

Collective Bargaining in the Nigerian Chemical Rubber and Non-Metallic Products Industry

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Abstract

Collective bargaining is the process which facilitates an agreement between workers on one side and employer on the other in which each side promises to carry out an obligation in exchange for its demand. This study utilized primary data gathered through structured interviews and a short questionnaire while secondary data were accessed from existing procedural agreements, industry periodicals and annual reports. The authors also witnessed the negotiation process between the parties up to the point that the collective agreement was signed. The previous and current collective agreements are presented in tables and analysed accordingly. The results show a decline in pay in relation to the national minimum wage between 2010 and 2012. In the light of this, the paper suggests that the prevailing economic conditions in Nigeria and the resultant adverse effect on organizations in the industry are the factors responsible for decline in pay in the industry.

Keywords: Collective Agreement, Collective Bargaining, National Joint Industrial Council (NJIC), Negotiation, CANMPEF, CANMPSSA, NUFRLANMPE.

Introduction

Collective bargaining is the bedrock of employment relationship. It is the process through which employers and employees reach an agreement on issues surrounding the world of work

whereby each party is expected to carry out an obligation in exchange for its demand. Part 1, Article 2 of the ILO Convention on Promotion of Collective Bargaining (C154) of 1981 states that *the term collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other, for determining working conditions and terms of employment; and/or regulating relations between employers and workers; and/or regulating relations between employers or their organizations and a workers' organization or workers' organizations.* That is, collective bargaining refers to all forms of negotiations which take place around the world of work.

Collective bargaining usually occurs where trade unions exist. According to the Nigerian Labour Congress (2008), *collective bargaining manifests the power relationship between employers and trade unions and is a means of limiting unilateral decisions and actions by employers and governments.* That is, collective bargaining is the means by which abuse of power is prevented between parties in the employment relationship. The history of trade unions in Nigeria can be traced to their emergence in the public sector. However, in the Nigerian public sector, employer-employee relationship is seldom regulated by decisions reached through collective bargaining but by government policies. While collective bargaining is indispensable in the world of work regardless of sector (public or private) a study of its process in the private sector where trade unionism is encouraged should present a classicist view of the concept in practice. This should complement many studies (Otobo, 1986; Anyim, Elegbede and Gbajumo-Sheriff, 2011) of the concept in relation to the Nigerian public sector.

Therefore, this paper focuses on the process of collective bargaining between employers (*The Chemical, Rubber and Non-Metallic Products Employers' Federation - CANMPEF*) and employees (*National Union of Chemical, Footwear, Rubber, Leather and Non-Metallic Products Employees - NUFRLANMPE*) in the Nigerian Chemical, Rubber and Non-Metallic Products Industry. Conversely, businesses today are characterized by reduction in production activities and collapse of many industries thereby reducing the number of organizations in employers' federations and consequent thinning in workforce. This view is expounded in Fashoyin (2010:134) thus: *"Increasingly, the industrial relations policies of business are driven by the product market and competitive realities. Industrial restructuring, leading to lean production, global production chains, are causing substantial reduction in workforce is taking place worldwide."*

The Nigerian Chemical, Rubber and Non-Metallic Products Industry is one with great potential to contribute immensely to Nigeria's Gross Domestic Product and is hit by the challenges of collective bargaining today such as thinning of production concerns and economic depression which has led to reduction in the number of workers and consequent weakening of trade unions. It is for this reason that this study examines the process of negotiation and presents an analysis of the current trend in the industry; the aim of which is to bring to fore relevance of negotiation in the current era in the conduct of industrial relations and as a tool of bilateral relations. The focus of the study is on the junior employees' union (NUFRLANMPE) because negotiation with this category of staff is much more robust and stormier than with the senior staff union (CANMPSSA) which is more equipped with the art of collective bargaining.

