

TRENDS IN COLLECTIVE BARGAINING

SURVEY

INTERNATIONAL ORGANISATION OF EMPLOYERS

November 2006

METHODOLOGY

The IOE carried out a survey of its members on “trends in collective bargaining” between July and September 2006. Of the 142 IOE members we surveyed, we received 48 answers from the following countries:

Algeria	Congo	Honduras	Madagascar	Norway	Tanzania
Australia	Côte d'Ivoire	Hungary	Malaysia	Portugal	Tunisia
Bangladesh	Cyprus	Iceland	Mali	Russia	Turkey
Belgium	Czech Republic	India	Mexico	Serbia	Uganda
Bulgaria ¹	Ecuador	Iran	Moldova	South Africa	U.K.
Cameroon	France	Japan	Mongolia	Spain	U.S.
China	Germany	Kuwait	Montenegro	Sweden	Venezuela
Colombia	Ghana	Lesotho	Netherlands	Switzerland	

¹ We received two completed surveys from member organizations in Bulgaria

Responses came from a mixture of developing and developed countries and represented a good regional spread. Twenty from Europe; eight from Asia; six from the Americas; twelve from Africa; and one from the Arab States. Member federations were asked fifteen questions – although not every responding federation replied to all fifteen.

The survey was designed to ascertain a general picture of employers' views on the issue and the questions were therefore reasonably broad. A comprehensive documentation of the issues under survey was beyond the scope of this project.

The information we subsequently received reflected this broad approach and in certain cases we made some assumptions based on the answers we received.

This paper is divided into two parts. The first part provides an overview of the survey results and tries to extract some tentative conclusions and key messages from each part of the survey. The second part provides the actual breakdown of answers for each question.

PART I : TRENDS IN COLLECTIVE BARGAINING

1. COVERAGE OF COLLECTIVE AGREEMENTS

(questions 1, 2, 3)

A high percentage of responding employers' organizations member companies are covered by collective agreements. Nearly two thirds of respondents said that between 50-100% of their members are covered by collective agreements (either directly or indirectly). Only 26% of respondents said that less than a quarter of their membership was covered by collective agreements.

In cases *all* member companies are covered by collective agreements – this is the case in Côte-d'Ivoire. In Germany, collective agreements apply to all member companies of the federation which is party to the agreement but through special agreements companies can arrange an opt-out.

Over one quarter of respondents said that collective agreements impacted on more than 75% of *all* workers in the formal labour market however slightly over 50% said that they impacted *on less than one quarter* of all workers. Coverage rates can vary considerably. For instance, in India where less than 10% of the working population work in the formal economy – coverage is evidently extremely low. In China about 90% of national companies are covered by collective bargaining arrangements but most of the privately owned companies and joint venture companies have no collective bargaining arrangements. The percentage of employees in the U. S. covered by collective bargaining agreements in the private sector is approximately 8.5%. In Malaysia only 7.5% of the workforce are covered by collective agreements. In other countries like Sweden coverage extends to 90% of the private sector and 100% of the public sector. Likewise in Belgium and Germany, with 80% of the working population either directly or indirectly covered.

While two thirds of respondents said that collective bargaining arrangements only have a small impact or not at all on the informal economy perhaps the more surprising statistic is that a *third* of respondents feel that they do. However, the caveat to this is that in many countries there is no or little data to track informality, therefore the impact of collective bargaining is also difficult to track.

A HIGH PERCENTAGE OF MEMBER COMPANIES OF EMPLOYERS' ORGANIZATIONS ARE ENGAGED IN COLLECTIVE BARGAINING

47% of respondents noted that governments promoted collective bargaining through a legislative framework and 30% through supportive institutions. In some countries like Honduras, collective bargaining is not promoted by the government at all and in others such as Mongolia government plays a strong interventionist role. 21% of respondents said that their government maintained a public database on all agreements concluded.

A lacuna in the questionnaire was on the issue of the voluntarily nature of bargaining (a core element of bargaining) where no specific question was asked and consequently was not specifically addressed by most respondents. However, some respondents in answering other questions raised the issue. For example, the question of employers voluntarily entering into collective bargaining versus being compelled by law to do so is currently a major issue of policy in the Australian debate. A more extreme example was given in the case of Madagascar where companies with more than 50 employees are legally required to be party to collective agreements (Article 77 of the Labour Code).

