The delicate give-and-take of collective bargaining

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Working conditions, productivity and even social harmony depend largely on collective bargaining agreements.

This technical note offers advice for handling the delicate give-and-take needed to navigate the process. A company's future often depends on it.

The collective bargaining reform that was approved in Spain in 2011 established a precedent that allows companies to sidestep collective bargaining accords and introduce less beneficial terms for workers without the need for labor union approval.

That said, reaching an agreement with unions remains the preferable route to resolving labor disputes.

In most developed economies, collective bargaining is a key management tool that has an impact on both a company's strategy and its day-to-day operations. It determines working conditions, productivity and even social harmony.

In this technical note, IESE professors Guido Stein and José Ramón Pin, in conjunction with Juan Majada and Salvador Plaza, provide an overview of the multiple layers of formal and informal agreements that make up the collective bargaining process.

These include framework agreements among companies, unions and the government; "interconfederal" agreements affecting workers from more than one industrial sector; sector-specific agreements; agreements that apply to certain workers within a company or sector; and accords at the individual company level.

Protagonists, not antagonists

All collective bargaining involves both "internal" agents (workers, mangers and union members) and "external" agents (union and outside business representatives, and labor authorities). In some cases, the media may even jump into the fray.

The authors stress the need for companies to establish two committees to oversee the process: one that is dedicated purely to strategy concerns, and another that oversees the actual negotiating process.

The former includes senior managers who set the company's priorities and designate the negotiating committee. Its primary role is to free up any logjams that may arise during the negotiating process.

For its part, the negotiating committee should have a formal and visible structure, and should feature three essential roles: the chair, the observer and the synthesizer.

The role of the observer is to watch the movements of the other side for any hidden or implied messages, and relay valuable information to the president. The synthesizer, meanwhile, specializes in distracting the other side's attention and buying time.

What are we negotiating?

Each demand and need must be quantified in terms of its present and future cost. Negotiators must identify the company's most vital interests and needs, as well as those that are more negotiable.

The goal is to come up with a table of prioritized demands, which should be kept secret, so as to maintain a strong negotiating position.

It is also worth gathering information on the specific needs of each member of the opposing side, so as to understand their demands better. As one HR director put it, "You have to know whom you are up against, to understand the particular weaknesses of each individual."

Once the two sides begin sizing each other up, each side must send a message that establishes the content and boundaries of the negotiation process.

Besides formal communication, one can resort to informal communication, through what is known as the "hallway mechanism." However, you must be clear which people on the opposing side are best to deal with in such informal settings.

When demands have been clearly stated, it's best to negotiate them in batches while addressing tradeoffs and concessions.

Negotiators must cultivate patience, for the ultimate goal is not to reach partial or halfway accords, but a comprehensive agreement.

When such a point appears to be reached, the minutes of the meetings must be written down and signed before adjourning the session. Otherwise, you run the risk of having to resume the negotiations in the next meeting.

Knowing how to communicate

During any negotiating process, midlevel managers must be kept informed and on-message, so that staffers understand what the company wants and why.

The company should always respect the "union liturgy" — that is, the usual assortment of pamphlets, press communiqués, threatened strikes and actual walkouts.

Its goal should be to counter or control labor action, but never to eliminate it. Trying to do so can, and invariably does, backfire.

After a deal is struck, communicating it effectively to mangers, workers and, in the case of public services, to the public is essential.

The voice of experience

One HR director stressed that when it comes to negotiating, the best approach is to state clearly, "What do you want and what do I get in return?"

Another key to success is to "have it all negotiated before you sit down to talk," he added. This means being prepared to "talk to the other side and listen to them."

You also have to know how to give in at the right time and to the right person, as well as how to persuade the other side to be reasonable. If things get ugly, it's time "to apply common sense."

Other tips include being careful with time, never appearing weak to the opponent and avoiding making hasty decisions.

In the end, as another HR director said, "It's in everyone's interest that things work better. It's a matter of finding a balance between wealth generation and the demands of workers. Everyone must be seen to come out ahead."

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