuses (*aguinaldo*) – that is, a legally guaranteed social benefit provided to all dependent workers. This is more than the 40 per cent officially covered by social security, a sign that some women workers receive it anyway.

This reveals some of the peculiarities of this kind of work: it is carried out in isolation, within a private household, and working conditions are intimately associated with those who do the hiring. Aside from the rights and the laws in effect, in practice, hours of work, tasks, wages, social security, and so on depend mainly on the characteristics of the employer. The relationship creates personal ties, while workers' isolation make it hard for them to demand their rights. Indeed, every time the Union of Domestic Workers (*Sindicato Único de Trabajadoras Domésticas*, SUTD) holds an assembly or attends a council meeting, only the president appears in public. There have already been firings, despite the law protecting union leaders.

In terms of real hourly wages, domestic service workers have followed the patterns of other workers: growth with some swings until 2001; plunge during the crisis (by around 25 per cent between 2001 and 2005); and recovery from 2006 onwards, unlike other wage earners, whose recovery began earlier (Amarante and Espino, 2008, based on the Expanded National Household Surveys – *Encuesta Nacional de Hogares Ampliada*, ENHA).

In 1990, the executive branch began to set the wage for domestic service along with the national minimum wage (Decree 246/90 of 31 May 1990). On the same day, it set a minimum wage for domestic service in Montevideo (16 per cent over the national minimum wage) and a slightly lower one for that in the interior (about 95 per cent of the Montevideo minimum wage) for eight hours of work, allowing for a 20 per cent discount should the employee receive room and board, and 10 per cent should the employee receive food. From the second half of 2003 onwards, the amount started to move away from the national minimum wage, because adjustments to domestic service wages were higher; by late 2004, the gap had reached 25 per cent. A significant increase in the national minimum wage after 2005 closed this gap somewhat. Moreover, in July 2006, wages for domestic service in Montevideo and the interior became the same. In June 2008, the nominal minimum wage for domestic service stood at UYU3,549 (around US\$170), while the national minimum was UYU3,416 (US\$165).

The regulatory framework: From individual treatment to general standards

Until 2007, there were no regulations governing workers in domestic service. Their wages were set by the executive branch, as mentioned, but they had no right to intermediate or night breaks, no right to overtime payment (because hours of work were unlimited), and no right to severance benefits until they had been in position for at least a year. Since 1984, such workers have had access to health insurance (medical assistance and a subsidy in the event of sick leave), on condition that they work a minimum of 13 days or 104 hours per month and receive wages equivalent to 1.25 times the national minimum wage (Pérez Ferreiro, 2008).

This is similar to the situation in other countries in the region, which treat this specific category of employees differently – that is, discriminatively.

In comparative law, sometimes to this very day, typically domestic service is only mentioned to say it's excluded from the new law, and when it has its own statute, it is common that this exists to limit the sphere in which benefits are applied. This situation is particularly visible in Latin America, where domestic service remains predominant and, in almost every country, faces disadvantageous treatment compared to the rules governing other urban workers.³⁰

In June 2007, the regulation associated with Law 18,065 was approved, creating the juridical framework for domestic service workers. This establishes some instances of special treatment in the context of coverage by all normal labour and social security standards. Key contents include a limit on hours of work, wage negotiations through councils, the right to severance upon being laid off after 90 days, and the possibility of inspection.

The Law defines domestic labour as that in which one person works under another or others, for one or more families, to provide care and carry out tasks within the household or associated with the household, without these tasks representing a direct economic gain for the employer.

A key change limits hours of work to eight per day and 48 hours per week, with a break (paid, even if this involves absence from the place of work) of at least 30 minutes in the day, and of at least two hours for those workers receiving board, along with a weekly break of 36 uninterrupted hours through Sunday and part of Saturday or Monday (by agreement), and a nightly rest period of nine uninterrupted hours for those living in the household.

These regulations also establish compensation for layoff, after the work relationship has existed for 90 days in a row, and also in the case of layoff due to pregnancy. At the same time, domestic service workers are covered by unemployment, under Decree Law 15,180. In terms of coverage for sickness, they can choose between a private healthcare provider or coverage under the Ministry of Public Health (*Ministerio de Salud Pública*, MSP).

The regulations also set a minimum age – that is, 18 years – for those working in domestic service, although the Uruguayan Children's Institute (*Instituto del Niño y Adolescente del Uruguay*, INAU) may, in some cases, authorize the employment of workers as young as 15 years.

Through its inspectors, the MTSS supervises compliance with the law. It can inspect homes in which there is some reason to presume non-compliance with labour regulations and social security, but this requires a judicial order.

Another important change is that domestic service workers now come under the wage-setting system and categories created by Law 10,449, which created wage councils.

³⁰ Dr Héctor Barbagelata, Labour Law, available online at <http://www.cotidianomujer.org.uy> (ILO translation).

Workers affiliated with the sole union representing domestic workers indicate that the law represents progress, but remains insufficient, in that it is not always respected.

**Bringing the actors together:
Difficult, in both cases**

From the start, it was clear that the union, reorganized in 2005, would represent workers in the wage council. The problem lay in finding who could represent the company – that is, the employers – in negotiations with domestic service workers.

The SUTD has a long history in Uruguay. A union for domestic workers was already established by 1963; in 1967, it became a social, cultural, and associative body, before becoming a labour association in 1971. After democracy was reinstated in 1985, a general assembly of workers created the SUTD, which stopped functioning after some years.

Workers spread out all over the country, “unipersonal” work, the lack of experience with unionization in the sector, the lack of a union licence, the lack of training, and the personalized labour relationship that arises through the intimate ties that develop with the employing family are all problems that these workers face when they try to organize.

In 2005, a PIT-CNT committee organized an assembly of sector workers to reconvene the union. Currently, it has 600 members, but like other unions, few pay their dues (70–80 per cent).³¹ They meet only in the headquarters of another union, and are dependent on the solidarity of other workers and professionals for help in union functions.

According to comments from Cristina Otero, SUTD general secretary, the union reorganized in 2005 when workers heard about decrees for setting domestic service wages (as mentioned above, these arose in 1990); from that time, they began to fight against differential wages for women workers in Montevideo and the interior (“Our employers all earn the same, why should they pay us differently?”). After a lengthy effort and several meetings with representatives of the executive in July 2006, the union achieved a national wage. From then on, it fought for a wage-scale approach, which it finally won with a January 2007 decree that established an 8 per cent rise in the lowest wages (with 5 per cent for wages over a predetermined minimum).³²

Throughout this time, the workers mobilized to achieve wage councils. In early 2006, the union met with the MTSS and the DINATRA, and the government’s representatives committed to negotiations with the sector that same year, without further delay.

In August 2006, the union almost achieved its goals. At the time, the CEDU, which represents some 7,000 mainly medium and small companies in the interior, offered to bargain as the employers. But on the day on which the wage council was going to meet, the Chamber of Commerce opposed the CEDU acting as its representative.

Privately, the Chamber of Commerce argued that the CEDU was interested in participating in the CST, because it did not feel represented by other business organizations. To participate in the CST, the CEDU had to be involved in negotiations with some groups, which is why it had offered to bargain on behalf of the employers of domestic workers.

The council was therefore unable to meet, due to opposition from the other bodies – but the workers continued to insist that such bargaining should take place. In 2007, the MTSS suggested to the press that the Housewives’ League (*Liga de Amas de Casa*, LAC) might represent the employers’ side. The LAC was a non-profit, civil society organization, founded in 1995 to dignify the role of the homemaker, to work for pensions, and to defend consumers.

³¹ Interview at a union meeting, 5 November 2008.

³² There were six decrees issued from the moment that the government took power in March 2005 through to June 2008.

When LAC members heard of this suggestion, they contacted the MTSS and met with authorities to exchange ideas, but to little avail until, in early 2008, efforts were resumed. After several meetings and with the approval of a majority vote at a members' meeting, the LAC agreed in July 2008 to participate in the councils.

When the time came to negotiate, some unique characteristics became clear: not only was there an obvious lack of negotiating experience all round, but also there was a lack of experience with labour relations in general, because this had never been one of the LAC's objectives. It belongs to no business association and faces negotiations with no support. The resulting agreements would bind a lot of important people who were unknown to the LAC and with whom it had no ties. In addition, all LAC work is done on a voluntary basis, meaning that it had no funds to pay for advisers.³³

Negotiations: Essentially wages and some general concerns

On 19 August 2008, the domestic workers' wage council met for the first time, representing the first attempt at collective bargaining ever experienced in this sector.

After six meetings, amidst the marches and counter-demonstrations typical of negotiations,³⁴ the negotiators reached agreement and, on 12 November 2008, they signed the sector's first collective agreement, with a 22-month duration. According to the workers: "Everything was done under pressure and it took a lot of work, but we achieved it."

The agreement established three adjustments: the first, upon signing (1 November), included a special raise covering July–October, because the rest of the workforce had received a bonus that month; it was followed by two annual adjustments, in January 2009 and January 2010.

The first adjustment established differentiated increases according to a wage scale as of 30 October: a 20 per cent raise for the lowest wage earners (under US\$162); 10 per cent for the mid-level wage earners (US\$163–208); and 5 per cent for the highest (over US\$208).

Starting on 1 November, the minimum wage for 44 hours of work was set at URU4,250 for 44 hours of work (about US\$185). The two annual adjustments that followed benefited every group on the scale, established a component for inflation, achieved 2 per cent in annual recovery, and included a correction at the end of the agreement.