2. COVERAGE TO NON-UNION MEMBERS (questions 13)

In most of the cases (86% of the 44 out of 48 that responded) collective bargaining outcomes are extended to non-union members. In some countries, all the workers subject to the labour code are covered by collective agreements just by the fact of being in work (e.g. Ecuador). In other countries, it depends on the percentage of workers affiliated to the trade union, for example in Colombia, where if the trade union comprises more than one third of the workers of an enterprise, the outcomes of the negotiation will apply to all workers.

COLLECTIVE AGREEMENTS CAN HAVE BIG "SPILL OVER" EFFECTS

In Norway, the non-unionized workers are free to choose if they want to be affected by the outcome. In Spain, where only 15% of workers are members of a trade union, the coverage of agreements reaches more than 80% of workers. In Germany the legislator can decide that a sectoral pay agreement is extended *erga omnes* i.e. it is binding upon all companies of a sector and region even if the companies are not covered by a collective agreement (the reason for such a decision could be for example a minimum wage for a branch or region). In Turkey workers who are not trade union members can avail of the terms of the collective agreement by paying a solidarity fee to the trade union.

3. ENTERPRISE, SECTORAL , REGIONAL OR NATIONAL LEVEL - CURRENT TRENDS (question 4, 5 & 6)

According to 43% of respondents enterprise level bargaining is increasing with only 15% saying it was decreasing at this level in their country. At sectoral level nearly 80% said that it was either increasing or staying the same level. At the national level 28% said collective bargaining generally was decreasing with only 19% saying it was increasing. The responses however appear a little deceptive as the question asks for the trends in “types” of bargaining and not the overall trend in bargaining.

A number of respondents in their comments directly referred to an increased enterprise-focus in bargaining. This was the case in Australia. In Japan collective bargaining is conducted mainly at enterprise level with only some limited industry-level bargaining. In the US, laws governing collective bargaining tend to focus on organizing and bargaining at enterprise level. In Malaysia as unions are based at sector/enterprise level, there is no national level collective bargaining and as more ‘in-house’ unions are formed, collective bargaining at enterprise level is increasing. In contrast in Germany bargaining is mainly at sectoral level (at national and regional levels) and company collective agreements are concluded by only 3% of all companies in Germany – there is no indication of this changing.

**BARGAINING AT THE
ENTERPRISE LEVEL IS
INCREASING**

In the UK collective agreement coverage on pay is decreasing – only a third of employees’ pay is now affected by a collective agreement. In the US the overall trend in collective bargaining is that each year a smaller percentage of the U.S. workforce is represented by collective bargaining agreements.

In terms of public sector and private sector breakdown, 44% of respondents felt that collective bargaining was increasing in the private sector with only 16% saying it was decreasing. The reasons for these can be diverse. For example, in Australia the private sector is largely non unionised except for major employers and some industries, recent legislative changes will entail that bargaining (collective and individual) can now apply in the non-union sector and this should see bargaining in the private sector increase. Similarly in Portugal changes to the labour code saw a reduction in levels of bargaining, with such changes now complete, bargaining levels are back to what they were.

In the public sector 18% felt it was both increasing and decreasing respectively with most (63%) saying it was staying the same. Increases in public sector spending, resulting in increased public sector workers also were cited as a reason for direct increases in bargaining in the public sector i.e. new workers coming automatically under existing bargaining arrangements².

BARGAINING IN THE PUBLIC SECTOR LARGELY STAYING AT THE SAME LEVEL

Research by the CRANET network of European Business schools (2003)³ demonstrated that where collective bargaining is taking place, the level at which it happens is becoming more decentralised. Where bargaining exists at the national level it is shifting to the level of the sector. Where sectoral bargaining predominates, influence is shifting to the level of the company. The "majority" form of collective bargaining in the world today is that which takes place at the company level. There is also an increasing tendency for more centralised agreements to take the form of framework documents that allow significant operational flexibility at the company level. Further even within enterprise agreements there is increased flexibility (i.e. employees choose particular elements), this is increasingly the case in the Netherlands. The results of this latest survey lend support to these trends.

² In many developed countries the profile of unions is changing with increasingly public sector unions becoming more and more dominant. The typical union member today is likely to be a skilled professional or technician working in the public sector. In the UK for instance public sector trade unions make up 58% of total membership, in Canada its 71% (Figures: UK Office of national Statistics/Statistics Canada).

