Good Labour Relations Practices in the Americas

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NOTES
PRESENTATION

This manual of good labour relations practices was prepared in the context of the Project executed by the ILO, with USDOL financing, to support the Inter-American Conference of Ministers of Labour of the Organization of American States (IACML-OAS). The document, prepared by the ILO at the express request of IACML working group 2 responsible for “Building the capacity of Labour Ministries,” briefly covers pertinent regional experiences based on the various elements and institutions involved and from a highly exemplifying and teaching outlook. It is part of a series of Project publications to supply inputs for the Conference working group members.

Although there are numerous national, subregional or thematic studies on good practices in the Americas, this publication, at the request of working group 2, adds some new compilation and structural elements. Prepared on the basis of the countries’ practical experience on the subject and of information sent in by the governments themselves and by the social actors, it constitutes an initial working document on which subsequent further and more in-depth efforts will produce a more complete and better-adapted repertoire of good practices. It is not a comparative analysis or a theoretical reflection, but an orderly presentation of several lines of conduct that have produced positive results in the area of labour relations.

We consider that the content of the document aimed at the ILO constituents in the region by establishing parameters and elements to strengthen a specific area key to the working world, could be important for developing the social aspects of the regional integration process and ensuring better dissemination of workers’ rights in a context of productivity, dialogue, social peace and decent work as a global – and, hence, a regional – objective.

Daniel Martínez
Acting Regional Director for Latin America and the Caribbean
INTRODUCTION

The concept of good labour practices has been in use for the past several years in a very wide and
genial sense, as a synonym for all kinds of successful experiences in the world of work. At a critical
moment in the development of labour-management relations, this idea responds to an increasingly
anxious search for mechanisms and forms of interaction that may make it possible to identify those
experiences and forms of interrelation that have improved the labour environment and increased
productivity in a context of respect for workers’ rights.

In line with the above and as a preliminary approximation, a good practice can be defined as any
experience guided by appropriate principles, objectives and procedures, and/or any advisable guidelines
in line with a certain normative perspective or a consensus-based standard, as well as any experience
that has produced positive results by proving to be effective and useful in a given context.
Notwithstanding, the concept of good practices is generally used in spontaneous, unregulated way,
with reference to any experience subjectively considered as successful from a wide variety of points of
view, with no pre-established minimum benchmarks that might make it possible to identify such
experiences in objective terms.

Nor should it be forgotten, as we work to improve our general definition of good practices, that our
ultimate purpose is to be able to document and disseminate those cases that in an enterprise, an
industry or a country have produced situations, developments and labour models that may be defined
as exemplary when measured with a variety of criteria, for purposes of successful replication. Clearly,
the world of labour is a multifaceted reality – from personnel selection and other administrative
matters to the exercise of fundamental rights – an imperative requirement –, to matters such as the end
of labour life or the conjugation of work time with leisure time, to myriad issues relating to health,
social protection or employment policies. Indeed, we are dealing with a whole range of issues that
concern the social life of human beings.

It would be far too ambitious to try to cover all of these issues at the same time from the start.
Therefore, for purposes of this study and for practical reasons, we are going to focus on a single
aspect and try to develop a few working tools that might enable us to attain our goal. Given that a
study of labour life within an enterprise – the core of the world of labour – must begin with a study of
the development of labour relations, this will be our starting point. This decision does not imply that
we consider this particular topic as the most important or the most urgent. It merely stems from a
desire to begin with a topic sufficiently wide as to be of common interest, and where concrete
instances are most likely to be available for the purposes of an adequately in-depth study. Moreover,
given that collective bargaining is a key element of labour relations, and that this element is unique and
leaps itself to the search of a solution through consensus, it would appear to make its study more
straightforward and, perhaps, simpler.
In the Americas, the state of labour relations and its underlying principles is not particularly encouraging. There is much talk about a general deterioration of labour relations at all levels. Nevertheless, in several countries and industries a number of successful experiences are there to show that the situation can indeed improve, and indicators and identifiable elements are presented that make it possible to develop the same experiences in other contexts with the resulting multiplier effect.

We should like to clarify a point regarding the criterion for selecting the cases included in this report and presented throughout the present text. There have been occasions where we received or found examples of good practices that reflected some positive aspect in the development of labour relations in an enterprise. Nevertheless, it was difficult to include them under the general good practice category, given that they evinced other labour relations problems detected by national or international authorities. Such has been the case, for instance, of an enterprise that had introduced novel negotiated practices on the subject of safety and health at work, whilst, on the other hand, having been the object of an anti-union dismissal complaint before the ILO’s Freedom of Association Committee.

As we will see in the following pages, there is no objective or universally accepted definition of a good labour relations practice, one that would make it possible to build a database of practical examples. Most texts on this topic, including those created by the ILO, simply use the concept without defining it, with the resulting lack of clarity as to the objective pursued.

Given this, and with the intent of making a more in-depth analysis of this issue and facilitating a common modus operandi, this paper attempts to develop the guidelines of an operational good practices methodology, one essentially aimed at labour relations actors, as a way not only to promote unanimous consensus on such a definition, but also to provide certain tools, a degree of training, and establishing the basis for its dissemination among workers and employers in order to build a decent work environment, i.e. one that is fair and respectful of fundamental workers’ rights.

The authors
1. THE GOOD LABOUR RELATIONS PRACTICES CONCEPT

According to the documentation examined, there does not seem to exist in the Americas a general good labour practices concept, even though the various papers and studies clearly try to capture examples fit to be converted into models regarding various aspects of labour and employment.

Even within the ILO there is no concrete definition of this concept, in spite of the availability of several documents and manuals devoted to this topic\(^1\), and the creation of a number of guides and/or compendia (such as those prepared for the RELACENTRO, PROMALCO, USDOL Colombia technical cooperation projects\(^2\)). Even the ILO’s international instruments mention the good labour practices concept. Such is the case of item 9 g) of the Human Resources Development Recommendation, 2004 (No. 195) which urges “private and public employers to adopt best practices in human resources development;”. Likewise, in its observations\(^3\) the Committee of Experts on the Application of Conventions and Recommendations has mentioned this concept and given it a content in line with national use.

According to an analysis based on objective elements, a good labour practice would be one allowing social development in a context of protection of workers’ rights whilst ensuring economic progress in other words, one that facilitates a worker’s performance in a context of respect for the rights accepted as valid by his/her community and development and progress for the economy and for enterprises. Given that any general discussion of labour and/or employment involves myriad facets and aspects, each and every one of the issues involved should be submitted to concrete typification in order to identify the elements that could characterize this common objective and its various elements.

Given that labour relations are typical of and central to decent work and social justice (the pursuit of which are the ILO’s remit by express mandate of its Member States) since they combine legislation, programmes and policies and develop legal as well as economic aspects, we have chosen this issue as our initial topic of discussion.

Although there are – again – no concrete definitions, from the ILO perspective a good practice regarding labour relations may be defined as a collective experience\(^4\) which in a context of respect for fundamental principles and rights at work as defined by the Constitution and the ILO Declaration can be considered successful in ensuring the well-being of workers and the progress of enterprises by improving relations within the enterprise, ensuring adequate conditions of work and employment, facilitating the increase of productivity, and developing a culture of consensus on the basis of a negotiated agreement between workers and employers; in other words, by facilitating decent work.

Based on this perspective, and without presuming to establish a definitive list, the following would be considered as basic general indicators or elements of a good labour relations practice:

- Respect for fundamental principles and rights, and in particular for freedom of association and collective bargaining.
- Signs of positive adjustment by workers and employers to the working environment and attitudes of mutual cooperation and help.
- Establishment of effective measures to overcome conflict.
- Open dialogue: existence of agreements, information and consultation between the enterprise and workers’ representatives.
- Economic development or negotiated measures aimed at improving economic performance.
- Internal training policy generating an increase in workers’ professional skills.

It should be pointed out that good practice is a dynamic concept, one that can evolve and change over time. A practice may be considered positive, even consensus-based, and yet evolve in the direction of conflict or other undesirable manifestations.

Within the region, the concept of good labour relations practices (or good practices in terms of labour relations) is used with multiple acceptations and different meanings. As we examine the web pages of the social actors and the various institutions concerned with this issue, we find that, widely as this term is used, there are very few definitions of it.

Only the Chilean Ministry of Labour makes an express reference to this term in the Labour Directorate’s web page by stating that “In any country, labour relations are a factor of essential importance, not only because they determine the quality of the interaction between employers and workers, but also because they define the quality of a society. For this reason, the debate on Good Labour Practices is a national issue that concerns not only the authorities in charge of economic policy but the entire society. For its part, SERNAM (The National Service for Women), an agency of the same Ministry, defines good equity practices as a set of policies, measures and/or initiatives adopted by an enterprise in order to improve working conditions for women and reduce existing labour gaps. Enterprises adopt them on a voluntary basis, and they are additional to those mandatory under labour law.

Nor do trade unions and employers’ organizations with an open web page offer an explicit definition of the concept discussed in this study, which is only mentioned in a number of publications, seminars, workshops or internal documents. In other words, they choose a descriptive approach, by mentioning examples of institutions and labour relations actions that may be defined as “appropriate” from their point of view.

For its part, the Permanent Secretariat of the General Treaty on Central American Economic Integration (SIECA), although it does not provide an explicit definition of the good labour relations practices concept, does consider in its workshops held within the framework of collective labour relations, that the best practices are those that generate “the greatest respect for internationally recognized labour rights and rights deriving from trade negotiations with the United States of America”. In this context, it deems essential to work on:

- International labour agreements within the framework of the International Labour Organization (ILO).
- Freedom of association and the right to organize, and the effective recognition of the right to collective bargaining, the effective elimination of child labour, the elimination of forced or compulsory labour of any description, and of discrimination in employment and occupation.
- Trade agreements and the inclusion of internationally recognized labour rights protection.
Practical experience in the application of the labour chapters of the North America Free Trade Agreement (NAFTA) between the United States, Canada, Mexico; the FTA between the United States and Chile; FTA between the United States and Jordan; the labour chapter of the Central America Free Trade Agreement (CAFTA) – United States, and its substantive and procedural implications for the labour ministries.

In other words, what we have here is a law-oriented definition, one well adjusted to international regulations and based on a specific context. The good labour practices concept, as thus defined, is circumscribed to adherence to international normative standards and their enforcement within the framework of free trade agreements (which in turn conform to the provisions of the ILO Declaration on Fundamental Principles and Rights at Work).

In Rentabilidad de las buenas prácticas laborales, recently published jointly by the Subregional ILO Office for Chile, Paraguay and Uruguay and the Confederación de la Producción y el Comercio de Chile, Huberto Berg uses an approach based on profitability and the convenience of maintaining such good practices to suggest that the “good practices” concept goes beyond compliance with labour laws (he adds that such a vision would be remarkably simplistic): it implies obligations to do and not to do. Although labour relations have their foundation in labour legislation, they are not limited to it, for they also include voluntary actions adopted by the management of an enterprise...indeed they are a step forward in the direction of creating a milieu where mutual understanding and cooperation prevail between those who lead and those who are led. Such a milieu is of essential importance for the growth and enhanced competitiveness of an organization in which both sides are participants.” Here the book in question emphasizes that compliance with the existing legislation is an ethical and legal minimum benchmark for the structuring of labour relations, and adds that the existence of fair wages and discrimination-free treatment are essential elements of good practices. Finally, it points out that the cost of good practices is not an expense, but rather an investment in the generation of a good atmosphere within the enterprise, one that is not only advantageous from the standpoint of compliance with the law, but also cost-effective.

The ILO’s “Mejoramiento de las relaciones laborales en Colombia” project has published a compendium of good labour practices in that country. In the report’s comparative introduction, the authors express the opinion that good practices are generally conceived of in two ways:

(a) As experiences governed by adequate principles, objectives and procedures or advisable guidelines in accord with a given normative perspective.
(b) As experiences that have produced positive results, meaning that the choices made have proved themselves effective and useful from the standpoint of the objectives of the process.

The same reports adds that in an international context, good labour relations practices should be conceived of as those experiences that pursue purposes compatible with the purposes and objectives of the International Labour Organization – ILO – and more particularly with the fundamental principles and rights established since 1998. This is so because the latter are enshrined in the basic conventions of
As we have been emphasizing in the previous pages, a good labour relations practice typically features a number of elements or characteristics that show it as co-operative, facilitative and in accord with fundamental principles and rights at work. As a rule, it should also be accessible, easy to use, transparent and free, and its development should be cost effective.

There also exist a few partial definitions given the focus on corporate social responsibility, we believe they refer to collective labour relations—such as the one offered by the International Tobacco Growers’ Association (ITGA) which considers good practice any normalized practice that can be applied in diverse countries with due account of the peculiarities of each, and helps ensure real change in the industry concerned.  