The correction included the payment of a seniority bonus of 0.5 per cent, starting at one year and lasting for a maximum of ten years (upon initiation, in January 2009, those with a year or more began at 0.5 per cent), and established a paid holiday to celebrate domestic workers, on 19 August: "We wanted to choose a day of happiness and not sadness, as many unions do, we have other days for pain. This 19 August is the day we participated in our first councils and we want to celebrate."³⁵

From the economic point of view, the agreement establishes some benefits that, in fact, already exist under law, along with others that are not clearly defined. It establishes that any cut to hours of work is a partial layoff (not covered by current layoff regulations), special leave as under existing law, and that if workers carry out their tasks outside the usual place of work (during the employers' holidays), they must receive compensation, to be agreed on by both

³³ Interview with Mabel Lorenzo, LAC president, Uruguay, 19 November 2008.

³⁴ In an interview conducted on 5 November, the union indicated that agreements had been reached; a lead adviser to the LAC then modified contents and negotiations continued until these were reversed. Another problem occurred when the MTSS announced an agreement starting 1 October, but the union demanded that it be retroactive to 1 July, like all other agreements, which demand was finally granted.

³⁵ Cristina Otero.

parties. It also establishes that the employer will provide working tools and suitable clothing (without going into details) that the worker must use and maintain at work.

Article 13 establishes that grievances arising from requests for pay rises or compliance with the domestic service law, or for registration with social security, cannot motivate layoffs.

Both parties must create a dignified working atmosphere, free of moral or sexual harassment, respecting the right to intimacy, and protecting psychophysical integrity in suitable hygienic conditions.

It also establishes the commitment to work together to bring domestic workers into the formal, legal sphere, creating a commission that was to commence in March 2009, dealing with labour categories, union leave, and implementation of the written contract.

The agreement also includes articles dealing with equal rights, negotiating in good faith, the right to information, and a peace clause. It also contains a safety clause (included in all agreements signed during this round) establishing that, in the event of any change in the parties' economic conditions, they can call a council meeting to analyse the situation. The agreement thus leaves a door open to the current economic situation, but with no further details.

Some reflections

The eventual implementation of the domestic service wage council, which had seemed virtually impossible at one point, led to the successful signing of a collective agreement. Both parties emphasized the excellent dialogue achieved.³⁶ This was apparent in two key events:

- (a) at a couple of meetings, the SUTD was accompanied by a PIT-CNT union leader who, according to the LAC, "changed the atmosphere", but then stopped going; and
- (b) at one meeting, the LAC came with a legal adviser who, according to the union "backtracked on [its] agreements", but then stopped attending council meetings.

One way or another, both parties kept their connection working and negotiations progressed through to favourable decisions.

An analysis of the agreement reveals that, while extensive, it deals mainly with financial matters, establishing the mechanisms for wage adjustments and quantifiable benefits. The remainder of the workers' aspirations were included in general terms and their study referred to the future, through commissions. The agreement was important in that it was the first of its kind, although its content remains typical of traditional wage negotiations, supported by the State.

It is worth noting how difficult it is to ensure compliance with the agreement, given:

- (a) the unique characteristics of this sector's work, involving tasks associated with women's functions that arise from the sexual division of labour and its low wages;
- (b) the fact that this work is carried out primarily in isolation (that is, by a lone worker);
- (c) that labour ties mix personal and working relationships;
- (d) the difficulties in forming unions; and
- (e) the fact that most of these women workers are young and have little education.

All of these factors mean that these workers are not very aware of their rights, and that those who are aware of them are rarely willing to defend them.

³⁶ Interviews mentioned above.

While all of these events reflect very significant progress, there remains a long way to go. In particular, as Amarante and Espino (2008) point out, in the case of domestic workers, employment policies are needed that improve the dignity of this work and its professionalization. For this purpose, the wage councils, with their tripartite set-up, are an interesting starting point, although not the only way forward.

5.4.2 Collective bargaining for rural workers started in 2005

Although rural workers' minimum wages have been set by the executive branch since 1923, it was not until 2005 that the new government created collective bargaining institutions through which the parties could jointly analyse issues of common interest.

This section will consider some of the unique characteristics of this sector, the actors involved in labour relations, and the institutions created since 2005 for negotiation, along with results.

Vulnerable population

Rural workers have always been considered a vulnerable population, given the special characteristics of their work:

- (a) they are spread out around the country;
- (b) they are often isolated in areas far from population centres;
- (c) their jobs are insecure – in most cases, they are limited to peak seasons, which leads them to travel from one place to another, carrying out unskilled jobs; and
- (d) livestock workers essentially live on the land that they work, which makes them dependent on their employer, leading to a tendency to avoid potential conflicts that could place not only their employment, but also their housing, at risk.

Domínguez and Durán (2007) confirm these characteristics, indicating that 45.1 per cent of rural workers are spread out in “a rural medium”, which means that “They live in the interior of the country in unsettled areas (generally, farming operations) with no urbanization”. Similarly, 14.8 per cent live in towns with fewer than 5,000 inhabitants.

All of this has meant that two crucial features of labour relations in the rural sphere are weak unions and the almost total lack of collective bargaining.

Juridical framework: From discrimination to equality

In 1923, the minimum wage law governing rural activities was the first measure approved to protect workers in this sphere. This law set sector wages and required that employers provide clean housing and food or suitable compensation. Lack of control, however, meant that this law was not very effective.

In 1946, Law 10,809 – or the Rural Workers' Statute (*Estatuto del Trabajador Rural*, ETR), as Barbagelata (1999) calls it – confirmed that it was impossible to “offer rural workers the same protective standards as urban workers...” For example, the Statute maintained the custom of setting the minimum wage by law, even when the rest of the private sector was governed by the Wage Council Law, and continued to allow more than eight hours of work per day, even when this limitation was the rule everywhere else.

The Statute also excluded any form of workers' participation. Both the law and its regulations created commissions to improve living conditions, but these never involved

individual workers or collective action. Established residents (*vecinos de arraigo*), rural employers, and even delegates from the Uruguayan Rural Federation (*Federación Rural de Uruguay*, FRU), the Rural Association of Uruguay (*Asociación Rural de Uruguay*, ARU), and the Uruguayan Farmers' Confederation (*Confederación Granjera del Uruguay*, CGU) all had priority for sitting on these commissions.

These attitudes all indicate that legislators approached problems in rural areas in very peculiar ways, by trying to keep this a relationship with the individual worker managed solely by the employer (Mantero, 2005). It also means that while the principles of collective law are applicable, rural workers have been kept out of unionization, strikes, and collective bargaining.

Decree Law 14,785 of 1978 changed the 1946 Statute and was praised for providing rural workers with many of the benefits already common in the private sector, among them compensation for layoff and the leave system. The executive branch continued to set the minimum wage, however, with no participation from workers, and no mention of hours of work or freedom to unionize.

These differences, peculiar to rural workers, were the object of concern among the authorities after democracy was reinstated, creating tension in relations with the sector's business organizations. In 1985, Minister of Labour Hugo Fernández Faingold upbraided business organizations for the low wages and bad working conditions: "The working conditions of these workers are much worse than those of urban workers, because their rights are different and because, moreover, they don't know their rights, and if they know them, they don't have any way of ensuring they are respected, since they have no organization to effectively defend them ..."³⁷

Later, in his opening speech to the FRU conference in 1990, President Lacalle said, "Rural workers have the right, not only under the law but also out of humanity and a Christian spirit, to enjoy the comforts of modern life, something that does not happen due to the selfishness of rural producers ... We raised their wages by 50 per cent, because it was shameful to be paying alms ..."³⁸

Yet despite this concern, by 2005, rural workers still had no place to negotiate their wages, which the government continued to set, no limit on their hours of work, except in some specific activities thanks to strikes and mobilizations,³⁹ and practically no experience with negotiations.

In 2005, the wage councils were set up for the rural sector. Decree 105/05 of 7 March 2005 created a new negotiating environment – that is, the tripartite CSR – to establish the basic criteria for setting up the sector's councils, and then their broader functions, as described above at 3.2.2.

These two instances established the institutions in which rural workers could negotiate: in the broadest sense, as an experience in social dialogue; and in a more restricted sense, offering them the opportunity to participate directly in setting their own wages (Ciarnello et al., 2006).

³⁷ "The rural worker and the business sector's game rules", *El País*, 1 June 1985.

³⁸ Words published in *El País*, 28 May 1990.

³⁹ Currently, the workers in the rice fields work eight hours per day (1940); forest, mountains, and peat bogs (1944); farms, estates, and gardens; vineyards; poultry farms; swine and rabbit farms; bees and the producers of vegetables, legumes, root vegetables, fruits, and flowers (1965).

The actors: young, weak unions and strong, influential business organizations

The actors in these rural labour relations are very different from each other: while the new unions are just getting started, business people have long belonged to powerful organizations.

Starting in 1940, unions with some stability or durability began to develop. From 1940 to 1955, ten rural unions formed, representing mainly workers in the rice fields (where significant technological changes had been introduced), dairy (as this industry began to organize around Conaprole), and other crops such as sugar beets and sugar cane (González Sierra, 1994).

In 1960, the First Meeting of Field Workers (*Primer Encuentro de Asalariados del Campo*) took place, and a sector programme sought to deal with workers' real problems and to reinforce their efforts to unionize. The first complaints about the rural wage councils, the eight-hour limit on hours of work to bring them into line with other sectors, compulsory weekly rest days, and the need for agrarian reform were heard. These initiatives, however, did not achieve their goals, because rural workers' unionization remained very weak and declined to the point that, by 1993, no rural unions participated in the PIT-CNT's fifth Congress.

The decline in the rural unions did not, however, lead to their extinction: some unions, such as the Rural Workers' Union (*Sindicato Unico de Obreros Rurales y Agroindustriales*, SUDORA) remained active and, in 2004, a new rural federation formed, the UNATRA, with 16 member unions representing citrus, sugar cane, rice, dairy, horticulture, and fruitgrowers farms. Today, it is the sector's most representative organization.