Literature Review

Collective Bargaining in the Private and Public Sector

There is no statutory definition of the term "collective bargaining" in Nigeria but it is conceded that the right to bargaining collectively by workers and employers is a corollary of

the right to freedom of association. Furthermore, International Labour Organization, ILO (1960) describes collective bargaining as negotiation of working conditions and terms of employment between employers, a group of employers or one or more employers' organizations on one hand; and one or more representative of workers organization on the other with a view of reaching an agreement. Furthermore, it states that the functions of collective bargaining can only be realised if and only bargaining takes place effectively. However, ILO (1960) itemizes a list of prerequisites for effective bargaining; favourable political climate; freedom of association; power relationship; joint authorship of rules; stability of workers' organization; recognition of trade union; willingness of the parties to give and take; avoidance of unfair labour practices on the part of both parties; ability of the parties to negotiate in good faith and reach agreement ad willingness to observe the collective agreement that emerged.

Leibowitz (2004) sees collective bargaining as a process by which unions and employers determine many of the terms and conditions of employment governing their workplace and attempt to negotiate resolution of disputes that may arise. In Nigeria, the status of collective agreements remain generally legally unenforceable but binding in honour only except there is an express provision to the contrary either in the agreement or in the provisions of statute or regulation or by order of the Ministry of Labour and Productivity. Omoijiade (1989) lays credence to the fact that as a general rule, collective agreements are not enforceable as this is in line with the English practice which Nigeria inherited that free and voluntary collective bargaining should be the cornerstone of its industrial relations. Ogunkorode (1983) sees collective bargaining as an instrument for promoting industrial peace and consequently, it favours industrial democracy. However, he frowns at the legislation that bans employees of certain establishments from joining trade unions. These establishments include the Military, the Customs, the Prisons, Central Bank and others termed "Essential Services". In his opinion, the policy is tantamount to paternalistic approach to industrial relations management.

Collective bargaining developed as a means of introducing democratic principles into employer-employee relationship. It is a process of decision making and its overriding purpose is the negotiation of an agreed set of rules to govern employment relationship between the bargaining parties. It is "collective" because workers are involved in it as a group represented by individuals chosen for that purpose. The process is "bargaining" because it involves give and take and the making of contract. The resultant contract is called "collective agreement" which regulates the relationship between the parties involved.

In the opinion of Fajana (2000), the role of collective bargaining in resolving industrial conflicts has made industrial relations to be viewed by writers like Ubeku (1983) as simply the process of conflict resolution. This writer went further to visualize collective bargaining as the main issue in industrial relations or even the bedrock on which it rests. However, industrial relations goes beyond collective bargaining as issues like the study of groups, interpersonal and individual behaviour, and labour relations in non-unionized work environment amongst others are outside the purview of collective bargaining. Thus, collective bargaining is just one subject area while industrial relations encompass the study of all aspects of people at work.

In Nigeria, the serious economic crises which the country is currently facing has created decline in industrial production and output, employment opportunities have fallen rapidly and the rate of unemployment correspondingly rising. This trend no doubt has affected industrial relations institutions adversely and constitutes the main environmental factor affecting collective bargaining process and also the behavioural pattern of the actors.

In the public sector, there is dilemma arising from conflict of interest by the state and this, perhaps accounts for the reluctance or lukewarm attitude of the public employer to effectively employ collective bargaining in adjusting the conditions of service in the public sector.

Adeogun (1987) seems to lay credence to this as the largest employer of labour set up machinery for determination of workers' wishes in relation to their wages. In similar vein, Banjoko (2006) sees government as having arrogated to itself the role which both employers and employees ought to perform in industrial relations. Government as a state authority set up machineries to negotiate wages/salaries and other conditions in the public sector for unfolding events in recent time had shown that government had taken over the system of wage fixing in Nigeria. It does not allow collective bargaining to play its rightful role rather government resorted to establishing Wage Tribunals and Commissions for wage fixation and reviews. Consequently, collective bargaining has been relegated to the background in the public sector in Nigeria (Philip and Adeshola, 2013). Kester (2006) observes that Nigeria has no definite and effective wage determination policy hence the industrial relations system has been witnessing a spate of industrial unrest and tensions at every attempt to adjust wages and over the years issues relating to wages have dominated industrial disputes and work stoppages in the Nigerian economy. Fashoyin (1985) on the same subject points out that in Nigeria, the General Order (G.O) which represents the public service rules in which many conditions of employment are regulated in a sense constituted the equivalent of collective bargaining in the public sector. The main exception which is crucial is that unlike collective bargaining, no machinery is available for employees individually as a group to participate in the determination of their working conditions and as such strike is unthinkable since the process of collective bargaining is hardly used. By this line of thought, Fashoyin (1985) seems to align himself with the theory of the "Sovereignty of State" in collective bargaining as adduced by Omole (1982)