Finally, we found numerous publications including good trade union practices, or web pages including lists of good and bad practices regarding certain institutions party to labour relations. Likewise, we found a list of codes of conduct, protocols for investigation as to observance of rights, cases of enterprise audit, and numerous case studies concerning enterprises, industries or good practices, such as the guidebook prepared by ILO’s PROMALCO project for the English speaking area of the Caribbean, which provides equality-based elements and practices conducive to progress and productivity increase, as a way to foster the development of truly decent work in enterprises.

<table>
<thead>
<tr>
<th>Criteria for determining a good practice</th>
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<tr>
<td><strong>Relevance:</strong> applicability to a concrete context, as a response to a need.</td>
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<tr>
<td><strong>Impact:</strong> potential for direct or indirect improvement of the aspect addressed.</td>
<td></td>
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<tr>
<td><strong>Sustainability:</strong> possibility to effectively continue during a given term and produce enduring results.</td>
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<tr>
<td><strong>Creativity and innovation:</strong> why is a good practice particularly interesting? What does it contribute?.</td>
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<tr>
<td><strong>Replicability.</strong></td>
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<td><strong>Easy to perform.</strong></td>
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<tr>
<td><strong>Effectiveness:</strong> maximum benefit at a minimum cost.</td>
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As we have been emphasizing in the previous pages, a good labour relations practice typically features a number of elements or characteristics that show it as co-operative, facilitative and in accord with fundamental principles and rights at work. As a rule, it should also be accessible, easy to use, transparent and free, and its development should be cost effective.

Within and even without enterprises and industries, there undoubtedly exist a number of positive practices that, although acting in parallel with and even reinforcing the effect of a good practice, are not themselves good practices, for they lack certain basic elements, and most particularly the accord element, – or conducive-ness to it, – that is a fundamental factor in
labour relations. In other words, such practices may well be positive, appropriate, advisable without necessarily qualifying as good practices in the strict sense of the word.

In fact, there often exist instruments that focus on corporate social responsibility which include codes of conduct, codes of ethic, monitoring systems or social standards that are born of voluntary submission to a number of principles on the part of individual enterprises. Although these do foster labour relations as a whole or some specific aspect of them, they remain unilateral, private actions adopted independently of any prior agreement. There can be no doubt that they are positive actions, good entrepreneurial practices, since they imply voluntary and explicit compliance with minimum labour standards; still, they cannot be properly considered as good labour relations practices, in that they do not require adhesion by one of the parties involved in a labour relationship, namely: the workers.

Within this framework, social reports and social audits have proved a useful experience that enables enterprises to better manage and develop a social policy in accordance with available resources, while also ensuring a better labour climate and greater productivity. One case of successful experience in this sense is Colombia, where over 300 enterprises produce the ILO/ANDI social report, and distribute it at general shareholders’ meetings. Also worth mentioning among such positive actions are the various activities developed around the concept of corporate social responsibility, which are of a more general nature and promote better observance of rights with wide implications not only for the traditional actors of the world of labour but also for shareholders, consumers, etc.

A few of these experiences do evolve into a true good practice based on an agreement between all concerned parties, rather than into a mere statement of adhesion to a general technical standard, such as SA 8000. The entire Peruvian mining industry, and Chile’s CODELCO regarding copper mining are cases in point, where the code of conduct has been consulted with and “accepted” by the workers, who have thus become involved in its development particularly so in Peru, where each individual worker in each individual company accepted the code. The same situation has occurred at the international level regarding a number of multinational corporations, including DANONE or Nestlé, where the code was also the product of consultation. In this case, an international certification that goes beyond a mere declaration of intent can be defined as a quasi-good labour relations practice, since it is, in fact a stepping stone towards the so-called framework agreements being negotiated and signed. The latter are without a doubt (cf. infra) a good practice.

The Brazilian experience of the Social Observatory Institute as an institution linked to trade unions and to Instituto Ethos with its connections to employers’ organizations, is based on the existence of programmes designed to support the idea that the exploration of issues relating to labour relations or corporate social responsibility generates greater awareness in social actors, and its work can be considered instrumental to good practices development.

A number of enterprises execute and develop training practices aimed at laying the foundations of mutual trust. Hopefully, this will lead to the joint creation of a good practice. This is the case of Sears Manufacturing, which within the framework of its negotiations with the UAW
(United Auto Workers), has created a mechanism (QCALM) to train workers who had been left out of the market. Courses were based on team work, and produced a number of positive impacts which led to a better understanding by the workers of the company’s situation and problems. As a result, workers increased the competitiveness of the entire company. In the English-speaking Caribbean and within the framework of the PROMALCO project, similar experiences have been found.

As an alternative approach to the promotion of corporate fairness, we found the practice, introduced in the case in point by the concerned government, of promoting and publicizing enterprises with good practices defined on the basis of objective criteria. In the case of Mexico, the so-called empresa incluyente (inclusive enterprise) plays such a role. The Mexican Ministry of Labour awards the title of empresa incluyente to any company executing a policy of inclusion of handicapped workers, provided they are hired in accordance with the law and on the same terms as the other employees, and provided they have been employed for at least one year. Empresas incluyentes receive the following benefits: they receive skilled personnel, personnel turnover diminishes—handicapped workers are keener to retain their jobs—enjoy priority under the Training Support Programme, can use the empresa incluyente logo on their products, services and advertisements, and enjoy income tax benefits. Similar experiences are being developed in other countries, either in the form of awards or admission to a special ranking of socially responsible enterprises (Chile).

Lastly, mention must be made of the so-called strategic alliances designed to improve labour standards and codes of conduct. These alliances are usually struck between multinational corporations and trade unions, as in the case of GAP, as a means to promote efforts aimed at improving conditions on the workplace through the implementation of codes of conduct.

In the final analysis, these are all efforts – whether public or private – aimed at generating trust, and building the foundation for good labour relations. They may lead to the creation of a good practice.

2. BASIC COMPONENTS OF GOOD LABOUR RELATIONS PRACTICES

2.1. The labour relations system

To put our analysis in its proper context, we should like to recall the elements that compose the labour relations system. The term “labour relations” is used to refer to all those standards, procedures and practices that are designed to regulate relations between employers, workers, and the State in a given socioeconomic context.

On one hand, there are the workers, represented by workers’ organizations – usually trade unions or informal workers’ groups where no union exists. On the other, there is an individual employer or group of employers, or an employers’ organization. Trade unions on one hand and employers or employers’ organizations, on the other, are the typical actors of the labour relations system.

Conflict is also inherent to labour relations, and its resolution often exceeds the sphere of action of the direct actors. Hence the fact that labour disputes nearly always involve the State as a third party that takes upon itself the role of regulator, mediator or arbitrator as the case may require. In addition, the State becomes a party in its own
right to a labour dispute whenever its own employees are involved. This means that, in one capacity or another, the State is always involved in the labour relations system to the extent of the latter’s connection with the social and political relations that make up the society as a whole.

In addition to the actors, the other components of the labour relations system are its institutions or the mechanisms through which the former interact, which can be of two types. One type consists of the so-called autonomous mechanisms, which are those established by the parties themselves. The autonomous mechanism par excellence is collective bargaining, which the interested parties use to establish rules governing labour conditions and their mutual relations. This category also includes other voluntary mechanisms – e.g. voluntary arbitration or other bilateral labour dispute resolution methods – and other autonomous forms of relationship, including information, consultation and other mechanisms ensuring participation in the decision making process within a given enterprise.

The second type – and one of far wider application in the Latin American region – consists of the so-called heteronomous institutions or mechanisms, defined as those used by the State to impose its own solutions on the other two parties to a labour relation. Such is the case of labour legislation, which in Latin America has roots that date back to the beginning of the XX century, and is a manifestation of the State’s early desire to regulate social and labour conflict. In addition to labour legislation, there are two forms of heteronomous legislation – respectively administrative intervention through labour ministries, and judicial intervention, usually in the form of a specialized judicature.

This chapter intends to provide a more in-depth analysis of each component of the labour relations system in order to orient the actors concerned on the possible ways to work for the promotion of healthy labour relations whether in an enterprise, an industry or a country.

There exist a number of minimum features regarding labour relations that make it possible to have a preliminary view of what a good practice looks like. There is no denying that numerous aspects have to do with the development of labour relations, and that each of them can include features or elements - including heterogeneous ones - that it is necessary to analyze in order for a practice to qualify as good. Following the methodology we have just described – which is the usual, indeed classic in the study of labour relations – we now propose to examine these components. This analysis is not exhaustive – it merely purports to elaborate on this concept, to develop a general idea of a good practice on the basis of available documentation, to provide a few examples and identify a number of points that may make such practices worth considering for replication in other countries on the basis of objective criteria.

Conclusions of the ILO’s XIV American Regional Meeting, Lima, August 1999

“Harmonious labour relations contribute to the success of enterprises; collective bargaining and the observance of the ensuing agreements further contribute to such success, leading to increased productivity, the equitable distribution of its benefits and improved working conditions. The ILO should continue to provide assistance in this area. It should also publicize good practices and experiences and provide information about successful enterprises.” (paragraph 15).
2.2. Legislation fostering good practices

Again, as we examine existing literature and documents, we find that the concept of good practices often appears limited to a correct adaptation of national legislation to a few clearly defined standards, also of a legal, supranational nature (international standards, ILO Declaration...). However, this is too narrow an approach, in that it does not consider the aspects that have to do with the convenience and the suitability of a given standard in a given domestic context, nor does it take the actual enforcement of said regulation into account.

Without prejudice to the points made in the first chapter of this report, where we tried to delimit the meaning of “good practices”, we should like to mention a few other references that focus on the legal aspects of labour relations.

In CUT Brazil’s web page, for instance, this concept is limited to the fight against labour flexibilization and casualization, and for better income distribution and more employment generation. It is implicitly understood that it is up to trade unions (as a collective undertaking) to obtain better legislation to guarantee the rights of “direitos trabalhistas”, and to fight unemployment, informality and poor working conditions through actions aimed at ensuring true compliance with the law (concerning, in essence, labour inspection and penalty procedures).

Likewise, most web pages owned by ministries and workers’ and employers’ organizations and available in the region define in detail or at least reflect their respective national or international laws of reference regarding issues relating to fundamental rights, administrative or judicial procedures for the defence of rights, or the modes or procedures for reporting cases of noncompliance in other words, largely legal matters.

In spite of the scope and the content of these topics, the documents we have examined do not provide a concrete definition of legislative good practices on the subject of labour relations, although one can be inferred from the presence of a number of common elements, namely any norm, rule or legal provision that ensures observance of workers’ rights in accordance with national and international standards, while facilitating the productive development of enterprises, and justice and social peace in general.

By what criteria can a legislative practice be qualified as adequate? As a first step and in an international framework we find a number of treaties, conventions and declarations that officially define the concept of adequate legislation, at least to the extent that they set forth not only the required minimum principles and rights, but also the criteria and elements that define them.

The list is made complete for the region by such international instruments as the American Convention on Human Rights by means of which, in full accord with the Universal Declaration of Human Rights, the Organization of American States (OAS) has adopted an entire catalogue of fundamental rights, and established adjudicatory or quasi-adjudicatory protection through the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

Labour and social rights appear likewise clearly set forth in the four founding regional
instruments and in the various instruments governing the regional integration process. The MERCOSUR, CARICOM, NAFTA, SICA and CAN instruments all enshrine, in more or less sweeping terms, the principles and rights that must hold sway in the world of labour.

By its very nature as an international organization in charge of social issues, the ILO is empowered with a set of basic instruments that make it possible to determine whether a given legislation is “correct” by using objective, consensus-based and universal criteria as reference. This body of law, known as the International Code of Labour Rights, is comprised in essence of the ILO International Conventions, which, once ratified, become part of the domestic law in the ratifying country. Although individual countries have an obligation to consider ratifying these instruments, ratification is voluntary and depends on the sovereign decision of the concerned country.

This general legal framework was completed when, as a result of a decision adopted by the ILO’s Governing Body in 1994 to establish a group of eight Fundamental Conventions (later adopted by the Copenhague Summit for Social Development in 1995), the ILO promoted the drafting of a Declaration of Fundamental Principles and Rights at Work, which has the force of an international treaty and places upon the States the obligation to promote the enforcement of the four principles relating to the above-mentioned eight Fundamental Conventions (namely freedom of association and collective bargaining, abolition of forced labour, elimination of child labour, and no discrimination). In this case, the follow-up required is of a merely promotional nature, and does not involve binding control as in the case of the Conventions.

