

LEGAL FRAMEWORK AND EXISTING PRACTICES OF COLLECTIVE BARGAINING IN UKRAINE

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Edited by Cristina Mihes

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“Legal framework and existing practices of collective bargaining in Ukraine” ILO, Kyiv, 2012.

ISBN: 978-92-2-126407-1 (print)

978-92-2-126408-8 (web pdf)

Also available in Ukrainian: «Правові засади та існуючі практики ведення колективних переговорів в Україні» (ISBN 978-92-2-826406-7 (print); 978-92-2-826407-4 (web pdf); 978-92-2-826408-1 (CD-ROM), Kyiv, 2012.

ILO Cataloguing in Publication Data

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The Project is funded
by the Government of Canada



The Project is implemented by the
International Labour Organization

The Technical Cooperation Project
“Improving Collective Bargaining and
Labour Law Compliance in Ukraine

This publication was developed and printed within the framework of a Canadian-funded ILO project
“Improving Collective Bargaining and Labour Law Compliance in Ukraine”.

Project Brief: ILO Project “Improving Collective Bargaining and Labour Law Compliance in Ukraine”.

The project aims to address the present gaps in the effective realization of the right to organize and bargain collectively, by improving the capacity of stakeholders to carry out and promote collective bargaining, facilitating understanding of the collective bargaining framework, and raising the enforcement levels of national legislation and collective agreements through the maintenance of an effective labour inspection system.

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FOREWORD

In the past decade, Ukraine has undergone significant reform of its industrial relations system, which has led to its institutional social dialogue architecture being thoroughly restructured.

During this reform process, ILO's technical assistance has contributed to aligning national legal and institutional frameworks to international labour standards and to strengthening the social partners' participation in law-making and policy design. One of the lessons learned is that meaningful tripartite social dialogue can only be built upon sound foundations of collective bargaining at all levels (national, sectoral and enterprise).

With the aim of encouraging the use of collective bargaining to the fullest extent, as a flexible and fair means to balancing workers' rights and enterprises' needs, ILO has implemented a Canadian Government-funded technical project on "Improving collective bargaining and labour law compliance in Ukraine."

The current study takes stock of current legal frameworks and practices relating to collective bargaining, arising after the new Law on Social Dialogue was adopted in 2011. Additionally, the study also includes recommendations emanating from intensive and extensive tripartite discussions facilitated by the ILO and endorsed by tripartite constituents during a workshop held in Kyiv in March 2012.

A number of these recommendations have already been considered in on-going negotiations of the National General Tripartite Agreement, as well as in a collective agreement in the mining and steel sectors, which is very encouraging. Moreover, some of the recommendations were reflected in recent amendments to the current Law on Collective Agreements.

We strongly encourage tripartite constituents to further implement the full set of recommendations in order to meet the overarching objective of decent workplaces in sustainable enterprises in Ukraine.

I would like to take this opportunity to express my gratitude to the Government of Canada for the financial support provided for the promotion of collective bargaining and strengthening of Labour Inspection in Ukraine. Furthermore, I would like to extend my appreciation to the Canadian Embassy in Ukraine and to Ms. Christina Bilyk, Commercial Counsellor, for her valuable support during and beyond the scope of the project.

We are particularly grateful to Ms. Nadiya Zarko for undertaking the national study, not to mention all the tripartite constituents' representatives who have contributed comments and suggestions.

Special appreciation must also be expressed to the project team: Mr. Wael Issa and Ms. Leanne Melnyk (ILO DECLARATION), Ms. Maria-Luz Vega and Mr. René Robert (LAB/ADMIN), Ms. Cristina Mihes, Mr. Joaquim Pintado Nunes, Ms. Krisztina Homolya, Ms. Eva Mihlic, Ms. Lilian Orz and Ms. Tunde Lovko (DWT/CO-Budapest), Mr. Sergiy Savchuk (National Project Manager) and Ms. Iryna Golubkova (Project Assistant).

I would also like to acknowledge the role of Mr. Vasyl Kostrytsya, ILO National Co-ordinator in Ukraine, for his efficient assistance at all times.

Last but not least, we are grateful to Mr. Ovidiu Jurca, Senior Specialist in Workers' Activities (DWT/CO-Budapest), for his support in making this publication possible and to Mr. Gearoid O'Sullivan & Mr. Jeremy Stanford who copy-edited the English version of this report.

Mark Levin, Director, DWT/CO-Budapest

The opinions expressed in the study do not necessarily reflect the views of the ILO

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INTRODUCTION

The study of legal provisions and existing practices of collective bargaining for the conclusion of collective agreements was carried out within the ILO project “Improving Collective Bargaining and Labour Law Compliance in Ukraine”, funded by the Government of Canada in December 2011 and January 2012.

The goal of the study was to assess the impacts of national legislation concerning free and voluntary collective bargaining, as well as assessing any existing legal and institutional shortcomings in the functioning of efficient (as far as achievement of expected results is concerned), rational (as far as the ratio of costs to results obtained is concerned), and coordinated mechanisms of collective bargaining on various levels (national, regional, sectoral and company).

The study was carried out on the basis of:

a) review and analysis of the legal framework in place, namely:

- Code of Laws on Labour of Ukraine, 1972;
- Code of Ukraine on Administrative Offences, 1984;
- Economic Code of Ukraine, 2003;
- Laws of Ukraine:
 - on Collective Agreements, 1993;
 - on Labour Remuneration, 1995;
 - on the Procedure of Settlement of Collective Labour Disputes (Conflicts), 1998;
 - on Trade Unions, Their Rights, and Guarantees of Their Activity, 1999;
 - on Employers’ Organizations, 2001;
 - on Social Dialogue in Ukraine, 2010;
- draft Labour Code adopted by the Verkhovna Rada (parliament) of Ukraine in the first reading (with an account of the ILO’s technical comments thereto);

b) analysis of statistical data on legalized (registered) trade unions and employers’ organizations and associations thereof, and the conclusion of collective agreements;

c) examination of the contents and structure of national, sectoral and regional collective agreements and company-level collective agreements, and of the ratios between them, namely

- General Agreement;
- 10 sectoral agreements (including those in the budget-funded sector, and production and non-production sectors, with various coverage);
- 5 regional agreements (in regions with various coverage and economic structures);
- 14 company-level collective agreements (at companies in various forms of ownership, economic management, economic sectors, and territorial deployment);

d) analysis of existing agreement models and their use in practice.

Relevance of the study is confirmed by the need, as identified by the government and the social partners, to improve the coherence of current mechanisms and the enforcement of collective bargaining outcomes.

Content analysis of the domestic practices of negotiating and enforcement of collective agreements at all levels – from national to company – reveals shortcomings and contradictions of both legal and procedural nature.

This study aims at identifying and listing these contradictions, as well as providing recommendations/potential solutions to eliminate them.

It should be pointed out that the most recent comprehensive study of industrial relations, including the collective bargaining situation, was carried out in 2003 within the framework of the International Labour Organization's technical assistance project in Ukraine entitled "Ukraine: Promoting Fundamental Principles and Rights at Work".¹

¹ Hereinafter referred to as the ILO Declaration Project.

I. Legislation on collective-agreement-based regulation of industrial relations

The contemporary system of collective-agreement-based regulation of industrial relations was formed in Ukraine amid an economy in transition, when the need arose for new arrangements between employees and employers concerning conditions of work and employment.

The transition to a market economy and the emerging private sector in Ukraine have required a reshaping of the previous system of industrial relations, which operated under exclusive state control.

Hence, the regulatory legal framework on collective bargaining, which had been evolving in Ukraine over 20 years of independence, included:

- a) the International Labour Organization Conventions ratified by Ukraine;
- b) laws of Ukraine;
- c) bylaws and regulatory legal acts issued by the Cabinet of Ministers of Ukraine, and central and local authorities.

In particular, Ukraine ratified the ILO's fundamental Conventions, which have been transposed into its national legislation, particularly the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) and the Collective Bargaining Convention, 1981 (No. 154).

Ukraine's national legislation can be conventionally divided into three groups:

- a) definition of the basic principles, procedures, contents, parties and general system of collective bargaining (Law of Ukraine on Collective Agreements, Code of Laws on Labour of Ukraine, Law of Ukraine on Trade Unions, Their Rights, and Guarantees of Their Activity, Law of Ukraine on Employers' Organizations, Law of Ukraine on Social Dialogue in Ukraine, Resolution of the Cabinet of Ministers of Ukraine (No. 225), 5 December 1994, On the procedure of notifying registration of sectoral and regional agreements and company-level collective agreements);
- b) collective-agreement-based regulation of specific working conditions (Law of Ukraine on Labour Remuneration, Law of Ukraine on Leaves, Law of Ukraine on Labour Protection, Economic Code of Ukraine);
- c) liability for breach of legislation, and procedures for settlement of disputes (Code of Ukraine on Administrative Offences, Law of Ukraine on the Procedure of Settlement of Collective Labour Disputes (Conflicts)).

The Law of Ukraine on Collective Agreements, adopted in 1993, incorporated a number of key principles of collective bargaining. However, the Law relied upon Ukraine's limited experience² of new market relations in the economy, when the construction of the private sector was at a very early stage, employers' representative organizations were not yet established, and trade unions were in the process of reform.

This Law was amended three times (1996, 1997, 2008) to supplement the provisions concerning collective agreement contents with regard to labour remuneration funds, equal rights and opportunities for women and men, and the establishment of intersectoral coefficients in labour remuneration.

² At that time in Ukraine, agreements were concluded twice – on the state level and company-level agreements at state-owned enterprises.

After adoption of the Law, amendments were made to the Code of Laws on Labour (hereinafter referred to as CLL), where Chapter II (Company-Level Collective Agreement) regulates the procedure of bargaining at enterprises, institutions and organizations, specifies the parties to and contents of a company-level collective agreement, and identifies the procedure of registration, dissemination and compliance supervision.

Rights and powers of trade unions, their organizations and associations, and employers' organizations and associations are specified in the Law of Ukraine on Trade Unions, Their Rights, and Guarantees of Their Activity (Article 20) and the Law of Ukraine on Employers' Organizations (part seven of Article 5, Article 16), respectively.

According to the Law of Ukraine on Labour Protection (1992, as amended), a company-level collective agreement regulates the provision of additional individual protective equipment to employees (Articles 8, 13), and the development, with involvement of parties to the company-level collective agreement, of comprehensive measures on labour protection; it also entitles the employee to leave of his/her own accord if the employer has violated conditions of the company-level collective agreement on labour protection, with severance pay in the amount specified in the collective agreement (Article 6).

Provisions on collective-agreement-based regulation of labour remuneration conditions are contained in the Law of Ukraine on Labour Remuneration (1995). For example, Article 5 of the law specifies that the labour remuneration system shall be implemented on the basis of legislative and other regulatory legal acts as well as general, sectoral, regional and company-level collective agreements. According to Article 10, the minimum wage shall be fixed by the Verkhovna Rada (parliament) of Ukraine, as suggested by Ukraine's Cabinet of Ministers in the Law on the State Budget, with proposals developed through negotiations between representatives of trade unions and owners, or their authorized bodies that jointly participated in collective bargaining and the conclusion of the general agreement. The law also provides that minimum wage rates (salaries) shall be determined by the general agreement. The law includes a separate section ('Agreement-based regulation of labour remuneration') that specifies a system of agreement-based regulation of labour remuneration with provisions for all levels of collective agreements.

The Law of Ukraine on Leaves (1996) states that additional leave types, other than specified by legislation, may be provided in a company-level collective agreement.

The Economic Code of Ukraine (2003), which regulates operations of all enterprises with various forms of ownership and economic management, contains a mandatory provision requiring every enterprise using hired labour to conclude a company-level collective agreement between the owner, or a body authorized thereby, and the workers' representatives to regulate production-related, labour and social relations between labour force and management in the enterprise (Article 65 'Company management')³. Additionally, Article 69 of the Code states that matters relating to improvement of working conditions, living conditions, health and guarantees of mandatory medical insurance, shall be addressed according to the collective agreement.

The procedure for elimination of contradictions and settlement of disputes and conflicts arising between the parties during the conclusion and performance of collective agreements, or some provisions thereof, is specified by the Law of Ukraine on the Procedure of Settlement of Collective Labour Disputes (Conflicts), adopted in 1998.

Matters related to liability for violation of the legislation on collective agreements were legislatively regulated in 1995 when the Code of Ukraine on Administrative Offences

³ The provision about the compulsory conclusion of a collective agreement violates the principle of voluntary negotiation (Art. 4 of ILO Convention No. 98).

was supplemented with three articles (41-1, 41-2 and 41-3) that specify the following: «avoidance of taking part in negotiations on the conclusion, modification or supplementation of a collective agreement; violation of, or failure to comply with, a collective agreement; failure to provide information for collective bargaining and for the exercise of supervision over collective agreement compliance, shall constitute administrative offences that shall be punished with a fine amounting to between 1 and 100 tax-free allowances depending on the nature of the offence».

Hence, it can be stated that the legal framework for legislative regulation of all aspects of collective bargaining was actually established during the first ten years of Ukraine's independence.

At the same time, we may not regard the legislation on collective-agreement-based regulation of industrial relations as perfect. The changes that have occurred over the past ten years in various domains – from the structure of economic sectors and the system and functions of public administration authorities, to the development of civil society, particularly the foundation of employers' organizations and new trade unions – are an objective reason to improve the legislation in force.

At present, this is most notably true for the basic law – the Law on Collective Agreements, in which a considerable part of the provisions requires bringing into conformity with new Ukrainian laws and regulations as well as international standards.

The work on comprehensive reform of Ukraine's labour legislation, including on collective-agreement-based regulation, was commenced in 2001 within the ILO Declaration Project framework. The concept of reform of Ukraine's labour legislation, approved on 25 June 2002 at the national tripartite seminar 'Ways of reforming national labour legislation in the current stage of Ukraine's socioeconomic development' involving international experts, ILO, and European Commission representatives, provided for development of a draft Labour Code including a separate chapter on regulation of collective labour relations. In parallel, within the ILO Declaration Project framework, revisions to the wording of separate laws on social dialogue and collective agreements were being drafted. The lengthy and uphill process of adoption by the Verkhovna Rada of Ukraine of the draft Labour Code⁴ – which was postponed indefinitely many times – led to the faster adoption of a separate law on social dialogue.

The Law of Ukraine on Social Dialogue in Ukraine⁵ was passed by the Verkhovna Rada of Ukraine on 23 December 2010 and took effect on 18 January 2011.

This Law identifies levels of, and parties to, social dialogue as well as representativity criteria for trade unions and employers' organizations to engage in collective bargaining at national, regional, sectoral and company levels. The provisions of the new Law on Social Dialogue have not been harmonized with those of the 1993 Law on Collective Agreements, which requires further amending of the latter.

Until the introduction of the new Labour Code – including a chapter on regulation of collective labour relations, which would take into account the Social Dialogue Law provisions – a conflict of law exists as of 31 December 2001, which is likely to create difficulties in the implementation of the collective agreement campaign in 2012.

⁴ The draft Labour Code developed by tripartite partners was adopted by the Verkhovna Rada, V convocation, in the first reading in 2003 and considered in the second reading in 2004. It was re-submitted to the Verkhovna Rada, VI convocation, for consideration, and adopted in the first reading in 2008. In December 2009, it was submitted for the second reading and has been put on hold since then. At present, the Code is being considered and elaborated by the parties to social dialogue outside the parliamentary context. The ILO provided its comments to the draft LC twice – in 2003 and 2009.

⁵ Hereinafter referred to as the Social Dialogue Law.

This is especially true for provisions on parties to agreements at all levels, i.e., participants in the bargaining process (see Table 1), because it is in this part that the Collective Agreements Law⁶ contradicts the newly adopted Social Dialogue Law, hence, according to part 4 of the Final Provisions of that law, the said provisions may not be applied.