³ Undertaken for the Actemp International Symposium of employers' organizations in December 2003

4. OTHER FORMS OF BARGAINING AND NEW ISSUES (questions 7, 8, 11, 12)

Respondents said that in their countries besides collective bargaining, numerous other forms of bargaining take place, such as : individual employer/employee bargaining; work councils; bargaining on individual work contracts; "pactos colectivos" (collective compacts); bargaining directly with workers' representatives in the absence of a trade union in the enterprise; tripartite social dialogue; work place consultations based on performance targets. These other forms of bargaining are strongly supported by employers' organizations as they provide a choice and 83% of respondents indicated that these forms are increasing.

OTHER FORMS OF BARGAINING ARE ON THE INCREASE

Issues traditionally covered in collective bargaining are changing, this is the case in more than 65% of the countries that replied. Respondents specifically cited the following areas as 'new': bankruptcy; equality; career developments; leisure time; compensation; evaluation systems; bonus/performance pay; family leave; pension schemes; profit sharing; further education; accounts which offer the possibility to employees to have their overtime payments collected over a period of years and be used as contributions towards pensions funds; funeral cover; HIV/AIDS; health and safety; harassment; paternity leave; card check agreements; and enterprise restructuring.

However, some caution needs to be exercised with this figure as clearly different country's realities and economic performances have to be taken into consideration. For developing countries, the new issues addressed in collective bargaining might be old issues in developed countries. Some issues also respond to specific crisis – for instance HIV/AIDS.

However, that said it is fair to suggest that overall the issues covered in collective agreements are broadening. In some countries pensions are emerging as an increasingly important issue and are being pushed (or attempts are being made to push them) into collective agreements⁴. Some legislatures explicitly prohibit the inclusion of some issues in collective agreements if they are not related to the employer/employee relationship (this is the case under Australian law).

OVERALL THE ISSUES COVERED IN COLLECTIVE AGREEMENTS ARE BROADENING

Three quarters of respondents noted that collective agreements provide some degree of flexibility in their implementation e.g. individual needs, size, capacity, the need to react/adapt, etc⁵. A number of respondents cited sectoral level agreements that provide enough scope for enterprise level negotiations on specific issues (for example in Bangladesh). This is also happening increasingly in Belgium and Germany. However, it was noted that collective agreements also can do the opposite - become inflexible - if flexibility provisions are not covered up front in negotiations.

Generally speaking most respondents felt that collective bargaining is a positive way to address competitiveness and productivity issues. A high percentage of the responses (87%) confirm this. This is the case particularly when it is enterprise-based bargaining.

One new recent form of bargaining has been International Framework Agreements (IFAs) which are an initiative of the Global Union Federations (GUFs). IFAs are agreements principally concerning core labour standards, negotiated between a GUF (and usually a particular union) and a company, in most cases MNEs (Multinational enterprises). Such agreements apply throughout that company and in some instances also have follow on implications for local suppliers⁶.

⁴ In Europe in particular many trade union members, after retiring from the labour market, retain their membership in the union, usually on the basis of very low or no financial contributions. The average proportion of members who have retired from the labour market is 17.2 percent of total union membership as an average across Europe, varying from 4.5 percent in Spain to as much as 48.0 percent in Italy.

⁵ Enterprise level agreements provide more flexibility to actual realities. In 2004 a number of workplace agreements, ostensibly aimed at reducing costs so that plants will be able to stay at a particular location – in cases a survival package – were agreed between unions and management. Siemens and DaimlerChrysler are the two standout agreements in Germany that have attracted the most attention – but a number in France also. The deals basically cut pay and increase working time in order to save jobs. In France, Bosch reached an agreement between unions and management to increase working time with no pay as a way of cutting costs and ensuring competitiveness (and avoiding a threatened relocation to the Czech Republic).

⁶ The earliest example of an IFA involved the French international food processing company Danone and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) in 1989.

The metal workers GUF (IMF) has established several so-called company councils for a substantial number of companies (e.g. General Motors, Ford) to facilitate bargaining coordination among unions in different countries whose members are employed by the subsidiaries of these corporations. These are structures that, under the heading of a GUF, allow trade unionists, all working for the same multinational enterprise, to cooperate internationally. Even though these councils are important players at the international level, they are, strictly speaking, not part of an international social dialogue, as they do not engage the company directly. However, some of these councils do invite representatives of management to (parts of) their meetings. Could the GUFs play a larger more direct role in bargaining? The indications are that the GUFs may well push for sector wide agreements with a number of the large MNEs.

5. IMPACT OF COLLECTIVE BARGAINING ON TRADE UNION MEMBERSHIP (questions 14 & 15)

In most of the cases, nearly 70%, collective bargaining was seen by respondents as a strategy by trade unions to combat decreasing membership. Unions use 'successes' in one round of bargaining to attract members in other sectors. For example in Uganda if the agriculture union secures good terms in the tea agricultural sector, then it becomes easier to expand and attract other members in the flower growing industry or horticulture sector.