Generally speaking, a country’s legal obligations vis-à-vis the ILO are undertaken on a voluntary basis and arise with the ratification of international agreements. In any event, and even before ratification, these agreements as the result of a consensus among the Member States, and are indicative of what regulatory content and practice should be on the various labour-related issues. This reference value is stronger when it comes to the principles of the Declaration, where the constitutional obligation they enshrine makes the member countries adopt effective enforcement measures. Here, however, there are no specific compliance criteria, nor can there be international control on the part of concretely identified organs, but only a variety of mechanisms which bear, again, a promotional, follow-up character.

In brief, from the ILO perspective a good national legislative practice in terms of labour relations must meet at least two basic requirements:

(a) In each country all ratified conventions must be complied with by adopting whatever measures may be necessary to ensure their validity under the law and application in practice, and making the adjustments required by whatever observations and recommendations are made by control bodies. This involves not only making whatever amendment of national law may be required, but also providing enforcing bodies and institutions with the necessary resources and training.

(b) The enforcement of Fundamental Principles and Rights at Work as defined in the Declaration must be promoted, whether the relevant instruments have been ratified or not.
Interestingly, sometimes national standards are born of the practice of dialogue and consensus. Such is the case of some labour codes in force in the region (Dominican Republic) or some specific reforms, where this prior tripartite exercise gives even more legitimacy to the ensuing enforcement process. Many of these consensus-based legislative processes have taken place over the past fifty years under the aegis and with the active involvement of the ILO itself.

Of particular interest in this context is the National Labour Forum created in Brazil, in July 2003, as a joint tripartite body to promote

Three instruments useful to the development of good legislative practices

The ILO can avail itself of a number of practical instruments for developing “adequate” legislations conforming to clearly defined criteria. In particular:

- The “Labour Legislation Guidelines”, designed to assist parties involved in the elaboration or review of labour law, including government representatives, employers, workers and other concerned actors. The ultimate purpose is for labour legislation to be better suited to national conditions and circumstances, while taking into more account the fundamental principles and rights at work promoted by the ILO.

- At the regional level, several informative and reference publications resume the region’s legislation and make an overview possible. One such text of considerable interest to Spanish speaking countries is La reforma laboral en América Latina. Un análisis comparado.

- Another instrument of general reference is the ILO’s International Observatory of Labour Law, created to supply useful information on national legislation, and to provide a portal for online access to various aspects of labour law and legal information of interest to labour law specialists, in the same way as National Labour Law Profiles, which contain basic information on the labour legislation applicable in the various ILO Member States.
accord among the social partners and build consensus-based arrangements into the labour relations system and subsidize the drafting of constitutional and ordinary draft legislation on trade union and labour reform. One fruit of its labour has been a proposal of amendment of the Federal Charter which is today before Parliament as a draft bill on the reform of trade union legislation.

From the standpoint of labour relations, it is not enough to ensure free affiliation, the development of the freedom of association, and the right to collective bargaining, or to freely use conflict measures and conflict resolution mechanisms, to be able to speak of a good practice. It is also necessary, except for well-reasoned exceptions, that the legislation governing collective relations be applied to all workers, without excluding certain categories of workers as in the case of agricultural and rural workers in Bolivia and Honduras. Furthermore, administrative standards and rules must not be restrictive or impede in practice the exercise of a right, as is sometimes the case when the legal recognition and registration of organizations is impeded by the lack of a physical register or by excessively burdensome formal requirements or excessively lengthy procedures. Likewise, the dearth of guarantees in terms of judicial and/or administrative overview would be an element thwarting the existence of a good practice.

From this standpoint, in addition to the two previously described criteria regarding the ILO, what features can tell us that we are in the presence of a good legal practice regarding labour relations? From our perspective and based on an analysis of national needs, we could conclude that a good legal practice would require at least:

- Guaranteed freedom of association and no anti-union discrimination, in accordance with the provisions of international conventions (with added reinforcements and controls where these conventions have been ratified) and the ILO Declaration.
- Full and free development of collective bargaining, in accordance with the provisions of international conventions (with added reinforcements and controls where these conventions have been ratified), and the ILO Declaration.
- Effective right to manifest a conflict and to seek its effective solution in accordance with the provisions of international conventions (with added reinforcements and controls where these conventions have been ratified).
- Application and extension of the rights to a sufficient number of citizens, avoiding exclusions or discriminations against majorities.
- Administrative and judicial bodies as provided by law, supported by effective law enforcement procedures. Human and material resources sufficient to guarantee a degree of effectiveness.
- Accessible and representative labour relations data that may provide information on some aspects of compliance with legislation (statistics on affiliation, collective bargaining or labour disputes).

### 2.3. The social actors

Healthy labour relations ultimately depend on the social actors’ legitimacy. Workers and employers’ organizations must be representative, reflect the interests of all their members, and pay special attention to the needs of men and women alike, as well as of ethnic minorities, indigenous groups, handicapped persons and other groups traditionally left outside the representation remit
of workers’ and employers’ organizations. In order to guarantee better participation by marginal – and therefore vulnerable – groups, provisions should be included that guarantee their involvement and representation in the labour relations system and in the collective bargaining commissions whenever possible.

Moreover, in order to ensure effective involvement in labour relations, the parties need to be trained in dialogue, consultation and negotiation. This implies being familiar with the procedures and have the relevant information, so as to be able to understand the situation of both workers and the enterprise, to estimate the needs and room for improvement of working conditions and productivity in a context of respect for social justice.

Given these basic requirements, workers’ and employers’ organizations must be:

- Legitimate: under the law and in practice (registered, duly organized with by-laws, etc.).
- Representative (of the majority of workers and employers).
- Operate in accordance with the rules of democracy and the principles of freedom of association.
- Endowed with the capacities necessary to perform their role.
- Plural, i.e. represent all workers in a plural and varied way, so that their internal structure may reflect the real diversity within the organization.
- Have a programme both clear and suited to the needs of the people represented and their internal politics.
- Have a consensus-based culture.
- Be able to play a role in the development of the country’s social issues.
- Be able to ensure unity of action on its programmes at the national level, while respecting each organization’s original autonomy.

2.4. The labour administration

The social development community includes a number of public agencies that are in charge of performing certain functions of support, supervision and control in the area of labour relations, and whose correct functioning can be significantly beneficial to the development of better relations. Here the basic problem faced by the region is a certain tendency by these bodies to engage in excessive intervention in the development of bipartite relations.

Moreover, labour administration is slow and cumbersome in some countries in the region, and so are its procedures. This state of affairs has a negative impact on the development of labour relations and the principles of freedom of association and the right to collective bargaining. To this should be added that labour administration is frequently charged with functions that call for excessive intervention. ICFTU, for instance, has been warning of such an attitude in Brazil, where the Executive has the power to intervene in the registration of trade unions and collective bargaining. In general, we have found, regarding such matters as the protection of union leaders or members, that the lack of speedy and summary procedures is usually the cause of unjustified dismissal.

The activity of these agencies may well contribute – subject to the limitations of their remit and respect for the principle of the parties’ autonomy – to improving labour relations and promote collective bargaining. Although all services play a role in the development of labour
The case of the Province of Québec, Canada

The importance of having a good labour administration system has led all governmental departments and agencies in the Province of Québec to create internal auditing systems for administrative activities and their results. In addition, the Québec Auditor General periodically audits the overall performance of the system. The purpose of these audits is to improve the legal framework of the Administration’s activity as well as to make the most effective use of the funds appropriated through the Province’s administrative budget. In addition, it facilitates the study of promotion and economic incentives systems for its personnel.

relations, (such is the case, for instance, of the intermediation or job placement systems), those with a clearer necessity for better functioning and, therefore, a good practice, would be the following:

- **Support to the dialogue fora**

  The functions performed by a number of labour ministries during the past few years include the rendering of assistance for the operation of the various tripartite consultation fora that have been created or strengthened in the region. This support has been made all the more necessary by the lack of institutions with human and material resources of their own.

  Specifically, this assistance consists of the following:

  - Making some ministry officials available to perform secretarial work.
  - Provide premises for meetings.
  - Convene and provide follow-up for the meetings.
  - Lend technical support for the preparation of the topics to be submitted to debate.
  - Disseminate the results of the agreements reached within the various dialogue fora.

This has been the case, among others, of the National Council for Labour and Employment Promotion in Peru or the Economic and Social Council in Honduras.

- **Registration**

  It falls upon labour authorities in general to register trade unions and to control the legality of the collective agreements recorded through the services. In the large majority of countries the registration of trade union and collective agreements is mandatory, and the law provides for easily accessible *ad hoc* registers.

  Control is basically ensured on the basis of merely formal requirements (*homologación*). For purposes of registration and recognition of an organization as a legal entity it is only necessary to meet certain requirements as to name, legal domicile, minimum number of members and presentation of by-laws. For the registration of a collective agreement the only requirement is notification and guarantee of the negotiators’ legal standing, and certain minimum content. In addition, a review is performed to identify clauses that might breach labour regulations or might have a discriminatory nature.
Bureaucratic obstacles – meaning impediments to registration, requirement of a presidential decree, etc. – are very frequent in the region. The case of Peru’s civil servants is significant in this respect. Although a law made it incumbent on the Ministry of Labour to keep a civil servants’ union register \(^26\), following the disappearance in 1994 of the National Administration Institute (the body in charge), there was no ad hoc register that made it possible to exercise that right. The recent publication of DS N°. 003-2004-TR which creates a physical register of civil servants’ unions has solved this problem and significantly increased real union affiliation.

The lack of registration with the widespread presence of clandestine enterprises is an increasingly pressing issue. New good practices are being developed to involve workers and employers in the fight against this phenomenon. Indeed, this issue involves more than registration, and comes under the remit of several areas of labour administration. An example well worth mentioning is the campaign against clandestine work being carried out in Argentina since 1996, which provides a sample of specific actions combining legal advisory services with registration, information and support.

Another aspect of the usefulness and importance of registration has to do with the promotion of labour relations. The statistics obtainable from registered agreements can be used to analyze trends or contents for purposes of inclusion in the negotiation process. The actions of dissemination and information carried out by Chile’s Labour Directorate regarding the individual dispute resolution system, and special labour relations, among other issues, not only has thrown light on the role performed by the national administration, but has also made it possible to achieve higher rates of operational effectiveness in labour relations as perceived by the actors. This, in turn, also increases credibility and respect.

It is frequent for the directorates general for labour and employment to have a labour relations service which offers specialized intermediation services to facilitate collective bargaining. This
in some cases includes the provision of training on collective bargaining for the parties.

Another frequently found function consists of providing consultancy services on the scope of application of collective bargaining, and on collective agreements drafting procedures.

In Brazil, the Ministry of Labour and Employment has carried out a nationwide campaign to update available information on national trade unions in order to support the creation and organization of a computerized labour relations system combining registration with information. This has helped update the National Trade Union Register (CNES) and make it accessible to the general public, via the Internet. In addition, in 2003 the Ministry and the Inter-Union Department of Statistics and Socio-Economic Studies (DIEESE) entered into a technical and financial cooperation agreement to act as consultants in the creation of a collective bargaining information system, the preparation of studies on the evolution and trends of labour relations, wage evolution and information on strikes in Brazil.

The following would be indicators of a good practice in the area of registration:

- Easy to access, easy to consult and maintain registers.
- Adequate and orderly data processing. Sufficient training for registrars.
- Register is accessible and public.
- Registration rules are clear and not onerous.
- All industries are covered.
- Register is easy to use, free of charge.
- Dissemination and publicity.
- Audit of operations.

- Labour inspection

The labour inspection can perform a pedagogical function of dissemination and application of the existing regulations, in addition to the control of compliance with legislation which is intrinsic to it. The labour inspection must be effective and supported by sufficient resources in order not only to ensure the performance of its supervision function, but also to provide the actors themselves with close, immediate support.

As to the supervision and application of the law and its impact, ILO control bodies have been notified the case of a company in Costa Rica that is well worth mentioning. According to the documentation supplied by the Costa Rica Interconfederal Committee, a labour inspection has found that this company incurred in unfair labour practices by “facilitating the creation of a separate board of directors parallel to the one in charge under the law” and, accordingly, has proposed the application of the statutory sanctions.

Most conflicts in the region on the minimum legal framework governing collective relations in the event of labour disputes (anti-union discrimination, denial or registration, conflict resolution, etc.) are resolved in court. Nevertheless, an adequately effective labour inspection can help ensure for a worker the exercise of his/her rights before the situation becomes a fully-fledged labour dispute. Furthermore, given that a collective agreement has the force of a law, the inspector is a guarantor of its enforcement. In the course of performance of its daily work, an inspector can act as a natural mediator by intervening at the very source of disagreement or conflict. However, this function can never define an inspector’s role without betraying its essential objective: supervision.
Good practice, therefore, must be about making labour inspection more effective. This requires:

- A sufficient number of inspectors in relation to the employed active population covered by existing labour laws.
- Comprehensive training of inspectors and training material.
- Effective materials to facilitate inspection.
- Capacity to enforce sanctions.
- Speedy administrative procedures.
- Effective sanctions.