This problem has already arisen in practice after Articles 6 and 7 of the Social Dialogue Law (concerning identification of representative trade unions and employers' organizations for participation in collective bargaining) had taken effect in the second half of 2011.

Implementing the procedure to certify representativity of trade unions and employers' organizations revealed a number of problems, requiring amendments to the legislation in force. In particular, this applies to the territorial level where the quantitative criterion for representativity of trade unions and employers' organizations is set in percentage of the employed population⁷ rather than percentage of the number of employees at enterprises, institutions and organizations. It should be noted that there has been a steady tendency towards decrease in the ratio of the number of employees in the occupied population. For example, the percentage of employees in the total occupied population in Ukraine has decreased from 79.5% in 2000 to 62% in 2010, and in some regions the figure in 2010 was less than 50% [Zakarpattya oblast (region) – 43.9%, Kherson oblast (region) – 48.8%, Chernivtsi oblast (region) – 42.5%].

Besides, statistics on the population are absent at the district and city level, which does not allow implementation of the certification procedure of representativity at territorial level.

It should be noted that in the draft Labour Code submitted for second reading (Article 359), definition of the parties of all agreement levels above company level also does not correspond with the provisions of the Social Dialogue Law.

Table 1. Comparative table of legal provisions in the existing legislation on collective agreements

#	Provision	Law of Ukraine on Collective Agreements	Law of Ukraine on Social Dialogue in Ukraine
1.	Conclusion levels	a) state – general agreement (on bipartite basis); b) sectoral – sectoral agreement (on bipartite basis); c) regional – regional agreement (on bipartite basis); d) enterprise, institution, organization – company-level agreement (on bipartite basis).	a) <u>National</u> – general agreement (on <u>tripartite</u> or bipartite basis); b) sectoral – sectoral (<u>intersectoral</u>) agreement (on <u>tripartite</u> or bipartite basis); c) <u>territorial – territorial agreement</u> (on <u>tripartite</u> or bipartite basis); d) local (enterprise, institution, organization) – company-level agreement (on bipartite basis).

⁶ Hereinafter referred to as the Collective Agreements Law.

⁷ It means the employment rate determined according to the International Labour Organisation's methodology.

2.	Parties to the general agreement	trade unions that participate in negotiations of the general collective agreement at the national level owners or authorized bodies that participate in negotiations of the general collective agreement at the national level, the employees of which are mostly employed by state administration authorities.;	All-Ukrainian trade union associations registered according to the law, counting no less than one hundred and fifty thousand workers, whose members are trade unions established in the majority of administrative-territorial units of Ukraine, and including at least three all-Ukrainian trade unions, certified as representative according to the Law on Social Dialogue; all-Ukrainian associations of employers' organizations, whose members are enterprises employing no less than two hundred thousand workers, including employers' organizations established in the majority of administrative-territorial units of Ukraine, as well as at least three all-Ukrainian associations of employers' organizations, certified as representative on the national level according to the Law on social Dialogue; the Cabinet of Ministers of Ukraine;
3.	Parties to the sectoral/ intersectoral agreement	trade unions or associations of trade unions or of other representative organizations of workers, which have the capacity to conduct negotiations, conclude an agreement, and implement its provisions in the majority of enterprises covered by their competence; owners, owners' associations, or bodies authorized thereby.	all-Ukrainian trade unions and associations thereof operating within a certain economic activity type or several economic activity types, certified as representative according to the procedure specified by Law, with no less than three percent of workers employed in a corresponding sector as their members ; <u>all-Ukrainian associations of employers' organizations established on the sectoral basis, operating within a certain economic activity type or several economic activity types, and certified as representative on the sectoral level according to the procedure specified by Law, whose members employ no less than five percent of the workers employed in a corresponding economic activity (activities);</u> relevant central executive authorities;
4.	Parties to the regional/ territorial agreement	trade union associations or other bodies authorized by the labour force; local executive authorities or regional entrepreneurs' associations provided that they have proper powers;	oblast or city trade unions, organizations and associations thereof established on the territorial basis and certified as representative on the sectoral level according to the procedure specified by Law, whose members count no less than two percent of the employed population in a relevant administrative-territorial unit; employers' organizations or associations thereof operating in the territory of a relevant administrative-territorial unit, and acknowledged as representative on the sectoral level according to the procedure specified by Law whose members employ no less than five percent of the employed population in a relevant administrative-territorial unit; local executive authorities operating in the territory of a relevant administrative-territorial unit; local governments may be a party to social dialogue within the scope of powers specified by law;

5.	Parties to the company-level collective agreement	one or more trade union bodies or other bodies authorized by the labour force for representation, or, if such bodies are absent, workers' representatives elected and authorized by the labour force; owner or a body authorized thereby.	<u>primary trade union organizations</u> or, in case of their absence, the representative/s of employees freely elected for the purpose of collective bargaining; employer and/or authorized representatives of the employer.
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Consultations are currently ongoing, and representatives of the parties of social dialogue are working through the draft Labour Code. Thus, there is a chance to consider the contradictions and discrepancies existing in the legislation in force as well as the ILO's 2009 comments concerning the contents of collective agreements, negotiation deadlines and validity periods, and conditions for extending the application of collective agreements.

II. Parties of collective bargaining

According to Article 2 of the ILO Convention No. 154, collective bargaining takes place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other. The Convention also states that, where the term collective bargaining also includes negotiations with workers' representatives, appropriate measures must be taken to ensure that the existence of these representatives is not used to undermine the position of the workers' organizations concerned.

The definition of parties of collective bargaining in the existing Collective Agreements Law corresponds to the above-mentioned convention provisions. The right to bargain collectively on various levels on the workers' part is granted to trade unions and other workers' representatives, whereas the prerogative for bargaining at the company level is additionally granted to workers' representatives (see Table 1).

The parties of the other party to bargaining include owners, associations of owners (entrepreneurs), or bodies authorized by the owner.

Individual employers, employers' organizations

Prior to adoption of the Law of Ukraine on Employers' Organizations (2001), employers' interests⁸ in collective bargaining at higher levels than the company were represented by public authorities and associations/unions of entrepreneurs and owners established in the early 1990s, as the cooperative movement was advancing, and later, when the State lost monopolistic employer status and various forms of ownership were developing, particularly enterprises operating on the basis of private and collective ownership.

For a long time, parties representing the owners' party to the general agreement consisted of the 'oldest' entrepreneurs' associations – i.e., the Union of Leaseholders and Entrepreneurs of Ukraine, the Ukrainian Union of Industrialists and Entrepreneurs, and the Union of Entrepreneurs of Small, Medium-Size and Privatized Enterprises – which founded the Confederation of Employers of Ukraine in 1998 that existed until 2002⁹.

The first state-level collective agreement involving employers, concluded in 1997, involved owners represented by the Ukrainian Union of Industrialists and Entrepreneurs; whereas the party representing owners at the following two general agreements (1999-2000 and 2002-2003) was the Confederation of Employers of Ukraine, which included 16 employers' associations.

Since 2004, the number of employers' organizations taking part in collective bargaining and in the general agreement conclusion has been constantly going up (see Table 2), which reflects the uniting processes inside the employers' movement and the dynamics of establishment of employers' organizations and associations according to the Law on Employers' Organizations in which Article 5 states that a key task of these organizations shall consist of "taking part in collective bargaining and in conclusion of the general, regional and sectoral agreements, as well as ensuring that their commitments under the agreements signed are met".

A positive fact is that in 2010, all the all-Ukrainian associations of employers' organizations then registered took part in collective bargaining at the national level (see Table 3).

Implementation of the Social Dialogue Law provisions on representativity criteria will

⁸ According to the Law, 'an employer' is the owner of an enterprise, institution, or organization regardless of its form of ownership or activity, or an authorized body or a natural person using hired labour.

⁹ These organizations carried out their activities according to the Law of Ukraine on Citizens' Associations.

have no substantial impact upon the composition of the owners' party to the general agreement. For example, as of 31 December 2001, the Federation of Employers of Ukraine and the Confederation of Employers of Ukraine (including all the all-Ukrainian sectoral associations of employers' organizations) and the All-Ukrainian Association of Employers, have obtained their representativity status. The Federation of Employers also includes, as associate members, 16 associations of entrepreneurs in processing and non-production industries. Only one association out of the owners' party s (the Association of Employers' Organizations of Ukraine) has so far not proved its compliance with the representativity criteria.

Table 2. Number of employers' (entrepreneurs') organizations taking part in collective bargaining and in conclusion of the General Agreement

Agreement signing year	Total number	Out of total number		
		AUAEO ¹⁰	AUAEE ¹¹	AUAEO and AUAEE that delegated their powers
2004 pik	22	1	2	19
2008	24	2	2	20
2010	45	21	-	24

The situation concerning owners' party to the sectoral level is more complicated. Prior to adoption of the Social Dialogue Law, the parties to collective bargaining consisted of owners, owners' associations, or bodies authorized by owners with sufficient capacity to bargain, enter into an agreement, and implement agreed provisions in the majority of enterprises for which they held competence. In contrast, the collective-agreement campaign as from 2012 includes only all-Ukrainian associations of employers' organizations. Having analyzed the composition of the owners' party to sectoral agreements, it is likely that the situation concerning the search for social partners will become considerably more difficult for trade unions.

For example, in 2003 when two all-Ukrainian associations of employers' organizations, established according to the Law of Ukraine on Employers' Organizations, were registered, public authorities acted as parties to the majority of sectoral agreements, and only 14 percent of agreements were concluded with individual owners and entrepreneurs' associations, and none was concluded with the participation of existing associations of employers' organizations (see Table 5). In 2011, the 21 all-Ukrainian associations (including 17 sectoral ones) as registered and active were party to less than 8 percent of agreements.

¹⁰ AUAEO - All-Ukrainian Associations of Employers' Organizations established and operating according to the Law of Ukraine on Employers' Organizations.

¹¹ AUAEE - All-Ukrainian Associations of Entrepreneurs or Employers established and operating according to the Law of Ukraine on Citizens' Associations.

Table 3. Parties of existing and registered sectoral agreements in 2003 and 2011

Year	Total number of agreements	Of them involving:			
		Public authorities	Entrepreneurs' associations, individual enterprise owners	Associations of employers' organizations established in line with the Law	Trade unions
2003	75	75	11	-	75
2011	93	63	38	7	93

Even when an association of employers' organizations exists in a certain economic sector, sectoral agreements are concluded without their participation (for example, in the construction, metallurgy, health care, communications, machine-building and metal working, mining, glass, and tourism industries).

Obviously, this can be explained by the fact that the largest enterprises in the sector are not members of employers' organizations or do not give mandate to such organizations to bargain on their behalf, or that trade unions do not have enough information on enterprises being members of employers' organizations, which in turn are members of an all-Ukrainian sectoral association.

For example, the Federation of Metallurgists of Ukraine All-Ukrainian Association of Oblast Organizations of Metallurgy Employers (FRMU) was party to the sectoral agreement in the mining and metallurgical complex for 2007-2008, but in 2011 the agreement in the sector was signed without that association. The parties to the agreement included manufacturers' associations and individual enterprises (some of them being members of the Federation of Metallurgists). At the same time, almost one-third of those employed in metallurgy are working at enterprises that are members of the Federation of Metallurgists.

Considering that provisions of sectoral agreements are binding only on the parties covered by competence of the parties that sign such agreements (Article 9, CA Law), social partners need to have unbiased information on membership coverage to be able to 'verify' member organizations during collective bargaining in order to have a clear idea about the enterprises the concluded sectoral agreement will apply to.

On the regional level, unlike sectoral, all the existing agreements have been concluded with the participation of employers' organizations and their associations with relevant status. These are mainly member organizations of the Federation of Employers of Ukraine, established on the territorial basis and operating in all regions. The uniting process that occurred in the employer environment¹² at the national level will undoubtedly have an impact on the territorial level as well because all-Ukrainian sectoral associations of employers' organizations having oblast-level member organizations have become members of the Federation of Employers.

¹² On 29 November 2011, the Federation of Employers of Ukraine held its congress where it admitted as members all the then-active all-Ukrainian sectoral associations of employers' organizations and the All-Ukrainian Association of Employers established on the territorial basis.

Trade unions, representatives of workers not being trade union members

Labour and the socioeconomic rights and interests of workers (employees) in Ukraine are generally represented by trade unions. This right is granted to them by the Constitution of Ukraine and the Law of Ukraine on Trade Unions, Their Rights, and Guarantees of Their Activity. According to Article 4, Collective Agreements Law, the right to bargain and conclude collective agreements on behalf of employees is also granted to trade unions.

Analysis of collective agreements concluded at the regional, sectoral and national levels shows that it is solely trade unions that act as bargaining agents on behalf of employees. Indeed, it is trade unions that generally initiate collective bargaining and are parties to agreements.

As of 31 December 2011, 145 all-Ukrainian trade unions and 16 all-Ukrainian trade union associations have registered and obtained legal personality according to current legislation; their membership (directly or within member organizations) includes trade unions and trade union associations with national, regional, oblast, local, and primary status. During the year following the adoption of the Law on Trade Unions, namely 2000 (see Table 2), 62 trade unions and 5 trade union associations with all-Ukrainian status were registered at the national level.¹³

The dynamics of establishment and registration of trade unions with all-Ukrainian status also affected the number of trade unions which were party to the general agreements concluded in various years:

- 1995 – 3 trade union associations and 7 sectoral trade unions;
- 2002 – 8 trade union associations and 16 sectoral trade unions;
- 2004 – 6 trade union associations and 18 sectoral trade unions;
- 2008 – 6 trade union associations and 11¹⁴ sectoral trade unions;
- 2010 – 6 trade union associations and 11 sectoral trade unions.

According to the Collective Agreements Law (Article 4), if there are several trade unions or their associations at the state, sectoral or regional level, they must establish a joint representative body to bargain and conclude an agreement.

For example, the Joint Representative Body of Trade Unions (JRB) is established at the national level during collective bargaining for the conclusion of a general agreement¹⁵ and consists of plenipotentiary representatives of the all-Ukrainian trade unions and trade union associations willing to bargain.

¹³ The 'all-Ukrainian' status entitles an organization to act as a party to collective bargaining at national and sectoral levels; for obtaining this status, an organization has to meet the one of the following requirements: to have member organizations in an overwhelming majority of the country's administrative-territorial units or in the majority of administrative-territorial units where enterprises of a certain sector are located.

¹⁴ The decreasing number of the all-Ukrainian sectoral trade unions involved in collective bargaining is caused by their uniting processes, i.e., by the fact that member organizations join federations, confederations, etc.

¹⁵ Hereinafter referred to as the JRB of trade unions.

Table 4. Establishment history of all-Ukrainian trade unions and trade union associations and all-Ukrainian associations of employers' organizations

Year of foundation (legalization/ registration)	Quantity	
	all-Ukrainian trade unions (TU) and trade union associations (TUA)	all-Ukrainian associations of employers' organizations
1999	6 – TU	–
2000	62 – TU; 5 – TUA	–
2001	7 – TU; 3 – TUA	–
2002	6 – TU; 1 – TUA	1
2003	7 – TU; 2 – TUA	1
2004	6 – TU; 1 – TUA	3
2005	4 – TU; 1 – TUA	2
2006	4 – TU; 1 – TUA	2
2007	11 – TU	6
2008	9 – TU; 1 – TUA	3
2009	14 – TU; 1 – TUA	3
2010	9 – TU	–
2011	–	–
Total registered	145 – TU 16 – TUA	21

It should be noted that in 2010, out of 145 all-Ukrainian trade unions registered by the Ministry of Justice, only 59 took part in collective bargaining, i.e., 40.7 percent; as far as trade union associations are concerned, 6 out of 16 took part, or 37.5 percent.

During JRB establishment, each trade union provides data on its structure and membership, which allows the representation of the trade union party's bargaining participants to be determined (see Table 5).

