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The Negotiations Process and Structures

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The Negotiations Process and Structures

Abstract

[Excerpt] This chapter examines the process by which unions and employers negotiate collective agreements and the structures they use for those negotiations, continuing the analysis of the middle (functional) level of labor relations activity. It explains the dynamics of negotiations and the factors that lead to strikes and then goes on to discuss the different bargaining structures used in negotiations.

Keywords

labor, management, globalization, negotiation, collective bargaining

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Comments

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6 The Negotiations Process and Structures

FROM PROTESTS TO STRIKES

This chapter examines the process by which unions and employers negotiate collective agreements and the structures they use for those negotiations, continuing the analysis of the middle (functional) level of labor relations activity. It explains the dynamics of negotiations and the factors that lead to strikes and then goes on to discuss the different bargaining structures used in negotiations.

Labor conflict in emerging countries often takes on the form of spontaneous outbreaks and protests against government policies that cut workers' wages or benefits or against rising prices or violations of labor rights. This was the case in China during much of the first decade of this century as a growing number of workers reacted in frustration to the harsh conditions of migrant labor, which involved working away from their homes and families, living in large and sometimes cramped dormitories, working long hours, and being denied access to the social benefits and legal protections that other local citizens received. Foxconn, the large manufacturing firm, was the most visible protest site. Pressures for better approaches to workplace conflicts went global when it became known that as many as seventeen Foxconn workers committed suicide in protest of the company's harsh working and living conditions. In Greece, when the European Commission and other international financial agencies mandated economic reforms and cutbacks in pensions and other benefits as conditions for the funds they had provided so the country could avoid national bankruptcy, coalitions of unions and NGOs called a series of short strikes.

Often a pivotal and highly visible strike leads others in a country to engage in similar workplace actions, and then pressures and support build for the development of a more complete labor relations system and negotiations process. The 2010 strike at Honda's manufacturing facility had this effect in China (see box 6.1). Strikes by black trade unionists in South Africa played an even more significant political role. By bringing attention to the injustices of apartheid, they helped usher in a transformation to a more representative and democratic government. Strikes in the early 1930s in the United States similarly were a driving force that led to the passage of legislation that established collective bargaining as the cornerstone of labor policy in the United States. Today, history is repeating itself in the United States, albeit on a more modest scale, as periodic labor protests or one-day strikes by groups of Walmart workers and workers at various fast food chains seek to establish ongoing representation and negotiations with these giant retail chains.

BOX 6.1

2010 Honda Strike in China

Workers demanding higher wages rallied outside a Honda plant in southern China today, part of a rash of industrial action at Chinese factories highlighting growing restiveness among migrant workers.

Several hundred workers gathered at the front gates of parts supplier Honda Lock in Zhongshan, Guangdong, where staff walked off the job yesterday.

Today's rally came as Honda was resuming production at two other car assembly plants after resolving a three-day strike at parts supplier Foshan Fengfu Autoparts.

Honda said the factory employees agreed to a pay raise of 366 yuan (£36) per month for each full-time worker. That would increase pay for a new employee to 1,910 yuan (£190) per month.

Some workers held out for more and the union said about 30 people fought with union officials on Monday.

Geoffrey Crothall, spokesman for the Hong Kong-based China Labour Bulletin, said "workers had largely been willing to bide their time and accept their salaries during the recent economic slowdown. But since the economy began to improve again last year, longer hours with no appreciable improvement in income have prompted some to take action."

“They see strikes have been successful elsewhere and decide to try their luck,” he said.

Crothall said the strikes also revealed deep disdain for official union representatives, who are appointed by management and the Communist party rather than elected by the workers themselves.

However, he questioned media reports saying the Honda Lock workers wanted to form their own independent union, saying it was more likely a desire simply to elect their own leaders who represented their own, and not management’s, interests.

In an unusually open commentary yesterday, the People’s Daily, the official paper of the Communist party, exhorted the government-affiliated labour umbrella, the All-China Federation of Trade Unions, to do a better job as a mediator.

“Labour relations are increasingly complex and important today, but unions lack the talent needed to gain workers’ trust and do their jobs well,” it said.

“There is no shortage of enthusiastic, diligent cadres but there is a lack of professional personnel qualified to deal with new challenges and tasks.”

Source: Reprinted from “Honda Factory Workers in China Strike over Pay and Conditions,” *The Guardian*, June 11, 2010, <http://www.theguardian.com/business/2010/jun/11/honda-workers-strike-china-pay>.

THE ROLES OF STRIKES AND NEGOTIATIONS IN A LABOR RELATIONS SYSTEM

In contrast to the spontaneous strikes such as the one at the Chinese Honda plant, negotiations and strikes are highly regularized parts of labor relations systems in many developed countries. Most established labor relations systems try to reverse this sequence—to provide for scheduled periodic negotiations that try to reach an agreement without resort to a worker-initiated strike or an employer-initiated lockout of the work force. In this way a labor relations system can function to make strikes or lockouts last resorts and well-planned tactics that complement the negotiations and agreement-seeking process. But even when they are built into a labor relations system in this way, worker- or union-initiated strikes or employer-initiated lockouts impose significant costs on the parties and on an economy. Recent strike experiences in South Africa illustrate some of these costs and suggest why most members of society prefer to see negotiations resolved without recourse to work stoppages (see box 6.2).

BOX 6.2**South African Strike Wave, September 2013**

Thirty thousand South African automobile workers ended a three-week strike in September 2013 and returned to work after accepting a revised wage offer from employers, including Volkswagen AG, Ford Motor Co. and Toyota Motor Corp. The auto workers, represented by the National Union of Metalworkers of South Africa (NUMSA), accepted wage increases of 11.5 percent for 2013, 10 percent for 2014, and 10 percent for 2015. Night shift premium was also part of the settlement. NUMSA and the Automobile Manufacturers Employers Association also agreed to investigate the possibility of instituting an industry-wide medical aid and housing program.

The strike cost the industry as much as 700 million rand (\$68.66 million) each day. Automotive output accounts for about 7 percent of South Africa's gross domestic product.

South Africa was plagued by strikes in 2013 as unions representing workers in sectors from construction to gold mining asked for wage increases. After a 48-hour walkout, more than 60,000 of the country's gold miners began returning to work on September 6, 2013, after they accepted an 8 percent pay increase. On September 27, 2013, workers at South Africa's gas stations accepted an improved wage offer and ended a three-week strike (these workers were represented by NUMSA). The gas station workers received an 11.6 percent salary increase in 2013 and 9 percent increases are scheduled for 2014 and 2015. The employers' initial offer had been a 7.5 percent raise.

In late September 2013, strikes in other sectors of the motor industry involving auto parts manufacturers, truck body and trailer builders, and car and parts dealers were still ongoing. In January 2014, another round of strikes in the platinum and coal mining industries broke out that led business groups and the World Bank to pressure the government to intervene to avoid further loss in confidence by international investors.

Meanwhile, consumer prices in South Africa rose 6.3 percent in July 2013, exceeding the central bank's target (3–6 percent) for the first time in fifteen months. Africa's largest economy is forecast to expand by 2 percent in 2013, its slowest pace since 2009.

Source: Bloomberg Newsroom, Janice Kew, Kamlesh Bhuckory, and Amogelang Mbatha, September 8, 2013; "South Africa Faces Challenges in Wooing Investors to Its Strike-Hit Economy," *Wall Street Journal*, February 5, 2014.

Collective negotiations provide labor and management with a predetermined time to set or revise the terms of the agreement governing their relationship. The pressures of a contract deadline and perhaps of a strike threat focus attention and clarify how important each party feels critical issues are and whether current practices should be changed or maintained. From time to time, negotiations may produce a strike that provides headlines for popular press coverage of collective negotiations. But in a well-functioning labor relations system, a strike is not an act of desperation but rather is connected to negotiations and other regular activities that occur over time at the workplace and strategic levels of the relationship between labor and management. The strategies and tactics used in negotiations are likely to reflect the level of trust labor and management representatives have for each other at the outset of negotiations, and the results of negotiations will in turn affect the trust that carries over to the relationship the parties maintain during the term of any agreement. Thus, negotiations offer labor and management a pivotal event that can reinforce or change their future relations.

As we will see, some parties to collective negotiations today are attempting to bring new approaches to negotiations, often labeled *interest-based* bargaining or *mutual-gains* bargaining.¹ The new approaches seek to move away from more traditional *positional* bargaining in an effort to increase the potential for problem solving in negotiations. Thus, in this process negotiations involve making choices about how to bargain and making tactical decisions about which approach will best represent the parties' separate and joint interests.

To examine the various components of the negotiations process, this chapter uses the framework developed by Richard Walton and Robert McKersie.² The Walton and McKersie framework is particularly useful in identifying the wide variety of pressures and competing interests that bear on the negotiators and the negotiations process.

THE FOUR SUBPROCESSES OF NEGOTIATIONS

Although the Walton and McKersie framework was originally developed to describe and analyze the traditional positional approach to bargaining that was quite common in the United States in the 1950s and 1960s when they developed their framework, their work also provided the theoretical basis for interest-based techniques that were developed in the 1980s. So we will summarize their framework first and then discuss how the dynamics of bargaining vary depending on the approach taken.

Walton and McKersie argued that there are four **subprocesses of bargaining** in the negotiation of any collective bargaining agreement: distributive

bargaining, integrative bargaining, intra-organizational bargaining, and attitudinal structuring. Each subprocess is analyzed below, as are the interrelations between the various subprocesses.

Distributive Bargaining

Distributive bargaining involves negotiations in which one side's gain is the other side's loss. It is win-lose bargaining, also called zero-sum bargaining. In distributive issues or processes, what labor gains, management gives up. Examples of issues that are most often related to issues of distribution include wage rates and fringe benefits. Labor gains more income from a higher wage, while management gives up some profit to pay that wage.³ Similarly, workers lose when a fringe benefit (e.g., paid vacation time) is reduced, while management gains higher profits when paid vacation time is reduced.