In this sense, it should be pointed out that in some countries in the region – Brazil among them – the inspection authority is equipped with adequate means and appears to be active in promoting compliance with collective agreements. Furthermore, the office of the Procurator General for Labour Issues of the Union’s Attorney General has a constitutional mandate to watch over fundamental social and individual interests concerning labour matters. El Salvador, according to government data, has established policies to strengthen the Ministry of Labour by training inspectors in conflict prevention, strengthening the Inter-Institutional Committee in charge of conflict resolution and prevention in industrial free-trade zones. Similar progress is found in Mexico where the government reports that the number of labour inspections carried out in 2001 exceeded the target even in States with free-trade zones.

When it comes to inspection statistics and data processing, the benchmark is represented by the U.S. Department of Labour, and in particular the Occupational Safety and Health Administration (OSHA) not only because of the level of detail of its data, but also because the information is available in Spanish as well as in English, and for its ease and speed of use.

- **Information and dissemination of labour standards**

Many ministries in the region establish general labour information systems to answer queries from the social actors and respond to individual and collective needs free of charge. Although they generally focus on or start from one central issue – the search for a job – the services also provide general orientation and data of specific interest.

The information system should be decentralized enough to ensure coverage of the entire national territory rather than being operational only at the central level. Such is the case of Brazil, where cooperation between the Ministry of Labour and Employment and the regional delegations facilitates the transfer of information to such an extent that it has become possible not only to compile and analyze arrangements and terms of contract throughout the country, but also to control the adherence to law of contractual clauses.

A good practice in the area of labour relations information must meet the following requirements:

- It must be supported by a database in line with the population’s needs, updated periodically and easily accessible by the public (with due consideration for a country’s resources).
- The data base must be available free of charge and easy to use.
- The database must be submitted to a periodic audit of its operation and results.
Information services and networks

Labour Information Centres Network - Red CIL – Perú

CIL coordinates the national network of job placement and labour information centres which carries out labour intermediation procedures, provides job-search consultancy and vocational orientation, develops information mechanisms for workers and employers and coordinates its actions with the Directorate for Employment Promotion and the Deputy Directorate for Intermediation and Labour Orientation. Through these centres, jobs were found in 2002 for a total of 18,396 workers out of 87,366 applicants. The vacancies offered by enterprises were 25,094.

USES – United States Employment Service

The programmes established for internal reorganization over the past 15 years have expanded the scope of the service by making it accessible to a larger number of users, essentially via the Internet. Beginning in 1995, the LMIS system has come online. LMIS is a labour market information system that also provides the classic information for services of this type, namely statistics, enterprise databases, orientation, training opportunities, etc.

Mexico’s Integral Service Center (CIS)

This is the authority that receives and introduces users’ requirements (those that represent user satisfaction or dissatisfaction) to the Office for the Legal Defense of Workers (PROFEDET) by means of formal communication channels, acting as a connecting link between citizens and the agency in order to transform user needs and help improve service processes. The establishment of CIS also consolidates the achievements of the Quality Management System (see infra labour justice), helps improvement in that it provides a communication channel between users and the Institution, supplies a service free of charge, meets requests with as much promptness as possible and allowed for a given service, increases promptness and flexibility in the provision of user services, nurtures users’ trust in the services rendered by the Institution, ensures that the voice of the user is heard by the Institution, so that suggestions from users may be considered within the context of the Continuous Improvement Process, maintains coordination with the various areas of PROFEDET in order to attend to cases of non-compliance, complaints and suggestions from users.

● Statistics

Public and freely available sources of information are of crucial importance to the development of adequate labour relations. National and/or industrial statistics on affiliation rates, collective bargaining coverage, conflicts, etc., makes it possible to correctly develop a general policy in this area.

Virtually all labour relations data available in the region (which do exist, against the contrary belief of many, probably due to insufficient dissemination) proceed from official records (in all countries it is mandatory under the law to register organizations and associations, and to notify some of the most important data) and are either mere summaries of national statistics as processed by the ministries, or deliverables...
processed by researchers from those same official data. The truth is that the combination of official data with other data such as those obtained through household surveys produces very different results. In Mexico, for instance, even though the two sources are difficult to compare because of the different scopes and methods, the 1996 National Survey on Household Income and Expenditure found an affiliation rate of 9.7% of EAP, a very different rate from the nearly 20% given in the Labour Ministry’s official figures.

As regards collective agreements and their coverage, the problems are identical. Statistics do not show the duration of the agreement (usually exceeding one year)\(^{36}\), nor those that have expired, nor those that are renewed (in full or in part), and show neither adhesions nor newly “covered” workers (in most countries there are no collective agreements valid \textit{erga omnes}). Moreover, oftentimes an agreement is counted two or three times because of agreement linkage,\(^ {37}\) a very frequent phenomenon in the region, given the fact that collective bargaining is limited in practice to level of the enterprise.

The above makes it necessary to establish and maintain a minimum information collection system. The information should be broken down by gender and other criteria relevant to a given country, and reflect the true composition of the EAP.

\begin{center}
\textbf{Employment Projections – Standard Occupational Classification in the USA}\(^ {38}\)
\end{center}

This system offers a variety of services to its users, explains the information distribution method, and combines the efforts of the States with those of the Federal Administration. It introduces information for employers (wages, benefits, market conditions…), job seekers, government agencies, trainers, economic and business promoters, and database accessibility notices.

A good practice in the area of labour relations databases must meet the following requirements:

- It must be supported by an official database in line with the population’s needs, updated periodically and easily accessible by the public (with due consideration for a country’s resources).
- The database must be available free of charge and easy to use.
- The database must be submitted to a periodic audit of its operation and results.

- \textit{Administrative resolution of conflicts}\(^ {39}\)

Conflict is inherent to the dynamics of labour relations. In Latin America, for instance, most labour administrations have traditionally undertaken the task of solving labour disputes by direct intervention – in other words, by institutional and public procedures. Although nothing should prevent the national system from envisaging the existence of mechanisms for the judicial or administrative resolution of conflicts, it is nonetheless necessary to give the
Administration a correct definition of its role in conflict resolution in terms of expeditious and effective procedures.

The study of reality has shown that in the labour ministries a considerable number of officials spend their time applying procedures regulated in detail to solve individual conflicts, in response to a constant – actually growing in some countries – demand on the part of workers and employers. Among the numerous causes of this state of affairs, one of the most important is the deficient functioning of the judicial system. Although conflict resolution is in principle an intrinsic part of the remit, the judicial system suffers from insufficiency of means, lack of presence throughout the national territory and sometimes lack of specialization in labour matters – not to mention the slowness of its procedures. These deficiencies, coupled with the complexity of procedural law, have made the speedy resolution of individual disputes submitted to courts of law a very elusive goal, with the result that out-of-court settlement procedures have acquired enormous importance, and the administrative procedure, which is free, accessible and comparatively quick, ranks first among them.

The resolution of collective labour disputes has also been entrusted to the public labour administration. In many cases, however, the latter’s administrative apparatus has not received adequate training, and the mediation functions have been taken over by top ministry officials. This has produced, on one hand, a degree of politicization of labour disputes, even those occurring only within individual enterprises, and, on the other, a lack of legal stability, inadequate attention to their executive and managerial duties by such top executives, underutilization of technical officials and loss of public trust by local ministerial authorities.

Moreover, whilst conflict resolution appears to be sufficiently covered at the central level, labour disputes arising in enterprises operating at the local level find local administration services neither adequately adapted to local conditions, nor equipped with sufficient training and material and human resources. Hence the need to strengthen the supply of conflict resolution services at the local level.

Clearly labour administration should take into due account its citizens’ demands. Therefore, it will also have to maintain its individual conciliation services by specializing the officials entrusted with that task, simplifying procedures and strengthening them where conflicts arise. Furthermore, ministers and other top officials should transfer the task of direct intervention in collective conflicts to middle-ranking officials, foster the development of other voluntary means of resolution, to be agreed by the parties, and even collaborate in their organization and funding.

Therefore, from the purely administrative standpoint, an inter partes settlement appears to be a method worth promoting, for it is born of the agreement between the parties concerned – see infra collective bargaining. Good practices in conflict resolution could well require:

- Effective individual and collective conflict resolution procedures.
- Sound organization and operation of existing services, at both the central and the local levels.
- Adequate human and financial means available to conflict resolution services.
- Consultation with the most representative workers’ and employers’ organizations so as to consider their interests when fulfilling mediation and conciliation functions.
- Clearly differentiated mediation function entrusted to specific officials. This is no obstacle for, certain officials, in their daily work, to help resolve a conflict (as in the case of inspection). This, however, does not make mediation their main function.

**Tripartite labour justice: Panama’s Conciliation and Decision Boards**

The Conciliation and Decision Boards are administrative mechanisms established in Panama in 1975 to adjudicate individual conflicts of a certain type. They are composed of one representative of the workers, one representative of employers, and one governmental representative (an official from the Ministry of Labour), who also chairs the Board. The Boards were created to do away with the backlog of work accumulated by labour courts. At the time, workers and employers showed an interest in creating a speedier system than the ordinary labour procedure to adjudicate complaints for unjustified dismissal filed by workers, which is the main area of jurisdiction of those courts. Under the law in question, workers’ and employers’ representatives are selected by the Ministry of Labour and Labour Development from short lists submitted by CONATO and the most representatives employers’ organizations. The Board’s decisions have full adjudicatory value. At present there are 19 Boards distributed across the national territory.

2.5. *Labour justice*

Slowness is one of the main problems affecting labour justice, given that it seriously jeopardizes compliance with labour law and observance of the rights of workers and employers. The figures on procedure delay and duration are quite worrisome. One example: in El Salvador, where the number of cases doubled between 1994 and 1995, no more than an average 68% of the annual caseload was resolved. In Brazil (where the judiciary plays an important role in resolving collective labour conflicts, there were two and a half million cases pending before labour courts, fewer than 50% of which were finally adjudicated and 40% were shelved. Of the appeals before regional courts, 150,000 reached the Supreme Court. The average length of time it takes for a case to go through the three judicial instances is three to four years.

As is the case with labour administration, the Judiciary plays an essential role in the development of labour relations as the body in charge of applying the law. Therefore, it must have:

- Sufficient human and material resources.
- Effective, easy to understand procedures: justice should be oral, free, and summary.
- Sufficient training for judges on both domestic and international law.
- Effective execution of the sentence.
- Dissemination of judicial decisions and case law.

**The ILO and the training of judges**

Aware of the existing problems in terms of training and knowledge of international law, the ILO has been developing training programmes for labour judges in Costa Rica, Colombia, El Salvador, Guatemala, and the Dominican Republic. This has included preparing specific material and methodology for multiplier effect purposes.
Likewise, the importance should be emphasized of the role played in some countries by *procuraduría*, i.e. legal consultancy services provided to the worker by the State when the worker turns to the judiciary for resolution of a labour dispute. This is the case, for instance, of El Salvador.

Another interesting experience is Mexico’s Quality Management System, managed in accordance with the ISO 9001:2000 Standard by the Office for the Legal Defense of Workers (PROFEDET). The introduction of this system for PROFEDET’s Personalized Legal Advisory Services, Conciliation and Inspection Visits to External Offices has produced a direct positive impact on the quality of the service rendered to workers requesting it. On average, users would wait in the waiting hall for over an hour before they were attended. The changes introduced have cut down that time to 20 minutes. Workers in need of advice on an area coming under the jurisdiction of another authority used to wait over 80 minutes; that time has now been cut down to 10. Medical opinions required for approval of applications for social security pensions would take six months, as against 30 days at present. In addition, the user satisfaction index is now higher than 87%, and the percentage of cases solved favourably has reached 85%. Lastly, over 83% of the cases presented for conciliation are solved in less than three hearings.

### 3. GOOD PRACTICES ON INFORMATION, CONSULTATION AND COLLECTIVE BARGAINING

As mentioned in the previous chapter, the basic elements of labour relations systems are the actors themselves and the institutions or mechanisms that govern their relationships; these mechanisms may be either autonomous or heteronymous. The autonomous mechanism par excellence is collective bargaining, although there are other mechanisms in this category, such as information, consultation, and other mechanisms for participating in decision-making in the company.

#### 3.1. Information and consultation

Sharing of information is the most basic mechanism in the labour relations system. It does not imply any real discussion or action on the questions being addressed, but it is a basic starting point for a good, long-lasting labour relationship, since it stems from the recognition of the importance of the existence of the two parties.