Evolution of Employer Federation and Workers' Union in the Nigerian Chemical, Rubber and Non-Metallic Products Industry

Prior to 1978, there were over 1000 unions in Nigeria. In 1977 Abiodun Commission, effective in 1978 was set up to restructure the Nigerian trade unions as a result of frequent industrial strike particularly in the Lagos metropolis. For instance, WAHUM Group, a Chinese organization based in Lagos, Nigeria was especially notorious for industrial unrest. Consequently, the commission reduced the number of workers unions which were powerful and formidable at the time to 42. The formation of these 42 unions together with challenges posed by the introduction of the Trade Union Act of 1978 gingered the formation of 'Employers' Federation' in the Chemical and Non-Metallic Product Industry. One of the drivers of the move was Dr. M.O. Omolayole became the first President of the Federation and is now an industrialist.

In its original formation, the Federation was named National Union of Chemical and Non-Metallic Products but in 1997, there was a '*forged*' merger with footwear and rubber by a government decree and the name then changed to Nigerian Chemical, Rubber and Non-Metallic Products (CANMPEF) Industry. This merger according to practitioners is of '*unlikely bed fellows*'. However, the employee unions had no problem with the merger but the employers did. One of the major challenge was that collective bargaining at National Union of Chemical and Non-Metallic Products prior to the merger (without those of the footwear and rubber) was with the junior staff alone while the footwear and rubber union on its part engaged in collective bargaining with both senior and junior workers. This dispute over collective bargaining went on for about 2^{1/2} years and all the way to Industrial Arbitration panel (IAP) after which the parties resolved to negotiate with both senior and junior workers.

Nonetheless, after much dialogue between the unions, the employers agreed to the merger based on stringent conditions to include the fact that there will be no name change and that a procedural agreement for both senior and junior employees be produced. Subsequently, the procedural agreement for senior employees took a period of 3 years while that of junior employee required minor alterations since National Union of Chemical and Non-Metallic

Products had an existing one in use. As at 1982, the federation had 145 members. Although membership had dwindled over the years, it remained 98 until December 31 2011, when it further reduced to 91 members. The federation conducts its AGM annually in the month of June. The platform for dispute settlement and all negotiation for the industry is known as the National Joint Industrial Council (NJIC) whose chairmanship is rotated among companies who subscribe to the minimum conditions of work set for the industry.

The junior employee union in the industry – NUFRLANMPE, established in 1996 has about 24,000 members spread across the six geopolitical zones of Nigeria from which it gets regular check-off dues. The union is affiliated to Nigerian Labour Congress (NLC) and the International Textile Garment and Leather Workers Federation (ITGLWF), Brussels. The Union is structured for administrative conveniences with operating offices spread across Nigeria. The national structure comprises of four decision-making organs which are hierarchically arranged as - National Delegates Conference, National Executive Council, Central Working Committee and National Administrative Council. In addition, organizations from which members are drawn includes those producing - basic industrial organic and inorganic chemicals, explosives and fireworks, synthetic fibre, rubber resin, soap, detergents, cement, perfumes, water pipes, leather and other footwear, tyre, glass, clay products etc.

Theoretical Approach

The theoretical basis of this study is Chamberlain Model, Bargaining Range Theory and Hicks Bargaining Model.