Since distributive issues involve gains for one side and losses for the other, these issues lead to conflicts across the bargaining table. Determining how distributive issues are resolved involves the exercise of bargaining power. The union, for example, tries to convince management to agree to its request for a higher wage by threatening to strike if management does not give in to this demand. Meanwhile, management threatens the union with the loss of income associated with such a strike and might also point out that a wage increase would entail additional costs to the work force in the form of reductions in employment. In this way, the components of bargaining power, strike leverage, and elasticity of demand for labor emerge as the critical determinants of how distributive conflicts are resolved.

Distributive issues are at the center of the negotiation of a collective agreement, since disagreement over how to distribute the profits from what labor produces lies at the core of labor-management relations. Nevertheless, it would be a mistake for students of collective negotiations or participants in the bargaining process to lose sight of the fact that there are other dimensions to bargaining besides distributive issues.

Integrative Bargaining

Integrative bargaining issues and processes are those in which a solution provides gains to both labor and management, leading to joint gain, or win-win, bargaining. Labor and management both gain when they resolve problems that are impeding productivity and organizational performance. If the productivity of the firm increases, for example, the employees can benefit in the form of higher compensation or shorter work hours, while the firm can benefit in the form of greater profits.

Numerous problems that arise in the workplace provide the opportunity for integrative gains. Work is rarely performed in the most productive way possible: cumbersome practices or outdated work rules often stand in the way of peak performance. Labor and management can improve a firm's performance by addressing such practices, by changing job classifications or seniority rules, or by creating procedures that promote high organizational performance in other ways.

The introduction of new technology often provides an avenue for integrative gains. The effective use of new technology can increase productivity, which can then provide rewards both to employees and the firm. Yet the introduction of new technology onto the shop floor or in the office does not in itself lead readily to such productivity increases. Technology works best if it is accompanied by changes in work practices—personnel levels might have to be reduced, training programs adopted, or supervision adjusted. Integrative bargaining would entail the negotiations about how and to what extent these productivity-enhancing changes in work rules are made as the new technology is introduced.

But why do the parties not automatically make integrative changes, since such changes open the possibility of joint gain? In other words, why is integrative bargaining so difficult? The answer to this question is one of the key issues in industrial relations.

Why Integrative Bargaining Can Be So Difficult Integrative bargaining is an ever-present and sometimes difficult component of the negotiations process for a number of reasons. For one thing, although integrative issues contain the possibility of providing joint gains to both sides, it is also true that the parties are simultaneously confronted with the question of how to divide up any joint gain. In effect, any integrative bargain also prompts distributive bargaining, and the difficulty in resolving the distributive issue can make integrative bargaining difficult.

Consider, for example, what happens when a new technology is introduced into a work site. If it is effectively introduced, the new technology offers the possibility of joint gains in the form of income to both employees and the firm. Yet the parties involved cannot escape the fact that if productivity goes up when the new technology is implemented, it must then be decided how the increased income that technology makes possible will be divided. In this way, every integrative bargain prompts a distributive discussion. The problem for the bargaining parties is that it can be difficult for them to agree on how to resolve the distributive issue (namely, how to share the integrative gain). Thus, integrative solutions are sometimes blocked by a disagreement

between labor and management over how they would divide up the gains that result from resolving a problem.

Integrative and Distributive Bargaining Involve Different Tactics Integrative bargaining also can become difficult because the parties send confused signals and mixed messages to each other. This confusion springs from the fact that integrative and distributive bargaining involve very different tactics and negotiating styles. Table 6.1 lists the different tactics used in distributive and integrative bargaining.

Remember, distributive bargaining concerns matters in which one side's gain is the other side's loss. To do well in such bargaining, the negotiator typically finds it valuable to, among other things, overstate demands, withhold information, and project a stern and tough image. Effective integrative bargaining, on the other hand, involves first identifying and then solving problems. The tactics that are typically effective in such problem solving include an open exchange of information, the airing of multiple voices, and information sharing. Distributive and integrative bargaining styles contrast sharply with each other.

The problem for labor and management negotiators is that it is difficult to be effective at both distributive and integrative bargaining in the same negotiations. One side might set into a distributive bargaining mode just at the

Table 6.1. Distributive versus integrative bargaining tactics

	<i>Distributive tactics</i>	<i>Integrative tactics</i>
Issues	Many issues	Specific concerns
Positions	Overstatement of real position at outset as "demands"	Focus on objectives; no final positions
Use of information	Information is seen as power and is held close and used selectively	Information is treated as data and is openly shared
Communication process	<i>Controlled:</i> —Single spokesperson —Use of private caucuses to air internal differences and discuss responses	<i>Open:</i> —Multiple voices —Use of subcommittees
Interpersonal style	<i>Hard bargaining:</i> —Each side is focused on its own goals and interests —View is about the short run; not concerned about long-term relations —Low trust	<i>Problem solving:</i> —Concern about mutual goals —Concerned about long-term relations —High trust

moment when the other side is ready for integrative problem solving. And when the latter party confronts hard distributive tactics, it might become discouraged about the possibility of integrative bargaining, making it difficult for such bargaining ever to occur.

Integrative bargaining also can be difficult because the problems that impede productivity are not always obvious to the two parties, even when they agree on how to divide up the possible joint gains. If that does not make negotiations hard enough, consider that there are two other subprocesses in the bargaining process.

Intra-Organizational Bargaining

Intra-organizational bargaining occurs when there are different goals or preferences among the members of the union team or the management team. For example, intra-organizational bargaining arises when the members of the union (or the union negotiating team) have different preferences about what the union should strive for during negotiations. Senior union members may prefer that the union focus its negotiating strategy on attainment of better retirement benefits, whereas younger union members may prefer up-front wage increases. Or the craft workers in the union might be in favor of restricting the use of outside contractors for maintaining plant machinery, whereas production workers might be concerned with having safer conditions on the line. Box 6.3 describes one of the most intense and highly visible examples of intra-organizational conflict in South Africa—the battle over which organization represents workers in the mining industry. Tragically, this conflict cost forty-four workers their lives. So the stakes in resolving intra-organizational differences can be quite significant.

BOX 6.3

Intra-Organizational Issues in the Marikana, South Africa, Bloody Strike of 2012

A strike that occurred in South Africa at the Marikana mine in August 2012 led to the death of forty-four workers. It was the most violent conflict in the post-apartheid era in South Africa and has been compared to the infamous Sharpsville massacre.

The conflict began when two workers were reported to have been shot as workers marched on the offices of the National Union of Mineworkers (NUM). The NUM, which is closely associated with the

African National Congress, the ruling political party in South Africa, was in dispute with employers over pay at the Marikana mine. Significant growth had occurred in the price of platinum, prompting arguments that workers were not sharing in the benefits of the increase. The dispute also involved interunion conflicts and pay issues, as the NUM was in conflict with a rival union called the Association of Mineworkers and Construction Union (AMCU).

Police were called in after the two workers were shot, and additional people were shot in conflicts that continued for about a month. Resolution was finally achieved on September 22 with the help of mediators. The result was a 22 percent wage increase and a one-time payment (2,000 rand) for returning to work. The mediators included the leader of the Council of South African Churches and South Africa's official mediation agency, the Commission for Conciliation, Mediation, and Arbitration.

It was reported that an unknown number of strikers left the unions that had previously represented them after the settlement was announced. Additional labor conflicts spread to other parts of the mining industry after the resolution of the Marikana conflict.

Source: <http://www.theguardian.com/commentisfree/2012/aug/17/marikana-action-strike-poor-state-haves>.

Members of the management team may also have different preferences or opinions about what is feasible in negotiations. This is especially the case when multinational firms are involved. Differences can and often do arise between corporate executives whose mindset is shaped by practices and traditions in their home country and local managers who are sensitive to host country values, norms, and policies. This became an issue for Walmart in China. Walmart's corporate stance in the United States is to strongly resist any unionization efforts. This approach did not work in China (or in Brazil, Germany, the UK, and several other countries with stronger legal and/or political norms regarding union representation). It took a lot of internal management debate plus pressure from the Chinese government to convince executives at Walmart's headquarters in the United States to allow its Chinese managers to accept unions in its stores in China. Debates like these are very common while global labor relations processes are being developed and implemented.

Intra-organizational conflict also can occur when one or both of the parties bring insufficient decision-making authority to the bargaining table. Nothing is more frustrating to negotiators than to realize they are engaging in what is

called shadow boxing, or **surface bargaining**—that is, bargaining opposite a representative who lacks the authority necessary to make commitments that will stick in his or her organization. Inadequate decision-making power or authority on the part of a negotiator greatly increases the probability of an impasse or a strike as the opponent turns to the strike to force the real decision makers to the bargaining table. This source of impasse is especially prevalent in public employment in many countries, including state-owned enterprises in China, and in other settings where a higher authority must approve major budget or funding decisions.

Intra-organizational conflict is common in the public sector because of its complex decision-making structures and numerous political constituencies. Multiemployer negotiation structures in industries where there is wide variation in the goals or financial status of the employers is another likely environment for intra-management conflicts. This has been cited as a particular problem in South Africa, where national-level negotiations set specific wages for firms of different sizes and circumstances. This has produced calls for more flexibility in wage setting to better accommodate differences among firms in ability to pay and differences in labor market conditions.

Attitudinal Structuring

Negotiations are deeply influenced by cultural norms and by the interpersonal relationships the parties have developed (or not developed) with each other. Moreover, trust or distrust can carry over from past experiences, so how the parties end one bargaining process often will have a profound influence on how the next experience begins. Thus, it is important to consider the interpersonal or, in Walton and McKersie's term, the attitudinal aspects of negotiations.

Negotiations also can be extremely emotional. The stakes involved are usually high, and the tactics often used in traditional negotiations—threats, bluffs, grandstanding for one's constituents, exaggerated anger—are hardly conducive to building rapport among the parties to the process. Add to these the fact that any single round of negotiations typically is part of a larger and longer-term power struggle between parties who are separated by an inherent conflict of interests. One can readily see why hostile attitudes can, and sometimes do, develop in a bargaining relationship and why they can constrain effective negotiations.