As for consultation, we find that this is an instrument that not only enables the social actors to share information, but also commits them to an in-depth dialogue on the questions being addressed. While the consultation in itself does not include the power to take decisions, decisions can be made as a result of the consultation process.

The ILO Board of Directors’ Committee for Freedom of Association has pointed out how important it is for the equilibrium of a country’s social situation for there to be a regular consultation of the organizations representative of employers and of workers and, as regards the trade union world, of its members as a whole, regardless of the philosophical or political options of their leaders (see table below).

Situations in a company that can give rise to processes of information and consultation include the following:

- When technological changes are introduced into a company and these changes affect the
workers significantly in terms of their working conditions and the organization of the work.

- Restructuring or mergers that may affect the workers’ jobs.

- Mass dismissal procedures.

- When workers are affected by employment policies enforced by the companies in which they are working.

Consultation and processes of restructuring, rationalization, and personnel reduction

In several cases, the Committee for Freedom of Association has indicated the importance of consultation in processes of rationalization and personnel reduction, noting that consultations should be held or it should be attempted to reach an agreement with the trade unions rather than using the channel of decrees and ministerial resolutions.

The Committee has indicated how important it is for governments to consult with trade union organizations, in order to discuss the consequences of restructuring programs for employment and for the working conditions of salaried workers. In one case associated with a rationalization and personnel reduction process, the Committee regretted that the government had preferred to intervene in the affair unilaterally by issuing a decree.

In the same report it is pointed out that, although it is not up to the Committee to give an opinion on the economic measures that the government, following the express recommendations of the International Monetary Fund, may deem useful in a difficult situation for its country, nevertheless the Committee considers that if a government takes decisions that cause a significant number of workers to lose their jobs, there should be a consultation with the trade union organizations involved, in order to plan the professional future of these workers in the measure of the country’s possibilities.

Generally speaking, processes of information and consultation between a company and its workers are carried out respecting the voluntary nature of such processes for the parties, since Latin American labour laws do not lay down any obligation to conduct these processes. These

Information and consultation on safety and health in the work place

The issue of safety and health in the work place is a sensitive one in which the social actors recognize duties and responsibilities, and which gives rise to information and consultation processes in companies, in order to identify risks and introduce policies that will prevent injuries and sicknesses at work.

Access to information, education and training on safety and health risks in the work place and measures for tackling these risks are essential components of a safe and sound work environment. The dissemination of appropriate information on the hazards and risks to which workers are exposed in their work places, environmental surveillance and monitoring of the workers’ health, the laying down of safe procedures, compliance with the country’s laws and policies, and information on safety and health in the work place relevant to each individual company are essential elements for ensuring good labour practices in this field.

The need for information and consultation mechanisms to be set up is particularly crucial in companies working in sectors vulnerable to special risks, such as the chemical or mining sectors. An example of information and consultation mechanisms often set up in companies belonging to these sectors would be the joint committees on safety and health. Such committees are formed by representatives of the company and the personnel in order to define company policies for the prevention of risks, injuries, and sicknesses at work and for the promotion of workers’ well-being and health.
voluntary mechanisms are based on the recognition of the basic social right of workers to be informed and consulted on certain situations that may affect their job situation, their work prospects, or the future of the company. For the company, too, these processes are valuable as a decision-making mechanism that takes into account the opinion of the workers and their perception of the possible effects of the decision.

3.2. Collective bargaining

The functions socially assigned to collective bargaining as an instrument forming part of the labour relations system are well known. These functions have developed differently in countries with advanced industrial relations systems, as in Europe, for example. On the other hand, in Latin America we have witnessed over the past few years a weakening of collective bargaining as a mechanism for regulating work conditions at all levels, in many cases with the disappearance of the sectorial level, as has been the case until very recently in Peru and in Venezuela.

Despite this widespread weakening, there are some countries in the region in which collective bargaining has developed fully to take on a role that is fundamental from three points of view. First, since the clauses of a collective agreement are regarded as standards, it plays an important role, together with labour laws, in determining working conditions: in many countries it has become the principal mechanism for fixing minimum wages, wage increases, and working conditions. Secondly, negotiation implies a democratic decision-making process, since the decisions are taken with the agreement of all the parties rather than unilaterally by the employer or public authorities. Finally, collective bargaining has often turned out to be an effective mechanism for settling disputes that may arise between workers and employers (as well as disputes with the government) and for regulating labour relations. Collective bargaining can therefore be said to contribute to stability and peace in the labour relations system.

As a specific way for the social actors to relate to each other, and as a *sui generis* way of developing legislation and regulations (pertaining only to labour law), collective bargaining, the highest expression of freedom of association, is a typical instrument for creating good practices. The simple fact that negotiation takes place is in itself a good practice, especially in an environment such as Latin America, where there is evident weakening of trade unions and at the same time a high rate of workers immersed in the informal economy or who have contracts that are not protected by labour laws; the latter being the case of casual labourers and apprentices in some countries.

Governments can be instrumental in setting up a framework for collective bargaining; for example, by creating procedures for the recognition of trade unions; laying down the obligation to negotiate in good faith; creating administrative mechanisms in support of negotiations; forbidding certain practices that hinder negotiation; and taking measures that will enable the parties to acquire sufficient information to be able to negotiate effectively.

Governments can promote collective bargaining by doing the following:

- Adopting measures to facilitate the creation and strengthening of free, independent, and representative workers and employers organizations.
- Introducing procedures for the recognition of such organizations and their role as negotiators in the negotiation process.
- Designing programmes and activities to permit and promote collective bargaining at all levels, and ensuring coordination among them.
- Developing training programmes to enable the social actors to have an effective participation in the negotiations.
- Adopting measures to give the parties access to the information they need to ensure their effective participation.

It is important to stress that collective bargaining should be voluntary in all its aspects (principle of voluntariness), and that third parties may not intervene in, or induce, the processes or the contents of the negotiation. For example, although affirmative action for combating discrimination in all its forms is recognized as useful, as is the importance of passing laws that establish affirmative measures, any regulation imposing the inclusion of such clauses in a collective bargaining agreement would be contrary to the principle of voluntariness.

In Latin America, the regulatory contents of collective bargaining agreements traditionally make reference to the wage, the working day, holiday payment, working conditions, and, to a lesser extent, to the improvement of protective measures against dismissal (with reference to those already included in labour laws), job stability, measures to prevent discrimination, and productivity clauses.

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**Terminology:** contrato colectivo, convención colectiva, pactos colectivos, acuerdos colectivos...

**The Collective Agreement**

The ILO defines a collective agreement as “any written agreement relating to working conditions and terms of employment entered into by an employer, a group of employers, or one or several employer organizations on the one hand, and on the other hand one or several organizations representative of workers or, in the absence of said organizations, representatives of the interested workers, duly elected and authorized by the latter, pursuant to the law of the country.” In practice, in the different countries of the Latin American region, different terms are used to define a similar concept: thus we find “convenciones colectivas” in Argentina, Costa Rica and Nicaragua; “contratos colectivos” in Bolivia, Ecuador, Guatemala, and Mexico; and so on.

It should be noted, however, that sometimes several instruments coexist within one country. This is true of Colombia, where the law mentions the possibility of achieving “convenciones colectivas”, “pactos colectivos” and “contratos sindicales”. According to the Substantive Labour Code, only the collective agreement is an agreement in the ILO sense, and it is defined as an agreement subscribed between one or several employers or employer associations on the one hand, and one or several trade union federations on the other, in order to fix the terms that are to govern work contracts while it is in force. The so-called “pactos colectivos” are subscribed into by employers and non-unionized workers, while “contratos sindicales” are subscribed into by one or several workers’ trade unions with one or several employers or employer unions for the rendering of services or the execution of work by their members.
It should also be noted that in most countries in the region, except Argentina, Brazil, Canada, and the USA, collective bargaining is limited almost exclusively to the company context; and yet collective bargaining at the industrial level can be a tool offering great potential. In this case, the workers and companies belonging to a specific sector can benefit from a process which, for different reasons, cannot be carried out in the individual companies (for example, there may be an insufficient number of workers to start a collective bargaining process). In any case, the selection of the level of negotiation corresponds to the parties on a voluntary basis. For this mechanism to be applied, it would be necessary to have bodies of workers and of employers, properly organized and representative of a whole sector, as well as legislation that would make it possible for linking to take place among the different levels of negotiation.

Interesting experiences of sectoral bargaining include those of the construction sector in El Salvador, and of the export processing zones of the Dominican Republic: these experiences demonstrate the practical importance of the bargaining process at the sectoral level and the repercussion on working conditions and the economic development of the sector in question.

3.2.1. Collective bargaining and flexibility

In recent years we have witnessed a tendency to flexibilize working conditions in companies, with a view to increasing productivity and giving companies greater capacity for adapting to changes in the labour market and to the demand for their goods or services.

It would be good practice to have these measures adopted through collective bargaining, establishing certain exchanges between the workers and the company. For example, the workers could demand some kind of work stability (the issue most concerning the ample majority of workers) in exchange for certain measures of flexibilization which would place the company in a better position for adapting to the demand.

Besides being a valuable tool for introducing flexibility by mutual agreement, collective bargaining is most valuable for fighting against the different types of discrimination that may occur in a company and for improving labour relations in the company. For example, collective bargaining can include the setting up of mechanisms for settling disputes within the company (known as “auto composición” or “inter partes” settlement), by means of mechanisms to solve disputes such as those stemming from differences in the interpretation of a conventional clause, or any simple-to-settle individual disputes that may arise within a company, as we shall see later.

- **Working hours**

The regulation of the working day by means of collective bargaining permits a non-uniform, irregular distribution of working hours. Traditionally, a working day was established as a full time job for a specific number of hours per day (say, eight) for a specific number of days a week (say, five). The starting and finishing times, breaks, and minimum period of rest per day were pre-determined and all the workers in a given group had the same working hours. Many employers and workers began to consider this structure unsatisfactory, and now an increasing number of countries are experimenting with new types of work schedules and provisions with regard to shift work, night
work, and work on Sundays, even though these are usually limited to specific occupations and sectors, for example hotels and restaurants, health services, and certain manufacturing industries. The flexible working hours system (“flexitime”) has been extended to several groups of workers and activities and has adopted many forms: from annualization of the working time to extension of the closing times of shops and public services, shorter working weeks, and more flexible arrangements with regard to holidays.

<table>
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<th>What are the most frequent causes for flexibilizing working hours?</th>
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<td>The direct causes of the modification and flexibilization of working hours can include:</td>
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<td>- The reduction or elimination of overtime payment in the company, in exchange for concessions such as a shorter working day, greater job stability, or prevention of job reduction.</td>
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<tr>
<td>- Improvement in the capacity to respond quickly and cheaply to growing fluctuations in the consumers’ demand for goods and services.</td>
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This would be, for example, the case of a brewery that increases its production in the summer months. The employers could be interested in increasing the number of hours worked when the demand is higher, thereby avoiding the payment of overtime, and the workers could obtain in exchange, for example, a reduction in their total number of working hours.

One of the possibilities is the annualization of working hours by collective agreement. Agreements that establish the working day based on the computation of annual working time can be limited to fixing a number of hours per year to be worked, which is the formula that permits a more flexible management of working time. Agreements can opt for a mixed computation, that is, to determine the duration of the annual maximum working day and at the same time to establish a monthly or quarterly framework; these would all respect the minimum periods of rest per day and per week as prescribed in the country’s labour laws.

The examples in the region of annualization of working time through collective bargaining are still isolated, but significant. For example, in the car industry in Argentina, in companies recently set up in industrial areas outside the cities, such as Chrysler, General Motors, and Toyota, an annual number of hours has been determined (2,080, 2,138 and 2,133, respectively) often by means of collective bargaining agreements negotiated before the factories were opened.

The experience of the Brazilian “hours bank” was a way of introducing flexibilization of working time by means of changes in the laws. In effect, Law 9.601 of 1998 permits the flexibilization of the working day at times of increase or drop in production. At times of crisis, the workers stop working and the company accumulates the hours saved in order to use them afterwards, once the economy has
picked up. When production increases, the workers increase their working day, which is paid as overtime or compensated in the future. This “hours bank” has been the subject of numerous negotiations between trade unions and employers in Brazil.

Flexibility in working hours has often been accepted by the workers to ward off something that is regarded as the greater evil: unemployment. In this reference, it is worth mentioning an agreement which, although signed outside the region, is relevant to this topic: the agreement signed in Germany, in November 2004, between the IG Metal trade union and the company that manufactures Volkswagen cars. The workers agreed to having their wages frozen for 28 months, in exchange for the guarantee of job stability up to 2011 and a single payment of one thousand euros (1,270 U.S. dollars) in March 2005. The agreement also provides that Volkswagen may flexibilize the working time by 400 hours per year depending on production needs.