Rural business people mainly belong to the ARU and the FRU. Both exercise enormous influence over the State, sometimes due to the ties with people holding positions within the government, and sometimes because they themselves hold or have held these posts, but mainly because of this sector's importance to the national economy.

As actors in labour relations, rural business people have always opposed the existence of unions. Martorell (1983) noted that this business sector had the view that "the relative isolation in which these unskilled workers live prevents them from easy contagion by the workers involved in revolutionary propaganda".

Higher-level negotiations: Scarce results

To date, the negotiations at the CSR have taken place in three stages:

- (a) identifying the sector groups in order to create the corresponding wage councils;
- (b) establishing the guarantees necessary to ensure the effective exercise of union rights and collective bargaining in the sector; and
- (c) analysing possible regulations of the hours of work in areas not yet covered by the eight-hour limit (livestock and dry farming – *agricultura de secano*).

Identifying sector groups, as described in section 3.2.2, was the first and only achievement: those involved reached consensus on the three sector groups that should be involved in the negotiations.

The next step was to seek agreement on the terms of the relationship among the parties, guarantees for the free exercise of union freedoms, permission to hold assemblies in the workplace, the free circulation of leaders, and the ability to post notices, charge union dues, and distribute union materials.

Faced with the difficulties in finding points of agreement, the representatives from the executive branch presented a working document, following ILO recommendations, which was finally voted on and signed on 13 July 2005 without the approval of the employers' delegation, which considered this the wrong time to analyse part of the issues that Parliament was already analysing as part of a larger whole.

The recommendations included in this document, entitled "Guidelines to encourage a fluid and dynamic relationship between employers and rural workers and guarantees that will ensure the genuine exercise of union rights and collective bargaining" (*"Pautas que permitan una relación fluida y dinámica entre las organizaciones de empleadores y trabajadores rurales y garantías que aseguren el efectivo ejercicio de la sindicalización y la negociación colectiva"*), include:

- (a) complying with the Constitution, the laws, international labour agreements, and the Mercosur Labour Partnership Declaration (*Declaración Socio Laboral del Mercosur*);
- (b) guaranteeing the free and effective exercise of union freedom and collective bargaining;
- (c) allowing union representatives who do not work in the company communication with its management and workers, after prior agreement among the parties;
- (d) permitting the posting of union notices;
- (e) allowing delegates and alternates to the wage councils the time that they need to attend meetings and assemblies, without loss of wages or other economic advantages;
- (f) using negotiating instances prior to the application of any measures.

If we remember that some of these issues were under analysis in a draft law, with a high probability of approval (brought to fruition when Law 17,940 was passed) and that companies were already questioning the draft law on the basis that it represented a substantial change in the game rules, we can understand company delegates' refusals to agree on a document with similar positions to those of the draft law.

Once this issue was closed, discussion began on limiting hours of work, through a document prepared by workers. From the start of the debate, two distinct positions were clear. While workers demanded equality with other workers in urban areas, based mainly on comparative law and World Health Organization (WHO) standards, employers demanded a flexible framework that took into consideration productive cycles and weather.

The executive branch, meanwhile, declared itself in favour of limiting hours of work through a regime similar to that applying to urban workers, but to play a mediating role and to foster consensus, it made the eight-hour day and 48-hour work week the centre of its positions. It did, however, leave some room for manoeuvre, such as considering the average work day throughout the weekly cycle.

Given these proposals from executive branch delegates, business and labour responses varied, with employers trying to move closer, while workers remained firmly behind their initial demands.

Although the government chose to resolve the issue in the CSR and by consensus, the different views of the actors, mentioned above, made agreement impossible; it therefore presented a draft law, finally enacted on 24 December 2008, making the maximum hours of work eight hours per day and 48 hours for every six days worked.

From the lack of sector negotiation to the prevalence of consensus

To date, four wage council rounds have been held in the rural sector, with varying results, ranging from the almost total absence of negotiation to the prevalence of consensus.

In July 2005, the **first round** of rural wage councils took place and four subgroups were established within Group N° 1 (“Sugar cane plantations”, “Rice plantations”, “Dry farming”, and “Dairy”), with the two remaining groups having no subgroups. The result of this round did not meet expectations, however, since only the “Sugar cane plantation” subgroup reached agreement.

The agreement was short-lived (six months) and contemplated: wage adjustment; the definition of working conditions; and some aspects of relations among actors themselves.

In terms of wages, the agreement established categories and monthly minimums for workers, a daily wage scale for different activities (such as cutting, pruning, and stacking), and special compensations for specific workers. It established no adjustment rate for workers earning more than the minimum wage nor did it establish indicators to be considered when adjusting these minimums.

On working conditions, the agreement recognized an eight-hour day and a 48-hour work week, achieving through negotiations something that workers had been unable to achieve in umbrella terms within the CSR.

In addition, in terms of the relationship between actors themselves, the rights of this sector’s workers to unionize, of union leaders to immunity from firing (in the sense that workers on sugar cane plantations cannot be fired or suffer for carrying out union activities), to the payment of union dues by workers requesting it, and to facilities for leaders to carry out their union responsibilities were all recognized. Thus, through common agreement, this group adopted the recommendation from the CSR well before the law came into effect for all workers.

All of the other subgroups failed to reach any agreement and, as it had in the past, the executive branch had to set the wage adjustment, in effect for six months, so that the parties had to continue negotiations in January 2006.

While it did not meet expectations, the **second round** of rural sector negotiations improved on some of the previous results, with two agreements signed and a majority agreement reached.

Within Group N° 1, the “Rice plantations” subgroup, which had adjusted wages by decree in the previous round, established a short-term agreement (six months) covering wage adjustment and relations among actors.

For the wage adjustment, the agreement used executive branch guidelines: that is, a percentage of expected inflation along with a 2 per cent recovery. On relations among actors, the agreement created a commission for dealing with some issues of common interest, particularly categories, training, and union leave. The agreement also established a peace clause and conflict prevention mechanisms, within two instances for bipartite negotiation: one that yielded no results and the other being wage councils.

Group N° 3 “Forestry” also negotiated a six-month agreement, with wage adjustment following the guidelines, although at a lower recovery rate than “Rice plantations” (1.5 per cent). Like the “Rice plantations” agreement, that of “Forestry” negotiated a peace clause, conflict prevention mechanisms, and a bipartite commission to deal with issues of common interest.

In Group N° 2 “Vineyards, fruit farming, vegetable farming, floriculture, beekeeping, swine and poultry raising, and other activities not included in Group N° 1”, negotiations produced no agreement, so the executive branch proposed a vote, supported by the business delegation, but rejected by the workers’ delegation. As a proposal from the executive branch, its content dealt solely with setting a wage adjustment, with a 2 per cent recovery rate.

The remaining subgroups proved unable to reach agreement through consensus or majority vote, since business delegates did not attend, leaving the meeting without quorum. Once again, regulating the wages of these subgroups had to be done by decree, but on this occasion, the executive branch provided for an increase of over 30 per cent to minimum wages in some cases, in recognition of the extremely low wages. For those earning more than the minimum wage, they followed the general scheme (expected inflation plus 2 per cent).

The **third round**, which was supposed to start in July 2006 was never announced. Conditions in the rural sector with regard to the scheduled wage adjustment were not publicly announced by Minister of Labour Eduardo Bonomi until February 2007.⁴⁰ The Minister explained that the July 2006 meetings had been suspended on request of companies: “... since their associations reported administrative difficulties for paying to the BPS the retroactive amounts accumulated from the January 2006 adjustments, which were not deposited until April, and moreover, because they had made a huge effort to absorb a wage increase of more than 30% ...”

The new round of meetings finally got off the ground in January 2007 and found rural workers thinking about the future adjustment, but also recovering the lack of adjustment in the previous semester, which became part of all agreements. Despite these difficulties, results were better than those of previous rounds: agreement duration was longer and all rural subgroups reached agreements (Table 21).

⁴⁰ Statements to *El Pais*, 1 Feb. 2007.

Table 21.
Wage contents of the third bargaining round by rural councils

	Duration	Six-month adjustments			Others
		1	2	3	
Farming sector					
Minimums	18 months	Fixed amt UYU948	CPI Jul-Dec 06 + est. CPI Jan-Jun 07 + 3.23% recovery	Est. CPI Jul-Dec 07 + 0.75% + correction	Final correction
More than two minimum wages		Fixed amt UYU948	CPI Jul-Dec 06 + est. CPI Jan-Jun 07 + 3.23% recovery	Est. CPI Jul-Dec 07	Final correction
Sugar cane plantations	12 months		No adjustment	CPI Jan-Jun 07 + est. CPI Jul-Dec 07 + 4.04% recovery	Final correction
Rice plantations	18 months	Fixed amt. URU1,218	CPI Jul-Dec 06 + est. CPI Jan-Jun 07 + 5.97% recovery	CPI Jul-Dec 07 + 3.5% recovery	Final correction
Vineyards	18 months	Fixed amounts depending on functions	CPI Jul-Dec 06 + est. CPI Jan-Jun 07 + 3.5% recovery	CPI Jul-Dec 07 + 1.5% recovery + correction	Final correction
Forestry					
Minimums	18 months	Fixed amounts depending on functions	CPI Jul-Dec 06 + est. CPI Jan-Jun 07 + 2.81% recovery + corrective	Est. CPI Jul-Dec 07 + 1.53% recovery	Final correction
More than 1.5 minimum wages		Fixed amounts depending on functions	CPI Jul-Dec 06 + est. CPI Jan-Jun 07 + 2% recovery + corrective	Est. CPI Jul-Dec 07 + 1.25% recovery	Final correction

Aside from setting adjustments, the “Forestry” agreement established a detailed description of categories, a paid holiday in recognition of forestry workers, and a tripartite commission for ongoing negotiations of issues of common interest, such as hiring modes, working conditions, occupational safety and health, special training to handle chainsaws, transport of workers, and so on.