Table 5. Trade unions which are parties to the General Agreement for 2010-2012 ¹⁶

Name of an all-Ukrainian trade union, or a trade union association	Declared number of member organizations	Declared membership (thousand persons)	% of trade union members in the total number
Federation of Trade Unions of Ukraine		8700,0	85,38
Federation of Trade Unions of Transport Workers of Ukraine	33	537,783	5,28
All-Ukrainian Trade Union "Federation of Trade Unions of Aviation Workers of Radiolocation, Radio Navigation and Communications of Ukraine"	–	1,300	0,01
Confederation of Free Trade Unions of Ukraine		258,000	2,53
Federation of Maritime Trade Unions of Ukraine		23,200	0,23
Federation of Trade Unions of Small and Medium-Sized Enterprise Workers of Ukraine		267,000	2,62
All-Ukrainian Trade Union "Federation of Trade Unions of Workers of Water Transport and Floating Stock of Ukraine"	4 – regional, 4 – local	17,670	0,17
Free Trade Union of Machinists of Ukraine		3,715	0,04
All-Ukrainian Trade Union of State Tax Service Workers	27	63,537	0,62
All-Ukrainian Trade Union of Workers of the Armed Forces of Ukraine	11 - territorial	64,000	0,63
All-Ukrainian Trade Union of Workers' Cooperatives and Other Forms of Entrepreneurship	15	31,565	0,31
Trade Union of Workers of Customs Bodies of Ukraine		18,482	0,18

¹⁶ No other data is available on the number of trade union members; the data provided are likely to prove a high trade union membership rate for the working population (accounting number of workers is 10,989.7 as of 31.12.2010, however there are also pensioners and students among trade union members).

Trade Union of Workers of the National Academy of Sciences of Ukraine	8 territorial	38,715	0,38
Trade Union of Certified Workers of Internal Affairs Bodies of Ukraine	27	49,000	0,48
Independent Sectoral Trade Union of Power Engineering Workers of Ukraine	12 – oblast, 1 – city	65,000	0,64
All-Ukrainian Trade Union of State Statistics Workers	1	8,227	0,08
All-Ukrainian Trade Union of Workers of Food Industry, Processing Industry and Related Sectors	5 (structural units in 18 oblasts)	21,370	0,21
All-Ukrainian Trade Union of Food and Processing Industries	18 – oblast 2 – city	20,908	0,21
TOTAL		10 189, 472	100

As representativity criteria have been introduced, it is obvious that the number of participants from the trade union side in collective bargaining at the national level will decrease because, according to the Social Dialogue Law, only all-Ukrainian trade union associations recognized as representative can be party to the general agreement (see row 2 in Table 1).

In particular, only two trade union associations have been recognized as representative at the national level as of 31 December 2011 – the Federation of Trade Unions of Ukraine¹⁷ and the Federation of Trade Unions of Transport Workers of Ukraine¹⁸ (together they represent more than 90 percent of trade union members relative to the total number of trade union members of all the trade unions which can be party to the general agreement) (see Table 3). Among signatories of the General Agreement for 2010-2012, real ‘aspirants’ for participation in the next collective-agreement campaign may include the Confederation of Free Trade Unions of Ukraine¹⁹ and the Federation of Trade Unions of Small and Medium-Sized Enterprise Workers of Ukraine, provided they prove their representativity.

‘Passivity’ towards participation in collective bargaining among a considerable part of the all-Ukrainian trade unions legalized by the Ministry of Justice was confirmed by the opinion of respondents in a survey held in April 2011 within the framework of the ILO project “Improved functioning of the ESCs at national and oblast level with more appropriate representativity criteria in place”. In the opinion of 85.5 percent of the respondents, representativity criteria for associations of employers’ organizations and trade unions at the national level are objective because they ‘guarantee legitimacy and effectiveness of decisions made’ and ‘reveal all the drawbacks of “pocket” trade unions and the real goal of their establishment and work’.

¹⁷ Hereinafter referred to as FTUU.

¹⁸ Hereinafter referred to as FTUTU.

¹⁹ Hereinafter referred to as CFTUU.

The trade unions which are parties to all the existing sectoral agreements include member organizations of FTUU, FTUTU and CFTUU, as well as the all-Ukrainian sectoral trade unions that are also parties to the general agreement and members of the JRB of trade unions at the national level.

In particular, out of the 93 sectoral agreements in force and registered as of 31 December 2011, the parties to 67 agreements are solely sectoral trade unions that are FTUU member organizations; 10 agreements are with member organizations of FTUU, FTUTU, CFTUU and autonomous sectoral trade unions that are members of the JRB at the national level; 2 agreements are with CFTUU member organizations; 11 agreements are with autonomous sectoral trade unions that are parties to the General Agreement. In only two sectoral agreements, are the parties all-Ukrainian trade unions that are not parties to the General Agreement, these being the Trade Union of Arbitration Managers and the Trade Union of State Reserve System Workers.

At the regional level, the trade unions which are parties to most regional agreements are member organizations of the Federation of Trade Unions of Ukraine – i.e., oblast associations (federations) that include, in turn, oblast trade unions of all-Ukrainian sectoral trade unions being FTUU member organizations. Out of the 29 regional agreements in force, only 12 (41.3 percent) have been concluded with the participation of several trade union associations and trade unions (e.g., in the Autonomous Republic of Crimea, Donetsk oblast, Dnipropetrovsk oblast, Zakarpattia oblast, Luhansk oblast, and Kyiv city).

The definition of the employees' representatives who are party to a company-level collective agreement slightly varies in existing laws. In particular, according to Article 3, Collective Agreement Law, the party to the agreement shall be one or more trade unions or other bodies authorized by the labour force for representation or, if such bodies are absent, workers' representatives elected and authorized by the labour force in the enterprise; Article 12 of the Code of Labour Laws states that a company-level collective agreement shall be concluded by a primary trade union organization acting according to its statute or, in case of its absence, by representatives freely elected by a general meeting of employees or by bodies authorised thereby. The priority of a trade union in collective bargaining is confirmed by the Law on Trade Unions and the Law on Social Dialogue.

If several primary organizations act at an enterprise, they establish a joint representative body on the basis of proportionality. In case of failure to reach consent in a joint representative body of trade unions concerning a company-level collective agreement, the right to make a decision and approve an acceptable company-level collective agreement is granted to the labour force.²⁰

Provisions of a company-level collective agreement concluded by a trade union, according to legislation in force, apply to all employees of the enterprise regardless of whether they are trade union members or not.

The form of state statistical reporting on the conclusion of company-level collective agreements does not provide for information on the parties to collective bargaining at the company level. Therefore, it is not possible to determine the percentage of company-level collective agreements concluded by freely elected workers' representatives. There is also no information available on the number of primary trade union organizations acting at enterprises, in institutions and organizations.

At the same time, for the registration of company-level collective agreements (which, according to the Cabinet of Ministers Resolution No. 225 of 5 April 1994, is exercised

²⁰ The labour force of an enterprise is made up of all workers who are in an employment relationship with the enterprise (as per Article 65, Economic Code of Ukraine).

by district state administrations, city-district state administrations in Kyiv and Sebastopol cities, and executive committees of village, settlement and city councils) a register of company-level collective agreements is maintained specifying the signatory parties to such agreements. It would, therefore, be reasonable to submit relevant information, based on annual results, to departments of labour and employment of oblast state administrations and further, to the Ministry of Social Policy for summarization.

Public authorities

The State plays a determinant role in the social dialogue construction, particularly as a regulator of industrial relations and collective bargaining. It acts both as an agent of executive power and as a party to social dialogue.

The State is represented in two aspects in the system of social dialogue: on the one hand, as an employer and, on the other hand, as a bearer of general public interests in the development of legal mechanisms for the maintenance of social dialogue. Interests of the State in the social dialogue system are represented by public executive authorities at various levels.

According to the Collective Agreements Law, public executive authorities act as an employer authorized to represent the interests of the State-owner.

At the state level, until 1998, the interests of owners that were party to the general agreement were represented solely by the Cabinet of Ministers of Ukraine. At present, the Government is one of the parties to the general agreement, along with all-Ukrainian associations of employers' organizations.

At the sectoral level, the parties to collective agreements on the owners' (employers') side are central executive authorities (CEAs)²¹ which are mandated as managers of state property. In the first years following adoption of the Collective Agreements Law, the owners' (employers') were represented by sectoral ministries, agencies, state services, and departments. With development of the market economy and various forms of ownership, a decrease in the percentage of enterprises covered by the management scope of CEAs, and the implementation of administrative reforms, the composition of the owners' party to sectoral agreements also changed. For example, in 2003, CEAs were parties to all existing sectoral agreements, whereas in 2011 only 67 percent of agreements were concluded with their involvement, and in only 33.3 percent of sectoral agreements was the owners' party represented by a CEA.

A considerable number of agreements are concluded with the participation of individual state enterprises, holdings or concerns. For example, Ukrpapirprom Ukrainian State Holding Company is party to the sectoral agreement in the paper and pulp industry, Ukrmistsevprom State Concern is party to collective agreement in domestic services and local industry, Ukrtoif Ukrainian Peat Industry Concern is party to the sectoral collective agreement in the mining industry, Ukrbud Ukrainian State Construction Corporation is party to collective agreement in the construction sector, and Khlib Ukrainy State Joint-Stock Company is party to the collective agreement in agro-industrials.

Collective agreements at the regional level, according to the Collective Agreements Law, are concluded with the participation of local public authorities. Parties to the regional agreements in force and registered in 2001 include the Council of Ministers of the Autonomous Republic of Crimea, oblast, Kyiv and Sebastopol city state administrations.

²¹ Hereinafter referred to as CEAs.

Analysis of the composition of parties to collective agreements at all levels shows that parties to collective bargaining at a level lower than the state level are in most cases enterprises, organizations and institutions that are members of, or belong to the organizations which are parties to the general agreement at the national level. Therefore, if all-Ukrainian associations of trade unions and employers' organizations have a sectoral and territorial structure they must ensure coordination of the actions of their member organizations at lower levels and implement efficient mechanisms for the realization of agreements reached at the state level.

The efficient functioning of the machinery of collective-bargaining depends both on the negotiating powers of the parties in collective bargaining and on their capacity to enforce the collective bargaining outcomes.

III. Levels of collective bargaining and their relationship

According to legislation in force and existing practices, collective agreements are concluded at the following levels:

- a) national (state) level – the General Agreement;
- b) sectoral level – sectoral agreements within one or more economic activities;
- c) regional level – regional agreements within a certain administrative-territorial unit, usually an oblast. In some regions, e.g. Donetsk oblast, Volyn oblast, and Mykolayiv oblast, district- and city-level agreements are concluded;
- d) production level – company-level collective agreements at enterprises, in institutions and organizations of various forms of ownership and economic management.

Legislation establishes the following interrelationships between collective agreements of various levels and labour legislation provisions:

- sectoral agreement may not worsen the workers' situation compared with the general agreement;
- regional agreement includes higher compensation and privileges than the general agreement;
- company-level collective agreement may provide for additional guarantees and social and domestic privileges compared to existing laws and higher-level agreements;
- conditions of collective agreements at all levels that worsen the workers' situation compared with legislation in force are invalid.

The Ministry of Social Policy, which according to law carries out notification of the registration of sectoral and regional agreements, is also competent to supervise the compliance of sectoral and regional agreements' with legislation in force and with the general agreement.

If breaches are found during registration, the Ministry of Social Policy provides recommendations to the parties to the agreement on removing the shortcomings.

National level

The first ever collective agreement at state level was concluded – before Ukraine's declaration of independence and adoption of the Collective Agreements Law – on 30 April 1991 between the Council of Ministers of the Ukrainian SSR and the Federation of Independent Trade Unions of Ukraine.²²

The agreement's structure, contents and parties were determined both by the social and political situation in the country and by developments in civil society (the availability of public organizations representing the interests of parties to industrial relations).

The next agreement was concluded in the second half of 1992 and actually repeated the previous one in terms of structure and contents. An overwhelming majority of the commitments made under the two agreements were undertaken by the Government of Ukraine in the following areas:

²² The Federation of Independent Trade Unions of Ukraine was established on 6 October 1990 at the I Trade Union Congress; in 1992, at the II extraordinary congress, it was renamed as the Federation of Trade Unions of Ukraine.

- guarantees of social protection of the population;
- labour remuneration guarantees;
- taxation and payment exemptions;
- employment;
- occupational safety and environment protection;
- housing provision;
- health care and social insurance;
- elimination of the Chernobyl NPP accident consequences;
- provision of social guarantees for protection of workers' spiritual interests, meeting their cultural needs.

In terms of their contents and form, the agreements resembled a 'social pact' more than a collective agreement, in the sense of ILO Conventions Nos. 98 and 154.

The Collective Agreements Law adopted in 1993 specified that a state-level agreement regulates basic principles and norms of implementation of socioeconomic policy and labour relations concerning:

- ☞ guarantees of productive employment;
- ☞ guarantees of minimum wage and income for all, which would secure sufficient living standards;
- ☞ a minimum subsistence level,;
- ☞ social security;
- ☞ industrial relations,
- ☞ working conditions, including working time;
- ☞ workers' spiritual needs;
- ☞ conditions for the increase of labour remuneration funds, and the establishment of intersectoral ratios in labour remuneration;
- ☞ ensuring equal rights and opportunities for women and men.

The law included all aspects of labour regulation and employment conditions, thereby complying with the ILO Convention No. 154, and provided for the establishment of procedural rules for parties to the agreement (owners and trade unions) concerning the implementation of socioeconomic policy.

Analysis of the structure and contents of the general agreements concluded at a 10-year interval shows that changes in the composition of the parties on the owners' side have substantially affected the nature and division of commitments provided, leading to a strengthened interrelationship with agreements concluded at sectoral and company levels. This is especially true for labour remuneration conditions and the provision of productive employment (see Table 6).

Table 6. Comparison of the structure and division of commitments undertaken by parties to general agreements

General Agreement for 2002-2003					General Agreement for 2010-2012				
Section	Commitments ²³				Section	Commitments			
	PA/JC	OP	CMU	TUP		PA/JC	OP	CMU	TUP
I. Promoting development of production, securing productive employment	9	-	9	-	I. Developing domestic production to secure productive employment	18	30	24	6
II. Labour remuneration, increase of income level	6	-	5	1	II. Labour remuneration	16	4	6	3
III. Working and rest time	13	3	-	3	III. Labour protection, working and rest time, environment protection	11	5	11	-
IV. Social protection and spiritual needs	2	1	27	4	IV. Social protection	11	-	16	-
					V. Spiritual needs	5	1	9	5
					VI. Social dialogue	11	-	-	-
Final provisions	16	-	-	-	Final provisions	10	-	1	-
Total commitments by the parties / as % of total	46 46,5%	4 4%	41 41,4%	8 8,1%	Total commitments by the parties / as % of total	82 40,4%	35 17,2%	67 33%	19 9,4%
Total commitments in the agreement		99			Total commitments in the agreement		203		

²³ Designations: PA/JC – parties agreed or joint commitments; OP – owners' party; CMU – Cabinet of Ministers of Ukraine; TUP – trade union party

For example, the section concerning labour remuneration conditions in the General Agreement for 2002-2003 contains 12 provisions of which five are general joint commitments, one concerns fixing a Grade I worker's tariff rate, five are the Government's commitments on legislative improvement (amending laws and regulations of the Cabinet of Ministries), and one deals with the trade unions' commitment to public control over compliance with legislation and the working conditions provided by company-level collective agreements.

On the other hand, the similar section in the General Agreement for 2010-2012 includes 29 provisions: Sixteen concern concrete joint arrangements between the parties, inter alia on securing average wage growth and establishing its ratio to increases in real gross domestic product, as well as applying conditions and provisions on labour remuneration in lower-level collective agreements; four concern the owners' commitment on repayment of wage arrears and annual increases in the percentage of workers receiving wages higher than three times the minimum subsistence level; five concern the Government's obligations on labour remuneration rates for employees and officials funded from the state budget; and three concern the trade unions' commitments on public control over compliance with legislation and the working conditions provided by company-level collective agreements, as well as concrete measures to ensure labour remuneration obligations are met.