If the workers and the company are interested in adopting changes of this nature, there are two important factors to bear in mind: any constraints contained in their national laws; and the capacity of the company and the trade union to monitor these changes in practice. (For example, whether the hours worked could easily be calculated annually; or whether there is sufficient administrative support). Defining a maximum daily or weekly number of working hours may be considered part of the agreement.

3.2.2. Wage negotiations in the company

Collective bargaining is an appropriate instrument for agreeing on the definition and criteria of a wage structure adapted to the real situation of the sector and the company, taking into account production incentives, and the quality or results of the company, among other factors.

For the wage-calculating model, the most general guidelines use a mixed formula: one part is the fixed wage (basic wage plus supplements); and another part is a variable, performance-linked amount. The former is greater than the latter.

A significant number of agreements still maintain a hardly innovative wage structure, made up of the basic wage for the professional category, with additional payments linked to time of service. However, some attempts are now being made to include elements linked with the company’s results and the productivity of the workers, the idea being to motivate the workers and at the same time improve the company’s performance. In addition to the traditional bonuses for attendance and punctuality, working on bank holidays or Sundays, or the payment of benefits that have no direct relationship with the company’s economic results, there are now other incentives directly associated with the company’s situation and results and with the contribution made by each worker individually or by the group of workers.

In order for productivity-based criteria to be applied, an estimate will have to be made of the company’s normal productivity and that of the workers. Collective agreements that include productivity clauses usually refer to the productivity of the hand labour, basing their calculation on the number of hours worked.

Collective bargaining can be an effective tool for maintaining and creating jobs to complement the employment policies laid down by the public
authorities, addressing equally the requirements of an increase in productivity and entrepreneurial competitiveness.

Bearing in mind the typology of clauses on employment and the different goals pursued, we can note different formulations:

- **Clauses for converting temporary workers into stable ones and determining a maximum number of temporary contracts.**

  These clauses seek to promote measures leading to different ways of hiring workers which will give greater stability to the contracts already in force, and at the same time increase the percentage of indefinite contracts because of the decrease in the temporary ones.

  Not infrequently, these clauses are accompanied by a commitment that has something to do with applying internal flexibility criteria in the company, mainly in terms of working time and its distribution and mobility, both functional and geographic.

- **Clauses for creating new jobs or maintaining existing ones**

  The purpose of these clauses is to set in place the conditions that will permit the net creation of jobs, adopting commitments in this respect. Some agreements include a commitment to promote the hiring of specific groups, in particular the hiring of persons with disabilities.

  With reference to the clauses on job stability, commitments in this reference are articulated, basically, through the establishment of a minimum work force, the prohibition of mass dismissals while the agreement is in force, and the obligation for the company to cover any vacancies that may occur. Specific joint committees may also be created for job follow-up and hiring.

3.2.3. **Mechanisms of “inter partes” for the solution of conflicts in the enterprises**

Disputes are an inherent part of labour relations. Although traditionally labour law has intervened to provide a solution, the law is slow and often ineffective because of the lack of means, with the result that the plaintiff, usually the worker, eventually desists from his/her complaint. Although administrative mechanisms have been set up in many countries to settle disputes – both individual and collective disputes, of a legal and or economic nature – administrations often lack the human and financial resources to do this work effectively.

For that reason, and as a way of improving labour relations, some companies have set up mechanisms for settling any individual and collective disputes that may arise in the company. The idea is to settle disputes quickly with the participation of the workers themselves and representatives of the administration, to respond to the complaints of individual workers, to interpret clauses of the agreements, and to settle other conflicts of interest. If the individual and collective complaints are due to violation of a right, this internal mechanism in the company would have to be used before resorting to the administrative or legal instances. It should be noted that under no circumstances may the worker be obliged to waive labour law in the event that the dispute cannot be settled by the mechanisms established in the company.

The following are some of the mechanisms that may be set up:
- Creation of a system for receiving complaints.
- Creation of joint commissions, made up of the same number of workers as of representatives of the employers, to come to a decision on the complaints or claims presented by the workers individually (these commissions could be formed, for example, with the participation of a union representative and a member of the human resources department).
- Creation of joint commissions for the interpretation of the collective agreement.
- Creation of the figure of “mediator” to receive complaints and make recommendations.
- Setting up of a panel of mediators or arbitrators to settle collective disputes.

“Inter partes” settlement of trade disputes in Cervecería Hondureña S.A.

Honduras has had at least one experience of creating a system for the “inter partes” settlement of industrial disputes by collective bargaining. This is the case of the collective agreement between Cervecería Hondureña S.A. and the Trade Union of Workers of the Industry of Beverages and Similar Products, which was signed at San Pedro Sula on July 17, 1996. The agreement includes the creation of a court of arbitration in the event of discrepancies whenever there may be personnel adjustments in the company and when, after the union has been informed, there are differences of opinion regarding the way in which this readjustment is to be effected.

According to the collective agreement, the court of arbitration will be made up of three members of the legal profession, two of whom are appointed by the parties (one each) and these two will then appoint a third one of mutual accord. If within a 24-hour period they do not agree on the appointment of the third member, the agreement stipulates that a threesome of people will come to an agreement to select the third arbitrator. The readjustment may not take place until the court of arbitration has handed down a ruling in favour of it. The ruling will be applicable immediately, and it will produce the effects of res judicata because it meets the same requisites as a sentence handed down in the first instance in a labour proceeding. The court expenses will be shared equally between the two parties.

This court of arbitration has apparently been set up on several occasions, with a timeframe for settlement of the dispute shorter than that laid down by law.

In El Salvador, the collective labour agreement signed by the Sindicato Unión de Trabajadores de la Construcción (S.U.T.C.) [Construction Workers’ Union] and the Cámara Salvadoreña de la Industria de la Construcción (CASALCO) [Salvadorian Chamber of the Construction Industry] includes the creation of a mechanism for settling any disputes that may arise in construction work, where the rights of the workers may be harmed by failure to comply with the collective agreement. This mechanism consists in forming a trade union commission in each construction job, made up of one or more union representatives. This commission acts peacefully as a first instance.

In addition, the same agreement creates the Commission for Collective Labour Relations, which is bipartite, made up of three representatives of the entrepreneurs of the construction industry and three representatives of the workers of the same industry. The
collective agreement assigns to this commission, among other functions, that of intervening in any matter in which there are worker-entrepreneur differences, at the initiative or upon the request of either of the parties, and that of keeping the parties informed; it recommends that the commission solves the problems that have been brought to it and any others they may detect in order to ensure better worker-company harmony.

Another example is found in the Mexican iron and steel industry, which had to undergo a dramatic restructuring process, including a change of approach to labour relations. Mixed commissions on labour relations were formed in each of the work areas, made up of the same number of unionized workers and of managerial staff of the company. These mixed commissions make it possible to settle disputes in the place of origin and thus prevent them from accumulating or growing.

Another noteworthy experience is the effort of the Argentinean authorities to promote mechanisms for “inter partes” settlements of disputes in the company through legislation. In effect, the recent Law 25.877 of March 18, 2004, lays down that collective labour agreements may include the constitution of joint commissions made up of an equal number of representatives of employers and workers, whose functions and attributions will be established in the respective agreement. These commissions are authorized to: a) interpret the collective agreement with general application, upon the request of either of the parties or of the pertinent authority; b) Intervene in controversies or disputes of an individual or pluri-individual nature, by the application of conventional standards when the parties to the collective agreement so decide; c) Intervene in the event of a collective conflict of interest when both parties to the collective labour agreement so decide; (...).

The statistics show that out of the total number of 150 collective agreements approved in 2001, 26 included a clause regarding mechanisms for “inter partes” settlements of trade disputes.

**Creation of an administrative mechanism by collective bargaining: the case of SECOSE in Argentina**

The *Servicio de Conciliación Laboral para Comercio y Servicios* (SECOSE) [Service of Labour Conciliation for Trade and Services] is an optional labour conciliation mechanism for companies and workers belonging to the sector of trades and services, created by collective agreement in 1975. SECOSE is conducted by a Governing Body made up of six members, three on behalf of the “FAECYS” (Argentinean Federation of Employees in Trade and Services), and three for the Chambers of Entrepreneurs, one each: “CAC” (Argentinean Chamber of Commerce); “CAME” (Coordinator of Mercantile Company Activities); and “UDECA” (Union of Argentinean Trade Institutions). SECOSE also has a team of labour conciliators registered with the Ministry of Justice who belong to the RENACLO. The procedure is free for the workers; the employers pay the fees of the conciliator.

One of the goals was to have a specific mechanism for conciliation in order to settle trade disputes pertaining to the trade and service sector, which would make it possible to deal as simply and quickly as possible with any problems arising in this particular area.
In 2002, 208 agreements were approved, of which only 12 included clauses of this type.

3.2.4. Collective bargaining as a mechanism of equality

The constitutions of a large number of Latin American countries enshrine the principle of equality in their national legal systems by establishing that all citizens are equal in the eyes of the law. It is usually up to the public powers to promote the conditions that will ensure the real and effective freedom and equality of individuals and of the groups they form, as well as to remove any obstacle that may prevent or hinder the full application of the principle.

Collective bargaining can provide a mechanism that is effective for reducing discrimination between men and women, among races, ethnic groups, cultures, etc., and for making progress in equality. It is not enough to make references to equality and non-discrimination in specific, isolated clauses; rather, this principle has to be included throughout the collective agreement. This can be done, for example, by avoiding discriminatory clauses of a direct type, such as using the female gender to denote certain categories; including general clauses to promote equality and non-discrimination, and dealing appropriately with certain topics such as those related with the reconciliation of family life and working life, including the question of paid leave, professional classification and systems of retribution, access to jobs, promotion and vocational training from the standpoint of equal opportunities for men and women. Also in the area of the prevention of labour risks there are possibilities of regulating certain risk situations, for example, for pregnant women.

Labour segregation, wage supplements based on time of service or availability to work certain hours, and the absence of a general minimum wage are factors that can contribute to wage discrimination between men and women, since gender-related wage gaps are one of the most widespread problems of discrimination at work throughout the world.

To identify situations of discrimination in the company, it is useful to perform a “mapping” of the jobs and to identify jobs or categories that are occupied mainly by women, in order to try to explain the reasons for that and the possible barriers against women’s access to other jobs.

Anti-discriminatory clauses or clauses promoting equality can be included in the collective agreement by making reference to current legislation, or by going further to consider some positive discrimination. Some countries (for example, Brazil and Canada) include conventional clauses to promote equality and the inclusion of persons with disabilities or of disadvantaged ethnic groups or races since they consider that these discriminations imply a distortion in the national labour market. Such negotiations are not very widespread in the region, so a good practice would consist in starting discussions or debates on this topic.

In the field of discrimination, so far the issues most frequently addressed in collective bargaining have been gender-related issues. In this context, and on the basis of experience gained, in order to promote a good labour relations practice of promoting a policy of no gender-related discrimination in the company, companies should take the following steps:

- Perform a “mapping” of jobs in the company and identify those categories or jobs mostly
occupied by men or by women, identifying possible barriers against a more balanced distribution of the work between men and women.
- Avoid clauses of a directly discriminatory nature (for example, associating specific jobs with the female or the male gender).
- Include general clauses promoting equality.
- Include the principle of equality throughout the collective agreement.
- Avoid basing wage supplements mainly on time of service or time availability.
- Include both men and women in the company’s bargaining commissions.

### Example of non-discrimination clauses in collective agreements

1. “The principle of non-discrimination laid down in Law XXX shall be applicable to all personnel, regardless of the type of contract”.

   “The organizations signatory to the present agreement and the companies affected thereby, shall guarantee equal opportunities to men and women, as well as non-discrimination on the basis of race, religion, or any other condition, pursuant to national legislation and case law. Special attention shall be placed on compliance with these precepts in:

   - Access to employment.
   - Job stability.
   - Wage equality for jobs of equal value.
   - Professional training and promotion.
   - Work environment free from sexual harassment.

2. “The principle of equality at work shall be respected for all effects, not admitting discrimination for reasons of gender, marital status, age within the limits stipulated in the legal system, race, social condition, religious or political ideas, trade union membership, etc.

   “Neither shall there be discrimination for reasons of physical, psychic, or sensorial disability, providing that the person is able to perform the work or job in question”.

3. “In order to contribute effectively to the application of the principle of non-discrimination and to its development under the concepts of equal terms for jobs of equal value, it is necessary to develop affirmative action particularly in terms of contracts, training, and promotion, so that under equal conditions of suitability, preference be given to persons of the sex less represented in the group of personnel in question”. The collective agreement is an instrument that permits the compensation of interests, which makes it possible for there to be a balance between economic efficiency and social protection.