COLLECTIVE BARGAINING SEEN AS A STRATEGY BY TRADE UNIONS TO COMBAT DECREASING MEMBERSHIP

Despite this, respondents consistently reported that trade union membership was declining⁷. If we consider that collective bargaining is one of the main roles of trade unions, but that at the same time in most of the cases (86% according to our sample) the outcomes of this bargaining reaches *non-union* workers, the decreasing membership is understandable.

⁷ According to the most recent comprehensive data on trade union numbers (for the EU 25 plus Norway) carried out by European Industrial Relations Observatory (EIRO) for the period 1993-2003 it is clear that the trend in union density is downward across Europe. Of the 20 countries for which the relevant information is available, all but one - Malta - experienced a fall in density over the period 1993-2003. In Japan rates fell from 20.2% in 2002 to 19.6% in 2003, continuing a downward trend that has been in evidence for 28 consecutive years. In 2004, US union density slipped to 12.5% of wage and salary workers in 2004 (in 1983, union density stood at 20.1%). In Australia in 1979 just over half the workforce was unionised, by 2003 it stood at 23%. Likewise in New Zealand where density rates fell from a high water mark of nearly 70% in 1980 to 22% in 2003. In Korea membership rates sits at 11% (17% in 1990). In Canada density fell to 28% (from 34% in 1980). Regional unionization estimates were: Europe (26%), South America (25%), Africa (16%), North America (13%) and Asia (10%) (all figures here from EIRO and ILO).

This is the *“free rider syndrome”*. A current attempt to get around this problem is currently underway in the US where there has been a trend towards including neutrality and card check provisions in collective bargaining agreements whereby employers cede their ability to allow employees to decide for themselves whether they wish to be represented for purposes of collective bargaining. For example, a union representing manufacturing workers in one state (for example New York) might insist that the employer include language in the collective bargaining agreement requiring the employer to waive its free speech rights and be neutral with respect to the same union’s organizing campaign at its facility in another state (for example Arkansas). It might also waive the Arkansas employees’ rights to determine representation by secret ballot election. Under current legislation the preferred method for determining whether workers want union representation is through a secret ballot election administered by the federal government. Evidence from Canada, which switched from card carrying to mandatory elections in many provinces may have exacerbated union decline by as much as 5 %⁸.

**TRADE UNION MEMBERSHIP
CONTINUES TO DECLINE**

In recent years there has been a common trend towards consolidation and merger of trade union organizations. In the EU recent merger activity was reported from countries such as Cyprus, the Czech Republic, Denmark, Finland, Ireland, Luxembourg, Sweden and the UK. In Japan, a move towards merging industry-level union federations affiliated to *Rengo* started in 2001 and led in 2002 to the creation of the largest federation in the private sector, *UI Zensen*. In manufacturing, three *Rengo* affiliates merged to form the *Japan Federation of Basic Industry Workers’ Unions* in 2003. At the international level the *International Confederation of Free Trade Unions* (ICFTU) and the *World Confederation of Labour* merged into one group representing 200 million workers globally known as the *International Trade Union Confederation* (ITUC) in November 2006.

⁸ Data from Chris Riddell Queens University Kingston Ontario

6. COLLECTIVE BARGAINING AND EMPLOYERS' ORGANIZATIONS (questions 8, 9, 19)

In general terms, most respondents felt that collective bargaining has had a positive impact on employers' organization and their relationship with enterprises with only 17% saying it has had a negative impact.

67% of the 42 respondents (out of 48) stated that collective bargaining does not always involve the employers' organization, confirming the trend to enterprise-based bargaining. However, this figure hides the fact that many employers' organization provide direct services and assistance to enterprises engaged in bargaining. Even where collective agreements have been agreed at say a sectoral level with the employers' organization, enterprises may well still bargain further at the enterprise level with a local union.

The move to direct enterprise-based bargaining can impact negatively on the employers' organization as it can take away their main 'added value'. However, some respondents said that while this can be painful in the short term, in the longer term it can prove positive and healthy for the employers' organization, in that it forces the organization to critically examine the service and assistance it provides to enterprises and to 'compete' with other such service providers.