As a whole, in the most recent General Agreement, even compared to the previous agreement for 2008-2009,²⁴ the share of provisions to be applied directly or indirectly to lower-level collective agreements, as well as the share of the parties' concrete commitments to objective performance evaluation, have increased.

The General Agreement text, after signing, is published in mass media and on the official websites of the parties to agreement, which allows participants of collective bargaining at the sectoral, regional and company levels to take its provisions into account when negotiating agreements. Additionally, the parties to the General Agreement promote application of its provisions in lower-level agreements via their member organizations as participants in collective bargaining at their corresponding level (see Table 7).

However, analysis of existing sectoral and regional agreements shows that participants in collective bargaining do not always take General Agreement provisions into consideration. There are a number of reasons for this, including:

- a) timeframes of collective bargaining and the validity periods of various levels of agreements are not the same. For example, a considerable number of sectoral and regional agreements were concluded for 2009-2011; even those with the same validity period as the general agreement, i.e., for 2010-2012, were concluded earlier than the general agreement (concluded in November 2010);
- b) organizations which are parties to lower-level collective agreements are not always members of the signatory organizations to the general agreement;
- c) the registering body's recommendations to remove provisions which would result in worse working conditions for employees compared to the general agreement are not always taken on board by the parties to lower-level agreements.

²⁴ The General Agreement for 2008-2009 contained 193 provisions, of which only 18 were concrete commitments including 8 joint commitments of the parties and 9 Government commitments. Other provisions concerned arrangements on improvement of legislation, principles and procedures of the parties' interaction at the national level.

Table 7. Examples of the application of existing General Agreement provisions in sectoral and regional agreements concluded with participation of FTUU member organizations

General Agreement for 2010-2012	Sectoral agreement in machine-building for 2010-2012	Regional agreement of Kyiv city for 2010-2011
<u>The owners' representatives undertake to:</u> 1.13. Include trade unions' representatives, according to law and company-level collective agreement, in the commissions on: 1.13.1 privatization, restructuring, reorganization and liquidation of economic entities; 1.13.2 change of ownership of social and cultural facilities from state to municipal	<u>The owner's representatives undertake to:</u> 3.3.5. Grant seats and deliberative votes to trade unions' representatives in the governing bodies of economic entities. Involve trade unions' representatives in the verification of compliance with state property sale and purchase agreements concluded during the privatization process.	<u>Kyiv City State Administration undertakes to:</u> 1.7. According to legislation in force and the General Agreement commitments, involve trade unions' representatives in: - commissions on privatization, restructuring, reorganization and liquidation of economic entities; - commissions on change of ownership of social and cultural facilities from state to municipal.
<u>1.12. Involve representatives of primary trade union organizations in:</u> 1.12.1 elaboration of financial plans concerning socioeconomic development of state-owned enterprises and other economic entities with more than 50 percent of shares (interests, stock) owned by the State, and its subsidiaries.	<u>3.8.4. Involve representatives of the primary trade unions in:</u> - elaboration of financial plans concerning socioeconomic development of state-owned enterprises and other economic entities with more than 50 percent of shares (interests, stock) owned by the State, and its subsidiaries.	<u>The owners' representatives undertakes to:</u> 1.11. Involve representatives of primary trade unions in: - elaboration of financial plans concerning socioeconomic development of state-owned enterprises and other economic entities with more than 50 percent of shares (interests, stock) owned by the State, and its subsidiaries.
<u>The Parties agreed to:</u> 1.41. Recommend, during conclusion of sectoral and regional agreements, to specify criteria for collective dismissals.	<u>The owner's representatives undertake to:</u> 4.1.3. Prevent collective dismissal of more than 4 percent of the workforce employed in the sector during a calendar year. If a justified reason for such a collective dismissal arises, the decision to that effect shall be made by the concerned employer in agreement with the trade union committee.	<u>The Parties agreed to:</u> 2.2. Comply with the maximum allowed rate of enterprise lay off in line with sectoral agreements. Submit justified proposals to relevant executive authorities and employers on postponement, temporary suspension or cancellation of measures related to collective dismissals.

We should also point out certain procedural discrepancies concerning the conclusion of the general agreement. In particular, a subject of negotiations in the general agreement consists of wage levels and the minimum rate of social benefits that, according to law, are established in the Law on the State Budget. Therefore, a legitimate question arises: in what way could higher wages and improved social standards be established after the adoption of the State Budget for a relevant year? In fact, the first year of the agreement's validity

period always 'falls out' of the agreement's scope.²⁵ It would thus be more reasonable to negotiate these standards in the general agreement and then uphold them before the legislature.

The legislation in force does not settle these issues; it also fails to define a legal status to the general agreement. Therefore, it is necessary to address these matters when completing the draft Labour Code.

Sectoral level

The first sectoral-level collective agreements were concluded after the adoption of the Collective Agreements Law. It is at this level that economic policies are to be implemented and wages and working conditions for the employees employed in a given sector established, subject to work specificities, economic developments and productivity in that sector.

Sectoral agreements can also close the gap in company-level collective agreements, as well as provide incentives to employers to affiliate to sectoral employers' organizations and to engage in collective bargaining at company level. In fact, according to Article 9, Collective Agreements Law, provisions of a sectoral agreement shall have direct effect and be binding on the members of the signatory parties.

A legal status for sectoral agreements is not defined in legislation; instead, it is provided that a sectoral-level agreement shall regulate labour remuneration, social guarantees and compensations, working conditions and labour protection, working and rest time, housing, domestic and medical services and work arrangements, taking account of economic and financial conditions of enterprises in a certain branch (economic sector, activity), work characteristics and the working conditions of certain occupational groups and workers' categories in the branch.

As mentioned above, a sectoral agreement may not worsen the employees' situation as compared to the general agreement; it may also not include any condition worsening the workers' situation as compared to legal minimum standards in force. Even if such conditions are included in a sectoral agreement they are deemed invalid by Article 5, Collective Agreements Law.

One of the factors affecting the number and quality of sectoral agreements is insufficient representation of social partners in certain economic sectors.

The economic structure has substantially changed over the past ten years, both in terms of economic activities and legal and organizational forms of enterprises.

According to available statistics,²⁶ the number of employees at enterprises, institutions and organizations has been decreasing every year: from 13,678 thousand in 2000 down to 10,758 thousand in 2010. This is especially true for industries where sectoral trade unions are usually active. In particular, the number of employees has fallen by almost half over ten years in coal mining, production of machines, electronics, electric and optical equipment, manufacture of non-metallic products, and textile production; and by one-third in the production of finished metal products, means of transport, etc. Overall, the number of employees in industry has decreased from 4,061,000 in 2000 to 2,842,000 in 2010. Very substantial job losses can be seen in agriculture and related services, where the number of employees has fallen by three-quarters.

At the same time, employment has decreased as well in non-production areas, particularly in trade, services, domestic appliances repair, hotel and restaurants, real-

²⁵ The General Agreement for 2010-2012 was signed in November 2010, for 2008-2009 – in April 2008, for 2004-2005 – in April 2004.

²⁶ This study uses state statistics data for 2010 (Labour in Ukraine 2010 statistical digest).

estate transactions, and financial activities, all areas where trade union coverage is much lower than in industry.

One should also take into consideration that, further to the 2010-2011 administrative reform, the number of public enterprises within management previously acting as parties to sectoral agreements, has been reduced, which has also narrowed down the scope of such agreements.²⁷

For example, a sectoral agreement in construction was concluded between the Ministry of Regional Development and Construction of Ukraine and the Trade Union of Workers of Construction and Building Materials Industry of Ukraine for 2009-2010. At the same time, according to statistics for construction, 1.6 percent of all those employed in this sector worked in state-owned enterprises, 8.8 percent in open joint-stock companies, 11.2 percent in private enterprises, and 40.7 percent in limited liability companies, whereas membership by sector workers of the Trade Union party to the agreement was just 25.3 percent and the majority of the workforce was employed by private employers which were not parties to the agreement.

There is also a difference between the sectoral structure of both trade unions and employers' organizations, which is determined by affiliation of primary trade unions and enterprises that are members of employers' organizations, and the current classification of economic activity types. The definition of the 'sector' as contained in the Economic Code describes 'an aggregate of all the production units performing mainly the same or similar production activity types', whereas economic entities are placed in a relevant accounting category on the basis of the principal economic activity, with secondary and auxiliary economic activity types appended. The ongoing process of enterprise restructuring and conversion also results in changes to economic activity types.

The dynamics of the establishment of sectoral associations of employers' organizations with all-Ukrainian status (see Table 2) also lag behind structural changes in the economy, therefore trade unions feel a substantial 'deficit' of social partners at the sectoral level.

As of 1 October 2011, 93 sectoral agreements were in force in Ukraine: 20 were in industry sectors, 10 in transport, 14 in construction, 3 in communications, 7 in the agro-industrial complex, 10 in the defense complex, and 29 in the non-production sphere (health care, science and education, culture, and public administration authorities).

In terms of their structure and the contents of general provisions, sectoral agreements concluded in different areas show little differences (see Table 8).

²⁷ The Decree of the President of Ukraine No. 1085 of 9 December 2010 defines the scheme of organization and interaction of newly established and reorganized CEAs. For example, the President established the State Agency for Management of State Corporate Rights and Property that is a legal successor of the Ministry of Industrial Policy to the extent of the implementation of state policy on management of state property entities. At the same time, its work is coordinated and directed by the Minister of Economic Development and Trade.

Table 8. Comparison of the structure of existing sectoral agreements

Non-production sphere		Industry	
Sectoral agreement in health care for 2007-2011	Sectoral agreement in trade in services for 2009-2011	Sectoral agreement in mining and metallurgy for 2011-2012	Sectoral agreement in machine-building, engineering and shipbuilding for 2010-2012
Agreement section titles			
1. General provisions	1. General provisions	1. General provisions	1. Parties to the agreement and their powers 2. General agreements
2. Creating conditions for sustainable development of the sector and for productive employment	2. Promoting development of trade activities and entrepreneurship	2. Promoting development of production, ensuring productive employment, preventing bankruptcy of enterprises	3. Creating conditions for sustainable development of the sector
4. Employment	3. Labour relations: 3.1. Employment and social protection of employees		4. Employment
3. Labour remuneration	3.2. Labour remuneration	3. Labour remuneration and wage coefficients and tariffs	5. Labour remuneration 6. Wage coefficients and tariffs
5. Working time	3.3. Labour protection, working time	4. Working time 5. Labour and health protection	7. Working time 8. Labour protection
6. Social protection and spiritual needs	4. Securing social rights and guarantees	6. Social protection and spiritual needs	9. Social guarantees
		7. Youth employment	10. Youth employment
		8. Guarantees of trade unions' activities and their rights	11. Guarantees of trade unions' activities
	5. Securing constructive interaction and social partnership	9. Social partnership	
		10. Supervision over sectoral agreement compliance	12. Agreement compliance supervision 13. Evaluation criteria for agreement enforcement 14. Responsibility of the parties regarding agreement compliance.
7. Final provisions	6. Final provisions		15. Final provisions

For example, the Final Provisions section is almost the same in all the agreements. It specifies the agreement's goal, ground (reference to legislative acts), validity period mentioning the amending procedure, composition of parties to the agreement, and some provisions duplicating Collective Agreements Law provisions. Notable are agreements in machine-building and light industry, in which the composition of parties to agreements and their powers are specified. Also, the sectoral agreement in the coal industry not only defines the composition and powers of the parties but also specifies authorized persons (in terms of position) and the legislative ground for each party's exercise of powers.

Some agreements contain in their general provisions principles of implementation of individual provisions. For example, the sectoral agreement in trade and services states that provisions that envisage expenses from net profits of enterprises are recommendatory; the sectoral agreement of transport workers specifies that adoption of social standards should take account of actual production indicators and the availability of required financial resources.

As regards concrete contents of individual sections, we can point out substantial differences between agreements concluded in the production and in the non-production sphere (especially with institutions and bodies funded from the State Budget, in which working and employment conditions are established by the Cabinet of Ministers). In these sectoral agreements a considerable share of provisions concerns arrangements between the parties on observance or improvement of legislation in force, or are merely declarative in nature.

For example, the Sectoral Agreement in Health Care may be essentially described as an agreement of intent. Actually, all its provisions are joint arrangements on observance of or improvement in legislation in force, or the development or promotion of adoption of regulatory acts, targeted programs, etc. The owner's commitments (represented by the Ministry of Health) are also of a general nature, e.g., "to promote", "to ensure compliance with requirements". The agreement provisions on labour remuneration are also of a general nature, with no specific indicators for increased rates or increased amounts. For example: "3.1.5. Promote increase of labour remuneration funds and renewal of qualification (related coefficients in labour remuneration for employees in the sector)".²⁸ The agreement contains no annex, and no amendments were made to it throughout the validity period.

Sectoral agreements in provision of services include a series of concrete rules and provisions concerning labour remuneration and working and rest time; they also differ from the health care agreement in the composition of the parties representing owners, which include CEAs and associations of entrepreneurs and employers. These agreements also contain recommendations for use in company-level collective agreements concluded at enterprises of relevant economic activity types.

For example, the sectoral agreement in trade and services sets the minimum tariff rate for a Grade I worker (120 percent of the minimum wage), coefficients for employees' salaries, and a list of types and amounts of supplements and premiums to basic wages and salaries. The agreement, signed in 2009, was already amended in late 2010 concerning labour remuneration in line with General Agreement provisions; it was also supplemented with a list of occupations for which qualification categories are established. This shows effectiveness of the agreement and an exercise of control over its compliance on the part of its signatories.

Sectoral agreements in material production differ from those mentioned above both

²⁸ According to the Collective Agreement Law, a sectoral agreement establishes inter-qualification (inter-position) coefficients in labour remuneration.

in volume and content. They have a closer and more direct linkage with company level agreements in that they contain both recommendations and mandatory provisions for the managers of enterprises which are members of the signatory parties.

For example:

In light industry – 19 of 39 (or 48.7percent) of provisions in the Labour and Health Protection section are obligations of enterprise managers to ensure healthy and safe working conditions, as well as recommendations on the inclusion in company-level collective agreements of employers' obligations to undertake labour protection measures, and to allocate funds for this purpose (at no less than 0.5 percent of monthly product sales), etc. The agreement prescribes: minimum hourly tariff rates for workers of light industry enterprises and qualification related coefficients for worker tariff rate setting; minimum coefficients for fixing salaries of managers, professionals and specialists using as a reference the salary of a technician in such enterprises; minimum coefficients for wage fixing in general (cross-cutting) occupations and the Scale I Grade I worker's tariff rate; In machine-building – the employment section contains 8 provisions out of 21 (or 38 percent) in which there are obligations on enterprise managers to take measures to secure productive employment, create new jobs, improve skills, and train staff. The agreement sets forth: minimum coefficients of monthly tariff rates of Grade I workers with normal working conditions in machine-building production associations and enterprises as compared to the statutory minimum wage; minimum coefficients for setting salaries of managers, professionals and specialists at machine-building enterprises with that of a technician's salary; minimum coefficients for setting salaries of managers, professionals and specialists in research, design, technology, engineering and other scientific institutions and organizations of machine-building, again using a technician's salary as a reference; minimum coefficients for wage setting in general (cross-cutting) occupations against the Scale III Grade I worker's tariff rate; minimum coefficients for wage setting in handling works in machine-building with the Scale III Grade I worker's tariff rate.

In machine-building – the employment section contains 8 provisions out of 21 (or 38). Hence, it is the 'tariff' part of sectoral agreement provisions that is important to apply in company-level collective agreements because of its direct effect. However, state statistics show that company-level collective agreements do not always set minimum coefficients and tariffs in labour remuneration as provided for in sectoral agreements (see Table 9). The reason may depend on two possible causes: either the parties to a company-level collective agreement are not members of the signatories of the sectoral agreement or they have enjoyed the right granted by the Law on Labour Remuneration (Article 14) to establish on a temporary basis, for a period of economic hardship faced by the enterprise, lower wage coefficients and tariffs than those specified in a sectoral agreement.