It also regulated union leave in the sector in accordance with Law 17,940. Delegates on companies’ grass-roots committees received one half-hour per month for each worker employed, with a ceiling of 250 hours per month and an individual ceiling of 100 hours per month. It also established a scale for how many delegates could use this leave, by company size, with companies employing one to five workers having the right to one delegate and an alternate; companies with 151+ workers were given the right to five delegates and three alternates.

The agreement also contemplated ten union hours per month for each worker as union leave for national delegates, with a ceiling of five delegates able to use this benefit. In all cases, leave must be reported 48 hours in advance, must have written approval and support from the Union of Workers in the Timber and Allied Industries (*Sindicato de Obreros de la Industria de la Madera, SOIMA*), must be coordinated to avoid harming normal company operations, and must guarantee that the job will always be covered by a suitable worker.

Once these agreements became final, for the **fourth round**, the executive branch proposed postponing all agreements by one semester, to bring all groups together in July 2008.

Getting parties to accept a postponement that was in theory negotiated, but was in fact an imposition, was more complex than in previous negotiations. Only Group N° 3 “Forestry” approved it by consensus, with the remaining groups approving through majority vote, against the workers’ vote in every case.

Some reflections

The policy of including rural workers in the wage council system began to yield results over time. From a first round that provided virtually no areas of consensus, the process reached a third round that produced agreements in every group, as Table 22 indicates.

Table 22.
Results from rural wage councils

	Round 1	Round 2	Round 3
G.1. Agriculture, livestock, and associated			
Sugar cane plantations	Six-month agreement	Agreement	One-year agreement
Rice plantations	Decree	Six-month agreement	18-month agreement
Dry farming	Decree	Decree	18-month agreement
Livestock	Decree	Decree	18-month agreement
G.2. Vineyards, fruit farming, horticulture, poultry and swine farming	Decree	Majority agreement (MTSS & business)	18-month agreement
G. Forestry	Decree	Six-month agreement	18-month agreement
Agreement	1	3	6
Majority agreement	0	1	0
Decrees	5	2	0

These initial rounds of experience confirm that, as expected, rural sector negotiations have taken time to mature. They did, however, manage to create an atmosphere of negotiations that helped to place the different actors on an equal footing, reinforcing their ability to influence daily life. As time passed, the parties themselves helped to make the negotiations more stable, by creating more lasting agreements and adding new issues to their agenda, although the wage issue continued to prevail over aspects arising from the different productive processes.

Clearly, there is still room for improvement, given that sector agreements have not yet given way to negotiations at the production-unit level. While company-level negotiations are still harder to implement given the sector’s characteristics, a sector agreement has created a framework for employer action that will provide new protection to workers, which previously did not exist and which will help improve their living conditions.

5.4.3 Collective bargaining in the non-alcoholic beverage sector

The non-alcoholic beverage sector generally includes all kinds of soft drinks and water. This sector was among those that had to reconvert to maintain their market presence and was able to do so as a result of an overwhelmingly conciliatory attitude throughout labour relations. The analysis in this section includes a brief description of the sector, its actors, collective bargaining at the different levels, and the results.

Brief sector description:
Reconversion to compete

The main companies making up the non-alcoholic beverage sector are:

- (a) Montevideo Refrescos SA, which holds the exclusive franchise for bottling and selling “Coca Cola” products;
- (b) Embotelladora de Uruguay (EUSA), which bottles and sells “Pepsi” products, “Paso de los Toros” and “Villa del Este” water, and which, by 2001, had accumulated several years of losses, leading it to merge with the national beer company, Fábrica Nacional de Cerveza;
- (c) Caribeño SA, which started producing juice and, in 1997, launched a new line of refreshments under the “Nix” brand, then added “Nativa” mineral water in 1999;
- (d) Danone, which produces “Salus” water; and
- (e) Sirte, which started out with exclusive home distribution rights for water, and now shares this market.

All of these companies’ output goes mainly to the domestic market, so production and consumption are directly linked. Open borders, which have allowed similar products to enter, the growing informal economy involving production units that produce soft drinks outside the sanitary controls of the legal system, smuggling, and high taxes have all played a major role in the sector’s losses.

Soft-drink manufacturers have also had to change in response to shifts in consumer preferences and demands. On one hand, concern over health has led consumers to prefer water; on the other, concern about obesity has stimulated demand for sugarless drinks and energy drinks.

All of these have brought changes, as follows.

- (a) Capital became more concentrated: for example, companies involved solely in the water market added other products, such as drinks, juices, beer, and even food.
- (b). Ownership also changed: for example, Danone (the second most important company in the water market worldwide) bought a majority stake in Salus and Argentina’s Bemberg group took over EUSA.
- (c) Glass containers were replaced by plastic ones, returnable at first, and then disposable. Although this change brought a substantial decline in companies’ costs, it also reduced employment in this sector: estimates indicate that a production chain based on returnable containers employs three times more personnel than one based on disposables.⁴¹
- (d) Outsourcing became common, with direct employees replaced by contractors hired to provide specific services (typically transport, cargo, maintenance, and security).
- (e) Given the small size of the internal market, companies concentrated their production in a single plant, then distributed nationally. This led to the closure of several facilities.

Thus, faced with the choice of fighting to compete or losing their market share, most companies chose to change. The union, which had to choose between resisting or accepting changes, accepted the latter. Both gave priority to mutual respect and proactive information, generating enough trust to achieve a model of cooperation based on collective bargaining.

⁴¹ Study by the economist Nicole Perelmutter, available online at <http://www.ciu.uy/informe/bebida.html>

The actors: Both sides representative

The sector's workers are represented by the FOEB, founded on 12 September 1948, which brings together company unions (in the capital city and the interior), belonging to non-alcoholic beverages, alcoholic beverages, and warehouses. At the company level, workers belong to associative centres that independently elect their representatives.

The FOEB has a significant membership base and although this declined with sector employment, workers in the non-alcoholic beverage sector were always strong supporters. According to union leader Richard Read,⁴² the reinstatement of the wage councils was key to ensuring that, by October 2006, fee-paying union members represented 82 per cent of sector employees.

The business organization is the Centre of Makers of Non-alcoholic Beverages and Beers (*Centro de Fabricantes de Bebidas sin Alcohol y Cervezas*, CFBAC), founded on 16 March 1934, which brings together all sector companies including the main transnationals. The Centre belongs to Uruguay's Chamber of Manufacturers (*Cámara de Industrias de Uruguay*, CIU). In terms of labour relations – and specifically negotiations – the Centre has always represented this sector in conversations with the FOEB at the sector level.

Sector-level negotiations: The usual form of relations

This sector has an enormous experience with negotiations, which made it possible to harmonize traditional negotiations at the second level, with specific bargaining processes within companies.

Since 1985 (once democracy was reinstated) and to this day, the non-alcoholic beverage sector has always negotiated at the sector level, making this one of the few sectors that maintained this process when the wage councils stopped functioning and a regime characterized by free negotiations began to define wages.

An analysis of the agreements reveals that they already had their own peculiarities, right from the start. In the first, 1985 round, when workers' sole concern was recovering their lost wages, this group saw negotiations cover a wider range of issues and included the commitment by both parties to work together to find jobs for those laid off during the dictatorship (that is, between 1986 and 1987), the compulsory provision of uniforms (included in the 1986 agreement), and the creation of regular healthcare insurance in the sector (which was not yet been the subject of an agreement).

The first agreement also set the percentage of the wage adjustment for the four-month period and several benefits, many of which continue to this day, including overtime for night work, special leave, an attendance bonus, a seniority bonus, and the day of sector workers. On the work front, the parties negotiated how extra personnel to cover peak periods should join and leave the firm.

In the following sections and to facilitate understanding, we explain the contents of sector negotiations, grouping them into three areas: wage adjustment mechanisms; relations among actors; and actors' relationship to production.

a) Wage adjustments: All the benefits

From 1985 to 1990, negotiations in this sector followed a parallel route (*doble pista*), involving both wage councils and bipartite processes, according to the sector's characteristics, which were then presented to the council for approval.

⁴² Interview with Manuel Méndez, available online at <http://www.aebu.org.uy/radio>

Because of this, at times the wage adjustment mechanism coincided with wage council guidelines; at others, it varied. As long as the executive branch took a flexible approach to approving agreements, it varied; when the government was less willing to accept any deviation from official positions, it tended to follow them very closely.

From 1991, when the wage councils stopped meeting, the actors were used to bipartite relationships with no official support, so unlike most private sector activities, it was not hard for them to continue negotiating independently at the sector level. It is at this point that the use of new tools, previously unused in negotiations, began.

The first of these tools was the **safety clause**. This stipulation is currently required by companies fearful that, given the longer duration of agreements and the effect of external factors, they may not be able to meet their obligations. By 2008, this clause had halted or delayed several negotiations in wage councils, because workers reject its use. Nonetheless, it formed part of the agreement governing relations from 1 May 1991 through 30 April 1992.

The agreement established that both companies and workers could denounce the agreement if inflation were to begin to rise again, causing real wages to lose their value and shifting employers' costs. It was included once again in the 1995 agreement.

Another tool used in sector negotiations was the **exemption clause**, which, despite the fact that these were sector-level negotiations, specifically exempted some companies, because at the time of negotiations, all parties already knew that they would be unable to comply with the provisions of any agreement.

Technically speaking, this exemption can be implemented in different ways, but in this sector, negotiators chose to name specifically the companies represented by the business association. This system appeared in the agreement that lasted from 1997 to 1999, and again from 1999 to 2001, and was used for the last time in the May 2001 agreement, which remained in effect until 2003.

This meant that the CFBAC did not represent, and therefore did not bind, those companies not mentioned. This might be interpreted as leaving these companies' workers unprotected; in practice, the FOEB negotiated at the company level with these other firms, reaching agreements according to their real possibilities.