Consequently, **attitudinal structuring** (the degree of trust the respective sides feel or develop toward each other) is another subprocess in bargaining. This subprocess has come to be seen as primarily about trust. If labor and management, for example, have a high degree of trust in one another, then it should be easier for the parties to engage in integrative bargaining, since trust

can facilitate the identification of problems (or solutions). In contrast, interpersonal mistrust can make it difficult to move from initial bargaining positions to compromise settlements. Mistrust hampers communications between the parties and can lead both parties to hold back on concessions they might otherwise be willing to make. Obviously, intense hostility can get in the way of serious discussion of the substantive merits of the issues.

Labor and management can try to build trust by meeting before or during negotiations in forums that facilitate an open exchange of views and concerns. Here is where what is happening during the term of an agreement at the workplace and strategic levels of the relationship can make a big difference. If union leaders and managers are working together on an ongoing basis to share information, create employee participation processes, and consult on important issues, the trust that develops from these activities may carry over to the negotiations process. Alternatively, actions that demonstrate a lack of trust to the rank and file, union leaders, or managers during the term of a contract will likely carry over into negotiations as well.

Personality traits of negotiators also appear to play a role in trust building. Some personality traits, such as excessive authoritarianism, have been found to hinder the compromising that is necessary to bring about negotiated settlements. This may pose challenges for both managers and workers in emerging countries that historically have placed a high value on deference to hierarchy and/or command-and-control managerial styles or cultures. Korea has struggled with this managerial culture and tradition for many years and as a result has experienced long periods when workers were unable to openly express their grievances. Periodically, these grievances built up to a boiling point and exploded in violent protests such as those that occurred in the heart of the Korean auto industry in 1961, which were repressed by military force. It wasn't until 1987 that another episode of conflict convinced the Korean government to begin modernizing its labor policies to promote a more orderly form of collective negotiations (see the recent example of protests erupting over railroad privatization in box 10.2).

MANAGEMENT'S BARGAINING OBJECTIVES

The formation of management's bargaining **objectives** (i.e., targets) is a critical part of the negotiations process. Negotiators often have limits for bargaining, or bottom-line terms of what they will accept short of taking a strike. The development of bargaining targets for wages and other key issues is the heart of the internal management planning process that takes place before or during the early stages of negotiations.

Since top management is responsible for approving or authorizing targets for wages or other bargaining issues, the negotiating team must recommend targets that reflect top management's goals for the organization. Recommending too high a wage target, for example, risks rejection of the recommendations and the loss of influence that results from such a rejection. On the other hand, once these targets are established, they play a pivotal role in the negotiations process because they indicate the negotiator's latitude for compromise. These discussions can be especially difficult in cultural settings where top executives tend to generally keep their specific preferences/views about an issue to themselves and their subordinates are expected to infer from more general comments what would be acceptable. It can also be complicated in settings where the final decision maker is in an office in central headquarters in another country. Intra-management coordination in setting objectives is even more critical in these settings than in solely domestic settings.

Thus, the labor relations staff has to develop bargaining targets that are realistic and achievable. The criteria that go into this decision-making process are discussed below.

MANAGEMENT STRUCTURES FOR COLLECTIVE NEGOTIATIONS

This section considers how management structures itself to engage in collective negotiations. There are three basic characteristics of management's labor negotiations structure: the size of the labor relations staff in relation to the number of employees in the organization, the degree of centralization in decision making about labor relations issues, and the degree of specialization in decision making about labor relations. The latter concerns the extent to which decision-making power is placed in the hands of the labor relations staff instead of in the hands of the operating, or line, managers.

The term **labor relations staff** refers to staff who are responsible for handling union-organizing attempts, negotiations, contract administration, and litigation related to union activity. Other professionals whose work relates to human resources tend to handle recruitment, staffing, equal employment opportunity, safety and health, and wage and salary administration. Most firms now integrate human resource and labor relations activities in a broad human resource management unit.

The management staff must first formulate labor relations strategies.⁴ Once basic strategic decisions are made, they must be implemented on a day-to-day basis. Management must allocate responsibility for decisions in a way that allows the organization to adapt to new pressures from its environment. In

short, management must develop a structure that enables the firm to bargain effectively and to manage its day-to-day relationship with the union or unions that represent workers in the organization.

When a firm's business strategy changes, this often leads to changes in the managers involved in the negotiations process and in their respective roles. A key change in recent years is that power has shifted from labor relations staff to operations and production managers and human resource specialists as firms have shifted to business strategies that include tight cost controls.

Specialization of the Labor Relations Function

There is evidence that power has shifted downward in management structures in recent years. Labor relations specialists have been losing power to operations and production managers and, to a somewhat lesser degree, to human resource specialists. The main reason for this is that firms now have less need for the traditional expertise of the labor relations specialist, which focuses on achieving stability, labor peace, and predictability. Instead, many firms want expertise in union avoidance, cost control, and flexibility in work rules, and achieving these goals requires making changes in workplace practices.

This does not mean, however, that labor relations specialists are no longer necessary. Indeed, case studies reveal that lower-level labor relations managers secretly delight in the "mistakes" some of the operations and production managers and human resource management specialists make as they take greater control over critical labor relations decisions. In one large firm, a career labor relations manager related to us the story of how the new vice president of labor relations who was transferred from another functional area had to call in the "old hands" to find out how the contract ratification procedures worked.

As a result of their continuing need for technical expertise, most firms continue to depend on teams of labor relations specialists to conduct negotiations and implement policies and agreements. But a number of major firms have established strategic planning groups for labor relations, and others have used cross-functional teams to develop new bargaining proposals.

The careers of labor relations professionals are changing dramatically and thus require new types of education and training. The labor relations professionals of the future will need the following:

1. Business, analytical, and planning skills
2. Expertise in both traditional labor relations activities and personnel or human resource management activities
3. A thorough understanding of operating management issues

4. An ability to work as a member of a multidisciplinary team in implementing labor relations strategies and policies
5. Skills in managing innovative labor-management organizational change efforts
6. Expertise in Web-based communications and service delivery

THE UNION'S NEGOTIATING TARGETS

Management must also take the union's preferences into account when setting targets for bargaining. Unless management is powerful enough to totally dominate bargaining, the management team will have to consider the potential acceptability of its wage offer to the union.

Unions will usually establish their own targets for wage bargaining. In setting those limits, union leaders employ two basic criteria for evaluating a proposed settlement: (1) the potential effects of the settlement on the real wages of the membership (the wage adjustment minus any increase in the cost of living); and (2) a comparison of the proposed settlement and settlements the firm has made with other bargaining units or with other employees.

Comparisons with other units are important to unions for both economic and political reasons. One of the union's economic goals is to standardize and raise wages. This leads unions to favor wage increases that maintain established patterns or differentials among employee groups within an organization or across similar employers in an industry or region. Union leaders also face pressure from their members to preserve "coercive comparisons" with the settlements other unions have achieved.⁵ Rank-and-file union members often evaluate their leaders by comparing their own settlement to settlements leaders of other unions have achieved or those that other employers have granted. Comparisons are especially relevant when one or more rival union might challenge another union for the right to represent a group of employees.

Thus, the union tries to persuade the firm to consider higher wages than the firm would consider if no union was present. The union's bargaining power will determine the extent to which management takes into account the union's preferences.

Local Labor Market Comparisons

One factor an employer considers when setting wage targets is the prevailing wage level in the **local labor market**. If the employer were to ignore the local labor market and allow wages for its employees to become low relative to wages at the other employment sites, high employee turnover might

follow. Low wages also might produce a dissatisfied work force and difficulty in recruiting workers with the ability to perform effectively. Setting wages too high relative to the local labor market invites an excess of qualified job applicants and unnecessary costs.

This does not mean that the employer seeks to pay the lowest wage possible that will attract workers to a given job. Given a particular local labor market, the employer must choose the quality of employees it wishes to hire. The employer must decide if increasing the wage level will attract employees of sufficiently high quality and lower indirect personnel costs (such as training, turnover, and supervision). Labor market comparisons are more likely to be used in bargaining relationships where the union is weak. Where unions are strong they use their bargaining power to do better than the local labor market and gain what they consider to be a fair wage.

Product Market Factors

Product market comparisons play an increasingly important role in management decision making. The ability of current or potentially new competitors to compete on the basis of lower labor costs has in fact been the dominant factor in management's drive to hold down or reduce wages, particularly for those with entry-level and low-skill jobs. The threat of outsourcing this work has also been an important part of many employers' approach to negotiations in recent years. In emerging countries, the threat of moving factories to lower-wage countries is likewise a constant factor that influences wage setting.

The Firm's Ability to Pay

The effects of wage adjustments on the profits of the firm also influence management's wage target. Employers approaching the wage decision examine their **ability to pay** wage increases. Ability-to-pay considerations are likely to be especially salient in small firms and in firms facing a weak union.

A union generally is reluctant to give a firm a lower settlement on ability-to-pay grounds unless the firm can demonstrate that a serious economic crisis would result otherwise. Union leaders and members often must be convinced that there would be sizable employment loss before they will agree to a low settlement.

Internal Comparisons

Every negotiation is carefully watched by all of a firm's employees. Management must consider how a wage settlement might influence the expectations and demands of other employees in the firm whether or not they are

represented by unions. Management, for example, often considers whether wage increases provided to unionized hourly workers will lead to pay increases for supervisors and other white-collar employees not covered by the union. One reason management provides white-collar employees with pay increases in some situations is to try to weaken these employees' potential attraction to unionization.

THE DYNAMICS OF MANAGEMENT'S DECISION-MAKING PROCESS

So far we have painted a rather static picture of management's decision making. Yet the actual process of making decisions over the course of a bargaining cycle (from the pre-negotiation planning stage to the signing of the final agreement) is dynamic. The process is replete with ambiguities over who has the authority to set policies, conflicts among decision makers over the appropriate weight to be attached to different goals, and power struggles among competing decision makers.

The process by which management establishes negotiation strategies involves extensive intra-organizational bargaining, which is every bit as intense as the bargaining between the union and management. Because the successful resolution of internal differences is a prerequisite to a smoothly functioning bargaining process, it is important to understand how firms prepare for negotiations.

To provide a more complete picture of how management prepares for collective negotiations, a typical case is described in box 6.4.⁶ This firm was preparing to negotiate a contract with the major bargaining unit in its largest manufacturing facility. The contract traditionally sets the pattern for the economic settlements with several smaller units at other locations.