Table 9. Number of employees breakdown by minimum monthly tariff rate set by company-level collective agreements and sectoral agreements and by economic activity types

Economic/industrial activity type	Number of employees at enterprises where a minimum monthly tariff rate (salary) is set by a company-level collective agreement and a sectoral agreement				
	total, thousand persons	% of total employed	Including the ratio between minimum tariff rate (salary) set by a company-level collective agreement and that set by a sectoral agreement (%)		
			Lower	Equal	Higher
Total	8522,9	77,5	4,0	88,5	7,5
Construction	227,6	64,0	7,5	87,0	5,5
Trade; repair of motor cars, domestic appliances and personal items	328,8	34,3	0,3	93,1	6,6
Health care and social assistance	1188,8	89,2	0,0	99,4	0,6
Utility and personal services	267,0	71,3	0,5	96,4	3,1
Transport activities	642,9	87,6	2,5	84,1	13,4
Industry	2517,2	86,9	10,6	71,4	18,0
Extractive industry	441,7	98,5	19,3	70,2	10,5
Including coal, lignite and peat production	282,5	98,8	27,3	72,3	0,4
Processing industry	1551,0	80,8	8,9	72,6	18,5
Textile production; production of clothes, fur and articles thereof	62,1	72,4	3,6	89,7	6,7
Pulp and paper production; publishing	39,4	53,6	1,4	91,1	7,5
Metallurgy and production of finished metal items	303,4	89,4	1,9	65,7	32,4
Production of machines and equipment	224,1	87,3	17,5	67,2	15,3

As can be seen from the table, setting standards lower than those in a sectoral agreement in company-level collective agreements is mainly typical of industrial enterprises.

With reference to the validity period of agreements, sectoral agreements are generally concluded for two years; the validity period is longer in non-production areas (e.g., 5 years in health care, 3-5 years in construction, 4 years in TV and radio broadcasting). Only two sectoral agreements are concluded for one year – in the social sphere and in aviation industry.

It should also be pointed out that since, according to law, an agreement is valid until conclusion of a new one, the parties often do not sign a new agreement but make amendments and additional provisions to existing agreements concerning specific obligations or establishment of premiums, increments, etc. This proves that a great number of agreement provisions are of a general, declarative nature: they require no updating and cannot actually be evaluated as obligations met or unmet. Additionally, the absence of a negotiating partner does not encourage trade unions to conclude new agreements.

For example, sectoral agreements concluded in 2005 have still not been re-negotiated in local, light, and pulp and paper industries or domestic services. Similar situations exist in railway transport since 2002, and in sea transport since 2006. The ‘record-breaker’ is the coal industry where the agreement has been in force since 2001 and amended and supplemented 11 times since that year.

Analyzing the process of negotiations of sectoral agreements over three years, we can observe intensification of a collective-agreement campaign early in each year (see Table 10).

Table 10. Number of registered sectoral agreements

Year/quarter	2009			2010			2011		
	total	Q I-II	Q III-IV	total	Q I-II	Q III-IV	total	Q I-II	Q III-IV
New sectoral agreements registered	18	12	6	19	13	6	27	15	12
Registered amendments and supplements to agreements concluded in previous years	22	12	10	22	15	7	7	5	2

This can be explained by the fact that the agreement conclusion year is in most cases counted in its validity period. For example, all the agreements signed in I-III quarters of 2010 are concluded for 2010-2012.

Efficiency of sectoral agreements directly affects the situation in the collective-agreement campaign and industrial relations at enterprises in the relevant economic activity area.

For example, as mentioned above, the sectoral agreement in pulp and paper industry was concluded in 2005 for two years between Ukrpapirprom Ukrainian State Joint-Stock Holding Company, paper and pulp industry enterprises not members of the holding, and the Central Committee of the Trade Union of Workers of Forest Industries of Ukraine. During registration of the agreement, the Ministry of Labour and Social Policy²⁹ made observations on 14 articles of the agreement that failed to comply with legislation in force and provisions of the General Agreement for 2004-2005, in particular the setting of lower labour remuneration, which would in turn result in lower wages at enterprises of this industry because the agreement directly refers to company-level collective agreements in establishment of the basic wage percentage to the average wage, the ratio between salaries and average wage, etc. The sectoral agreement itself contains a series of indicators according to which wages are to

²⁹ The Ministry of Social Policy (MSP) was called the Ministry of Labour and Social Policy (MLSP) prior to the administrative reform 2010.

be set at enterprises of this industry, which certainly encourages negotiation of company-level collective agreements.

However, the sectoral agreement in pulp and paper industry has not been re-negotiated during the past three years, and no amendment or supplement has been made to the agreement since it was signed in 2005. At the same time, the coverage of workers at enterprises in this industrial activity by company-level collective agreements decreases every year: from 68.2 percent in 2008 to 62.6 percent in 2010, which is the lowest figure in industry (Ukraine's average figure for 2010 was 90.6 percent).

Analysis of the current system and mechanisms of collective bargaining at the sectoral level identifies a whole range of issues and obstacles that undermine the efficiency of sectoral agreements:

- a) low representation of employers and employees in collective bargaining at sectoral level in areas showing an increasing trend in the number of employed (services, trade, hotels and restaurants);
- b) low trade union membership in the private sector;
- c) poor exchange of information among the parties to collective bargaining, particularly regarding their membership and representation mandate, which as a result has increased uncertainty over the scope of concluded sectoral agreements;
- d) sectoral agreements are overburdened with provisions duplicating statutory norms, or include provisions that fail to meet legislation in force and general agreement provisions;
- e) the structure of the sectoral organizations of the social partners does not correspond to the classification of economic activity types.

Regional level

Regional-level agreements, according to legislation, provide standards of social protection for enterprise employees, and include higher social guarantees, compensations and privileges than the general agreement. No legal status is specified by the law; and, unlike other levels of collective agreements, the law does not provide a list of subject matter for collective bargaining but, as mentioned above, confines its interest to regulation of social guarantees, privileges and compensations.

A regional agreement is also distinguished by the composition of parties to it: according to Article 3, Collective Agreements Law, the agreement shall be concluded between local public authorities or regional associations of entrepreneurs, if they have a proper bargaining mandate, and trade union associations or other bodies authorized by the labour force.

All existing regional agreements have been concluded with the participation of local executive authorities, employers' organizations and trade unions, and are actually tripartite because they specifically indicate obligations undertaken by authorities, employers' organizations, and trade unions. In five oblasts, agreements have been concluded with the participation of local governments or oblast councils.

As of 31 December 2011, 29 regional agreements are in force in Ukraine³⁰ (in the Autonomous Republic of Crimea, in 24 oblasts, and in Kyiv³¹ and Sebastopol).

³⁰ Data by the Ministry of Social Policy that, according to legislation, exercises notifying registration of regional agreements.

³¹ Three agreements have been concluded in Kiev city: between trade unions and the city state administration, between trade unions and local employers' organizations, between trade unions and the city employers' association.

Content analysis of regional agreements shows that they regulate a much broader range of issues than specified by the law, and that they actually cover almost all the areas of industrial relations that are the subject matter of the general agreement (see Tables 6 and 11).

Table 11. Structure of regional agreements

Donetsk oblast	Ivano-Frankivsk oblast	Mykolayiv oblast	Khmelnyskiy oblast	Kyiv city
General provisions	General provisions	1. General provisions	General provisions	General provisions
1. Promoting domestic production and securing productive employment	1. Production growth 2. Securing productive employment	2. Obligations of the parties regarding production growth, enterprise development, and productive employment	1. Socioeconomic and production relations 2. Securing productive employment and social protection against unemployment	1. Kyiv city's economic policy, and participation of trade unions and employers' organizations in its formulation and implementation 2. Employment, matching labour demand and supply
2. In the field of labour remuneration and income increase	3. Labour remuneration	3. Obligations of the parties in labour remuneration	3. Labour remuneration and labour relations	3. Labour remuneration
				4. Preservation and development of the social and welfare sphere
3. Labour and health protection, working time	4. Labour and health protection 5. Labour relations and legal protection of the population	4. Obligations of the parties concerning labour and health protection	4. Labour and health protection, environment protection	5. Labour protection, health protection, securing population safety
4. Social protection of the population	6. Social protection	5. Obligations of the parties regarding social protection and spiritual needs	5. Securing social guarantees	6. Social benefits and guarantees
5. Socio-cultural and spiritual needs of the population	7. Socio-cultural and spiritual needs of the population			7. Organising health improvement and cultural leisure, developing physical training and sports for Kyiv residents and their family members
6. Social partnership	8. Development of social dialogue	6. Social dialogue	6. Social dialogue	8. Social dialogue 9. Guarantees of trade union activities
7. Agreement implementation mechanism	9. Final provisions	7. Final provisions	7. Final provisions	10. Mechanism for implementation of regional agreement commitments

Hence, a regional agreement occupies an important place in the collective-agreement-based regulation system because it provides an opportunity to establish higher social guarantees than in the general agreement and additional social guarantees according to regional specificity.

This applies to all aspects of industrial relations: labour remuneration levels, labour protection requirements, health care activities, environment protection, organization of recreation and health improvement, development of social and welfare facilities and the cultural sphere.

At the same time, legislation does not specify any hierarchy of provisions of sectoral and regional agreements because a regional agreement, like the general agreement, sets forth conditions and norms of intersectoral nature.

Since provisions of a regional agreement act directly and are binding on all members of the signatory parties, and one party consists of local authorities competent to elaborate regional socioeconomic policy, this results in the extension of regional agreements, in fact, to all enterprises, institutions and organizations functioning in the territory of a certain administrative-territorial unit. The only exception is Kyiv city where three regional agreements have been concluded. The composition of parties to collective agreements on trade unions' side is stable while the owners' group is represented by various representatives.

In some regions (Donetsk oblast, Mykolayiv oblast, Khmelnytskyi oblast), district and oblast sectoral collective agreements are concluded. For example, the regional agreement of Khmelnytskyi oblast specifies that its provisions are mandatory for oblast sectoral and regional agreements on the lower level of districts and cities of oblast subordination.

Despite an uncertain legal nature of the regional agreement, the parties in Donetsk oblast define it as a regulatory act of social dialogue. Provisions of the agreement cover enterprises, institutions and organizations regardless of their form of ownership and economic management, and are binding on all employers and employees in the territory of Donetsk oblast, and act directly or by incorporation into lower-level territorial agreements and company-level collective agreements at enterprises. The regional agreement provided standards higher than those provided in the General Agreement taking into consideration the region's specificity and the need for intersectoral coordination.

The parties to the regional agreement of Mykolayiv oblast recognize it as a valid regulatory act that defines their concerted stands and actions, acknowledging each other's bargaining powers, and undertaking to observe principles of equality and mutual responsibility in the course of implementing or amending the agreement. Since the oblast council, which approves the local budget, is a party to the agreement, the parties assume relevant commitments to provide financial support for implementation of corresponding provisions during oblast budget formulation. The agreement also contains recommendations for district state administrations, district and city councils, employers' associations, and trade union associations to conclude collective agreements of relevant levels using the regional agreement provisions as minimum standards to be observed.

Contents of the regional agreements differ depending on specificities of the region's socioeconomic development and the sectoral structure of its economic complex.

A positive fact is that some regional agreements set a higher labour remuneration level than in general and sectoral agreements. For example, the regional agreement of Ivano-Frankivsk oblast provides for annual growth of the average wage of no less than 20 percent, and in Mykolayiv oblast of 25 percent, while the General Agreement prescribes 15-16 percent growth rate for that period. An exception is Kyiv city where this figure is set at 13 percent, i.e., lower than in the General Agreement.

In Donetsk oblast, the Grade I worker's tariff rate is set at no less than 120 percent of the minimum wage with a 1.15 regional coefficient excess over the subsistence minimum in Donetsk oblast compared to that specified by law. In addition, the agreement includes recommendations for enterprises to include in their collective agreements provisions on staged increases in the basic wage tariff part of the total wage to 65-75 percent, and on gradual increases in labour remuneration's share of production output costs to 30-40 percent.

The efficiency of regional agreements as far as improved social guarantees on labour remuneration are concerned is provided by state statistics. For example, the number of employees (in % of total) for whom a minimum monthly tariff rate (salary) set by a company-level collective agreement is higher than that prescribed by legislation is 24 percent in Mykolayiv oblast, 22.8 percent in Donetsk oblast, and 12.9 percent in Ivano-Frankivsk oblast.

For example:

The regional agreement of Donetsk oblast, where coal mining is the priority industry, contains a considerable number of provisions related to social protection of miners as well as provisions on securing proper working conditions, taking account of high occupational injury and occupational disease rates at enterprises in the oblast. In particular, establishing the level of contributions for occupational safety and health secured by coal mining enterprises at not less than 3% of sales; providing financial aid to persons with disabilities who lost their work capacity, by means of paying for their training and retraining in vocational education facilities to acquire a profession, in the amount of UAH 1 million during 2011-2012. Additionally, the agreement includes an annex that specifies criteria to determine the percentage of liability applicable to a person injured in an occupational accident to calculate the lump-sum aid amount;

In the regional agreement of Khmelnytskyi oblast, a considerable share of provisions envisage arrangements and obligations of the parties concerning food and processing industry enterprises, particularly with regard to investment in the development of production, pricing policy regulation, and the introduction of preferential lending for sugar industry enterprises;

The regional agreement of Ivano-Frankivsk oblast contains provisions concerning the parties' joint obligations for the development of small business, particularly to increase the number of small enterprises to 59 per 10,000 population and to increase the share of output produced by small enterprises to 22.1 percent in total production output.

However, it should be pointed out that regional agreements contain a minor tariff part; most provisions are general arrangements on a region's socioeconomic development and may not be applied directly in company-level collective agreements.

Regional agreements can be 'unloaded' in return for provisions on the development of regionally targeted socioeconomic development programs, submission of proposals to local budgets, endorsement of regulatory legal acts, etc., because according to the Law

³² This indicator is higher than those set in various sectoral agreements (0.5% in light industry, 0.5% in transport, 0.6% in mining and metallurgy; agreements in machine-building, construction and services do not contain such a provision).

on Social Dialogue, matters of endorsement and participation in the adoption of core policy documents on regional economic and social development belong to the competence of a territorial tripartite social and economic council. This is particularly so as regards:

- draft territorial programs of economic and social development;
- formulation of a local budget for a respective year;
- regulatory legal acts adopted by executive authorities and local governments concerning regulation of economic and industrial relations between social dialogue partners in a relevant administrative-territorial unit;
- provision of a favourable environment for the efficient work of enterprises, trade unions and employers' organizations operating in the territory of a respective administrative-territorial unit.

Enterprise/institution/organization level

A company-level collective agreement concluded at enterprises, in institutions and organizations stands at the lowest level in the system of collective-agreement regulation but it is the most important and widespread form of regulation of industrial relations, in which mutual obligations of an employer and representatives of the labour force are set forth concerning working and employment conditions directly at the workplace.

A company-level collective agreement can be concluded at all enterprises, organizations and institutions³³ using hired labour and having legal personality, regardless of their economic activity type, form of ownership or organizational and legal form. It can also be concluded in structural units of enterprises within their competence. Besides, the law provides for the conclusion of a collective agreement no matter the number of employed at an enterprise.³⁴ Such an agreement would contain provisions concerning pay, tariffs and coefficients, occupational safety, working time, and the participation of employees' representatives in formation, distribution and use of profits with account of the enterprise's financial standing and characteristic of its functioning.