For example, the agreement reached with Montevideo Refrescos SA in 1998 explained:

This agreement reflects the need to adjust working conditions and the relations between the parties to the realities of current economic, social, national and regional conditions, which are in constant flux, and to the changes occurring in the consumers' market ... The workers' union hopes that future negotiations will continue, as they have done to date, to be led by the Centro de Fabricantes de Bebidas sin alcohol, but recognizes that the current situation facing Montevideo Refrescos requires a commitment to ensure this improvement actually takes place ...

Indeed, in the 1999 agreement, the company was again covered by the sector-level contract.

The **opting-out clause** was never explicitly negotiated in this sector, but was nonetheless applied, as we can see from wage council negotiations, after they were reinstated in 2005. The facts reveal that, upon direct requests from companies, the FOEB was always willing to take into account specific conditions, negotiating substitute agreements at the company level, to avoid leaving workers unprotected.

One example was an 11 September 2006 decree that approved the stance of the Group N° 1, subgroup “Non-alcoholic beverages, water, beers and malts”, which permits opting out and agreements with specific companies (the sector’s smallest).⁴³

The 2006 agreement uses another mechanism to allow for special cases. It provides for general wage adjustment formulae, but then, in article 6, makes special provisions for Salus that involve lower adjustments. This is another way of considering companies’ different realities, but in this case, they were included within the agreement itself.

The sector’s 2006 agreement marked the start of a new kind of remuneration associated with **productivity**, with both parties agreeing, in clause 12, to work for company “systems, amounts, conditions and indicators for productivity (efficiency, operating excellence, work organization systems, profitability, etc.) that could lead to variable annual incentive payments”.

This suggests that companies in this sector are among the pioneers in developing modern forms of remuneration.

b) Forms of relations among actors: Highly developed

All agreements signed since 1986 had a **peace clause**, understood as a commitment from workers that they would not fight for wage increases during the period covered by the agreements. The clause always expressly committed to the idea of a “full commitment”, meaning that, at any time, should one party fail to comply, the other immediately had the right to denounce this fact unilaterally.

Also since 1986, both parties negotiated legally based dispute settlement mechanisms – that is, those for which interpretation is based on the application of the agreement. This is a two-step mechanism: the first step involves bipartite instance; when no agreement is reached, the second step involves the wage councils (included in agreements from 1986 to 1990 and then in 2005) or the MTSS (agreements signed from 1992 to 2004).

The 2006 agreement negotiated union leave based on:

- for companies employing up to 25 workers, 40 hours per month (non-cumulative from month to month);
- for companies with 26–50 workers, 80 hours per month (non-cumulative);
- for companies with 51 or more workers, 200 hours per month (non-cumulative).

In all cases, workers must provide 48 hours’ advance notice, leave must be coordinated to avoid affecting normal company operations, and the union must provide a subsequent certificate for the use of these hours.

c) Forms of relations with production: A framework agreement

On 19 December 1989 through to 31 August 1991, and renewable for one-year periods, in the absence of a complaint from either party 30 days prior to expiry, the CFBAC and the FOEB signed a framework agreement to protect employment.

In general terms, the agreement recognized:

- companies’ rights to decide on restructuring, to introduce new technologies, or to modify those already in use;

⁴³ Milotur SA (Nix), Giomar SA (Agua Cascada), Pérez Bregonz Hnos (Agua Sirte), Gasala SA (Ivess), Gofin SA (Kazbec), and Vila y Lich Cia (Tacuari) agreement.

-
- unions' rights to defend their source of work and therefore to be informed of any changes that could affect them;
 - companies' obligations to inform the union of any changes involving layoffs at least 45 days in advance so that the union might analyse relocation possibilities;
 - the unions' rights to present relocation options not foreseen by companies;
 - both parties' obligations to find solutions for those who might inevitably end up being laid off.

All of this suggests that, in this sector, the parties were able to turn the weaknesses typical of sector-level negotiations into opportunities. This experience reveals that sector-level negotiation can be flexible enough to consider differences among companies within the same economic sector, if the parties are willing to do so.

This also shows that sector negotiations can provide a suitable framework for bargaining at the company level in a coordinated fashion, if both parties can articulate this well enough. The 1989 agreement established this framework and generated fluid negotiations at the company level, as the next section illustrates.

Company-level bargaining: Specific contents compatible with general measures

The end of the 1980s marked the beginning of profound transformations in this sector's companies. These transformations and their potential impact on jobs, already foreseen in the 1989 sector agreement, made it easier for actors to deal with them within the general measures that were already the subject of agreement.

Although some company-level negotiations dealt with wages to adapt them to real possibilities, in general, the content of negotiations was enriched, moving from finding ways in which to meet companies' needs towards profound changes involving workers' interest in holding on to their jobs.

At the same time, smaller companies that were not involved in major changes also negotiated, to overcome the economic crisis without affecting the number of workers.

a) Changes in the organization of work: Avoiding unemployment

To a greater or lesser degree, the sector's largest companies technified their productive processes, modifying how they organized work. In 1990, **Embotelladora de Uruguay SA** upgraded its bottling plant, which had previously been completely manual. This involved changing the machines, automating processes, replacing glass with plastic containers, and applying new forms of organizing work, which could have meant loss of jobs.

All of this restructuring of production was negotiated with the union and led to the signing of several agreements, in which both parties committed to doing everything possible to avoid compulsory layoffs. The 1990 agreement included incentives, such as early retirement and redistributing workers to new areas.

The 29 August 1997 agreement introduced the concept of flexible shifts, to avoid losing jobs, eliminating fixed schedules and breaks, and giving way to systems that are more responsive to production cycle needs.

The 24 August 1998 agreement introduced an innovative option: by suppressing the "redundant" (*preventista*) category, both parties agreed that "redundant workers would create their own company that would provide services of replacement in self-service, for a monthly fee of URU5,000 plus VAT, for each member". Thus, to avoid unemployment, the parties accepted outsourcing – but using the company's own workers.

Finally, in the 18 August 1999 agreement, the company recognized the need to continue to change production to optimize costs, but also committed to ensuring that “its implementation will not determine changes in the payroll of plant staff and that should any personnel become redundant they will be distributed in another sector”.

Montevideo Refrescos, meanwhile, had invested in state-of-the-art technology in 1981. In 1987, it centralized its plants for manufacturing drinks and sold the trucks in its distribution system, introducing a system of pre-sales with its own personnel.

In 1990, this process of technological change continued with the introduction of new machinery, such as a two-pronged lift attachment (*montacargas de dos uñas*) and a pallet machine (*paletizadora*). This new machinery reduced the need for labour, so company and union negotiated mechanisms to avoid forced layoffs, including incentives to retire early and the redistribution of workers to other areas, or even their transfer to the companies to which Montevideo had sold its trucks, under the condition that these companies provide jobs to affected workers.

In 1997, **Salus SA** also restructured and thus reduced its personnel needs. This restructuring was negotiated with the union and the 9 September 1997 agreement included:

- (a) a retirement plan for employees with cause, who would receive an extraordinary payment, on retirement, of nine times the top category wage;
- (b) a voluntary layoff plan, paying 15 wages in compensation; and
- (c) a plan for voluntary layoff, with no special compensation, but with jobs guaranteed by those holding concessions with the company.

Thus the major companies reorganized and the union supported them in doing so, helping them to find different options that took account of the interests of both parties.

b) Outsourcing: A policy that changed over time

In this sector, outsourcing policies were applied in two areas: sales-related activities and those related to secondary activities.

In the case of sales-related activities, companies outsourced: distribution (trucks distributing products to retail outlets on a pre-established route); cargo (trucks moving company products to a warehouse); pre-sales (obtaining orders from retailers); merchandising (promoting and advertising the product); and putting together boxes (for distributing trucks and according to advance orders). Secondary tasks that were outsourced included security, cleaning, maintenance, gardening, doormen, and some work by university professionals (such as doctors, accountants, and programmers). In both cases, outsourcing involved a loss of jobs that was negotiated with the union.

At **Monresa**, outsourcing began in 1987 in distribution and cargo, with the decision based on the view that trucks should function outside the company so that it would no longer be responsible for their maintenance. The decision to sell the trucks produced a confrontation between the company and the union, which culminated in the company selling the trucks to the personnel who would be left unemployed, who could pay for them with their own work. At the same time, the new cargo companies had to hire the unskilled workers (*peones*) who, along with the drivers, were about to become unemployed. The experience culminated in the sale of 50 trucks, which absorbed some 200 *peones*.

At **Embotelladora**, in 1987, outsourcing of distribution began with sale of the company's trucks. Here, too, the union negotiated their sale to the workers, who would then pay with their labour.

The second phase of outsourcing at Embotelladora began in 1990, when the sales system went from an advanced sale system to vendors soliciting orders from retailers. This reduced cargo services by 20 units. To avoid this negative impact, the company and the union replaced cargo trucks with vans responsible for pre-sales, and recycled and trained workers for these new tasks, by creating single-person companies.

As outsourcing continued to advance and there were few possibilities for avoiding more layoffs, in an unusual move, the FOEB created the “Juan Cor” company to provide services of doormen, labelling, and even basic maintenance, to guarantee the ongoing employment of those threatened with layoff. Created in 1997, this company was a novelty in a country in which unions do not usually create their own firms. Embotelladora hired it for the first time under the 29 August 1997 agreement, to attend the door, provide security, and, in 1998, look after cleaning.

Another similar example came from **Salus**, which decided that jobs such as cleaning, doormen, chauffeurs, maintenance officers, and cargo would no longer be filled by company personnel. In the 24 September 2001 agreement, the company offered workers the chance to become independent companies, hired by the company at market-regulated prices. If the worker were to accept, he or she would receive a special bonus consisting of nine months of wages.