Before negotiations (or very early in negotiations) the labor relations staff tries to predict as closely as possible what it will take to get a settlement. But the staff is ready at all times to revise its estimates based on new or better information about the union's position as the negotiations proceed.

The case in box 6.4 illustrates the diversity of interests that exists in the different levels in any modern organization. It shows that the development of a management strategy for negotiations is a highly political process, one in which the different goals of various groups must ultimately be accommodated. Although the labor relations staff serves as a key participant in the development of the strategy, the concerns of operating/business management, financial staff, and other interest groups in the corporation are also integral to any final decision.

BOX 6.4**Key Steps in Management's Typical Preparations for Negotiations****INPUT AT THE PLANT LEVEL**

The first step in the process of preparing for negotiations takes place at the plant level. The plant labor relations staff holds meetings with plant supervisors to discuss problems that have been experienced in administering the existing contract. From these discussions the staff puts together a list of suggested contract changes. The staff also conducts a systematic review of the grievances that have arisen under the current contract and collects information about local labor market conditions and wages other firms in the community are paying.

The staff then holds a meeting with the plant manager, who discusses the labor relations problems confronted in the plant. The plant's concerns are classified into two groups: contractual problems and problems that should be addressed outside the negotiating process. In addition, the labor relations staff asks the plant manager to rank suggested contract changes on the basis of their potential for making a significant improvement in plant operations.

INPUT FROM HIGHER LEVELS OF THE FIRM

Next, a series of meetings are held at the division level involving the division labor relations staff, operations/business management at the division level, and the corporate labor relations director and staff. From time to time, outside industrial relations consultants also sit in on these division-level meetings. Here the concerns of the various plants are evaluated against two criteria: (1) the operational benefits expected from proposed contract changes; and (2) the likelihood that the changes desired can be achieved in the negotiations process.

The corporate labor relations staff plays a vital role in these division-level discussions, since the expected benefits of different contractual changes can be a matter of dispute across the various plants. In addition, the division labor relations staff is responsible for carefully examining the contract language in the various local agreements for inconsistencies or problems that could be removed by clauses that reflect corporate labor relations preferences. Sometimes corporate labor relations representatives object to changes suggested at the division level because they do

not correspond to the priorities of the corporation's officials and because those corporate officials do not understand the purpose or value of existing plant practices.

The corporate labor relations staff works closely with the vice-president for finance to develop the wage targets. Information about plant labor costs, corporate earnings, and the long-term financial prospects of the company and the industry are built into the wage target the corporate staff ultimately recommends.

INPUT FROM RESEARCH

A research subgroup in the labor relations staff of the company also conducts background research that is used in management's preparations for negotiations. At least a year and a half before the opening of formal negotiations, the research staff starts preparing the background information necessary for the development of the company's proposals.

The researchers use a database of information on employee demographic characteristics and analyze personnel statistics such as turnover, absentee, and complaint (or grievance) rates. They also monitor internal union developments, such as convention resolutions, union publications, and union leaders' statements about the upcoming negotiations. In addition, they survey plant managers for their views on their relations with the union and on the problems they would like to see addressed in the negotiations. The staff also consults plant labor relations staff members to obtain their suggestions. This firm probably invests more resources in and assigns more authority for bargaining preparation to its research staff than do most other corporations.

The research staff is ultimately responsible for putting together a summary report that goes to the vice-president of industrial relations and the corporate director of compensation. These executives then work with the manager of the research and planning department to develop targets for bargaining.

THE FINAL STEP IN MANAGEMENT'S PREPARATION

The final step in management's preparation for negotiations is a meeting involving the corporate labor relations staff, the chief executive officer, and the board of directors. At this meeting the corporate labor relations director presents for board approval the proposed wage targets and other

proposed contract changes and the reasons for seeking the proposed changes. Sometimes this meeting does not take place until after the first negotiations session with the union. The labor relations director might prefer waiting until then because it may be useful to hear from the union before making a recommendation to top management. This helps him identify both the relative importance the union is likely to place on pay issues and the intensity of the union's concern about other areas of the contract.

The labor relations director described to us how he presents his recommendation to top management in this way: "I always number my proposed target settlements as proposed settlement target number 1. Someone once asked me what that meant. I said that this is what I think it will take to get a settlement but I number it because I may have to come back to you at some point with my proposed settlement number 2 or even my proposed settlement number 3, et cetera."

Corporate Restructuring and Governance

Over the past two decades, corporations have increasingly moved toward a "core competency" business model. Functions that are deemed central to the core business processes of a firm have continued to be done within the firm, but other functions have increasingly been outsourced to other firms. This trend has affected labor relations in two ways. First, and most important, many firms outsourced aspects of their manufacturing, maintenance, or construction operations, and this often had the effect of reducing the number of unionized employees.

The second effect of recent corporate restructuring has been the outsourcing of many of the human resource services that in the past were provided in house. Many companies have outsourced training, benefits management, payroll, and other routine employee services. This reduces the career advancement opportunities for human resource professionals, including those who serve in the labor relations function. As a result, labor relations professionals now spend an increasing amount of their time negotiating and coordinating employment practices with specialized (outside) human resource service providers who work for outside contractors/consultants. This adds further complexity to this task, since evidence shows that the enforcement of safety and health practices and other basic labor standards often is weaker in contractor firms than in large, more professionally managed firms.⁷ Increasingly,

therefore, management and supervision of labor relations occurs across as well as within the formal boundaries of a single firm.

The next section reviews the common procedures unions and workers follow during labor negotiations. This material parallels the discussion of the procedures management follows in preparing for negotiations.

THE ROLE OF THE UNION NEGOTIATING COMMITTEE

The union is represented by a negotiating committee in negotiations with management. The makeup of the **union negotiating committee** varies across unions. For large national unions or union confederations with multiple local affiliates, it typically includes union officers, support staff (such as members of the local or the national union's research staff or both), and elected worker representatives. Often the leaders of the union's negotiating committee are the highest elected officers of the union that is covered by the collective agreement under negotiation.

The negotiating committee will normally meet a number of times before the start of negotiations to formulate the union's list of demands and to begin to establish expectations about what the union can win in negotiations. Before these meetings, the negotiating committee will solicit demands from union members, either directly through membership meetings called to discuss the upcoming negotiations or through surveys.

A union negotiating committee typically also receives information and advice from the national union's research staff during its preparations for bargaining. The information provided frequently covers the financial performance of the company, forecasts the future performance of the company and the economy, and summarizes recent settlements in other unions or the pay improvements unorganized workers have received in the same city, firm, or industry.

Some unions undertake extensive research and analysis of economic developments and the financial situation of each company in their industry. Prior to entering negotiations, the research staff will conduct extensive briefings with the bargaining committee and in some cases will meet with company representatives to compare financial data. It is not uncommon for union and company research staff to request or share information from each other, if for no other reason than to avoid debates over some of the basic facts that both need to prepare for their respective teams. Obviously, small unions or unions limited to one specific location often lack the resources to do the extensive research that is needed on their own. An increasing number of Internet sites

are now available that provide comparative data on wages paid for particular occupations. Similarly, a number of financial services firms provide data on the financial performance and market prospects of publicly traded firms. Some unions also maintain Web sites with sample contract language on a wide variety of topics. Unions frequently use all of these external and internal sources as they prepare for negotiations.

Many unions now use surveys, focus groups, and/or direct interviews with rank-and-file members to gather information about their concerns and priorities for negotiations. This serves as a two-way communication process: it provides data on rank-and-file priorities and begins to engage the rank and file in the negotiations process by informing them of some of the issues that may come up.

Acquisition of Strike Authorization if Negotiations Reach an Impasse

If a union comes to an impasse with management during the negotiations and is considering going on strike over unresolved disputes, two steps commonly occur. The union's constitution may require that the union seek **strike authorization** from the national (or international) union. Strike approval is an important process because, among other things, it enables striking workers to receive strike benefits from the union's strike fund.

A union considering a strike also typically will poll its members. The strike vote serves a dual purpose: it tells the union leadership whether the union's members support such an action and it helps rally the workers around the purpose of the strike.

Contract Ratification

When an agreement is reached between the union's negotiating committee and management's representatives, the union will often then proceed through **contract ratification** procedures. Here there is much variation in the exact procedures unions use. Some unions first send a proposed agreement to a council made up of lower-level union officers. Some union constitutions require that the workers covered by a negotiated agreement vote on any proposed settlement.

THE ROLE OF UNION LEADERS IN SHAPING STRATEGIES

The actual bargaining demands of unions reflect more than just an averaging of their members' preferences. Several factors combine to produce the complex process by which union leaders arrive at their bargaining objectives.

First, in addition to considering the preferences of their members, union leaders must evaluate objectives in light of the probability that they can be attained. Unrealistic goals must be discarded during pre-negotiation planning sessions or early on in negotiations.

Second, individual union members have varying degrees of political influence in the union. Older or more skilled workers, for example, may be more politically influential than other members. Thus, the objectives that are ultimately selected may reflect some workers' goals more than others.

Third, union leaders must also be concerned about the long-run survival of the union and must take steps to preserve those interests. There is always the risk that union leaders will emphasize matters relating to union representation rights or union dues even though the union members might not put a high priority on such items.

Finally, it should be recognized that a central job for union leaders, like all leaders, is to lead! Union leaders must weigh strategic options, make decisions, and secure the ongoing support of their members for those decisions.

One of the keys to union leadership is effective internal communication. Union leaders need regular upward communication from the rank and file and from local union officers. Effective union leadership also requires that decision makers communicate their activities and decisions back to the members. Unions use techniques such as opinion surveys, Internet (or intranet) conferencing technologies, newsletters and in-house magazines, and even television or other media advertising to communicate with their members. Indeed, the Internet is becoming a key resource in bargaining today. Union leaders are learning that if they do not develop skills in using this tool to communicate with members, rival groups within the union will do so. The role and means of communication in unions and in negotiations in general are changing rapidly in the age of the Internet.

THE CYCLE OF TRADITIONAL NEGOTIATIONS

Negotiations often proceed through a cycle in which the four subprocesses of bargaining emerge and interrelate.⁸ A typical cycle for a labor negotiations process is described below.