The focus of Chamberlain model is '*bargaining power*' and its implication for reaching settlement in a collective bargaining situation. Bargaining power determines *the extent to which industrial sovereignty is shared by management with its trade unions* and is the ability to induce the other side to make a decision that it would otherwise not make. (Armstrong, 2006:756) In the same vein, Fox and Flanders (1969) noted that power is the crucial variable which determines the outcome of collective bargaining. Besides, the determinants of bargaining power lead to settlements in the majority of bargaining situations. Thus, bargaining power defines the ability of one party to secure agreement of the other to its terms and the willingness of that party to agree. This willingness according to chamberlain depends on how costly disagreeing will be relative to how costly agreeing will be.

If either of the parties estimates that it is more costly to agree than to disagree, then that party will choose to disagree, thereby rejecting the terms presented by the other. In this case, the bargaining power of the party choosing to disagree is less than one. However, if the situation is reversed and it is more costly to disagree, the bargaining power of the party choosing to agree is greater than one. In essence, at least one of the parties must perceive disagreement to be more costly than agreement for an agreement to occur. In addition, the economic environment including both the state of the macro economy and industry structure does affect the bargaining power of both parties.

According to the Bargaining Range Theory, both management and labour have certain limits, beyond and below which they will not go. Thus, the gap between the value beyond which management will not fall and the value below which the union will not fall is the bargaining range. A resolution would only be possible if concessions and demands fall within the tolerance limits of the parties. That is, settlement is only possible if there is an overlap between the bargaining ranges of the parties. Furthermore, management and union will usually go through a series of offers and demands within the bargaining range until there is a consensus. However, the exact point of consensus will depend on the bargaining skills and strength of the negotiating parties.

Similarly, Hicks (1932) in his bargaining model as expressed in his book “Theory of Wages” and other academic materials corroborates this view. Essentially, his thesis is that bargaining power is expressed as a ratio of a party’s ability to influence another, to the costs of not reaching an agreement to that party. That is, bargaining power of the employer (s) equals costs and benefits imposed on the worker (s) divided by employers’ cost of disagreeing. Equally, the bargaining power of the worker (s) equals costs and benefits imposed on the employer (s) divided by workers’ cost of disagreeing. The model focuses on the length and cost of work stoppages. Therefore, Hicks proposes that both parties balance the cost and benefits of work stoppage when making concessions at the bargaining table.

Data Analysis

A Review of Immediate Past Collective Agreement

The subsisting agreement is from December 1 2010 and expires on November 30 2012.

Table 1: Previous Collective Agreement

Effective Date: 1 ST December, 2010		*Expiry Date: 30 Th November, 2012
Salary and Wages		
Item	Amount (₦)	
Industry Minimum/Basic Salary	13,400	
Housing Allowance	7,800	
Transport Allowance	7,800	
End-of-Service Benefits		
Redundancy Benefits	1.	3 Months’ Notice or pay in lieu of Notice
	2.	5 Weeks pay for each completed year of service
Gratuity	5 years to under 10 years	5 weeks pay for each completed year of service
	10 years to under 15 years	5 ^{1/2} weeks pay for each completed year of service
	15 years to under 20 years	6 ^{1/2} weeks pay for each completed year of service
	20 years to under 25 years	7 ^{1/2} weeks pay for each completed year of service
	25 years and above	8 ^{1/2} weeks pay for each completed year of service
Gratuity Based on Total Emolument	1.	Qualification: Attainment of 12 years of service and above
	2.	Employees who have attained 50 years of age Plus 10 years of continuous service
	3.	Components of T.E: (i) Basic Salary (ii) Housing Allowance (iii) Transport Allowance (iv) Leave Allowance
* The Expiry Date of an existing agreement is however subject to the signing and commencement of a new agreement replacing it.		
Note: Redundancy Benefits and Gratuity Benefits are Mutually Exclusive. That is, Whichever is Higher Shall be Paid		

Source: CANMPEF (2011) Annual Report and Financial Statements, p. 18.