As noted, the FOEB was involved in these outsourcing processes and, through negotiations, found ways in which to satisfy the interests of both parties.

Despite all of this, product distribution is increasingly important to beverage companies for two reasons: it accounts for 45–50 per cent of total costs; and, given consumer demands and changing tastes, the ability to deliver and respond to shifts in demand is vital to success. Because of this, in this new century and following global trends, companies have redesigned their distribution strategies and recovered channels that they had been outsourcing.

In 2001, **Monresa** made the change, after a study showed that the distribution system was in trouble and that consumers’ needs were not being met. The company applied a model used by Coca Cola in other countries in Latin America and Africa, consisting of the company working directly with small shops that then represented it to sell and distribute its products in a specific area. The new method was implemented through “minicentres” throughout a belt of Montevideo; the company left distribution to 45 cargo services in Montevideo, 24 in the interior, and ten on the outskirts of Montevideo.⁴⁴

Starting with its merger with Fábrica Nacional de Cerveza, **Embotelladora SA** also redefined its distribution strategy, developing a direct sales system, with support from the latest computer programming systems. The company’s direct sales served a strategic area in Montevideo and Canelones, leaving distribution to the outskirts of both towns in the hands of intermediaries, and that of the rest of the country to distributors.

Caribeño distributes directly with seven of its own trucks and through 33 external distributors.

The companies’ shift back to some of these activities did not have to be negotiated with the FOEB. The union only accepted outsourcing with personnel to avoid job loss, but always hoped that companies would eventually resume their responsibilities in these areas. In contrast, companies had to negotiate with the Federation of Beverage Truckers (*Federación del Transporte de Bebidas*, FETRABE), a key actor in each distribution zone, so companies had to pay out large sums set according to the importance of the distribution area.

⁴⁴ Nicole Perelmuter, “El mercado de las bebidas sin alcohol”, available online at <http://www.ciu.com.uy/informe/bebida>

At the same time, the FOEB never left its truckers and their assistants unprotected, even when they worked outside the companies: it negotiated on their behalf in wage councils and in 2008, according to the press,⁴⁵ achieved a historic agreement to recover lost wages and achieve a national amount that did not differentiate between wages in Montevideo and the interior.

c) Dealing with crisis situations

Aside from these major transformations, sector companies were also going through some specific momentary difficulties and, as with the major changes, they negotiated with unions to overcome them.

The tools negotiated varied and included:

- (a) the rotating use of unemployment insurance by applying specific criteria for selecting the personnel to use this benefit (in the agreement with Caribeño SA);
- (b) the suppression of special benefits marking the company's first anniversary, bonuses for children's birthdays, and contributions to different annual celebrations (in the agreement with Embotelladora de Uruguay);
- (c) the use of unemployment insurance by paying the difference between the subsidy and the workers' real wages (in the agreement with Monresa); and
- (d) restructured hours of work (in the agreement with Salus, to eliminate weekend work and redistribute ten hours from Monday to Thursday and eight on Fridays).

The most innovative agreement was signed with Salus on 20 September 2001, reflecting "the intention of the parties, given the crisis situation, to find alternatives to maintain stable labour relations". It contained a chapter on employment policy, stating that restructuring would not lead to compulsory layoffs and that any potentially redundant personnel would be managed using tools such as unemployment insurance (with the company paying the difference between the social security payment and the real wage). It also established special criteria to choose who would receive unemployment insurance, special compensation for early retirement, or relocation, wherever possible.

To implement this agreement, a training plan was negotiated that included:

- educational upgrading programmes, to improve the skills of those who had not completed primary or secondary education;
- training programmes, to prepare workers for relocation;
- specific task-related programmes, to improve workers' performance and help them to adapt to new equipment or processes.

In every case, the FOEB managed to achieve solutions that were satisfactory both to workers and to companies.

Some reflections

When companies' prime concerns are increasing their competitiveness and unions are mostly concerned with saving jobs, they share a common problem: company survival.

To deal with this problem, they may use diverse strategies, but the beverage sector is an example of how negotiating can provide good results and of how major changes must be accompanied by shifts in labour relations.

⁴⁵ Richard Read's statement to *La República*, 15 November 2008.

The FOEB never lost sight of its fighting tradition, expressed in long, harsh conflicts and confrontations that continue to take place, but in this sector, both actors know that everything ultimately gets dealt with at the negotiating table, and that shared information and transparency create the atmosphere necessary for success.

It is for this reason that this sector demonstrates the ideal of a well-integrated negotiating system, in which bargaining takes place at both the sector and company levels. Labour relations in this sector have made this possible, but are not common throughout the country, making a law to foster this necessary.

5.5 Public-sector bargaining⁴⁶

As part of the call for collective bargaining, Decree 104/05 of 7 March 2005 brought together organizations representing public servants in a bipartite negotiation, which began on 16 March 2005. Its purpose was to discuss a regulatory framework to make collective bargaining possible in the public sector, and to negotiate wages and conditions associated with working in the public service (*Administración Pública*).

This marked a substantial difference from previous periods. In the case of the Central Administration (*Administración Central*), there had occasionally been informal contacts, as with some mayors (*intendencias*); in other cases (other *intendencias*, public companies, and official banks), there were some instances of negotiation. From 2005 onwards, the authorities proposed collective bargaining for the public sector, the main difference in which would be the inclusion of staff from the Central Administration.

5.5.1 Good negotiation results

The first result of these negotiations was to define the groups – in this case, five:

- the executive branch and the INAU;
- the National Institute of Colonization (Instituto Nacional de Colonización, INC), the State Rail Administration (Administración de Ferrocarriles del Estado, AFE), the State-owned ANCAP (Administración Nacional de Combustibles, Alcoholes y Portland), the State-owned power company (Administración Nacional de Usinas y Transmisiones Eléctricas, UTE), Uruguay's national airline Pluna, the State Water Utility (Obras Sanitarias del Estado, OSE), the National Port Authority (Administración Nacional de Puertos, ANP), the State-owned telecoms company (Administración Nacional de Telecomunicaciones, Antel), and the Post Office;
- banks;
- the UdelaR;
- the ANEP.

In the case of the UdelaR and the ANEP, negotiators were their own representatives and those of the union; the OPP and the National Public Service Office (*Oficina Nacional de Servicio Civil*, ONSC) participated solely as observers. In the other cases, they became actors in the negotiations.

In the case of the Electoral Court (*Corte Electoral*), the TCA, and the Tribunal of Accounts (*Tribunal de Cuentas*), none of these bodies formed negotiating groups. The authorities argued functional autonomy and therefore exclusion from the executive branch, and they also said that negotiations with staff had already taken place. The Public Service

⁴⁶ Based on Rodríguez et al. (2001; 2007).

Confederation (*Confederación de Obreros y Funcionarios del Estado*, COFE), which brings together unions involved in central administrative bodies, decided not to negotiate and there was no union recognition. Three years later, the situation remained the same.

With the passing of time, progress in negotiations was registered in several documents, as follows.

- (a) the final report of the working group formed by COFE, the Round Table (*Mesa de Entes*), and the ONSC, dated 31 May 2005, which analyses different ways of hiring personnel and making recommendations for hiring under different circumstances, and similarly proposes competitive hiring, a suitable performance evaluation system, and a clear promotion regime;
- (b) the 2005–10 strategic plan for promotion, developing, and coordinating the ongoing training of employees, dated 13 May 2005);
- (c) the framework agreement, dated 22 July 2005, to foster and promote continuing education, participation, and collective bargaining to encourage healthy, balanced relations between the State and its staff, and to create a formal space for debating and negotiating wages and working conditions, which also committed to debating measures for reforming state management and introduced criteria for evaluating efficiency, effectiveness, professionalization, performance, and results.

The framework agreement: Establishing criteria for negotiations

The framework agreement established criteria for collective bargaining in the public sector. It also recognized consensus regarding the need to create a formal space for general debate, and to negotiate wages and working conditions, and defined three levels of negotiation: general or the highest; sector-wide or by sector; and by agency or body.

For general negotiations, the Senior Negotiating Council for the Public Sector (*Consejo Superior de Negociación Colectiva del Sector Público*, CSNCSP) was set up, with two members from the OPP, two from the ONSC, a representative from the MTSS as coordinator and moderator, and five union delegates. It was to act through consensus, and its mandate was to study and agree on common objectives, and to deal with general public service aspects, giving priority to: a regulatory framework for collective bargaining; coordination at the different levels of negotiation; union immunity from retaliation and freedom to unionize; monitoring negotiations at different levels; working conditions; occupational safety and health; the training and preparation of employees; the structure of public sector careers; different kinds of reward (performance, targets, etc.); types of hiring; and reforms to management.

Moreover, the government created a mechanism for preventing conflicts, which meant that if there was no agreement at the agency level, the dispute could be brought forward to the CSNCSP, which would act as arbiter and mediator. The actors also agreed on ways of self-regulating grievances (such as, for example, suspending the measures that gave rise to the conflict).

Another point of agreement was approval of the final report from the working group on recruitment policies for the public sector – described under section (a) of the bipartite commission results – and approval of the 2005–10 strategic plan, prepared by the ONSC, COFE, and the Labour Union Council (*Mesa Sindical Coordinadora de Entes*, MSCE), on the ongoing training of governmental workers.

Agreements in the central administration: Wages and more

Wages paid to workers in the central administration bodies take the form of budgetary items (*erogaciones presupuestales*), financed by general revenues (*Rentas Generales*), so decisions in this regard are made directly by the economic leadership.

Until 2005, informal contacts took place between management and unions, involving more or less frequent exchanges of opinion, which did not constitute instances of negotiation. In the early 1990s, formal negotiations were proposed, but did not happen, and the executive branch approved wages.