   The fixing of a minimum wage by collective agreement for workers included in its area of application also has a positive effect with regard to compliance with the principle of non-discrimination, which makes its inclusion in agreement texts a good idea.
3.3. **Strategic alliances**

One labour relations experience that has had a certain degree of development in recent years is the forming of so-called “strategic alliances” between representatives of the companies and of the workers. These alliances have set up joint projects for medium- and long-term entrepreneurial growth, in order to modernize the companies and face up to an adverse economic environment and the potential competition in the sector. The basic difference with collective bargaining in the strict sense is that strategic alliances do not regulate working conditions, but they often imply a statement of shared interests regarding the future of the company, make the general medium-term goals explicit, and recognize the advantages of associating to face the future together. This implies bargaining on general aspects of a “strategic character”.

In Chile, these alliances have materialized in at least three State companies: the Copper Corporation (CODELCO); the National Petroleum Company (ENAP); and the National Mining Company (ENAMI).

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**Strategic alliance in the National Copper Corporation (CODELCO) in Chile**

CODELCO is a Chilean State company, the world’s leading copper producer, which also controls 20 per cent of the world’s copper reserves. In 2003, CODELCO generated more than 14 per cent of Chile’s exports. The company also has an outstanding record in its respect of the exercise of the freedom of association, and it has relationships of cooperation and collaboration between the management and the employees, as shown by the strategic alliance agreed on in 1994 between the management and the workers, which was translated into the identification of common interests, and the adoption of a vision, values, and style of management. In 2000, these efforts led to the drawing up of the *Proyecto Común de Empresa* (PCE) [Common Company Project], which is the route map and business strategy for the period 2000-2006. One of the core elements in the PCE is that it has a relationship of collaboration and cooperation between the management and all the employees, workers, and trade union organizations.

As an example of this cooperation, in 2003 the third version of the diploma course in labour management was conducted for the company’s trade union leaders in collaboration with the University of Santiago. The course was attended by 27 participants, in their great majority union leaders of divisions and workers from the areas of labour relations and human development. The programme sought to develop skills and competence in labour management, as well as providing knowledge of the most modern management philosophies and techniques used by organizations in their quest for excellence.

In addition, in the spirit of the PCE the six processes of collective bargaining took place in 2003 in the Andina, Codelco Norte, Salvador, and El Teniente Divisions, which, although not exempt from disputes, made progress on signing agreements for the simplification of wage structures, the linking of the reward systems to the business result, and the reviewing of certain social benefits.
3.4. Social dialogue

As already mentioned, social dialogue processes and instances have been boosted over the past ten years, strengthened by the technical assistance and cooperation of the ILO. The existence of national and/or sectoral joint consultative bodies, where the opinions and knowledge of the social actors are present as a way of legitimizing the decisions, has proven to be fundamental and a democracy-building factor. The need for the results of these consultations to be made known to the population, to guide government decisions, and to become an essential part of the development mechanics of the social policies means that topics such as their institutionalization, regulation, legitimating, linkaging, etc., have become essential for determining whether there exists good practice.

A good practice of dialogue must have, at least:

- A defined institutional framework, level, and goals.
- A clear political will of the parties, indispensable for obtaining results and executing them.
- Sufficient material and human resources.
- Legitimate and representative participating actors, and the information needed to enable them to participate fully in the dialogue process.
- Sufficient training both on dialogue techniques and on the technical points of the agenda.
- Information and advertising services, both internal and external.

In the late nineties there appeared in the region a tendency to institutionalize national social dialogue and this was translated into the creation of tripartite bodies of a consultative nature. In effect, at present many countries have created or revived institutions that contribute to legitimizing the decisions adopted by governments in the social-labour field. This is the case of Honduras, with the creation of the Economic and Social Council (in 2001), Colombia, and Perú, where in recent years the National Labour Council has been revived, and has now become one of the most dynamic and effective mechanisms in the Latin American region. A National Labour Council has also recently been created in Ecuador. Other institutions that function with a greater or lesser degree of dynamism are the Higher Council of Labour of El Salvador, the National Labour Forum in Brazil, and the Consultative Labour Council in the Dominican Republic.

There are also experiences of dialogue in Mexico, another country with a conciliation-based culture. The most recent was the February 2001 creation of the Council for Dialogue with the Production Sectors, which seeks solutions to the problems generated at the national and international levels in labour matters and linked to globalization. In this Council not only are the traditional labour sectors present, but also, as in the case of Colombia, the ministries of the Treasury, Economy, Agriculture, Livestock and Rural Development, Fisheries and Food, Public Education, Social Development and Tourism.

There is evidence of bipartite social dialogue in the region, too. There can be no doubt that the Labour Foundation of Panama is one of the most interesting experiences of institutionalized bipartite social dialogue. Similar progress is seen in Mexico and in Costa Rica. In the latter country one should note the agreement signed by the Chamber of Exporters (CADEXCO), the National Association of Public
Employees (ANPE), and the Rerum Novarum Confederation of Workers, as well as that signed by the Central of the Movement of Workers (CMTC) and the Union of Chambers. It is important to insist that social dialogue be linked to a genuine political will on the part of the parties, since it is an instrument of governance. Numerous studies confirm that social dialogue improves social justice and strengthens democracy.

The Mexican experience: Dialogue with the production sectors

The economic and social challenges of globalization and the need to compete in both the domestic and international markets have led Mexico to promote consensus-building and dialogue among the production sectors. For this purpose, in February 2001, the President of the Republic founded the Council for Dialogue with the Production Sectors. Several public sector agencies participate in this Council, as well as trade unions and employer organizations, academic institutions and the farming sector.

Thanks to the significance and success of this mode of social dialogue, state authorities and institutions have also set up State Councils for Dialogue, making full use of technological advances and the technical secretariat network throughout the country; thus, besides being familiar with the national agenda and development policies and participating in them, they design their own agendas to meet the development needs of each of their institutions.

Encouraged by the success of this initiative, on August 30, 2004, the sectors represented in the Council for Dialogue with the Production Sectors signed a “Commitment to Competitiveness for Employment and Social Justice”, validating the Council as the permanent instance for networking among the different social actors in order to seek consensus on competitiveness, labour training, job stability, and social justice, at both the national level and the regional and state levels. The Commitment aims to optimize the resources of the sectors of the Mexican economy in order to provide sustainable competitive advantages for the production sectors. These competitive advantages will, in turn, enable the sectors to improve the social and economic conditions of the workers and their families. The commitment manifested the revaluing of the dignity of the individual and his/her work as an indispensable requirement for setting up harmonious labour relations that would be sustainable in the long term. This recognition picks up one of the main objectives of the “New Labour Culture” promoted by the Mexican Government and of the guidelines that gave rise to the Decent Work approach which the Director General of the ILO has been promoting since 1999.
4. HOW TO GENERATE AND DEVELOP A GOOD PRACTICE. A FEW WORKING CRITERIA

The previous pages have shown us a number of initiatives that can produce an effect in the world of labour whilst improving some aspects of labour relations. This is exactly what good practices are about.

A good practice includes several elements that operate together to resolve conflict, develop and improve working conditions, generate a better general environment and, finally, base fundamental rights on economic development for enterprises and their workers. It is an exercise in positive construction founded on day-to-day experience.

It is for the actors themselves – workers and employers – to discover the usefulness of good labour relations practices in the various contexts so as to be able to use them as working tools to pursue one essential goal, namely develop trust, generate and consolidate agreements. It is for Labour Administration to facilitate their development and application, generate spaces conducive to their promotion, establish simple and effective access mechanisms for users, and lend support and orientation to all parties involved.

4.1. Some thoughts about good practice

To facilitate reflection on the usefulness and necessity to create a good practice, we have to go through a number of stages, beginning with a compilation of relevant information that must be systematic and based on clearly defined criteria.

Let us suppose, for instance, that we are a metallurgical enterprise wishing to hold a negotiation on working hours flexibility. We will have to focus our search on (a) national and international experience on the topic and/or industry in question; (b) instances of successful national and international negotiation in the industry in question (allowing for such differences and similarities as may exist between the various systems and enterprises); (c) available studies.

Access to this information can be gained through the web pages of the workers’ organizations of other enterprises and the industry at large, of professional organizations, and of the industry’s other enterprises. Another source of information that may be of great interest are the databases on labour relations in general, and those on collective bargaining in particular (normally accessible through the web pages of the labour ministries). Such a compilation could be completed using the publications of international agencies, ONGs, universities, etc.

Once the information has been compiled, it will be time to define the objective of the search, i.e. the labour area we want to improve (productivity, more permanent forms of negotiation, etc.) and define our own response. This response should be discussed within the organization with a view to preparing a final proposal with due account of the economic framework of the proposal’s development, and of its actual viability.

The following stage would consist of seeking an agreement with the other party or parties involved. This will require having available not only the information and the analyses previously developed internally, but also to define a line of action for achieving this goal. The said line of action must take the different
interests of both parties into account, and establish the limits on negotiability. Throughout this process it will be necessary, if the negotiation is to succeed, that all parties are convinced of the usefulness and validity of a good practice.

The actors involved should consider the support they can receive from labour administration throughout this process, including, for instance, the services of mediators.

Once the agreement has been reached, it is important to disseminate it both inside and outside the enterprise so that directly affected workers can be fully informed about its import and contribute to its applications, and to facilitate knowledge and replication of the process by other interested parties outside the given enterprise or industry.

In brief, the actors that have already developed a good practice should evaluate it individually with due account of the results expected and those already achieved, and, on the basis of the latter, propose new actions, programmes and projects – in other words, replicate it. Once convinced of the usefulness of good practices, those actors who are yet to develop one should analyze their own reality, the existing elements and their ability to design them by going through the above described steps; and, once they have defined the necessary criteria, plan it and carry out as planned.

The essential principles underlying this discussion can be set forth as following:

- **Transparency and information** about the value and usefulness of good practices in the context of labour relations.
- **Construction of spaces for dialogue**, by encouraging all parties concerned to participate and offer ideas on the development and conclusion of the practices.
- **Search of objectives and goals of interest to all parties concerned.**
- **Dissemination** of the results achieved to generate interest in other actors at all levels, in order to foster replication.
- **Positive attitude** by the actors as to the value of the experience.

4.2. **Initiatives to generate a good practices culture**

It is absolutely necessary to promote good labour relations practices and to disseminate them among the traditional actors in ILO contexts. As *Your Voice at Work* points out, “a tripartite approach worthy of its name can only find its full expression in the ILO if there are organizations representing employers and workers in every Member State”.

It is therefore necessary to carry out specific campaigns aimed at disseminating the virtues,
significance and importance of good labour relations practices. Within this framework, special interest needs to be lent to national activities, in order to determine the specific needs, the gaps in need of filling and the real possibilities to develop such practices.

According to national requirements, campaigns and workshops could be held to disseminate the usefulness of good practices and establish conclusions and lines of action. The impact and results of the programmes and activities already implemented will have to be evaluated. These experiences should be published and disseminated through appropriate media that actually reach the target audience. First and foremost, they should aim for the social actors, and, at a later time, for civil society. This will produce a multiplier effect.

It seems of fundamental importance for the Administration to design - should none exist- a register of enterprises, trade unions, etc., which should be descriptive and easy to use. Records should be simple and adequate, users should receive training on how to use them, and consultation by social partners should be facilitated. With assistance from such agencies as the ILO, a degree of homogeneousness could be ensured by incorporating a number of elements and minimum criteria allowing comparison and evolution over time.

It will be of essential importance to strengthen and train the social actors. These activities should focus on negotiation techniques as much as on the various technical topics on the agenda. The training of other actors, such as labour judges and inspectors, is also important.

Another fundamental topic is the development of actions designed to include women and other vulnerable groups - especially the informal and agricultural sectors - in an adequate management of labour relations as a way to promote their integration.

4.3. How to evaluate a good practice

In order to simplify evaluation, we have prepared a summary table that clearly identifies by topic the basic elements that indicate a good practice in some areas of labour relations, for the sole purpose of putting the previously described elements in methodological order as a way to facilitate the classification of a new practice.

The purpose of the preceding table is to provide a methodology for replicating one good practice given as an example. In other words, the method consists of deciding in which area we wish to work, identifying the elements characterizing it as positive and establish goals and indicators for follow-up purposes.