COLLECTIVE BARGAINING STILL IS 'CORE BUSINESS' FOR MOST EMPLOYERS' ORGANIZATIONS

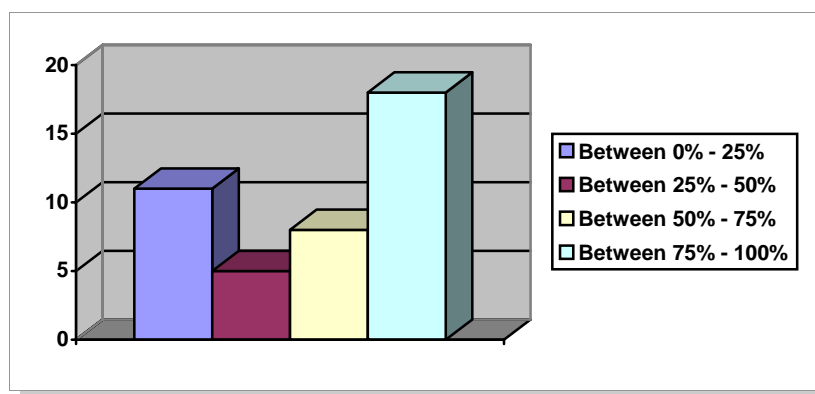
Collective bargaining still is 'core business' for perhaps most (but not all!) employers' organization who responded. In the US for example industry has to an extent largely abandoned the employer organizations bargaining model and employer organizations have diminished in number and influence. However, in the context of promoting individual rights, other employer organizations that are not formed for the purpose of multi-employer bargaining have grown in size and influence on labour policy issues.

The CRANET studies referred to earlier, found that high levels of employers' organization membership correlated positively with high levels of trade union membership, high levels of perceived trade union influence on the business and the existence of collective bargaining. The latter finding is more pronounced where collective bargaining takes place between trade unions and employers' representatives at either the sectoral, regional or national level. According to this data from 2003, those companies with very high levels of union membership are twice as likely to be members of employers' organizations. Those companies with no union membership at all are four times less likely to be members of employers' organizations. Importantly, those enterprises with no trade union membership in their companies, and that are more likely to set pay unilaterally or at the individual level, are the enterprises least likely to join employers' organizations. These trends have potentially major implications for employers' organizations and the kind of model and structure they adopt in the future.

PART II : SURVEY RESULTS

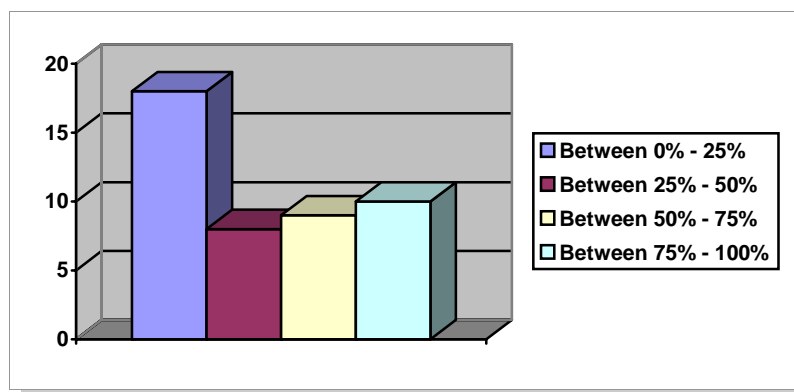
1. What percentage of your member companies (directly or indirectly) are covered by collective bargaining arrangements? (32 de 48 responded)

11	between 0%-25%
5	between 25%-50
8	between 50%-75%
18	between 75%-100%



2. What proportion of the working population would you estimate are covered by collective agreements? (35 of 48 responded)

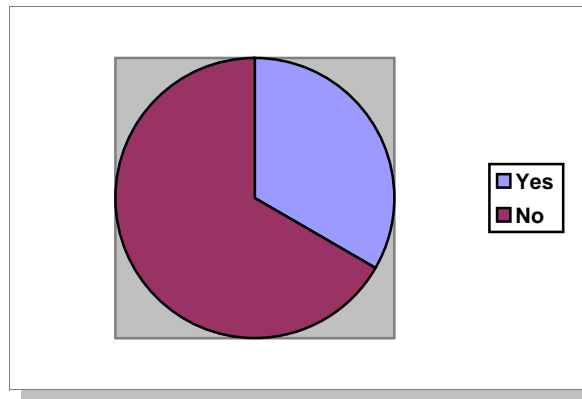
18	between 0%-25%
8	between 25%-50
9	between 50%-75%
10	between 75%-100%