After 2005, the situation changed. Commissions were created and progress was made on relations, wages, and regularizing hiring procedures, thus improving the conditions of thousands of public servants. In terms of wages, this produced a differential increase for public employees in January 2006, which allowed for different recoveries for the different agencies and department (Decree of 16 January 2006). The Central Administration – except for the judiciary, the TCA, and others similar to the courts, which are covered by special provisions in the budget law, along with DGI workers – received a 7.2 per cent adjustment consisting of a CPI adjustment (2.7 per cent) and a 4.4 per cent recovery. Although education agreed with this figure, the COFE did not.

The purpose of the recovery, as with other public sector groups, was to meet the commitment assumed by the government in 2005: that is, to recover the real wage loss experienced during the previous administration. The government managed these figures in light of economic conditions, but how to calculate the loss was the subject of heated debate.

In late May and early July 2006, public employees mobilized (mainly in education and health) to demand improvement in accountability (*Rendición de Cuentas*) and a wage increase through July 2006. After several meetings, the government announced that it had no margin for improvement and that there would be no adjustment to public wages until January 2007. The mobilization did, however, produce health coverage for some 17,000 people in the Central Administration and 220 constitutional bodies previously without.

In January 2007, new, differential agreements were reached in three sectors: Central Administration staff and educational bodies received an 11.34 per cent adjustment (6.38 per cent for inflation and 4.66 per cent to recover lost wages) and there were different adjustments again in 2008.

Public companies: Negotiation at two levels

Public companies have the longest and most developed traditions of bipartite negotiation. Since the early 1990s, they have negotiated at two levels: with the OPP, for more general issues; and within the companies themselves, in the case of more specific ones. At the union level, there is a coordinating body – that is, the MSCE, which involves representatives from the different companies that negotiate with the OPP.

Centralized negotiations have continued over time and successive agreements containing wage adjustments for all companies, peace clauses, and conflict resolution mechanisms have been the basic subjects of agreements. Later, new issues arose at the company level, and reconversion measures and productivity agreements were added.

Since 2005, wage adjustments have been negotiated along with other groups in the CSNCSP and the amounts agreed on left public companies in an intermediate situation: in January 2006, wages rose by 5.5 per cent (2.7 per cent for inflation and 2.8 per cent for recovery); in January 2007, by 9.6 per cent (including 2.8 per cent in recovery); and in January 2008, past inflation and 1 per cent in recovery.

At the company level, agreements range from those due to restructuring to adjustments for productivity. Productivity agreements, for example, exist in several public companies: ANCAP (fuel, alcohol, and cement); Antel (telecommunications); UTE (electric power); OSE (water); and ANP (ports).

A study of productivity agreements notes some key characteristics among Uruguayan public companies: these are monopolies or oligopolies (either natural or legal), so they have enough market power to set prices and quantities; and public employees cannot be fired, and the hiring of other workers is restricted or not allowed, thus influencing the application of conceptual frameworks regarding productivity-related remuneration (Lanzilotta et al., 2006).

Aside from these limitations, some firms have been signing productivity agreements since 1993. In general, the productivity formula adds together income from the company's normal activities and the costs of that activity. To calculate labour productivity, gross income is compared with personnel costs. The numerator typically includes sales income (except in the case of ANCAP, which includes operating, financial, and other revenues). Generally speaking, a limit is placed on distribution, as a function of sales or the result of an indicator (3.5 wages per year).

Table 23.
Main concepts used to calculate labour productivity in public corporations

	ANCAP (fuel, alcohol, and cement)	ANP (ports)	Antel (telecoms)	UTE (electric power)
Income included in the numerator	Operating income Normal financial income Normal revenues from different sources	Productivity change index	Operating income net correspondents' expenditures	Kilowatt hours sold to the domestic market
Costs included in the denominator	Personnel costs Social security contribution Social benefits Insurance	Personnel expenditure change index	Personnel costs minus social costs, bonuses, and amounts accruing from early retirement incentives	Personnel costs
Unit of measure	Constant prices: values are deflated using CPI	For each item, a percentage-based quotient is developed using a base period	Calculations for the current and baseline period used to determine change	PMO indices
Write-off due to technological change	2003: 30% 2004: 40%	2003: 30% 2004: 40%	2003: 30% 2004: 40%	2003: 30% 2004: 40%

Source: Lanzilotta et al., 2006.

Moreover, some company agreements also cover such issues as financial benefits (special leave, baskets, school supplies), occupational safety and health commissions, labour relations, and union activity regulation, among other things.

Public banking: Negotiations continue

As in the case of public companies, there have long been negotiations with official banks. In 1998, a centralized agreement was signed with four banks, to serve as a framework for improving and streamlining labour relations in this sector, in harmony with prevailing socio-economic conditions. This dealt with wages and other issues, and included general guidelines

for negotiations with each individual bank. This also ensured that public banks had fluid collective bargaining.

Since 2005, precisely because previous negotiations had ensured better wage trends than in other sectors without escaping from the decline produced by the crisis, the public banking sector experienced the lowest percentage recoveries. In January 2006, the adjustment was 4.9 per cent (2.7 per cent for inflation and 2.8 per cent for recovery); in January 2007, it just covered inflation (6.38 per cent), given a 1.9 per cent adjustment for wage recovery achieved in December 2006. In January 2008, the adjustment again included a percentage for recovery.

Some reflections

Aside from wage issues, bipartite negotiations in the public sector have taken up other significant issues of a more general nature, such as discussion of the draft law on collective bargaining in the public sector and a subcommission to debate state reforms, involving government and union representatives.

Negotiating groups have continued to advance, mainly in terms of specific wages, contract regularization, and resolution of some specific conflicts (including the INAU and public health).

In conclusion, collective bargaining in the public sector achieved broader coverage than in the past, because only public companies and a few municipalities (*intendencias municipales*) had negotiated up to 2005, with the rest experiencing occasional contact, but no proper negotiating instances.

Similarly, the different spheres began formal dialogues after 2005 and workers became part of more profound debates about state reforms. Results, however, have been few and far between: there are too many instances of negotiation, issues repeat themselves, and what takes place is primarily an exchange of information. But if their operation were to change, greater achievements would be likely, because basic agreements on key issues could enrich labour relations.

6. Conclusions: Progress and limits on labour relations⁴⁷

Important progress has been made in Uruguay in recent years in terms of collective bargaining. A huge number of collective agreements have been concluded, most of which were the product of consensus. Negotiations in the rural sector have become well established, as in the domestic service sector more recently. As well, a bipartite commission for public sector negotiations has been created.

This study has highlighted the advances, results from negotiations, and the positive impacts in terms of both wages and employment. Contrary to some expectations, the implementation of wage increases did not result in the displacement of workers, but instead in a steady rise in overall employment. Even so, results were uneven and some problems remain that should be addressed, as discussed below.

6.1 Wage councils and workers covered by collective bargaining

One central aspect of the Uruguayan labour relations model are wage councils, described above in 3.1. Today, 75 years after their development, they remain the central pillar of negotiations, because draft laws on collective bargaining remain the object of parliamentary debate.

The law that created them was important to the structuring of employers' and workers' organizations. Both are organized by economic sector and although this is traditional among business people, this was not the case for workers. Unions are organized at the company level, by sector, and even in other ways. These options are not mutually exclusive and, in fact, Uruguay has enterprise- and sector-level unions, as well as federations that coordinate across more than one sector (for example, in food manufacturing or energy production). The central weight, however, has still been sustained by single unions or federations representing the economic sector. Workers have adapted the structure of their organizations to the conditions in which negotiations were taking place.

This explains why sector-level negotiations prevailed (and sometimes became the only model) for every period during which collective bargaining existed (1943–68, 1985–91 and 2005–06). When, in 1992–2004, enterprise-level bargaining prevailed over sector-level bargaining, the result was a decline in negotiations, reflecting a decline in companies' interest, but also the fact that, at this level, no workers' organizations existed that were really able to participate in negotiations.

This suggests that workers covered by collective bargaining were those employed in the private and public sectors, excluding other occupational categories and informal workers.

Table 24 shows that the number of workers covered by collective agreements has risen even more since 2008,⁴⁸ and is currently estimated at almost 100 per cent, given that rural workers and domestic service workers are now also covered. The latter is an achievement not

⁴⁷ This section is based on several studies published by the Labour Relations Modernization Programme (*Programa de Modernización de las Relaciones Laborales*), coordinated by Adrian Fernandez (January 2008), “*La Negociación Colectiva en el Uruguay: Análisis y Alternativas*”, and many discussions and reflections with Juan Manuel Rodríguez and Beatriz Cozzano.

⁴⁸ At the time that this report was prepared, the data had not been processed, but manufacturing increased coverage, as did services when domestic service was added; in the rural sector, all councils were established and agreements signed in all six cases. The figure approaches 100 per cent of workers earning wages in the formal sector.

only in terms of decent work, but also in terms of gender equity, since this sector is strictly composed of women.

Table 24.
Workers covered by collective bargaining
(% of the total)

	2000	2005	2006
Private sector	27.8	97.9	97.1
Construction	100.0	100.0	100.0
Manufacturing	11.7	100.0	96.2
Wholesale and retail trade	1.6	100.0	100.0
Services	37.5	95.6	95.8
Rural sector	0.0	1.7	33.0
Public sector	16.0	99.0	99.0

*Minus municipal governments (*intendencias*) and the courts.

Source: Rodríguez, Cozzano, Mazzuchi, 2007.

6.2 Some rigidities in existing negotiations: Guidelines and their use

The guidelines for negotiation established by the executive branch in 2005 and 2006 applied to all sectors on an equal basis. There were efforts to change them in 2008, but results were mixed. Although, in all rounds, the guidelines were somewhat flexible and the executive ultimately approved amendments to them, all negotiations were based on them – in particular, the first two rounds. Although this common basis benefited the government in terms of its efforts to control inflation by involving similar amounts and periods of adjustment, it does not seem reasonable that a sector facing crisis and another enjoying growth, or one that sells abroad and another producing untradeable goods, should involve the same adjustment criteria.