The procedures of collective bargaining and conclusion of company-level collective agreements are regulated by the Law on Collective Agreements. In particular, an agreement is drafted by a working commission consisting of plenipotentiary representatives of the owner and employees on a parity basis. The final draft has to be discussed by the labour force and submitted for consideration to a general meeting (or conference) of the employees' representatives for subsequent approval. Collective bargaining timeframes are not limited by the law, they are specified by the parties themselves along with a procedure of bargaining (meeting intervals, additional consultations or expert examinations as necessary, etc.).

Upon approval, the company-level collective agreement is signed by authorized representatives of the parties and submitted for notifying registration to the executive authority specified by a governmental resolution. The agreement takes effect upon signing by authorized representatives of the parties.

During registration, authenticity of originals and copies is certified in order to enable use of their provisions for settlement of labour disputes, both individual and collective.

³³ Hereinafter, the term 'enterprise' will be used to describe all economic entities.

³⁴ According to laws in force, enterprises are divided, depending on the number of employed, into small ones (up to 50 persons), large (more than 250 persons), and medium-sized (all the rest). Specific features of economic management are envisaged for small enterprises.

The registering body's experts can also provide recommendations to the parties in case of finding provisions that fail to comply with legislation in force or with provisions of the General Agreement or other agreements, if the parties are within the scope of competence of parties to such agreements.

Although all company-level collective agreements specify that they are concluded in accordance with legislation in force and that provisions of the general and sectoral agreements apply directly, breaches of these provisions are not uncommon.

The reasons for such breaches can vary: e.g., insufficient awareness by bargaining participants of legislation in force ³⁵ and of higher-level agreements, or the difficult financial situation of an enterprise, etc.

The company-level collective agreement's validity period is also defined by the parties, whereas the law only governs the bargaining commencement deadline for a new company-level collective agreement (no earlier than three months before expiry of an existing company-level collective agreement).. A company-level collective agreement is concluded for 1-2 years at industrial enterprises, for 2-3 years at non-production enterprises, and for a longer period in management bodies (e.g., a company-level collective agreement between the administration and the work collective of the Chief Department of Justice in Ivano-Frankivsk oblast has been conclude for 5 years).

A considerable part of provisions on labour remuneration, protection conditions, and work and rest time rules is assigned by legislation to the collective-agreement-based regulation, therefore company-level collective agreements contain a greater share of concrete provisions and a larger amount of annexes.

For example, 34 percent of the company-level collective agreement of Khartsyzsk Pipe Plant Open Joint-Stock Company contains obligations of the parties, the remaining 66 percent being lists of provisions and specific measures. It also differs slightly in terms of its structure, which shows an informal approach of the collective bargaining parties to its conclusion. For example, in addition to generally accepted sections (regulation of employment relations; working time; labour remuneration; occupational health and safety; social guarantees; privileges and compensations; guarantees of trade union activities), it includes the following sections: corporate culture; industrial relations; procedure for examination of workers' grievances and settlement of individual labour disputes; circumstances hindering compliance with the company-level collective agreement; and supervision over compliance with the company-level collective agreement. Additionally, following each section of obligations, officials personally responsible for each provision are specified. Such a model of company-level collective agreement introduces an effective mechanism of supervision over its performance and avoids shortcomings in the implementation of its provisions.

In contrast, company-level collective agreements in state institutions are distinguished by more general provisions that specify the procedure of interaction between the parties or the administration's obligations to secure compliance with labour legislation. For example, the labour remuneration section in the company-level collective agreement between the administration and trade union committee of Khmelnytskyi oblast children's hospital contains the administration's obligations that are actually a list of functions: establish salaries; pay wages according to time limits specified by legislation; review salaries of workers and employees when the minimum wage is changed as per government decision, etc. The

³⁵ In a survey of employees, employers and trade union activists at enterprises, carried out within a study on industrial relations by the Centre of Social Expertise, a perfect knowledge of the Law of Ukraine on Collective Agreement was demonstrated by 30% of respondents; 16% were not familiar with the Law provisions; and the lowest awareness level was shown by employees – 33% are not familiar with the Law.

agreement includes annexes concerning measures to improve working conditions and define occupations and positions which receive free-of-charge special clothes, personal protective equipment, milk or other food products, and for which a shortened working day is set.

Supervision over compliance with a company-level collective agreement is exercised by the parties to it. Generally, conditions of the agreement state that performance results should be considered twice a year at the labour general meetings or conference, or at extended meetings of the administration and trade union committee. Supervision over compliance with the agreement throughout its validity period is exercised by a working commission consisting of representatives of the signatory parties. Based on results of the performance monitoring of obligations, a relevant report is drawn up and notified to the parties.

Stronger responsibility of the parties for compliance with company-level collective agreements is considerably promoted by personification of executives because the Code of Administrative Offences establishes administrative liability of persons representing the owner or the trade unions.

Higher efficiency of collective agreements is promoted by an all-Ukrainian competition for the best company-level collective agreement, organized by the Federation of Trade Unions of Ukraine. The procedure for determining the competition winners encourages the parties to constructive interaction concerning the conclusion and implementation of company-level collective agreements. It also fosters establishing interrelations between sectoral agreements and company-level collective agreements, because the best agreements are identified by sectoral trade unions, whereby key criteria include ensuring positive dynamics in labour remuneration levels, economic activity, production growth, and reduction of occupational accident and injury rates. Holding such a competition is also an effective mechanism to improve the technical knowledge of the parties to collective bargaining, disseminate positive practices, and secure additional control over compliance with company-level collective agreements.

IV. Implementation of collective agreements

The law provides for a procedure of supervision over the implementation of signed agreements, and also for holding liable any persons guilty of a breach of, or a failure to implement, obligations under a collective agreement.

Implementation of collective agreements by their parties

According to Article 15, Law on Collective Agreements, supervision over implementation of a collective agreement is exercised directly by the parties to the agreement or their authorized representatives.

For collective bargaining at all levels, commissions are established consisting of equal numbers of the parties' representatives. Generally, upon conclusion of a collective agreement, supervision over its implementation is assigned to these commissions.

For example, the General Agreement for 2010-2012 includes Annex 6 'The order of supervision over implementation of the General Agreement', according to which such supervision is exercised by a joint working commission made up of representatives of the owners and trade unions that negotiated the agreement. The said order defines a procedure and period for summing up results of an agreement's implementation and for settling differences between the parties concerning evaluation of the implementation's status. The parties may approve measures for realizing the agreement's provisions, specifying concrete deadlines and personified executives for each item.

In particular, in order to ensure meeting its obligations, the Government, which is a party to the General agreement, issues an executive order³⁶ upon conclusion approving measures to implement provisions of the General agreement, specifying responsible executives, and defining a procedure of reporting on meeting obligations.

Sectoral and regional agreements also include special sections that define forms and methods of procedure in supervising implementation of an agreement (see Table 12).

A typical feature of sectoral and regional agreements involves representatives of company-level collective agreement parties in monitoring implementation. In this way, inclusion of provisions of these agreements into company-level collective agreements is controlled.

The parties to most agreements specify criteria for the evaluation of implementation, to be applied during a summing-up of results. Often the parties fail to come to terms on the evaluation of agreement implementation. Usually this concerns provisions of a general nature that do not specify a timeframe or that indicate social partners' expected behaviour, e.g., 'promote implementation', 'ensure realization of activities', 'carry out continuously', etc. When summing up the results of implementation of the General Agreement for 2008-2009, as of 1 July 2009, the parties failed to reach consensus on evaluation of implementation of 10.7 percent of the provisions of the agreement; as of 1 October, the percentage was 7.5 percent.

³⁶ The Cabinet of Ministers Executive Order No. 261 of 30 March 2011 approved an action plan to implement provisions of the General Agreement for 2010-2011.

Table 12. Agreement provisions on supervision of implementation

Sectoral agreement/ regional agreement	Sections containing provisions on ensuring and/or supervising implementation of the agreement	Supervising body	Forms and methods of supervising and ensuring implementation of provisions of the agreement
Sectoral agreement on housing and public utilities for 2010-2012	Final provisions	Commission, composition of which is specified by the parties	a) each party analyzes the progress in agreement implementation on a quarterly basis and informs the other party; b) the agreement implementation progress is reviewed by a joint working commission meeting every six months; c) consideration of labour force complaints on breaches of agreement provisions, and taking appropriate measures to eliminate them.
Sectoral agreement in machine-building for 2010-2011	12. Supervision over agreement implementation 13. Agreement implementation evaluation criteria 14. Responsibility of the parties for implementation of the agreement 15. Final provisions	Standing bilateral commission	a) consideration of the agreement implementation progress by a joint working commission meeting every six months; b) consideration of the agreement implementation progress in sub-sectors by joint meetings of sectoral departments of the Ministry and trade unions; c) reporting by the parties to company-level collective agreement to labour force at the enterprise and to the sectoral agreement parties on compliance with obligations.
Donetsk oblast regional agreement	7. Agreement implementation mechanism Annex 5. Social dialogue procedure	Working group on collective bargaining for conclusion of the agreement and supervision over its implementation	a) within a month upon agreement signing, the parties develop and approve measures on its implementation, specifying concrete deadlines and executives for each section, and informing each other thereon; b) consideration of controversial issues arising in the course of agreement implementation at consultations and commission meetings; c) results of agreement implementation are reviewed at a meeting of working groups every six months; d) informing the region's population on the progress in implementation of the agreement and obligations of the parties via mass media (official websites, Positsia newspaper, Zhyzn newspaper, etc.).
Mykolayiv oblast regional agreement	6. Social dialogue 7. Final provisions	Joint commission, collegial bodies of parties' parties	a) the parties specify and approve concrete executives and deadlines for agreement sections and activities; b) results and progress of agreement implementation are reviewed by the parties every six months; c) the parties ensure media coverage of the agreement implementation progress.

Ensuring implementation of provisions of sectoral and regional agreements and improving supervision over their realization is assisted by the parties to the General Agreement. For example, the Federation of Trade Unions of Ukraine prepared in 2009 an information memorandum on the practices of conclusion and implementation of regional agreements containing recommendations on improved supervision by trade unions over implementation of sectoral and regional agreements. In particular, this included a list of trade unions' responsibilities and possible actions in case of the parties' failure to meet their obligations, and the names of those responsible for implementation of agreement provisions and norms.

The parties to the General Agreement have developed joint recommendations for the parties of agreements at all levels, from sector to enterprise, concerning the implementation of a collective-agreement campaign in 2011, which specify the campaign's core tasks, its specifics, and the need to bring existing agreements into conformity with General Agreement provisions.

Controversial issues arising in the course of implementation of agreements are generally settled through consultations and negotiations. The parties provide each other with additional information on measures taken, statistical data, etc. According to most agreements, trade unions undertake to abstain from the calling of strikes on issues for which the agreement provides means of settlement.

Supervision over implementation of collective agreements on the part of authorized public bodies

In case conditions of a collective agreement are not met, the parties, according to the Law on the Procedure of Settlement of Collective Labour Disputes (Conflicts), are entitled to approach the National Service of Mediation and Conciliation (NSMC) for assistance. Over the entire period of the NSMC's existence (1999-2011), 1285 claims of non-compliance with a company-level collective agreement, or provisions thereof, have been registered, which is 30.5 percent of all registered claims for other reasons (failure to meet requirements of labour legislation, conclusion or amendment of a company-level collective agreement, establishment of new or altering existing working conditions).³⁷ Among the claims settled, 29.2 percent involved claims concerning implementation of a company-level collective agreement. Comparison by year of the numbers of claims laid proves their dependence on the socioeconomic situation in the country. For example, the number of registered claims grew during the financial and economic crisis (2007 – 52; 2008 – 72; 2009 – 90), and later began to decline (2010 – 75) owing to stabilization and improvement of the socioeconomic situation.

Practice in the examination collective labour disputes shows that parties most often prefer a mediation commission, hoping to settle their conflict with an independent mediator's help. For example, during the conciliation procedure between the FTUU and the Cabinet of Ministers of Ukraine over a collective labour dispute concerning implementation of 12 provisions of the General Agreement, 5 out of 6 claims submitted were settled. The labour arbitration's ruling on the remaining claim did not ensure settlement of the conflict because, as agreed by the parties, the arbitral award was not binding. Imperfect legislation on the procedures of collective labour dispute settlement results in dragging on the conflict, and settlement eventually depends solely on understanding between the partners. The above-mentioned dispute was de-registered only on 20 June 2011 after the parties to the dispute had signed an agreement.

³⁷ Bulletin of the National Service of Mediation and Conciliation, # 11-12, 2011.

State supervision over compliance with legislation on collective-agreement-based regulation of industrial relations is exercised by the State Inspectorate of Ukraine for Labour ³⁸ which, cooperates with other authorities, trade union associations and employers' organizations. For example, an agreement on cooperation between Derzhnahlidpratsi and the Federation of Trade Unions of Ukraine was valid for a long time, providing for a mechanism of joint inspections and information sharing on results of the inspections carried out by various controlling bodies. Agreements on cooperation with state and public institutions to ensure labour law compliance were also concluded at the territorial level.

If any breaches are found during inspections, binding orders for their elimination are issued, which certainly promotes observance of company-level collective agreements and meeting of obligations by the parties. Through this process, protocols on administrative offences are drawn up, cases on such breaches are considered, and administrative sanctions are imposed. For example, a breach of, or failure to meet, obligations concerning a company-level collective agreement by persons representing owners or trade unions entails imposition of a fine at the rate of between fifty and one hundred tax-free allowances. Trade unions are able to send inspection materials to relevant state controlling bodies to make a decision on holding the employer administratively or criminally liable for a breach of labour legislation, including for failure to meet obligations under a company-level collective agreement.

Analysis of the existing system of supervision over compliance with collective agreements at all levels, as well as statistical data and information provided by the parties, demonstrates that more efficient mechanisms to implement agreement provisions exist on the enterprise level, rather than on higher levels (the average rate of compliance with company-level collective agreements concerning conditions of employment, pay and labour protection varies between 96 percent and 98 percent, while that for the general agreement is 75-82 percent).

³⁸ Before the administrative reform 2011 – the State Department for Supervision of Labour Law Compliance under the Ministry of Labour and Social Policy (Derzhnahlidpratsi).

Scope of agreements: coverage and application of extension procedures

The scope of agreements of various levels as defined by the legislature means that the provisions of a company-level collective agreement apply to all relevant workers regardless of whether they are members of the trade union that acted as a party to the agreement. Meanwhile, provisions of the General Agreement, sectoral and regional agreements apply to, and are binding on, only the parties within the scope of competence of the parties that signed the agreement.

That is why, in practice, discrepancies sometimes appear between provisions at various agreement levels, because often the parties (and their members) to company-level collective agreements are not within the scope of competence of the parties to sectoral and regional agreements (this is especially true for employers). In turn, the parties (and their members) to sectoral and regional agreements may not be within the scope of competence of the parties that signed the General Agreement. Basically, the composition of the parties to higher-level agreements is not the same as that of the parties to the lower-level agreements.

For example, parties of the General Agreement in construction include the Ministry of Regional Development and Construction on the owners' part and the Trade Union of Workers of Construction and Building Materials Industry on the part of trade unions representing those employed in this economic activity area.

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General provisions of this agreement specify that its conditions apply directly, covering the enterprises within the parties' scope of competence or management as well as any enterprise, shop or section belonging to this branch on a production basis. At the same time, the sectoral agreement in construction sets wage coefficients between workers' tariff rates and the minimum guaranteed tariff rate, and minimum coefficients of monthly salaries of managers, professionals and specialists at the enterprises that belong to other economic and industrial activity areas as per the state statistical classification: road and railway transport, machine-building, chemical, extractive, wood-processing and glass industries, where other sectoral agreements are in force.

The system of collection and processing of state statistical reports on coverage of workers with company-level collective agreements is based on reports of enterprises, institutions and organizations (No. 1-ПВ 'Report on labour'). Hence, statistical data on coverage of workers with company-level collective agreement by economic or industrial activity area and broken down by regions is formed on the basis of location of enterprises and their classification by their principal activity as belonging to a certain industry or economic activity. Information on coverage of economic entities with sectoral and regional agreements is currently not available.