The Early Stages

In the initial stage of a traditional negotiation the parties present their opening proposals. This stage often involves a larger number of people than will be involved in the negotiations of the final agreement. The union, for example, may bring in representatives from various interest groups and levels of the

union hierarchy. These people participate in developing the initial proposals and later become involved in securing ratification of any agreement. The involvement of all these different representatives can resolve any intra-organizational disputes within the union.

The union then presents proposals that cover its entire range of concerns. Some of the proposals will be of critical importance and will be at the heart of the discussions as the strike deadline approaches. Some are important but may be traded off at the last minute. Some may be translated into more specific demands at a later stage of bargaining or may be issues to which the union will assign a high priority in some future round of negotiations. Other issues are of low priority and will be dropped as negotiations proceed into the serious decision-making stages.

The Presentation of a Laundry List

The union's presentation of a **laundry list** of issues serves several purposes. Such a list allows union leaders to recognize different interest groups by at least mentioning their proposals. Some unrealistic demands will be aired, the problems underlying these demands can be explored, and the employer can then reject these demands. This process takes the pressure off union officers who might otherwise appear to have arbitrarily rejected some group's pet proposal. In addition, either side can also introduce issues in a laundry list that it hopes can be pursued in future negotiations.

Initially presenting a long list of proposals and inflated demands might also be useful for camouflaging the real priorities of the union. Or a long list of proposals can assist integrative bargaining by facilitating problem solving.

Employer Behavior in the Early Phase

Employer behavior at the outset of bargaining varies considerably. Sometimes the employer will present a set of proposals to counterbalance the demands of the union. At other times the employer will receive the union demands and promise a response at a future negotiating session. Many management representatives prefer to delay making any specific proposal about wages or other economic issues until well into the negotiation process. Because the wage issue can be emotional and divisive, management often tries to resolve non-wage issues first.

Management may also initially try to camouflage its bottom-line position and it, too, may have unresolved internal differences at the start of negotiations. In some firms a decision about what the bottom line is will not be made until after the union offers its initial proposals and gives some preliminary indication of its priorities.

In the early stages the speakers for each side will argue strongly and often emotionally for the objectives of their constituents, both to fulfill their obligations as representatives and to determine how strongly the opponent feels about the issues at stake. It should be no surprise that these initial stages are the forum for a good deal of grandstanding by both parties (and this grandstanding may be a part of intra-organizational bargaining).

The Middle Stages

The middle stages of negotiations involve more serious consideration of various proposals. The most important tasks performed in the middle stages of bargaining are (1) developing an estimate of the relative priorities the other side attaches to the outstanding issues; (2) estimating the likelihood that an agreement can be reached without a strike; and (3) signaling to the other side which issues might be the subject of compromise at a later stage of the process.

Often the parties choose to divide the issues into economic and noneconomic categories. Separating the issues in this way may facilitate problem resolution and integrative bargaining. It is at these intermediate stages that any obstacles to a settlement may begin to surface.

The Final Stages

The final stages of bargaining begin as the **strike deadline** approaches. At this point the process both heats up and speeds up. Off-the-record discussions of the issues may take place between two individuals or small groups of representatives from both sides, perhaps in conjunction with a mediator. These discussions serve several purposes: because they are private, they enable a negotiator to save face in front of his or her constituents; they allow each party to clarify its position more fully; and they enable the parties to explore possible compromises.

The bargaining that takes place at the table, in many cases, is only the formal presentation of proposals and counterproposals. At this point the negotiators have a better idea of their opponent's bottom-line positions and they may have had private discussions over what it will take to reach a settlement.

Whether the real bargaining occurs at the table or in the back room is less important than the factors that determine whether a settlement will be reached without an impasse. In these final stages before a strike deadline, each party is seeking to convince the other of the credibility of its threats related to the strike issue. Each side also is trying to get the other side to change its bottom line in order to prevent a strike. And each party is trying to accurately predict the other side's real positions on the issues to avoid backing into an

unnecessary strike. At this stage, therefore, usually only a small number of decision makers are involved in the process.

Even if the key bargainers may agree on how a bargaining settlement can be reached, agreement is not yet assured. Even at this late point in the process, if bargainers aren't able to sell a settlement to their constituents, the agreement might not be reached and an impasse may occur.

INTEREST-BASED BARGAINING: AN ALTERNATIVE TO TRADITIONAL NEGOTIATIONS

The traditional approach to negotiations outlined above has often been criticized for its limited potential for solving problems. The dominance of distributive issues and tactics, the overstating of demands, and the tactical use and withholding of information have all been viewed by critics as ways that traditional bargaining reinforces rather than overcomes arm's-length or adversarial tendencies in labor-management relations. As an alternative, a number of researchers and a growing number of practitioners have suggested using **interest-based**, or **mutual-gains**, bargaining techniques.

Interest-based bargaining is essentially an effort to apply integrative bargaining principles from the Walton and McKersie model to the overall negotiations process. This approach to bargaining was first popularized by Roger Fisher and William Ury's best-selling book on negotiations, *Getting to Yes*. In interest-based bargaining, parties are encouraged and trained to (1) focus on their underlying interests; (2) generate options for satisfying these interests; (3) work together to gather the data and share the information needed to evaluate options; (4) evaluate the options against criteria that reflect their interests; and (5) choose options that maximize their mutual interests.

Consider how use of these principles alters the typical negotiations process described above. Instead of each party beginning the bargaining process with a laundry list of inflated demands, each separately produces a list of problems that need to be addressed in negotiations to address their core interests. In some cases, the parties may even frame the problems jointly by building on the reports of labor-management committees that have been set up to collect data and study vexing problems such as safety and health hazards, health plan costs, or quality. A subcommittee might then be formed to collect additional information needed to generate options for the full negotiating teams to consider. Ideally, options can be generated through use of brainstorming (a free-flowing discussion in which members of a group are encouraged to generate ideas without committing themselves to a fixed position and without criticizing the ideas others suggest). Analysis of the root causes of problems and

extensive data sharing are also encouraged at this pre-bargaining or early stage of the negotiation process. As bargaining proceeds to a decision-making phase, standards or criteria are developed to evaluate the options that have been generated. The goal is to then choose the options that do the best job of serving the interests of both parties.

Box 6.5 describes how one firm prepared for a recent round of interest-based bargaining. While much of the background research and information gathering is similar, some of this is done jointly with the union. In this case, the problem-solving processes that had been put in place in the company-union relationship at the workplace provided the foundation for taking a problem-solving approach to negotiations as well.

BOX 6.5

How Preparations for Interest-Based Bargaining Occurred in One Firm

In this firm, the shift to a new approach to negotiations was a gradual and natural outgrowth of the firm's employee involvement process. Some steps in this direction were taken in negotiations ten years ago and more in the most recent round of labor negotiations. All of the union and management representatives have training in problem-solving tools and essentially asked each other: "Why can't we apply these tools in negotiations?"

As in the past, the labor relations managers kept a file of issues and problems that came up during the term of the agreement and started preparations by reviewing this file and interviewing plant managers about their concerns. But this time, when this material was brought together in a meeting with top division executives, the director of labor relations said he didn't want to take a laundry list of issues into negotiations, only to have some or many of them discarded. Instead, he asked his colleagues: "What are your critical problems? What are their root causes? What are the costs involved? If we can agree on these things, then let's go into negotiations and fix them."

Paring the list down and agreeing on what was needed to solve the firm's problems (which were severe at that particular time) involved tough internal discussions and negotiations. Eventually, the chief executive officer had to decide on a couple of key points since these could conceivably affect the long-term future of the operations.

In the end, management decided to bring eight issues to the table and the union only brought fifteen or sixteen. In the past the parties each would have brought many more issues.

The parties also had smaller bargaining committees than in the past. On the management side there was one representative each from legal, finance, and manufacturing, along with the labor relations director, who chaired the committee.

To promote communication that was more open and more oriented to problem solving, the parties decided to use a large round table for bargaining. During the actual negotiations, the parties brought in specialists from time to time with expertise on particular issues such as contract language guiding how workers could be transferred to different jobs within the firm. Instead of simply exchanging proposals and working from each other's lists, the parties scheduled times to discuss issues and problems. When they did so, they asked: "Why is that a problem? Who is affected? What might we do about it? How would it affect things? Can we live with the solutions proposed?"

When it came time to discuss the tough wage issues, bargaining took on more traditional features. Union leaders felt that they needed to be able to demonstrate to their constituents that they had squeezed management as hard as they could to get the best deal possible concerning wages. Management understood the pressures union leaders were facing.

Still, there was better communication because of the integrative problem-solving approach.

In theory, an interest-based process does not differentiate between distributive and integrative issues. Instead, by focusing on basic interests and problems that lie in the way of achieving those interests, the parties attempt to use problem-solving or integrative strategies to address the full range of concerns each party brings to the table. However, experience has shown that some issues are harder to resolve through purely interest-based techniques, since they do involve clear trade-offs. When such situations arise in interest-based negotiations, the parties may resort to more traditional tactics and thus combine the two approaches to negotiations.

Interest-based bargaining requires a high level of trust among the negotiators and between the negotiators and their principals and constituents. Thus,

it is difficult to make this process work when attitudes in the larger relationship are hostile or when there are significant intra-organizational conflicts among the members of one party or the other.

When should one consider using interest-based techniques and how should negotiators go about trying it out? Most experts agree that both negotiating teams need to be trained in these techniques well in advance of the start of negotiations. To overcome constituents' suspicion, some further recommend bringing rank-and-file union members and managers who are not on the negotiating team into the training, data gathering, and subcommittee processes. Often a specially trained *facilitator* (as opposed to a traditional mediator) is also brought in to coach and assist the parties in interest-based negotiations.

While the record of interest-based bargaining to date is still modest and some cases of failure have been reported, it is clear that the growing complexity of the problems labor and management face are pressuring them to find better ways to produce "win-win," or mutual gains, solutions.

STRIKES

As noted earlier in this chapter, most labor relations systems expect negotiations to precede any work stoppage. Indeed, a key goal is to reach an agreement without invoking a strike. Whether a strike actually occurs or is merely threatened, the strike or threat of a strike plays a key role in motivating the parties to move toward an agreement and in determining the outcomes of any negotiation. We explore the role of the strike and strike threat in this section.