Nor were there major differences within sector groups. Although the possibility of creating subgroups within each group made differential treatment possible, this was not enough to allow the differentiated treatment of company groups that, for a variety of reasons, found themselves classified in the same sector, but which faced unique conditions, due, for example, to their size or geographic location. The Wage Councils Law allows consideration of these inequalities; actual experience, however, revealed that these special considerations were seldom applied.

Likewise, companies could opt out of agreements, in the event that compliance might threaten jobs. Although not prohibited, this seldom happens. Very few companies achieved special conditions for wages, because the resolution had to be based on a consensus among the different parties, which was impossible if either business people or workers refused to deal with the issue – a stance that required no other foundation than generic opposition to opting out.

An analysis of the negotiations showed that, in some councils (particularly in the beverage sector studied here), several instances of opting out were accepted, but others were not even discussed because of union opposition of a generic nature – that is, opposition to the very possibility of a company opting out, independently of whether there was any basis for this to be accepted. Evidently, the issue requires clearer rules.

6.3 Limitations: Wage-centred contents do not cover a wide range of conditions

Agreements focus primarily on wages, specifically setting minimum wages by category and their adjustment to recover the losses inherent in price increases while the agreements were in effect. Surely, as mentioned, this is very associated with the Wage Council Law, which establishes these contents – but 65 years after the world and the country changed, major technological changes occurred, trade opened up, the rules of competition changed, and more and more skilled workers are demanded, all of which generated a wide range of conditions among companies and workers.

Wage adjustments are necessary content because distributing income is an inevitable component of worker–management negotiations everywhere in the world. But this should not be the only object of negotiations and other wage issues should be enriched. Aside from adjustments for inflation, their relationship with company results should also be considered. This would involve shifting toward variable or mixed remuneration systems (that is, those with one fixed and one variable component), so that workers' remuneration (and therefore the distribution of results) would vary according to strategic results (including productivity, quality, product diversification, and building customer loyalty and satisfaction).

This is particularly important if the country's productive strategy focuses on producing products of quality, and greater added value and knowledge content, because these objectives require that companies involve all workers in achieving them. Results-based remuneration systems make it possible to find ways in which companies can function with more active participation.

These systems have not been very developed in Uruguay, which could reflect different factors, including the technical difficulties involved in these systems, the lack of confidence in the game rules, and the lack of company willingness to implement them, combined with reticence among some unions. But undoubtedly the main reason is that these agreements can only be implemented based on company-level negotiations and not those at sector level, because companies set their own economic objectives and results. With no negotiation at this level, these kinds of remuneration have not become generalized, but remain limited to a few companies among which this kind of negotiation exists.

6.4 The tense relationship among actors and social dialogue

During the past four years, there were major confrontations between workers and business people, business people and government, and workers and government. No good labour relations model can be built in a climate of tension and mistrust.

One ever-present issue was companies' criticism of the lack of clear rules for these relationships and the role of the government – in particular the MTSS, which they have accused of constantly supporting union demands, without considering company positions.

This leads us to reflect on the role of the public sector in labour conflicts. Authorities from the MTSS had announced that they would shift the balance to favour workers. This position was based on the fact that when the government began, unions' had little power, so reinforcing them was a necessary condition to achieve balanced negotiations. This should justify the government's stance, but also companies' mistrust.

Business people also showed a high level of mistrust in relation to the union movement. Most of them were not used to having a union representing workers and formulating demands (probably new ones) regarding labour, the work environment, or safety and health, even those regarding compliance with wage scales (*laudos*). The recently constituted unions wanted to be

recognized as valid representatives on these issues and this was probably not easy, because many employers found it difficult to accept this new kind of relationship. The companies' attitude was decisive in terms of creating tension and did not help to build mutual trust.

But some union conflicts also contributed to this atmosphere (including occupations that involved job loss and others in which most workers wanted to work). Situations such as these probably suggest that some workers try to take advantage of moments when the economy is booming to achieve significant successes. But this also points to limitations on (sector-based) union leaders, internal rules governing how unions function, and corrections to the exaggerated demands that some unions make of companies. Together, these situations can be a significant source of insecurity about the rules of the game, generating high levels of mistrust.

One characteristic of the country is that companies belonging to the better known business organizations, which appoint delegates to instances of public debate and even the wage councils, are few and far between. It would seem, then, that these associations do not represent the majority of non-member companies, which is where labour conditions do not respect regulations. There is no information on the number of companies whose workers are in this situation. Unions have reported that they are the majority, but business people argue that this is not the case. In any case, when companies do not respect legal regulations or standards, unions tend to regard them with great mistrust.

In this atmosphere and with no clear rules, any negotiation is difficult.

Moreover, the instances of social dialogue that have been implemented should also be treated with care. During this period, the National Commitment to Employment was created (*Compromiso Nacional para el Empleo, los Ingresos y las Responsabilidades*). A National Council for the Economy (*Consejo de Economía Nacional*, CEN) was also created, as a tripartite body under the national Constitution. Moreover, there were also special meetings to discuss specific issues, such as the Social Security Disputes Commission (*Comisión de Seguridad Social de Diputados*, CSSD).

Many of these instances met only occasionally, amidst gatherings of other institutions to discuss similar issues, and were unable to advance. In fact, today, neither the National Commitment nor the CEN have been meeting. Perhaps there should be fewer instances for dialogue and they should have more concrete goals. Participants tend to be the same each time, so repetitive meetings with no concrete agreements quickly wear thin.

6.5 Ideas for future negotiations

Negotiations to enrich agreement contents must occur at different, but coordinated, levels, as the beverage case illustrates. Although actors in this industry continued to negotiate at the sector level, many company-level agreements have made it possible to adapt to widely varying circumstances, through negotiated agreements between companies and workers.

Negotiations at the macroeconomic level should consider past results and involve more flexible guidelines. In fact, the most recent guidelines (July 2008) came close, by considering that part of wage recovery should depend on some indicator for sector trends – but, as mentioned, this was not correctly applied. At the general level, economic conditions should be considered and an inflation indicator defined, along with a minimum reference for recovery, among other things. And at the sector level, total agreements should include factors from the national guidelines and those defined at the sector level, weighing shifts in the relevance of different factors.

For example, the inclusion of some differential factors should be promoted, whether for locations or size, although this last will probably meet with significant resistance at the PIT-CNT level and even from business people who will argue that this could produce unfair

competition. For example, small companies could increase the compulsory minimum wages using percentages based on higher prices and the correction, and differentiate in terms of the percentage of wage growth.

Company-level negotiations should also be promoted in conjunction with other levels of negotiation, to enrich contents. But this could be based on fiscal incentives, as occurs in other countries. In this negotiation, variable wages and other issues should be included that ensure that wage systems are increasingly linked to the competitive challenges facing companies and meet the objective of ensuring that, where good results are achieved, the benefits are distributed amongst all of those contributing to this success.

At the same time, as women join the workforce, negotiations should take this into consideration and aim for equality of opportunities. As Abramo and Todaro (2006) state, although gender equity is a fundamental objective in and of itself for all democratic societies, it should also be analysed in terms of its importance to the economy, social development, and sustainability. This places the issue of men's and women's labour costs in the field of social reproduction and its relationship with the issue of competitiveness.

Because of this, companies should analyse their behaviour with regard to total time use by workers and their relationship to hours of work. The fact that women cannot extend their hours of work leads them to work harder during regular hours and to make up for time lost attending to family obligations. Depending on productive processes, in some cases, these can be redesigned to facilitate the non-working life of workers of both sexes, thus encouraging men to participate in family activities without hurting their labour image. Considering the needs of family and personal life within human resource and public policies is a major factor in country competitiveness. Collective bargaining could be a good instrument for achieving this (Abramo and Todaro, 2006).

For this to happen and for successful negotiations to take place at the macro, sector, and company levels, solid coordination is essential. This requires establishing the level that should prevail in the event of agreements at different levels analysing a single issue and resolving it differently. In Uruguay's legal context, the actors themselves should still control coordination between levels of negotiation, but research reveals that this issue has been absent from negotiations and its absence has involved application of the labour rights principle that gives more benefits to the worker.

This coordination should take place in two senses: resolving the situation of companies for which complying with the sector agreement could pose a risk to jobs; and implementing new forms of remuneration.

The first case could regulate opting out. Although this is not prohibited today and indeed occurs, clear rules should specify to whom the company must speak in order to opt out, by what procedure, and what the consequences would be. The opting-out mechanism should be covered in legislation, which should define: the conditions that apply to its use; the information that business people should provide; its duration; the commitments that both parties assume at the time; and whatever parties propose to ensure mutual guarantees.

The company should make an original proposal to workers, with whom it should negotiate and, once an agreement is reached, its application to opt out should be presented to the wage council to ensure that it meets the formal requirements.

In terms of new kinds of remuneration, the criteria for coordination could be "distribution by matters", which means assigning authority over its own area to each level of negotiation. A senior level should cover the national minimum wage, the sector level should establish minimum wages for each sector, and the company level should allow actors to agree on new forms of negotiation. This would mean, for example, that wages negotiated at the

sector level were not lower than the national wage, and sector wages were unable to be reduced through company negotiations, except where the company has been allowed to do so, by opting out. In other terms, at the company level, only higher than sector wages can be negotiated, eventually through new kinds of wage (this is just an example, because the contents appropriate for each level can be expressly established).

As mentioned, some of these considerations are already present in the current round of negotiations and draft laws presented, although somewhat minimally. Much remains to be done, but this will undoubtedly be a gradual process.

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