The table in question is just a starting point to be further developed through daily work. Nevertheless, the cases analyzed enable us to see their relevance for all parties concerned (governments, workers, employers and the civil society) in the actual implementation of these practices, even though in-depth development is still needed, for we have provided no more than a starting point. To carry this effort further, the interested parties need to be motivated through education, training and dissemination, and common work needs to be facilitated.
<table>
<thead>
<tr>
<th>AREA</th>
<th>BASIC ELEMENTS TYPIFYING A GOOD PRACTICE</th>
<th>RESULT INDICATORS EXAMPLES58</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislation</td>
<td>Compliance with ratified ILO Conventions. Measures to make their application effective. Sufficient dissemination.</td>
<td>Legal reform in agreement with international principles. Dissemination programmes.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social actors</td>
<td>Legitimacy and representativeness Training. Unity of action ensured, programmes developed.</td>
<td>Programmes aimed at incorporating vulnerable sectors. Creation of training programmes within enterprises.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Labour administration</td>
<td>Effectiveness. Legislation provides adequate framework. Service provided free of charge. Dissemination and transparency. Internal audit. Service has correct and clear design.</td>
<td>Sufficient human and administrative resources. Databases and information services accessible to users.</td>
</tr>
<tr>
<td>Collective bargaining</td>
<td>Adequate legislation. Actors and representatives have legitimacy and technical competency. Interests are genuine. Mechanisms in place to facilitate application control.</td>
<td>Collective agreements in place. Conflict resolution mechanisms created by mutual agreement. Flexibility criteria (wages, working hours, etc.) established by mutual agreement. Productivity improves. Gender equity gains ground.</td>
</tr>
</tbody>
</table>
ANNEX I: WEB PAGES OF INTEREST

**Labour Ministries**

Argentina: http://www.trabajo.gov.ar/
Belize: http://www.belize.gov.bz/cabinet/v_castillo/welcome.shtml:
Brazil: http://www.mte.gov.br/default.asp:
http://www.mte.gov.br/Menu/Legislacao/CLT/Default.asp
Costa Rica: http://www.ministrabajo.go.cr/
Colombia: http://www.minproteccionsocial.gov.co
Chile: http://www.mintrab.cl/
Dominican Republic: http://www.set.gov.do/
El Salvador: http://www.mtps.gob.sv/
Guatemala: http://www.mintrabajo.gob.gt/
Panama: http://www.mitradel.gob.pa/
Perú: http://www.mtps.gob.pe/
Trinidad and Tabago: http://www.labour.gov.tt/
Uruguay: http://www.mtss.gub.uy/
United States: http://www.dol.gov/
Venezuela: http://www.mintrabajo.gov.ve/

**Regional Institutions**

SIECA; Permanent Secretariat of the General Treaty on Central American Economic Integration:
http://www.sieca.org.gt/
FES – ILDIS; Instituto Latinoamericano de Investigación Social: http://www.ildis.org.ec/
MERCOSUR: http://www.mercosur.org.uy/pagina1esp.htm
CARICOM: http://www.caricom.org/
SICA: http://www.sgsica.org/
ANDEAN COMMUNITY: http://www.comunidadandina.org/index.asp
FLACSO; Facultad Latinoamericana de Ciencias Sociales: http://www.flacso.org
Escuela Nacional Sindical de Medellin: http://www.ens.org.co
CLACSO; Consejo Latinoamericano de Ciencias Sociales: http://www.clacso.org
FESMEX; Foundation Friedrik Ebert Stiftung: http://www.fesmex.org/
Trade Unions

WCL; World Confederation of Labour: http://www.cmt-wcl.org
CIOLS/ICFTU; International Confederation of Free Trade Unions: http://www.icftu.org/
CCOO; Confederación Sindical de Comisiones Obreras: http://www.ccoo.es/portada.asp
WFTU; World Federation of Trade Unions: http://www.wftu.cz/
CGT Argentina: http://www.cgtra.org.ar
CGI Argentina: http://www.cgi.org.ar
CGT Brazil: http://www.cgt.org.br
CTA Argentina: http://www.cta.org.ar
CGTB Brazil: http://www.sindpd.org.br/
CUT Brazil: http://www.cut.org.br
Trade Union Movement Brazil: http://www.sindicato.com.br
COB Bolivia – Central Obrera Boliviana: http://www.cob-bolivia.org/
CGTD Colombia: http://www.cgtdco.org/
CTC Colombia: http://www.ctc-colombia.org/
CUT Colombia: http://www.cut.org.co/
CEDOCUT Ecuador: http://www.cedocut.org/
CTE Ecuador: http://www.cte-ecuador.org/
CATP Peru: http://www.catp.org.pe
CGTP Peru: http://www.cgtp.org.pe/
CUT Peru: http://www.cut.org.pe/
CUTV Venezuela: http://www.cutv.org/
CTV Venezuela: http://www.ctv.org.ve/

Employers’ Organizations

International Organisation of Employers: www.ioe-emp.org
Unión Industrial Argentina: www.uia.org.ar
Confederación de Empresarios Privados de Bolivia: www.cepbo.org
Confederação Nacional da Indústria (CNI): http://www.cni.org.br
Canadian Employers’ Council: http://www.cec-ccce.ca
Asociación Nacional de Industriales (ANDI): http://www.andi.com.co
Confederación Patronal de la República Dominicana (COPARDOM):
http://www.copardom.org.do
Asociación Nacional de la Empresa Privada (ANEP): http://www.anep.org.sv
Consejo Hondureño de la Empresa Privada (COHEP): http://www.cohep.com
Confederación Patronal de la República Mexicana (COPARMEX):
http://www.coparmex.org.mx
Consejo Nacional de la Empresa Privada (CONEP): http://www.conep.org.pa
Confederación Nacional de Instituciones Empresariales Privadas (CONFIEP):
http://www.confiep.org.pe
Cámara de Industrias del Uruguay: http://www.ciu.com.uy
Federación Venezolana de Cámaras y Asociaciones de Comercio y Producción (FEDECAMARAS): http://www.fedecamaras.org.ve

Global Unions

A general web site with links to the main trade unions:

International Labour Office: www.ilo.org
NOTES


2For more information on these ILO projects, visit the web pages of the San José, Port-of-Spain and Lima subregional offices, respectively.


4Although individual labour relations are a central element of a collective demand, they require a specific study using a different approach. As used in this document, the labour relations concept refers to the collective relations existing between several workers or their organization and one employer, group of employers and/or their organization.

5Boletin PROALCA N° 8: Taller Nacional sobre Mejores Prácticas.

6Compendio de buenas prácticas de relaciones laborales en Colombia, OIT, Bogotá, 2004.

7http://www.tobaccoleaf.org/.


9It should be kept in mind that labour relations are premised on the existence of two parties that must work together in order to reach an agreement.

10The topic of corporate social responsibility is the subject of numerous publications, and treating it in detail would require a separate paper. It is therefore only referred to in the present work.

11Such is the case of the company Chiquita, which develops an internal policy aimed at meeting SA8000 social standards. The policy applies not only to Chiquita subsidiaries wherever they operate, but also to suppliers. SA800 standards are based on ILO conventions. http://www.ilo.org/public/english/dialogue/sector/techmeet/iwsdwa03/iwsdwa-r.pdf.


13In fact, various international instruments on human rights guarantee a number of typically “social” or labour individual and collective rights. Let us not forget that human rights can be political, economic, social and cultural, which means that they do represent the required minimum regarding the matter of interest here. Such is the case with the International Covenant on Civil and Political Rights (United Nations – UN Resolution N° 2200A (XXI) of 16 December 1966, the International Covenant on Economic, Social and Cultural Rights (UN Resolution N° 2200A (XXI) of 16 December 1966, the Convention for the Protection of Human Rights and Fundamental Freedoms (UN Rome, 4 December 1950), as well as with numerous other declarations and covenants, including the Convention on the Elimination of all Forms of Discrimination against Women, or the Convention on the Rights of the Child, which make human rights of equality, freedom of association, collective bargaining, ending slavery, and children’s right to education (which implies a limitation to child labour). The Universal Declaration of Human Rights enshrines the principles of equality and freedom (“equal and inalienable rights to preserve the dignity of the human family”) in its Preamble, and then proceeds to enumerate a long list of fundamental rights that include the above mentioned labour rights.

14To ensure compliance with ratified Conventions, the ILO has established three basic control bodies—the Committee of Experts on the Application of Conventions and Recommendations, the Committee on Freedom of Association and the Conference Committee on Application of Standards—which in accordance with the Organization’s Constitution issue observations, direct requests and/or recommendations regarding compliance with ratified instruments. The Governing Body acts—essentially under Articles 24 and 26 of the ILO Constitution—to complete performance of the Organization’s control duty.
employment was particularly successful. The campaign carried out in 1996-98 against clandestine em-
cases.

In the case of non-ratifiers, we recall that under the Declaration all members have an obligation to comply with the principles, and that the content of the Declaration is linked to the content of the Conventions (Clause 2 of the Declaration).

For its part, the Committee on Freedom of Association has expressed its concern over the slowness and lack of effectiveness of procedures in a considerable number of cases. For example, the Committee of Experts recalled that reported acts of anti-union discrimination call for swift, accessible, inexpensive and impartial procedures to prevent or remedy them as quickly as possible (ILO, 1994, paragraph 216).

Interview with the President of the Supreme Court, Passando a Limpo, TV broadcast of 4 February 2002.

ILO (2002d) Review of annual reports under the fol-
low-up to the ILO Declaration on Fundamental Principles and Rights at Work Part II. Compilation of Annual Re-

ILO (2002e) Review of annual reports under the fol-
low-up to the ILO Declaration on Fundamental Principles and Rights at Work. Part I. Introduction by the ILO Declaration Expert-Advisers to the compilation of annual re-

As a rule, executive committee members, initial num-
ber of members, headquarters location etc.

Often, as a result, figures show lower figures for the second of two consecutive years. In some countries (Venezuela until 1999) it is quite common to begin the round of negotiations in the main industries in the same year. This is clearly reflected by the number of agree-
ments signed and workers covered year by year, for the figures for the second year only include the new agree-
ments, not those signed in the previous year and still in force.

In other words, when negotiation takes place in parallel at the enterprise, industry, trade, national or other level.

For more information, see New Forms of Labour Administration, ILO, Pp. 235 and followings.

Let us not forget that conflict resolution is central to the ILO itself. The Voluntary Conciliation and Arbitration Recomendation, 1951 (No. 92) advocates the establish-
ment of means of resolution, as do the Collective Bargaining Convention, 1981 (No. 154) and the Collective Bargaining Recommendation, 1981 (No. 163), which envisage such means of resolution as ways to foster collective bargaining. The Examination of Grievances Recommendation, 1967 (No. 130) focuses on the use of voluntary mechanisms, whilst the Labour Relations (Public Service) Convention, 1978 (No. 151) makes reference to the same concept in the context of labour relations in the public sector.

Ley N° 7 of 25 February 1975.

Complaints on account of unjustified dismissal, complaints for up to B/. 1 500 and complaints by domestic workers, whatever the nature and whatever the amount involved.

See the study by Quinteros C. and Navarrete on the labour relation in El Salvador, p. 40-41 (Spanish) http://www.ilo.org/public/english/dialogue/ifpdial/lil/

286th report, case No. 1609, paragraph 435.

29th report, case No. 1648 and 1650, paragraph 471.
Some laws lay down a maximum weekly limit of 40 working hours, requiring the payment of overtime if that limit is passed, even though the working hours may be reduced in the following weeks; it is also usual for the maximum number of hours to be worked per day to be laid down by law.

Productivity is the measure of the quantity of product obtained per unit of factor used.

Chapter XIX of the mentioned agreement.


The agreement was approved by Resolution of the Ministry of Labour Nº 201/97 and 41/99. This agreement is implemented under the terms of Decree 1169/96 (regulations to Law 24635), Chapter IV, which stipulates in its article 34: ‘Collective work agreements may create an optional labour conciliation service for complainants included in their areas of personal application, with a view to its use in the disputes mentioned in Article 1 of Law 24635…’, as laid down in the first point of the approved agreement. It also stems from Decree 470/93 (23/03/1993), in modification of Decree 199/88 on collective labour agreements, which provides in its first article: The signatory parties to the labour agreement may modify the level of negotiation upon the individual petition of any of them, or of any employer or group of employers covered by the respective collective labour agreement. The contents of the agreements may include both the general working conditions and the wage scale.

For more information, see: www.secose.com.ar.

The ILO has carried out a series of studies in process of publication on collective bargaining and gender in several Latin American countries, which may complete the information contained in this point.

Collective bargaining as a mechanism of equality between men and women, Economic and Social Council, Collection of Reports, number 2/2003.

Following the guidelines contained in the Constitution (Art. 56), in April 1996 Law 278 was passed, whereby Congress regulated the composition and functions of the Standing Committee on the Coordination of Wage and Labour Policies, whose main functions repeat some of those already granted to the previous Labour Council that had been created in the 1950s (this is the case of the fixing of the minimum wage).


These are some successful examples in the region.

This list is not exhaustive. It only includes organizations and institutions with a web page that the authors have been able to access.