How Strike Threats Influence Negotiated Settlements

In negotiations, the bargaining parties are unlikely to settle on terms that differ substantially from whatever terms they think would settle a strike if one were to occur. Consequently, strikes are an important determinant of the bargaining power of both parties.

During negotiations, both labor and management negotiators formulate expectations as to what might happen if the negotiations were to reach impasse and a strike were to follow. At the same time, both sides have a strong incentive to avoid a strike, as each loses income during a strike.

In a strike, workers give up wages. They may try to make up for those lost earnings by taking a short-term job. Workers also turn to union strike benefits, the earnings of a spouse, or savings to support themselves and their families during a strike.

Firms lose profits during a strike. They try to decrease the amount of profits lost through tactics such as bringing in replacement workers for the strikers, converting available inventories to sales, or shifting production to an alternative site. The firm relies on assets or earnings from other lines of business to meet any financial obligations (such as equipment expenses) during a strike. In service businesses such as airlines, where business lost during a strike cannot be made up through built-up inventory or post-strike deliveries, strikes are especially costly. This is one reason why more extensive efforts are made to avoid strikes in these settings, as we will see when we discuss dispute resolution procedures and proposals for reform in the airline industry in the next chapter.

The Hicks Model of Strikes

The material below examines more closely the role the strike threat plays in the negotiation process and identifies the factors that lead to strikes. John R. Hicks developed a very insightful model to analyze the role strike leverage plays in shaping negotiated outcomes.⁹ Figure 6.1 diagrams the **Hicks model of strikes**. To simplify the discussion, assume the parties are negotiating only over wages (or assume that all items in dispute can be reduced to monetary terms and represented by a simple wage).

In the Hicks model, bargainers form an expectation of what they would eventually agree to if there was a strike. In case A in figure 6.1, both parties expect that if there was a strike it would be ended with a wage settlement of $w(es)$. If a strike occurs, however, both labor and management will have to absorb income losses during the strike. Workers will forgo earnings during

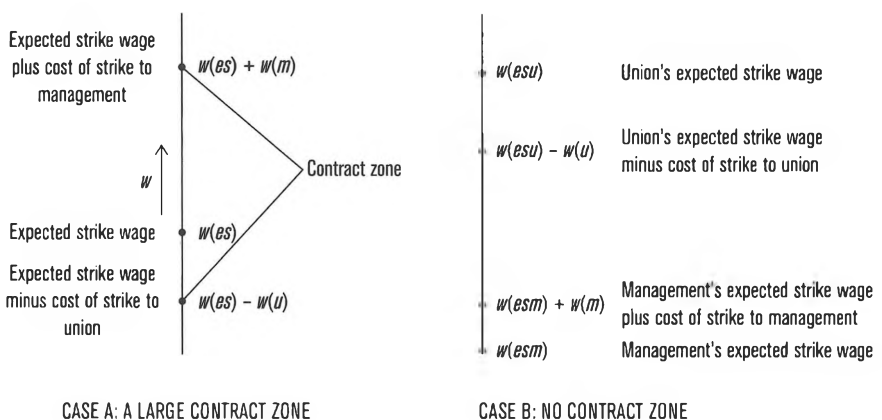


Figure 6.1. The Hicks model of strikes

the strike, and management will lose profits because of the stoppage in production.

Cognizant of these potential income losses, the parties should be able to find a negotiated wage settlement *during the negotiations* that they prefer over the wage settlement they would end up with at the end of a strike, or $w(es)$.

The income that management would lose during a strike is equivalent to a particular increase in the hourly wage cost to management of $w(m)$. Given that they expect a strike to end with a wage of $w(es)$, management should be willing during negotiations to agree to a wage as high as the expected strike outcome plus the cost to management of the potential strike, or $w(es) + w(m)$.

Labor in this case also expects a strike to end with a wage of $w(es)$. The income workers would lose during a strike would amount to an hourly wage cost to labor of $w(u)$. The workers, *during negotiations*, therefore, should be willing to accept a wage as low as the expected strike outcome minus the hourly cost of the strike to labor, or $w(es) - w(u)$.

The difference between what management is willing to accept during negotiations and what labor is willing to accept during negotiations creates a **contract zone** of potential settlements. Both sides should prefer to reach settlements in the contract zone during negotiations over the alternative of taking a strike and ending up with the strike wage outcome and income losses during the strike.

It is, of course, possible for there be no contract zone. Case B in figure 6.1 diagrams such a situation. In this case management expects a very low strike outcome of $w(esm)$, while the union expects a very high strike outcome of $w(esu)$. Even in the face of the expected strike costs, $w(m)$ and $w(u)$, there is no contract zone because $w(esu) - w(u)$ is greater than $w(esm) + w(m)$.

The important point that Hicks noted is that in this framework, there is *no* contract zone *only* if the parties have very different expectations of the strike outcome. The fact is that there is a true strike outcome. If labor and management have divergent expectations of the strike outcome, one or both of the parties is making **miscalculations** in their prediction of the strike outcome. One or both of the parties must be excessively optimistic about what it thinks will settle a strike for there to be no contract zone at all.

Hicks concluded that strikes occur only when there is miscalculation. The key point is that since a strike imposes costs on both sides, it should be less attractive than a negotiated settlement. Strikes can occur even if there is a contract zone, but in the Hicks framework this also requires miscalculation. Hicks argued that there may be situations where the parties do not locate a settlement within the contract zone even if that zone exists. This occurs

because—through previous bluffing or intransigence—the parties are unable to find the negotiated settlements they both would prefer over the strike outcome.

In the Hicks model, negotiators have great latitude to further their side's interests. Given a particular contract zone, it is in management's interest to reach a settlement at the lowest wage in the contract zone and it is in labor's interest to reach the highest wage settlement in the contract zone.

Furthermore, during negotiations it is in each side's interest to attempt to change the other side's expectation of the strike outcome. Management would like to convince labor that the potential strike outcome is in fact a very low wage and labor has an interest in convincing management that the potential strike outcome is a very high wage. The risk the parties face is that in their efforts to change the other side's expectation of the potential strike outcome, they might engage in tactics (such as bluffing or threats) that result in miscalculations, a strike, and the associated income losses.

Some of the Sources of Miscalculation

Hicks's model is a very useful starting point for analyzing the negotiations process. Building on his approach requires an understanding of the factors that influence the willingness and ability of either side to engage in a strike. These factors determine the wage the parties expect they will end up with at the end of a strike. Furthermore, the Hicks framework suggests the need to uncover the factors that lead either side to be overly optimistic about the potential strike outcome or to miscalculate during negotiations in other ways.

Behavioral Sources of Strikes **Behavioral factors** such as the degree to which labor is integrated into the surrounding social community may be one source of miscalculation that leads to strikes. In a classic study, Clark Kerr and Abraham Siegel analyzed strike data across countries and industries. They found that strike rates were consistently higher in certain industries, such as mining and longshoring.¹⁰ The authors proposed that behavioral factors peculiar to certain industries were at least partly responsible for the higher strike rates. Workers in longshoring and mining often have their own subculture, they are distant from major population centers, and their work involves harsh physical labor. Kerr and Siegel argued that workers in these industries are comparatively poorly integrated into society and take out their frustrations by instigating strikes relatively frequently.

In Hicks's terminology, Kerr and Siegel identified a set of factors—social and geographic isolation—that contribute to the likelihood of miscalculation

in bargaining. Kerr and Siegel also emphasized that strike occurrence may have very little to do with the issues on the bargaining table.

Militancy as a Cause of Strikes Strikes also may occur as a result of the militancy of the work force or the union. Over time (and across countries) strikes tend to occur more frequently during business upturns. This association is difficult to explain with the Hicks model, which predicts that wage settlements should be higher during business upturns but not strike frequency.¹¹

Other theorists instead argue that the higher frequency of strikes during favorable economic times (i.e., the pro-cyclical movement in strike frequency) demonstrates that conflict is a product of the bargaining power of labor. This bargaining-power model of strikes focuses on the fact that strikes are typically initiated by the union and the work force. Thus, during periods when the union's bargaining power is relatively weak, the union is less likely to press its demands and less likely to resort to a strike when seeking more favorable contract terms.

The bargaining-power thesis also recognizes that strikes are frequently initiated by workers on the shop floor who are upset by management's actions or by official union policies. (These sorts of strikes often would be counted as unauthorized, or wildcat, strikes.) Workers are less likely to engage in this sort of shop-floor action when labor markets are slack and workers fear the possibility of layoffs.

It is important to recognize that negotiations involve a large number of issues, that what would actually occur in a strike is highly uncertain, and that labor negotiations typically occur repeatedly between the same parties. These factors make it extremely difficult to predict the settlement point or the causes of an impasse in any given negotiation.

The Role of Strategy in Negotiations and Strikes

To understand the course of negotiations and strikes it is necessary to consider the roles the strategies of management and unions play. This provides another illustration of a point made throughout this book, namely that activities at one level of the labor relations system interrelate with activities at other levels.

Management strategies have a major effect on the negotiations process and on the strike record. Management behaviors in response to both spontaneous protests and scheduled negotiations often are shaped by a combination of ideology and practical strategy. Management's ideology about unions will influence its willingness to negotiate and often its preparation to do so. Employers

who are most strongly opposed to union representation often first attempt to ignore or suppress a demand from workers or unions that they negotiate.

Once management goes beyond its ideology, attention turns to how to relate its labor relations and negotiation strategies to its business strategies. Management's decisions about investment and products affect its bargaining power and negotiation strategies. For example, whether management chooses a low-cost, high-volume product strategy or a high-quality, high-innovation strategy shapes the extent to which the employer is concerned with lowering wage costs. In addition, a company's overall human resource strategy has an effect on negotiations, particularly on employee attitudes.

ALTERNATIVE BARGAINING STRUCTURES

Labor and management do not necessarily make agreements that cover only the workers who initially joined or created the union or successfully demanded representation rights. For example, the employees in the various work sites of one employer represented by a union may wish to join together to negotiate a common agreement covering the whole company. In a number of emerging countries, company-wide, regional, or industry-wide (sometimes call sectoral) labor agreements exist in manufacturing industries such as the auto or steel industries. Employee and union preferences are not the only determinants of the bargaining structure, however. Before we trace some of the determinants of bargaining structure, we need some definitions.