3. Do collective bargaining arrangements impact on the informal economy?

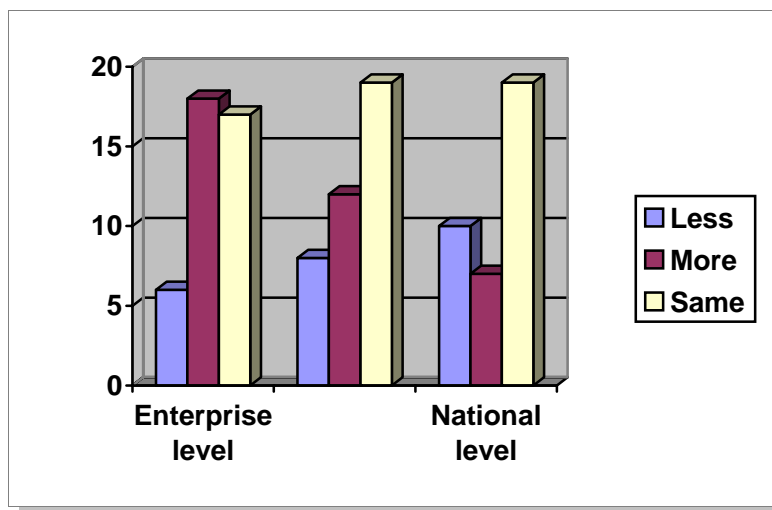
(42 of 48 responded)

Yes, 14 No, 28



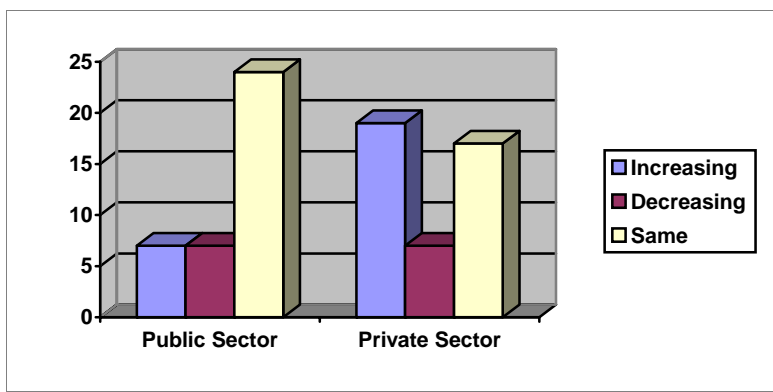
4. What are the main current trends in collective bargaining in your country?

taking place at enterprise level	less	6	more	18	same	17
taking place at sectoral level	less	8	more	12	same	19
taking place at national level	less	10	more	7	same	19



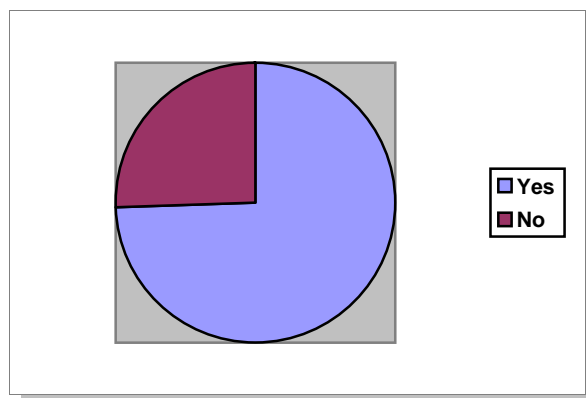
5. Is collective bargaining increasing/decreasing:

<u>public sector:</u>	increasing	7	decreasing	7	same	24
<u>private sector:</u>	increasing	19	decreasing	7	same	17



6. Do collective agreements provide flexibility in their implementation at the different levels ;e.g.; sectoral or enterprise level ? (39 of 48 responded)

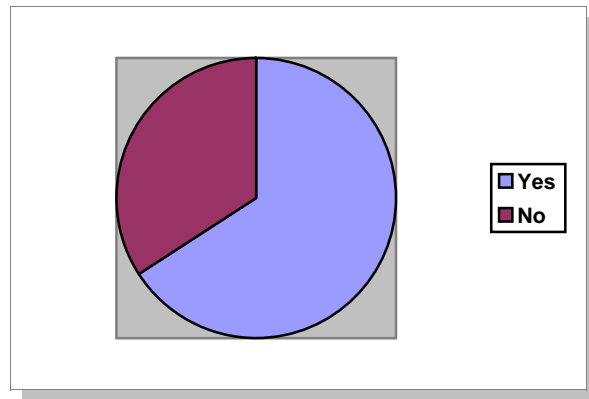
Yes, 29 No, 10



7. Are the issues traditionally covered in collective bargaining arrangements changing? For instance, is there inclusion of new elements such as organizational change? (44 of 48 responded)