According to state statistics, the coverage of workers with company-level collective agreements is rather high. However, while a stable coverage-increasing tendency was observed in 1995-2004 (from 60.7 percent in 1995 to 83.1 percent in 2004), that trend has not continued over the past five years (see Table 13).

Table 13. Changes in the number of agreements signed and employees covered ³⁹

Year	Company-level collective agreements signed and registered	Employees covered by company-level collective agreements	
		thousand	% of accounting staff number
2010 ⁴²	105014	8967,6	81,6
2009	94964	9038,3	83,9
2008	95656	9429,3	83,4
2007	94485	9596,1	82,4
2006	92479	9575,0	82,7

As to trends in the status of collective agreements concluded at enterprises in different economic activity types, the years 2008-2010 saw their decreasing number at enterprises in trade and services, post and communications, and institutions carrying out financial operations; at the same time at enterprises in the production economy, there has been annual growth in the number of company-level collective agreements concluded both generally (from 9,685 in 2008 to 11,783 in 2010) and in all industrial activity areas.

The coverage with company-level collective agreements is also higher in industry because, first of all, industry enjoys a larger legal framework for collective bargaining and, secondly, industry has a greater number of large and medium-size enterprises, therefore the coverage is higher even if the number of agreements concluded is less. In regional terms, the highest coverage is in regions where large industrial enterprises are concentrated (see Table 14).

Comparing the quantitative indicators of coverage with company-level collective agreements by economic and industrial activity and the number of employees being members of sectoral trade unions and working at enterprise members of the employers' organizations that were recognized as representative at the sectoral level as of 31 December 2010, we can assume that a considerable share of enterprises will not be covered by the sectoral agreements concluded during the collective-agreement campaign 2012. For example: the share of the number of members of the All-Ukrainian Trade Union of Employees and Employers of Trade, Public Catering and Services in the number of workers employed in respective economic activity areas is 7.9 percent; an employers' association in this field has not been established; at the same time, coverage with company-level collective agreements is 42.5 percent; in metal production, the coverage is 91.7 percent; at the same time, the All-Ukrainian Association of Metallurgy Employers' Organizations unites the employers which employ 29.4 percent of the total workforce in the sector, whereas the All-Ukrainian Trade Union of Metallurgy and Mining Workers covers 65.2 percent of workers in respective industrial activity areas.

³⁹ In 2010, enterprises were included in the general reporting form while units having 10 or more employees were separated. Data for 2006-2009 is without employees of statistically minor enterprises. According to the Unified State Register of Enterprises, 1,322,429 enterprises, institutions and organizations were active in Ukraine as of 1.12.2011, including 1,267,017 having legal personality.

Table 14. Company-level collective agreements concluded as of 31 December 2010

Region / economic activity type	Company-level collective agreements concluded and registered	Employees covered with company-level collective agreements	
		thousand	% of staff number
Ukraine	105014	8967,6	81,6
Regions:			
Donetsk oblast	9230	1050,0	88,5
Lugansk oblast	4962	508,6	91,2
Mykolayiv oblast	2709	203,6	83,3
Kharkiv oblast	6566	601,5	89,4
Khmelnyskiy oblast	3127	206,8	81,7
Kyiv oblast	2946	245,4	62,8
Economic activity types:			
Construction	4846	252, 4	71,0
Trade, repair of motor cars and domestic appliances	7676	407,5	42,5
Hotels and restaurants	1562	64,8	59,8
Utility and personal services	7482	279,3	74,6
Industry:	11773	<u>2624</u>	<u>90,6</u>
Production of coal, lignite and peat	262	282,5	98,8
Chemical production	377	102,5	91,5
Metallurgy and production of finished metal goods	921	311,4	91,7
Textile production	723	70,2	82,0
Pulp and paper industry, publishing	850	46,0	62,6

The provisions of legislation in force do not include procedures for extension of the application of a sectoral agreement to all enterprises in a sector that would comprise an efficient tool to encourage collective bargaining and expand the agreement's coverage. In most European countries, a public authority, usually the Ministry of labour has the legal competency, provided certain conditions are met, to extend the application of collective agreements to those employers' organizations that are not party to the agreement, or to enterprises that are not members of the employers' organizations that signed the agreement.

The application of agreements could be extended in two ways:

- 1) By including in the existing Law on Collective Agreements, or enabling in a draft Labour Code, provisions on the application of all or some provisions of sectoral and regional agreements to all employers and employees who are covered by the scope of the collective agreement on a production or territorial basis. It is necessary that the application procedure comply with the conditions specified in the ILO Recommendation No. 91, namely:
 - that the collective agreement already covers a number of the employers and workers, which is, in the opinion of the competent authority, sufficient;
 - that the request for extension of the agreement shall be made by one or more signatories of the agreement;
 - that the employers and workers to whom the agreement would be made applicable by its extension should be given an opportunity to submit their proposals and observations.
- 2) By promoting involvement of a broad range of associations, other groups of enterprises and manufactures in collective bargaining through provision of powers to representative employers' organizations, and by intensifying the work of all-Ukrainian federations and confederations to involve sectoral and territorial member employers' organizations in bargaining at sectoral and regional levels.

According to relevant provisions of the Law on Social Dialogue (particularly concerning the sectoral level, as a new classification system of economic activity types entered into force on 1 January 2012), representatives of the three parties to national-level social dialogue have invited the most powerful enterprises in all economic sectors, associations and enterprise groups other than employers' organizations to join collective bargaining during the 2012 collective bargaining campaign.

V. Promotion of collective bargaining by public authorities: legal provisions and practical measures

The Ministry of Social Policy of Ukraine (MSP) is the leading authority in the system of central executive authorities for the formulation and implementation of state policy on employment, labour relations and social protection.

It is among the MSP's core tasks to coordinate the activities of central executive authorities concerning the formulation and implementation of state policy on the development of social dialogue, on collective-agreement-based regulation of labour relations and socioeconomic relations, on interaction with the National Tripartite Social and Economic Council, and in due course exercise its role in notifying registration of sectoral and regional agreements.⁴⁰

The MSP carries out systemic and consistent activities to ensure realization of collective bargaining at all levels. These activities include:

- ☞ developing and improving the regulatory framework on collective-agreement-based regulation involving representatives of the social partners. For example, on the initiative of the Minister of Social Policy, a joint working group under his leadership has been established to review proposals and prepare the draft Labour Code for its second reading;
- ☞ coordinating the work of the governmental party in the Joint Working Commission on bargaining and supervision over implementation of the General Agreement, and carrying out continuous monitoring on realization of the action plan on implementation of the General Agreement; consolidating information arriving from central and local executive authorities every six months;
- ☞ ensuring observance of legislation and the General Agreement by the members of the parties to sectoral and regional agreements, carrying out expert examination of the agreement texts during notifying registration, and giving recommendations to the parties concerning elimination of breaches;
- ☞ reporting on the status of conclusion and implementation of collective agreements in the Ministry's printed publications and official website.

Central executive authorities promote collective bargaining at the sectoral level both in their capacity as employer with regard to public enterprises and as the regulating and enforcing authority that ensures the formulation and implementation of state policy in respective areas, by realizing the following activities:

- ☞ considering the subject matter included in sectoral agreements at extended board meetings involving representatives of the signatory parties;
- ☞ instructing structural units and subordinate institutions and enterprises to inform the parties to the agreement, on a permanent basis, on core performance indicators of the respective sector;
- ☞ issuing necessary executive orders to provide conditions for participation of workers of subordinate enterprises in collective bargaining.

In pursuance of the Cabinet of Ministers Executive Order No. 445 of 1 August 2006, local executive authorities, with the participation of social partners, have developed and

⁴⁰ The MSP's core tasks and functions are specified in the Regulations on the Ministry of Social Policy of Ukraine approved by the Decree of the President of Ukraine No. 389 of 6 April 2011.

approved the Procedures of Social Dialogue in the Region that provide for measures to promote collective bargaining and conclusion of collective agreements on the regional level and at enterprises operating in a respective region. These procedures are still valid with certain supplements and amendments. In fact, every regional agreement specifies a list of measures that the local authorities undertake to implement to promote collective bargaining and improve its efficiency.

For example, according to the decision made by local executive authorities in Donetsk oblast:

- ☞ preferential air time has been allocated to Region oblast state TV and radio company and Region-Donechchyna regional TV and radio company for TV and radio broadcasts, as well as space in Zhyttia oblast newspaper, to inform the public on the progress of regional agreement implementation by representatives of its parties and to highlight activities of trade unions and employers' organizations;
- ☞ the trade union party and the employers' party are freely provided with statistical information on the oblast's socioeconomic development as well as analytical information from departments of the oblast state administration;
- ☞ to raise the legal awareness of participants in collective bargaining representing trade unions and employers, training is organized for 2-4 days with full pay, at the principal place of employment.

In Mykolayiv oblast, in order to strengthen the work for conclusion and implementation of company-level collective agreements, the head of the oblast state administration issued Executive Order No. 23-p of 22 January 2007 On intensifying work for conclusion and implementation of company-level collective agreements in Mykolayiv oblast and No. 406-p of 28 December 2006 On strengthening social dialogue and supporting the trade union movement in Mykolayiv oblast.

Khmelnyskiy oblast state administration organizes the Best Employer competition, and implementation of obligations under a company-level collective agreement is one of the determining criteria for the winner.

Ivano-Frankivsk oblast state administration, which coordinates the work of district state administrations in the oblast to provide conditions for the conclusion of territorial collective agreements at the level of districts and cities of oblast subordination, issued the Executive Order On development of social dialogue in the oblast, and signed the memorandum of understanding between the oblast state administration and the oblast trade union council.

The measures taken by central and local authorities certainly promote intensified and improved collective-agreement-related work.

VI. Conclusions and recommendations⁴¹

The participants in the national tripartite round-table discussions “Improving legal framework and existing practices of collective bargaining in Ukraine” – representatives of the International Labour Organization, central and local executive authorities of Ukraine, all-Ukrainian trade unions and their associations, all-Ukrainian associations of employers’ organisations, business associations, enterprise management and trade union organisations, specialists and independent experts – having heard and discussed the findings of a national study on legal framework and existing practices of collective bargaining in Ukraine, have agreed the following:

- a) the legal and practical gaps identified in the process of collective bargaining at various levels – national, regional, sectoral and company - require a thorough reform of the current legislation on collective bargaining so as to ensure the needed coherence, coordination and effectiveness of the process;
- b) an overwhelming majority of collective agreements of all levels have been concluded on the basis of models suggested by the working groups of experts delegated by tripartite partners within the ILO Declaration Project in Ukraine in 2002-2003; however, substantial differences exist between collective agreements at various levels as regards their content in terms of agreed arrangements, working conditions (standards) and terms of employment, and provisions establishing obligations of the parties to achieve a certain employment level and to provide conditions for that (improving legislation, developing and implementing targeted programmes, package of measures, etc.);
- c) the application of collective agreements at national, sectoral and regional levels is confined to the signatory parties, who have limited legal powers in addressing the issues covered by collective bargaining;
- d) discrepancy can be traced between conditions of work and employment as set by company-level collective agreements and those specified in higher-level collective agreements;
- e) a significant number of provisions of collective agreements are only formal in their nature. This is especially relevant for collective agreements concluded in the state budget-funded sector, which can be explained by legal restrictions on wage fixing through collective bargaining in this sector;
- f) insufficient development of industrial relations at the sectoral level, absence of employers’ organizations in the private sector and lack of clear definition of economic structures affect the conclusion and efficiency of sectoral agreements and hamper their extension in the private sector;
- g) current status of the implementation of collective agreements and the results of settlement of collective labour disputes indicate the need for improved mechanisms of prevention, monitoring and supervision over their implementation as well as for an enlarged list of grounds for establishing disciplinary, administrative and criminal liability for violation of the legislation on collective agreements.

In order to increase the efficiency of collective agreements at all levels, and to improve

⁴¹ These conclusions and recommendations were discussed and endorsed by the representatives of tripartite constituents attending the national round tables devoted to improving legal framework and current practices of collective bargaining in Ukraine (Kiev, 21-22 March 2012).

the coordination of enforcement of their outcomes, the participants have identified the following measures to be taken:

1. Hold tripartite consultations on a new law on collective bargaining in order to ensure correlation with other relevant laws (e.g. the Law on Social Dialogue and the regulation governing the functioning of the National Conciliation and Mediation Service), to reflect up-to-date industrial relations in Ukraine, and to strike the balance between the needs of workers in terms of job security and decent work, on the one hand and of enterprises for sustainable development, on the other hand. For this purpose the following is recommended to be envisaged:
 - 1.1 introduction of clear definition of the parties to collective bargaining and their representation for the purpose of collective bargaining at various levels;
 - 1.2 specifying the binding force of collective agreements between the parties (inter partes effect) and the legal conditions for extension at the concerned level in compliance with the ILO Recommendation on Collective Agreements, 1951 (No. 91);
 - 1.3 establishing the legal status of 'collective agreements' at all levels (the law of the parties) so as to create mutual obligations and rights for the parties to collective bargaining on conditions of work and terms of employment, as well as of the distinction between collective agreements and 'social pacts' at the national or regional level, having in mind that the latter mainly include political commitments on socioeconomic policy making;
 - 1.4 determination of conditions for accession to collective agreements of parties that were not involved in negotiations and signing of the agreements;
 - 1.5 providing for freedom of the parties to choose the level of negotiations and the possibility to conclude collective agreements at any level;
 - 1.6 establishing a legal hierarchy of collective agreements concluded at various levels and the inter-linkage between them;
 - 1.7 unitary use of the term of 'collective agreement' (колективна угода [kolektyvna uhoda]) at all levels, including at the company level, since the term 'agreement' (договір [dohovir]) has the same meaning in 'collective agreement' and 'company-level collective agreement';
 - 1.8 establishing a maximum duration for bargaining a collective agreement and a timeframe for starting negotiation of a consecutive collective agreement;
 - 1.9 provisions regarding conclusion/registration, execution, suspension, termination of a collective agreement;
 - 1.10 free of charge and expeditious access to conciliation, mediation and voluntary arbitration of collective labour disputes arising during the conclusion, execution, interpretation, suspension and termination of a collective agreement;
 - 1.11 priority of trade unions to engage in collective bargaining in conformity with the Collective Bargaining Convention, 1981 (no. 154), which provides that "the term collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other for a) determining working conditions and terms of employment; and/or b) regulating relations between employers and workers; and/or c) regulating relations between

employers and their organizations and a workers' organization or workers' organizations; priority should be given to trade unions for collective bargaining purpose. Only when there is no trade union, the elected representatives of workers can be given that role;

- 1.12 providing for the autonomy of the parties to collective bargaining, which implies the freedom of choice as regards the topics of negotiations when establishing working conditions and terms of employment, as well as the relationship between themselves. An indicative but by all means not exhaustive list may include wages, benefits and allowances, working time, paid and unpaid leaves, pre-dismissal rights, selection criteria in case of collective redundancy, the coverage of collective agreement, vocational training, compulsory retirement clauses before the legal retirement age, gender equality related issues, family friendly working arrangements, improved maternity leave arrangements, child care facilities, settlement of labour disputes, statute of union representatives in the company, the granting of facilities for union representatives, including access to the workplace beyond what is provided for in legislation, a system for the collection of union dues, special funds for social benefits and so on.
2. When concluding collective agreements at national and/or regional levels a clear distinction should be made between the role of the public authorities as an employer in the public sector and that of regulator and enforcer of the law.
3. The law may distinguish between collective bargaining in the private and in the public sectors taking into account the specificities of the latter. In any case, a clear distinction should be made between the role of the state as regulator and its role as employer in the public /budgetary sector. Government (national and local public authorities) should participate in negotiations on terms and conditions of employment of public employees exclusively in its capacity as employer.
4. A distinction must be drawn between the category of civil servants and that of auxiliary staff employed by various state agencies, bodies and institutions. Legislation should contain specific provisions clearly and explicitly recognizing the right of organizations of public employees and officials who are not acting in the capacity of agents of the state administration to conclude collective agreements.
5. With regard to the right to collective bargaining of specific categories of employees in the public sector, workers of state-owned commercial or industrial enterprises or public services (e.g. transportation, water, postal and telecommunication services, national banks, radio and television institutions, public hospitals and teachers, air flight personnel) should be allowed to bargain collectively. The same should apply to temporary workers.
6. It is reasonable not to include in collective agreements of all levels general political commitments or strategic plans of the public authorities as well as commitments and matters that cannot be subject to collective regulation of working conditions and terms of employment or industrial relations; instead, to consider the conclusion, at national and/or regional levels, of tripartite social pacts on strategic economic and social matters of general interest.
7. For the purpose of optimising the bargaining process and securing effective supervision and implementation of agreements of all levels, tripartite constituents are encouraged to take the following measures by way of law or collective agreement:

- 7.1 establish disciplinary or administrative liability for violation of legislation on collective agreements. Roles of the Labour Inspection as law enforcer and that of the National Conciliation and Mediation Service as provider of services of prevention and amicable settlement of collective labour disputes should be clearly defined;
 - 7.2 provide that each party to a collective agreement develops action plans for implementation of the agreed provisions, specifying responsible officials;
 - 7.3 develop a mechanism of monitoring the implementation of collective agreements;
 - 7.4 ensure publicity of the contents of collective agreements of all levels through, for instance, posting them on the websites of the signatory organizations, labour inspectorates or through any other available means;
 - 7.5 hold tripartite consultations on the establishment and maintenance of a unitary electronic register of collective agreements of all levels, including data about their coverage;
 - 7.6 providing for the legal possibility for a trade union or elected workers' representatives in case there is no trade union in the company to call a one-day warning strike and/or protest action in case the employer refuses to engage in collective bargaining, according to the law.
8. In order to streamline the content of provisions of collective agreements and increase their effectiveness:
- 8.1 remove any provisions related to matters that can be addressed and settled through other forms and mechanisms of social dialogue such as consultations, activities of social dialogue institutions, social pacts etc., as well as any provisions that are vague and general or that repeat standards laid down by law (no 'added value');
 - 8.2 provisions relating to 'meeting spiritual and cultural needs' and 'providing with housing' are suggested to be addressed in other frameworks than collective bargaining, except particular cases when such provisions may have a practical application;
 - 8.3 in agreements of all levels, specific arrangements and schemes can be negotiated in order to:
 - 8.3.1 establish equal pay for work of equal value in light of the Equal Remuneration Convention, 1951 (No. 100);
 - 8.3.2 prevent from discrimination on any grounds (gender, age, race, disease, real or believed HIV-positive status, nationality, religion, political opinion, national extraction or social origin) which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
 - 8.3.3 ensure equality of rights and opportunities for men and women, including the workers with family responsibilities in light of the ILO Convention of Workers with Family Responsibilities Convention, 1981 (No. 156);
 - 8.3.4 adopt corrective measures (positive discrimination) based on agreed clear criteria to remove existing barriers for effective equality of opportunities.
9. In order to strengthen the inter-linkage between collective agreements at various levels, a coherent and coordinated structure of collective agreements should be

introduced, reflecting the level of conclusion and the competence (powers) of parties in the bargaining process. An indicative list of provisions is provided hereinafter.

- 9.1 Section I. General provisions. In this section, it is proposed to specify: the purpose of agreement; scope and application; validity period; full names of the signatories of the agreement, specifying their legal competence (the legal basis: decision, resolution or law), addresses and contacts of officials (as an annex); applicable higher ranked regulations (for instance higher-level collective agreements provisions) providing their full titles.
- 9.2 Section II. Career development, lifelong training and other measures to ensure productive employment. This section should contain provisions on professional/career advancement of employees and productive employment (streamlining of production structure/processes, organisation of training and advanced training, staff appraisal, etc.). All these provisions will have 'value' if they are based on concrete obligations.
- 9.3 Section III. Labour remuneration and rating. This section should contain specific provisions on labour remuneration conditions, avoiding vague formulations as 'ensure timely and full payment of wages'; 'pay wages twice a month' (without specifying concrete dates whereas legislation sets a concrete period between payments); 'pay bonuses depending on work performance', 'take measures to decrease wage arrears', etc. While setting labour remuneration rates in an enterprise-level collective agreement, concrete indicators of deterioration of the economic situation of the enterprise and accordingly, their reflection in the enterprise's labour remuneration policy should be specified. Agreed criteria for assessing work performance can also be included.
- 9.4 Section IV. Working time, including rest periods and work schedules. It is suggested to specify the following in this section: conditions of application of fixed-term contracts and transfer to part-time week schedules, providing for compensation measures; conditions for provision of, types and duration of additional leaves and staff categories they are granted to; working time duration and work schedule change procedures; prevention of forced labour. The agreements can include appropriate annexes that establish work and rest schedules.
- 9.5 Section V. Labour protection. The parties assume specific obligations on the amount of labour protection expenses, provision of personal protective equipment and special clothes to workers, creation of conditions for efficient work of labour protection services, etc.
- 9.6 Section VI. Social guarantees and privileges. It is suggested that this section comprise provisions, including long-term ones, related to types, rates and conditions of agreed privileges, compensations, additional social guarantees, and staff categories to which they are provided.
- 9.7 Section VII. Social dialogue. In this section, it is suggested to specify a procedure and mechanism for interaction between the parties in the course of implementation of agreement provisions, inter alia ensuring guarantees for activities of trade unions (especially at the enterprise level) and employers' organisations (at the levels higher than the enterprise level).
- 9.8 Section VIII. Final provisions. It is proposed to define the following in this section (as separate subsections or annexes):

- 9.8.1 procedure of supervision over compliance with the agreement;
 - 9.8.2 criteria for evaluation of compliance with provisions of the agreement;
 - 9.8.3 conditions and procedure of accession to the agreement;
 - 9.8.4 procedure and conditions of amendments and supplements;
 - 9.8.5 list of objective circumstances under which suspension of some agreement provisions or decrease in the level of social guarantees set forth by the agreement can be allowed.
10. In order to improve the system and efficiency of collective bargaining mechanisms, the tripartite partners need to implement a package of coordinated measures that will include:
- 10.1 improving legislation;
 - 10.2 conducting systemic studies and broad awareness-raising work;
 - 10.3 organising professional training of representatives of the parties involved in collective bargaining;
 - 10.4 developing manuals for collective bargaining participants, which would contain recommendations on bargaining procedures and indicative content of collective agreements (based on a unified structure and with account of specificity, level of conclusion, scope of extension, and powers of bargaining parties);
 - 10.5 studying and disseminating best practices of conclusion and implementation of collective agreements.

Specific recommendations

General Tripartite Agreement

1. It is suggested that the provisions of such an agreement bring added value to the Labour Code provisions;
2. A clear linkage with the lower levels of collective bargaining (regional, sectoral, company) should be sought;
3. In order to secure its nation-wide enforcement, the representativity of signatory social partners in all economic sectors and regions should be defined;
4. An enforcement mechanism, including monitoring and early warning in case of failure of compliance procedures should be set up;
5. A decision should be made on the political nature and/or legal status of the agreement: a social pact or a national collective agreement.

Regional agreement

1. It is suggested to clearly define the parties and their representativity for collective bargaining purposes at the regional level;
2. Coordination with the general tripartite agreement and various sectoral collective agreements in force in both the private and the public sectors at the level of the same region should be secured;
3. Depending on the parties involved, topics of negotiations, political nature/legal status

of an agreement at regional level, a clear distinction should be made between collective agreements and social pacts concluded at this level.

Sectoral agreement

1. It is suggested the law includes a definition/limitative list of economic sectors upon consultation with the social partners;
2. Linkage with the other levels of collective bargaining (national, regional, company) should be provided;
3. Representativity of the signatory social partners for the purpose of collective bargaining should be defined;
4. Legal conditions for extension at the sectoral level of a collective agreement concluded by representative sectoral workers' and employers' organizations should be laid down by law after consultation with the concerned organizations;
5. The scope of a sectoral agreement should be defined by a list of enterprises where member organisations of the all-Ukrainian sectoral trade union and member enterprises of the employers' organisations being members of the all-Ukrainian association of sectoral employers' organisations are active;
6. An effective mechanism for enforcement of outcomes of collective agreements including free of charge and expeditious services of conciliation, mediation or voluntary arbitration of collective labour disputes arising during negotiations, execution, interpretation, suspension or termination of collective agreements at this level should be made available to the social partners;
7. Various arrangements, such as specialized permanent or ad-hoc bodies/ joint committees could be considered in order to provide permanent consultation and feedback with the company level, as well as to ensure monitoring and enforcement.

* * *

Annex 1. List of sectoral agreements analysed in the course of the study⁴²

Sector / economic activity type / activity area	Number of employees ⁴³ covered by collective agreements	Sectoral agreements
Ukraine total	81,6	93 sectoral agreements
<i>Budget-funded sphere, non-production sectors, services</i>		
Health care and social assistance	91,8	Sectoral agreement between the Ministry of Health and the Central Committee (CC) of the Trade Union of Health Care Workers of Ukraine for 2007-2011
Transport activities	90,6	Sectoral agreement between the Ministry of Infrastructure of Ukraine, the Federation of Transport Employers of Ukraine, and the joint representative body of the Trade Union of Workers of Road Transport and Facilities of Ukraine and the All-Ukrainian Independent Trade Union of Transport Workers for 2011-2012
Provision of utility and personal services	74,6	Sectoral agreement between the Ministry of Housing and Utilities of Ukraine, the all-Ukrainian Association of Oblast Employers' Organizations of the Housing and Utilities of Ukraine (Federation of Employers of HU of Ukraine), and the CC of the Trade Union of Workers of Housing and Utilities, Local Industry and Domestic Services of Ukraine for 2010-2012
Construction	71,0	Sectoral agreement between the Ministry of Regional Development and Construction of Ukraine and the Trade Union of Workers of Construction and Building Materials Industry of Ukraine for 2009-2011
Trade; repair of domestic appliances and personal items	42,5	Sectoral agreement between the Ministry of Economy of Ukraine, the Association of Employers in Trade and Commercial Economy of Ukraine, and the All-Ukrainian Trade Union of Workers and Employers in Trade, Public Catering and Services for 2008-2009 (as amended and supplemented on 18.10.2010)
Industry	90,6	20 sectoral agreements
Production of coal, lignite and peat	98,8	Sectoral agreement between the Ministry of Coal Industry of Ukraine, other public authorities, owners (owners' associations) operating in coal mining, and all-Ukrainian trade unions of coal industry
Metal production	91,7	Sectoral agreement between owners (employers) of Ukrainian mining and metallurgy enterprises, their representatives, the Ministry of Industrial Policy, the State Property Fund, economic associations, and the Trade Union of Workers of Metallurgy and Mining of Ukraine for 2011-2012

⁴² Для дослідження було обрано, відповідно до технічного завдання та за погодженням з членами Спостережної ради, 10 галузевих угод, укладених в різних секторах економіки з різним рівнем охоплення (від найвищого – до найнижчого).

⁴³ (у % до облікової кількості штатних працівників). Дані приведені станом на 31 грудня 2010 року.

Production of machines and equipment	89,9	Sectoral agreement between the Ministry of Industrial Policy of Ukraine, the State Property Fund of Ukraine, and trade unions of automobile and agricultural machine-building, machine-building and instrument-engineering workers, space and general machine-building, radio electronics and machine-building, forestry, machine-building and metal working, shipbuilding, defense industry, power engineering and electrical industry, nuclear power engineering and industry of Ukraine, which joined to bargain collectively, for 2010-2011
Textile production; production of clothes, fur and articles thereof	75,8	Sectoral agreement between the Ministry of Industrial Policy of Ukraine, the State Property Fund of Ukraine, the Ukrlegprom Ukrainian Association of Light Industry Enterprises, the Ukrlegprom All-Ukrainian Association of Oblast Employers' Organizations of Light Industry Enterprises, and the CC of the Trade Union of Textile and Light Industry Workers of Ukraine for 2005-2006 (as amended in 2010)
Paper and pulp industry; publishing	62,6	Sectoral agreement between the Ukrpapierprom Ukrainian State Joint-Stock Holding Company, individual pulp and paper industry enterprises not included in the holding, and the CC of the Trade Union of Workers of Forest Industries of Ukraine for 2005-2006

Annex 2.

List of regional agreements and company-level collective agreements analysed in the course of the study⁴⁴

Region / regional agreement	Number of employees ⁴⁸ covered by company-level collective agreements	Company-level collective agreements at enterprises, in institutions, and organizations
Ukraine total	81.6	Total number of company-level collective agreements – 105,014
<u>Western region</u> <u>Ivano-Frankivsk oblast</u> Regional agreement between Ivano-Frankivsk oblast state administration, employers' associations and trade union associations	87,7	KCompany-level collective agreement between the administration and the work collective of Kipomiskbud LLC for 2011-2016 Company-level collective agreement between the administration and the work collective of the Chief Department of Justice in Ivano-Frankivsk oblast for 2010-2015 Company-level collective agreement between Ivano-Frankivskgas public JSC and its trade union committee.
<u>Eastern region</u> <u>Donetsk oblast</u> Regional agreement between Donetsk oblast state administration, trade union associations of Donetsk oblast, and Donetsk oblast employers' organisation	88,5	Company-level collective agreement between the owner's representative and the primary trade union organization of metallurgy and mining workers of Khartsyzsk Pipe Plant open JSC Company-level collective agreement between the owner's representative and the work collective of Ordzhonikidzevuhillia state enterprise
<u>Southern region</u> <u>Mykolayiv oblast</u> Regional agreement between Mykolayiv oblast state administration, oblast council, Mykolayiv oblast employers' organization 'Industrialists and Entrepreneurs of Mykolayiv Oblast', and Mykolayiv oblast council of trade unions on socioeconomic issues	83,3	Company-level collective agreement between the administration and the work collective of Mykolayiv Alumina Plant LLC

⁴⁴ According to the terms of reference and as endorsed by representatives of the Supervisory Board's social partners, 5 regional agreements, concluded in regions with various worker coverage with company-level collective agreements (including higher than Ukraine's average, equal to average, and the lowest), as well as 14 company-level collective agreements, concluded at enterprises/institutions in various economic sectors, with various forms of ownership and economic management, were selected for the study.

⁴⁵ (in % of the accounting staff number). Data as of 31 December 2010.

<u>Northern region</u> <u>Khmelnyskiy oblast</u> Regional agreement between Khmelnytskyi oblast state administration, the Federation of Trade Unions, and the association of employers' organisation of Khmelnytskyi oblast	81,7	Company-level collective agreement between the administration and the trade union committee of Firma Bakalia private JSC Company-level collective agreement between the administration and the trade union committee of Khmelnytskyi oblast children's hospital Company-level collective agreement of Khmelnytskyi Pasta Factory closed JSC
<u>Central region</u> <u>Kyiv city</u> Regional agreements: between the executive body of Kyiv city council (Kyiv city state administration) and Kyiv city trade union council; between Kyiv city employers' organization and Kyiv city trade union council; between Kyiv city employers' association and Kyiv city trade union council, local trade unions	65,3	Company-level collective agreement between the administration and the association of primary trade union organizations of Kyivvodokanal open JSC Company-level collective agreement between the administration and the trade union committee of the city clinical hospital No. 9 Company-level collective agreement between the administration and the work collective of Obolon-Liftservis municipal enterprise-Company-level collective agreement between the administration and the trade union committee of Kyivpasservis state enterprise Company-level collective agreement between the management and the workers trade union (on the work collective's behalf) of the Administration of the State Border Guard Service of Ukraine