Definitions of Bargaining Structure

The **formal bargaining structure** is defined as the bargaining unit or the negotiation unit—that is, the employees and employers who are legally bound by the terms of an agreement. The **informal bargaining structure** is defined as the employees or employers who are affected by the results of a negotiated settlement through pattern bargaining or some other nonbinding process.

Types of Bargaining Units

The two primary characteristics of a bargaining structure are (1) the scope of employee or union interests represented in the unit, which can be narrow (craft-based), broad (industry-based), or multiskill-based; and (2) the scope of employer interests represented in the unit, which can be regional, industry-wide, or sectoral or some other form of multiemployer unit. All of these types are considered variants of centralized bargaining. Bargaining structures also can be single employer–multiplant or single employer–single plant (decentralized).

Determinants of Bargaining Structures

The major forces that affect the degree of centralization in bargaining structures are bargaining leverage, public policies, and organizational factors.

Unions can increase their bargaining leverage if they organize a large share of the firms that produce a particular product. One of the primary mechanisms for raising wages is expanding the bargaining structure so that a large share of the firms making a particular product is covered by the same collective agreement. But to achieve a highly centralized bargaining structure, unions usually must first organize a large proportion of the **product market** and then successfully maintain union coverage over time—a tall order.

Unions representing construction workers, for example, have a strong incentive to equalize the wage costs among competitive bidders on the same product. Thus, in the construction industry, unions prefer bargaining with the multiple employers who compete for specific construction projects. For example, where builders across a city bid for the contract to build an office building, the union representing carpenters in that city will try to bargain in a structure that spans the contractors across the city.

Employers Prefer Centralized Bargaining Structures in Some Cases It should not be inferred that unions always gain (and employers always lose) a tactical advantage in larger or more centralized bargaining structures. Employers in companies that provide local services such as hotels, restaurants, laundries, and truck haulers have often found it to their advantage to form associations and to bargain in multiemployer units.

For instance, consolidating the bargaining function allows employers to avoid being whipsawed by local union leaders. Union **whipsawing** occurs when a union negotiates a bargain at one plant or company and then puts pressure on the next plant or company to equal or surpass the contract terms negotiated at the first site. By consolidating the bargaining structure, however, employers can sometimes reduce the possibility of union whipsawing. (Employers can also whipsaw a union when they gain a power advantage.)

Centralized Bargaining Can Stabilize Competition In some cases a centralized bargaining structure can serve employer interests by stabilizing competition. Employers in small firms in a highly competitive industry may find it to their advantage to bargain centrally with a union. This can reduce the union's ability to whipsaw the small firms. If a strike occurs, the centralized bargaining structure also ensures that no single employer can gain an advantage because all the firms are shut down simultaneously.

Centralized bargaining in highly competitive industries can also work to the advantage of larger employers that are willing to pay a higher wage but are concerned about being undercut by smaller firms or new entrants to the industry. This was the case in the U.S. apparel industry for many years before most clothing manufacturing moved overseas. Interestingly, a similar motivation has led to the emergence of sectoral bargaining in the woolen, ceramic, and plywood industries in several provinces in China. Box 6.6 describes the plywood example as it developed in recent years in the city of Pizhou, Jiangsu Province.

BOX 6.6

Sectoral Bargaining in China's Plywood Industry

The plywood industry in Pizhou city, Jiangsu Province, includes about 2,000 enterprises and 200,000 workers. It accounts for 30 percent of the city's GDP and a third of China's plywood exports. In 2003, to avoid the negative effects of unconstrained competition, the larger enterprises set up a sectoral employers' association for both trade and labor relations purposes. Around 300 mid- and large-size enterprises in the plywood sector joined.

In 2005, the local union federation and the employers' association conducted a joint survey of wages in thirty large enterprises. Based on the results of this survey and on subsequent negotiations, the two sides signed an agreement that fixed sectoral minimum wages. This agreement covered sixty enterprises on a trial basis. The two sides moved toward a full sectoral wage negotiation in 2006. Since then, there have been six annual rounds of negotiations.

There are a number of points of interest in the resulting agreements. First, they activated the provisions of China's 1994 labor law that relate to appropriate premium payments for overtime working. This provision has been widely ignored in China. But the 2006 and 2007 Pizhou plywood agreements achieved full compliance with the 1994 law.

Second, at the height of the global financial crisis in 2009, the two sides agreed to freeze piece rates and to reaffirm the legal procedures governing redundancies. Even though the union association was on the defensive in the context of the worsening economic situation, it was nonetheless able to gain a concession from the employers' side in the form of the introduction of seniority allowances.

Third, a skill grade system that was introduced by the 2009 agreement was a high negotiating priority for the provincial union. Together with seniority allowance, it may prove to be a first step away from the prevailing piece-rate system and toward more secure internal labor markets. Finally, there have been rapid increases in negotiated wage rates over the six rounds of wage negotiation, ranging up to 33 percent in 2008.

Both sides have agreed to augment the members on the workers' side, who were mostly union officials and a few workers' representatives, with equal numbers of workers' representatives and third-party professionals, such as lawyers and government advisors. In 2008, they agreed to have 250 workers' representatives as observers at the formal bargaining sessions, to train workers' representatives at the enterprise level, and to encourage workers' representatives to begin supplementary negotiations at the enterprise level following the completion of the sectoral agreement.

Source: Chang-Hee Lee, William Brown, and Xiaoyi Wen, "What Sort of Collective Bargaining Is Emerging in China?" *British Journal of Industrial Relations*, forthcoming.

The Chinese plywood case illustrates how centralized bargaining, even at the regional level, requires the development of parallel employer and union associations. These associations, in turn, need to create internal governance and decision-making processes to ensure internal cohesion and acceptance of and compliance with negotiated agreements. This often requires significant intra-organizational bargaining. One way of avoiding overcentralization is to limit the scope of issues that get negotiated at the centralized level, often to basic wages and other common terms of employment, while giving individual enterprises the flexibility to negotiate on other issues to fit their particular circumstances and needs. This might include topics as diverse as child care provisions, scheduling arrangements, or work system innovations.

The Bargaining Structure in Brazil

Brazil provides another example of how bargaining structures evolve over time, in this case starting with a strong influence of the national government in centralized bargaining that has gradually evolved to the municipal level. We review this evolution of bargaining in Brazil. Note how bargaining in this country is integrated with other provisions of labor and employment

law. Few other countries have been able to achieve this level of coordination.

Collective negotiations in Brazil has its roots in the Consolidated Labor Laws passed by President Getúlio Vargas in the late 1930s. These laws and their system of collective negotiations were loosely based on the political and labor laws of Mussolini's Italy. In this system, which is known as corporatism, the state plays the central role in organizing and channeling labor-management conflict. Workers and employers are both organized into separate representative bodies: labor unions for workers and employer organizations for companies. Collective negotiations plays an important role in the Brazilian system. Vargas and the designers of the corporatist system sought to create institutions that would resolve labor-management conflict but avoid more radical and class-oriented organizations such as those in Western Europe.

The labor relations system in Brazil is characterized by three key factors: exclusive representation by job category and geography, a union tax to fund labor organization, and a system of labor courts. Unions are organized by job category through exclusive representation by geographical region and are the primary site for collective negotiations. Unlike in unions in Western Europe, where bargaining is organized by a limited number of "industries" such as metalworking, chemicals, transportation, and education, Brazilian unions are organized by job category. Job categories are not legally defined and are subject to legal challenge by rival unions hoping to represent the same groups of workers. For example, there cannot be two unions of metalworkers in São Paulo. However there may be different unions for welders, drillers, auto-workers, truck workers, steel workers, and so forth, all in the same geographical jurisdiction. Unlike in countries where unions are organized by a limited number of industries—all metalworkers from the same area bargaining together and providing greater bargaining power for these workers—unions in Brazil are highly fragmented, are in fierce competition with each other, and often are not in contact with other workers from the same company in different regions of the country.

Unions and employers are organized into four legally recognized levels based on geography: the municipal *sindicato*, the state/regional *federação*, and national-level *confederação*, and the national, cross-industry *central*. Brazilian law makes no provision for in-plant representation, which means that most Brazilian workplaces do not have any type of shop steward, union representative, or grievance procedure. Some unions have tried to build European-style works councils, notably in the auto and chemicals sectors, but employer resistance is often fierce and the bargaining power of unions is limited.

Collective negotiations are conducted primarily at the municipal level and have limited scope and content, mostly related to base wages. The majority of statutory regulations, including those related to minimum wages, hours, safety and health standards, and vacations, are covered by the federal labor code, and collective negotiations at the local level attempt to build from these federal regulations. Negotiations are conducted annually and are concerned mostly with wages, profit sharing, and employment guarantees.

Multiemployer conventions and firm-level agreements are allowed and are designed to improve on the national minimum levels set in federal law, but for the majority of unions the scope of bargaining remains narrow and is focused on annual wage adjustments. Some unions, mostly the larger industrial unions in the São Paulo region, have been able to make broader agreements at the firm and multi-firm levels, but these are by far the exception and unions face immense challenges in trying to build coordinated bargaining structures.

In many countries, the trend has been toward greater decentralization in bargaining structures. South Africa is a case in point. Employers in South Africa have argued for more exceptions to the industry-level bargaining structures the country's labor law calls for. As the variations in the size and competitive conditions employers face have increased, fewer firms have been willing to participate in industry associations and instead seek to negotiate separately. Yet examples can also be found where one or both parties seek to move toward more centralized bargaining. To enhance their bargaining leverage, a number of Korean unions have pursued industry-wide bargaining. In the banking industry, the first industry-wide collective agreement was signed in 2001.

In summary, there is no single best bargaining structure for all industries or countries. But it is not impossible to change bargaining structures that are no longer well matched to industry, regional, firm, or union needs.

Pattern Bargaining

Pattern bargaining is an informal means of spreading the terms and conditions of employment that have been negotiated in one formal bargaining structure to another. It is an informal substitute for centralized bargaining that is aimed at taking wages out of competition.