As at December 2010 when the collective agreement presented in table 1 was signed the industry minimum/basic salary was ₦13, 400 (Thirteen thousand, four hundred naira only) the national minimum wage was ₦10, 000 (Ten thousand naira only). This means the industry minimum at this point was higher than the national minimum wage by ₦3, 400 (Three thousand, four hundred naira only).

The Negotiation Process

There were two parties at the negotiation table, representatives of the union on the one side and those of the employers on the other. Preparation for the negotiation process on the employers' side involved tapping into the experience of member organizations that have more than one resident union, in which case experience gained in dealing with other unions became useful. This is often useful in the negotiation process providing useful information for the current negotiation. The process was full of challenges manifesting in several offers and demands from the employers' and union side respectively. There were short 3 adjournments at the negotiation sessions after which the parties returned to the table.

It was interesting to note that after a long speech on the deplorable economic situation in the country, the employer side sort to receive a commitment from the union to take whatever is offered but the union refused and asked that the offer be made first. It is not clear whether this was a joke or not. At this point the employers' side made *the first and only open offer*. *Subsequent offers by the employers' side were made in closed sessions from which the researchers were exempted from attending*. In response, the union made a case for the possible inability of its members to commute to work due to high cost of transportation if there is no significant increase in pay. This is in line with Hicks 'theory of wages' which posits that parties at the negotiation table make concessions having considered the cost of work stoppage.

The offer came as an announcement of an increase in employee package in the following order:

Table 2: Employers' Offer and Union Demands

	Basic Salary ₦	Housing Allowance ₦	Transport Allowance ₦
Employers' First and Only 'Open' Offer	14,900	9,300	9,300
Union Demand 1	40,000	25,000	25,000
Union Demand 2	30,000	20,000	20,000
Union Demand 3	20,000	15,000	15,000
Union Demand 4	19,000	14,000	14,000
Union Demand 5	19,000	13,000	13,000
Union Demand 6	18,000	13,000	13,000
At this point the Chairman promises to convey the position of the union to the employers			

Source: Primary Data from Sit-in at the Industry Negotiation – (November 7, 15 and 21 2012)

Analysis of the Current Collective Agreement

Regarding collective agreement, if it is signed between day one and fifteen of the month, it will be backdated to first day of the month for implementation. However, if it is signed

between day 16 and 31, it will be post-dated to the first day of the following month. Consequently, the current collective agreement signed on November 26 2012 took effect from December 1 2012. *This agreement covers outsourced workers but not casual workers.*

Table 3: Current Collective Agreement

Effective Date: 1st December, 2012		*Expiry Date: 30th November, 2014	
Salary and Wages			
Basic Salary		₦ 16,500	
Housing Allowance		₦ 10,000	
Transport Allowance		₦ 10,000	
Hours of Work Per Week			
All Employees		40Hrs	
Day and Night Watchmen		48Hrs	
Over Time Rates			
Monday to Saturday			
Sunday and Public Holidays			
Duration of Annual Leave			
Day and Night Watchmen General/Unskilled Labour Unskilled Operatives Cleaners Other Categories of Unskilled Labour		2 ^{1/2} Weeks	
Semi-Skilled Labour Semi-Skilled Operatives Security Men Junior Clerical Staff		3 Weeks	
Skilled Labour Crafts-Men Senior Clerical Staff Technicians		3 ^{1/2} Weeks	
Senior Craftsmen Foremen Senior Technicians Charge Hands Others in Supervisory Grades Where Unionised.		4 Weeks	
Sick Leave			
Employee Whose Service is Less Than Six Months		1 Week of Full Pay	
Employee Whose Service is Six Months or More		3 Months on Full Pay 3 Months on Half Pay	
* The Expiry Date of an existing agreement is however subject to the signing and commencement of a new agreement replacing it.			
Note: Redundancy Benefits and Gratuity Benefits are Mutually Exclusive. That is, Whichever is Higher Shall be Paid			

Source: Adapted from NUFRLANMPE Collective Agreement – December 2012 - November 2014