Yes, 29

No, 15

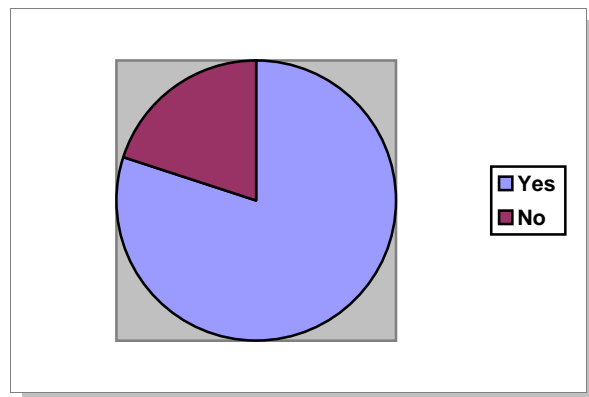


8. What forms of bargaining other than collective bargaining exist?

- 8.1 Are they supported by business and/or employers' organizations? (30 of 48 responded)

Yes, 24

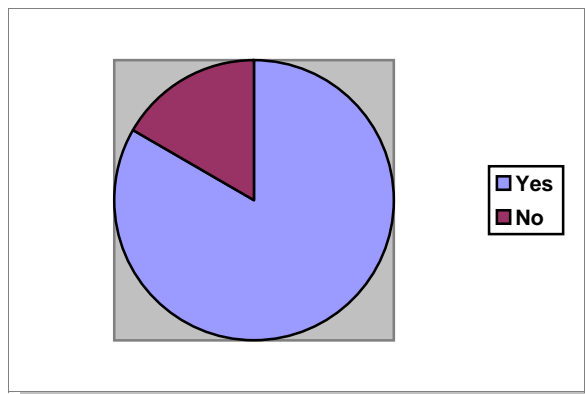
No, 6



8.2 Are they increasing/decreasing? (30 of 48 responded)

Yes, 25

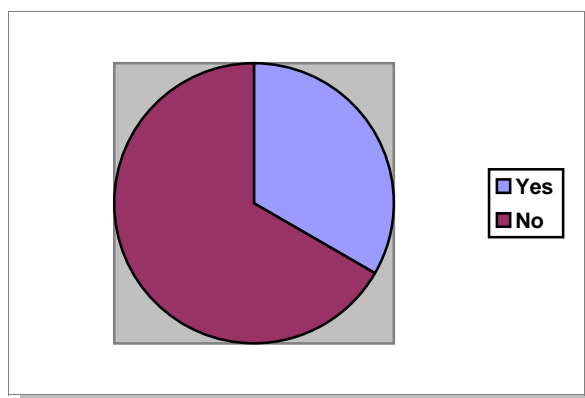
No, 5



9. Does collective bargaining always involve an employers' organization? (42 of 48 responded)

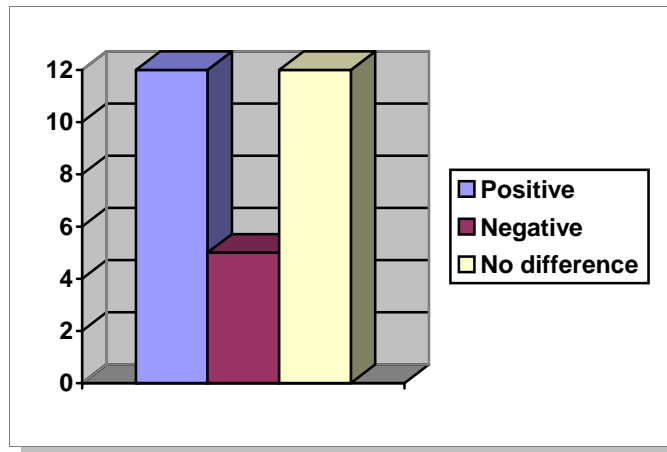
Yes, 14

No, 28



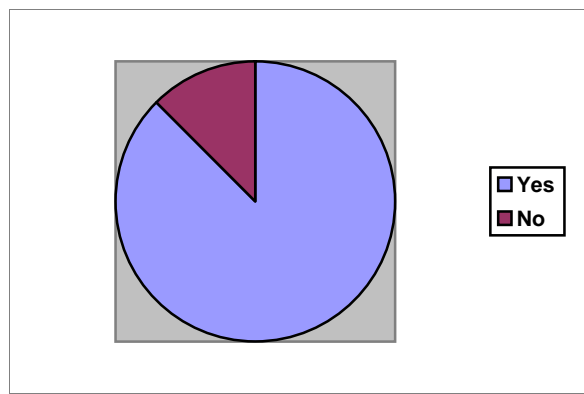
10. If not, what impact has collective bargaining had on employers' organizations and their relations with enterprises? (29 of 48 responded)