The employees working in the same firm typically are very aware of what other employees in the firm are receiving in terms of pay or fringe benefits and are very jealous when any differentials emerge. Internal promotion (and other features of an internal labor market) within a firm serves to heighten such comparisons. Pattern bargaining follows where more than one

negotiation affects employees of the same firm. This is most common for the blue-collar employees of the same firm, but it can also occur where unions represent both blue- and white-collar employees.

A number of emerging countries are experiencing pressures to both strengthen and weaken pattern bargaining arrangements. The mining strike in South Africa described in box 6.5 created strong pressure on other companies in the industry to match the wage settlement the strikers received in order to avoid similarly violent clashes. In China, the 2010 Honda strike described in box 6.1 led other auto companies to increase wages to avoid copycat protests. Yet in South African industries other than mining, a growing number of firms have resisted accepting the industry wage levels that have historically served as the pattern even for firms that did not formally join an industry's employer association.

CULTURAL ISSUES IN NEGOTIATIONS

Cultural differences can also make negotiations difficult when people from different parts of the world negotiate with each other, as is often the case today. One study found that agreements took longer and were less likely to be reached when Chinese and Americans negotiated with each other than when the negotiating pairs came from the same country. Chinese negotiators tended to put a higher emphasis on process considerations and preferred to allocate more time to building relationships with their counterparts, whereas American negotiators wanted to move more quickly to discussion of the substantive issues involved. Paying attention to these cultural differences and their effects on negotiating style therefore is critical to the success of cross-cultural negotiations.¹²

Jeanne Brett provides a comprehensive assessment of the role cultural issues can play in negotiations.¹³ Below we provide a summary of the findings in Brett's research on negotiating globally.

To understand the role that culture can play in negotiations it is first important to define culture. Culture is the distinct character of a social group that emerges from the patterned ways people in a group respond to problems during social interactions.

To avoid cultural biases when negotiating globally, it is valuable to have a "cultural interpreter," someone who not only knows the language but also can interpret the body language and the strategic behavior being exhibited across the negotiating table. A cultural expert should also be able to help parties understand the cultural context of the negotiation, for example, the institutional environment in which the negotiation is embedded.

It is important to avoid confusing a cultural prototype (a central tendency) with a cultural stereotype (the idea that everyone in a culture is the same, that there is no distribution around the mean). This is inappropriate, as there is always variance within a culture.

It is critical to keep in mind that the values shared by a group differ across national cultures. Two key differences in cultures that are particularly important for negotiations are the degree of individualism versus collectivism and the degree of hierarchy versus egalitarianism in each culture. In individualist cultures, social, economic, and legal institutions promote the autonomy of individuals, reward individual accomplishment, and protect individual rights. In collective cultures, institutions promote the interdependence of individuals with the others in their families, firms, and communities by emphasizing social obligations. In a collectivist culture, individual accomplishment reflects back on others with whom the individual is interdependent and legal institutions support collective interests above individual interests.

The type of culture negotiators come from may affect their interests, goals, and strategic choices. For example, individualistic cultures promote self-interest, which may be reflected in negotiators' preference for confrontation and/or face saving. In hierarchical cultures, social status determines social power and social power generally transfers across situations. In hierarchical cultures social inferiors are expected to defer to social superiors, who have an obligation to look out for the well-being of lower-status parties in return for the power and privilege conferred on them by right of their status. No such obligations exist in egalitarian cultures. In egalitarian cultures, social boundaries are more permeable and social status may be both short-lived and variable across situations.

Western cultures, especially northern European cultures, tend to be egalitarian. As you move south from North America to Central and South America, culture tends to be more hierarchical. Asian cultures are usually classified as hierarchical.

Norms (i.e., standards of appropriate behavior) about directness or indirectness of communication are also important when negotiating globally. When people communicate indirectly, for example, the same words take on different meanings in different contexts. Cultures that favor indirect communication tend to be collectivist in nature. People in direct-communication cultures, in contrast, understand each other because they share a vocabulary. Direct-communication cultures also tend to be individualistic.

Research does not support the idea that negotiators from some cultures primarily use integrative strategies and those in other cultures primarily use

distributive strategies. Research also shows that there is a substantial variation within cultures in the ability to use integrative strategies.

Summary

The structures and processes of negotiations vary considerably across countries, reflecting differences in the stage of development of labor law, the ideologies and strategies of employers and labor organizations, shifting bargaining power, and national cultures and institutions. While most well-developed labor relations systems seek to regularize negotiations processes as means of limiting strike activity, breakdowns in negotiations still generate strikes from time to time. When well-developed labor relations laws and established structures for negotiations do not exist, it often takes protests, strikes, or other confrontations to initiate negotiations.

Once it is clear that a negotiation process is called for, the parties need to develop skills and abilities to adapt negotiation practices as conditions change over time. These skills and abilities include

- Separating distributive (conflicting) issues from integrative issues (those where the parties share common goals) and using modern negotiation tools so the parties can avoid miscalculating each other's bottom lines regarding distributive issues and missing opportunities to pursue shared interests regarding integrative issues;
- Building positive, constructive relationships with counterpart negotiators so the parties can trust each other's statements as negotiations proceed toward either an agreement or an impasse;
- Adapting the structure of bargaining as competitive conditions and or the mix of employers or unions change over time;
- Exploring new ways to negotiate, such as using interest-based bargaining processes or other ways of improving problem solving in negotiations;
- Building ongoing processes for implementing and administering agreements reached in negotiations and for resolving disputes during the term of the agreement; and
- Recognizing and appropriately adapting to any cultural issues that might be prevalent in a negotiation.

In summary, negotiation processes serve as the central activity at the middle tier of the three-tiered labor relations framework introduced in chapter 1. They need to be supported and complemented by effective mediation and

arbitration or other dispute resolution processes, topics we turn to in the next chapter.

Discussion Questions

1. Describe the four subprocesses of negotiations developed by Walton and McKersie.
2. What are the key aspects of the three stages in a typical negotiation cycle?
3. Describe the Hicks model of strikes.
4. Give some examples of how management strategy has influenced the course of negotiations or strikes in recent years.
5. How do traditional and interest-based negotiation processes differ?
6. Define bargaining structures and discuss some of their determining factors.

Related Web Sites

- “Labor Legislation in Brazil”: <http://www.v-brazil.com/government/laws/labor.html>
- Labour Law of the People’s Republic of China (1994): <http://english.mofcom.gov.cn/article/policyrelease/internationalpolicy/200703/20070304475283.shtml>
- National Union of Metalworkers of South Africa (NUMSA): <http://www.numsa.org.za>
- National Union of Mineworkers (NUM): <http://www.num.org.za>

Suggested Supplemental Readings

- Brett, Jeanne M. *Negotiating Globally*. 2nd ed. New York: John Wiley and Sons, 2007.
- Fisher, Roger, and William Ury. *Getting to Yes: Negotiating Agreement without Giving In*. New York: Penguin Books, 1981.
- Kahn, Jeremy. “Foreign Ventures Come to Terms with China’s Labor Unions,” *World Trade*, December 2006: <http://jeremy-kahn.com/articles/Dec06-WalmartChina.pdf>.
- Morse, Bruce. *How to Negotiate the Labor Agreement*. 10th ed. Southfield, Mich.: Trends Publishing, 1984.
- Walton, Richard E., and Robert B. McKersie. *A Behavioral Theory of Labor Negotiations*. New York: McGraw-Hill, 1965.
- Walton, Richard E., Joel Cutcher-Gershenfeld, and Robert B. McKersie. *Strategic Negotiations: A Theory of Change in Labor-Management Relations*. Boston: Harvard Business School Press, 1994.

Notes

1. See Edward Cohen-Rosenthal and Cynthia Burton, *Mutual Gains: A Guide to Union Management Cooperation* (Boston: Pitman, 1981); Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement without Giving In* (Boston: Penguin Books, 1981); and Richard E. Walton, Joel Cutcher-Gershenfeld, and Robert B. McKersie, *Strategic Negotiations: A Theory of Change in Labor-Management Relations* (Boston: Harvard Business School Press, 1994).

2. Richard E. Walton and Robert McKersie, *A Behavioral Theory of Labor Negotiations* (New York: McGraw-Hill, 1965).

3. It is of course possible that some joint gain is associated with a higher wage rate if labor productivity increases when wages are increased. This might result from the greater motivation workers feel when their pay goes up or from the better-qualified workers the firm can recruit when it offers a higher wage. We ignore such considerations in the text discussion.

4. Alfred D. Chandler Jr., *Strategy and Structure: Chapters in the History of the Industrial Enterprise* (New York: Anchor Books, 1966), 15.

5. Arthur M. Ross, *Trade Union Wage Policy* (Berkeley: University of California Press, 1948), 45–74.

6. This case is from a real firm we encountered in our field work. The firm preferred not to be identified by name.

7. See David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* (Cambridge: Harvard University Press, 2014).

8. This cycle is discussed in Carl M. Stevens, *Strategy and Collective Bargaining Negotiations* (New York: McGraw-Hill, 1963), 41–46.

9. John R. Hicks, *The Theory of Wages* (New York: Macmillan, 1932), chapter 2.

10. Clark Kerr and Abraham Siegel, “The Interindustry Propensity to Strike: An International Comparison,” in *Industrial Conflict*, ed. Arthur Kornhauser, Robert Dubin, and Arthur M. Ross (New York: McGraw-Hill, 1954), 189–212.

11. Economists have also constructed models that involve “asymmetric information” to explain strike occurrence. These models rely on the notion that management knows the profitability of the firm, whereas the union must guess about this information and use wage offers to get the firm to reveal its true profitability. See, for example, Joseph S. Tracy, “An Investigation into the Determinants of U.S. Strike Activity,” *American Economic Review* 76, no. 3 (1986): 423–436.

12. Leigh Anne Liu, Ray Friedman, Bruce Barry, Michel Gelfand, and Zhi-Xue Zhang, “The Dynamics of Consensus Building in Intracultural and Intercultural Negotiations,” *Administrative Science Quarterly* 57, no. 2 (2012): 269–304.

13. Jeanne M. Brett, *Negotiating Globally*, 2nd ed. (New York: John Wiley and Sons, 2007).