From table 3, it is observed that current industry minimum of ₦16, 500 (Sixteen thousand, five hundred naira only) is lower than the current national minimum wage of ₦18000 (Eighteen thousand, naira only). However, multinational enterprises in the industry tend to exceed the minimum, the implication of which is that this minimum for the industry is to enable small organizations in the industry to afford to pay their employees and ensure their survival under harsh economic conditions. In addition, day and night watchmen are required

to work 48 hours in a six-day week. The agreement defines "Overtime" as any hour (s) worked in excess of the normal hours of work per week or per day. Furthermore, the determination of annual leave duration for the industry is to ensure that no worker has less than 2 weeks or more than 4 weeks leave in a year. When a public holiday falls within an employee's leave, the employee shall take one or more extra days as required to compensate for the public holiday.

In addition, an employee is entitled to 3 working days of leave after 10 years of service provided that the maximum leave period of 4 weeks is not exceeded. The agreed leave allowance is 12% of the annual basic salary. An employee who takes maternity leave which is 12 weeks in total shall forfeit annual leave for the year. The agreement also states that an employee would only qualify for sick benefits if there is proof of incapacity to work covering the period for which benefit is requested. It is expected that this proof of incapacity is a certificate showing that the illness is not due to the employee's negligence issued by a medical practitioner nominated or approved by the employer. Also, an extension of benefit for another 3 months with half pay after the first 3 months with full pay is for an employee whose service is six months or more, who has a long period illness within a year. Nevertheless, redundancy benefits for the current agreement remains 3 Months' Notice or pay in lieu of Notice and 5 Weeks pay for each completed year of service, the same with the previous agreement.

Implications of the Current Agreement

The current agreement was reached against the backdrop of the prevailing harsh economic situation in Nigeria. Parties recognized that the employer would incur additional manpower cost in the implementation of the agreement. The employee representatives undertook to commit to improved productivity to ensure survival and growth of their respective organizations. Once all the parties at the negotiation table fulfill their obligation as stated in the collective agreement, the society stands to enjoy products of the industry and avoid costs associated with imported goods. Besides, the size of the cake will be increased for parties to have fair share of it and industrial peace and harmony can also be guaranteed for the benefit of all the stakeholders.

Conclusion

The existence of organized labour is the only way that workers can match their employers on the negotiating table. In other words, workers are less vulnerable when they come together on the platform of a trade union. This is because an employer may ignore a single worker but will ignore a group of employees to his own peril. In addition, trade unions represent vehicles for the articulation and advancement of the collective interest of workers within and outside the employment situation. The philosophy behind trade unionism must of necessity be that "*an injury to one is an injury to all*" because irrespective of a worker's position within the hierarchy of work, in the absence of part ownership of business, each worker is vulnerable and his safety net will definitely be the trade union.

The process of collective bargaining examined in this paper shows the character of bargaining power as suggested in the Chamberlain model. Although the employers made a strong case for unfavourable economic situation, the union prevailed and was able to get the employers to negotiate. However, from observation, the union side made more concessions than the employers' side at the negotiation table. In addition, the range for the negotiation was established by the parties in line with the bargaining range theory. However, this was done in the closed sessions. It is therefore inferred that a resolution was only possible because concessions and demands fell within the tolerance limits of the parties. Furthermore, the union brought to fore in the course of the negotiation the possible inability of its members to

commute to work due to high cost of transportation stating that in case the employer refuses a significant increase in pay there will be work stoppage. Therefore, it is in the interest of all negotiating parties to consider this in line with Hicks 'theory of wages' which posits that parties at the negotiation table make concessions considering the cost of work stoppage.

In the analysis of collective agreement, the previous agreement analysed which expired in 2010 shows that the industry minimum/basic salary was higher than the national minimum wage by a total of ₦3,400 (Three thousand, four hundred naira only). While the current industry minimum of ₦16, 500 (Sixteen thousand, five hundred naira only) is lower than the current national minimum wage of ₦18, 000 (Eighteen thousand, naira only). This could be attributed to decline in growth of the industry and the struggle for survival by existing organizations.

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