positive	12
negative	5
no difference	12



11. Is collective bargaining a positive way to address competitiveness and productivity issues? (40 of 48 responded)

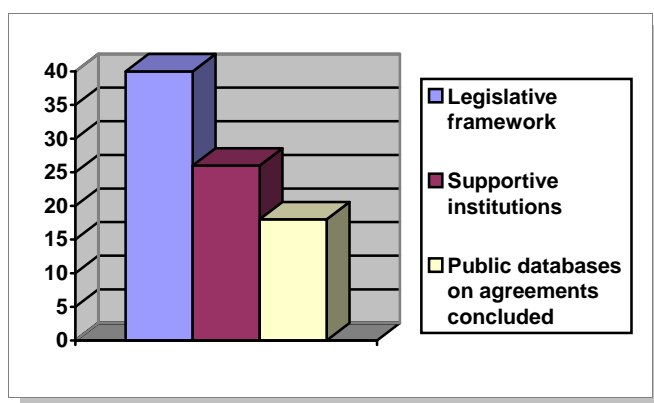
Yes, 35 No, 5



12. How is collective bargaining promoted by the government?

(Out of the 46 respondents, at least one of the options provided)

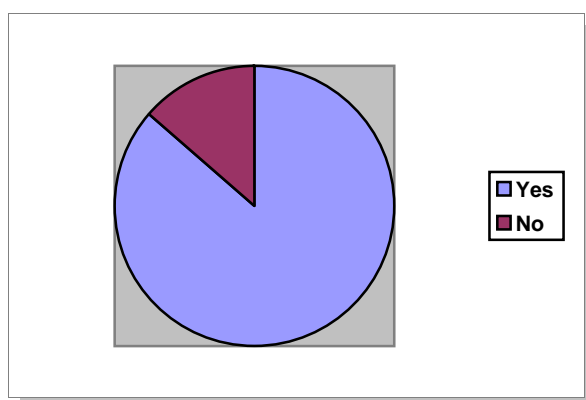
- 40 legislative framework
- 26 supportive institutions (including dispute resolution machinery)
- 18 maintenance of public databases on agreements concluded



13. Are collective bargaining outcomes extended to non-union members?

(44 of 48 responded)?

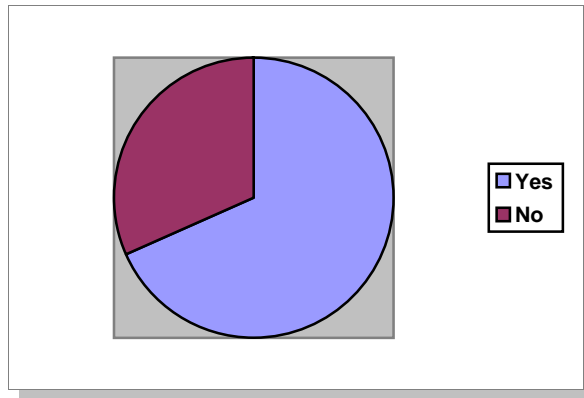
- Yes, 38
- No, 6



14. Is collective bargaining see as way by trade unions of combating decreasing membership?
(41 out 48 responded)

Yes, 28

No, 13

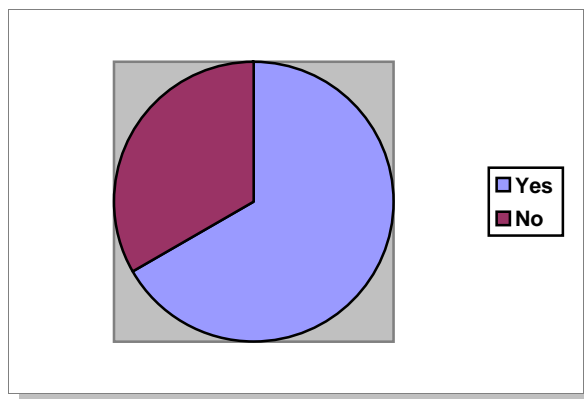


15. Has this bee effective?

(27 out 48 responded)

Yes, 18

No, 9



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