COLLECTIVE BARGAINING

In simple terms, the process of collective bargaining is a method by which management and labour may explore each other's problems and viewpoints, and develop a framework of employment relations within which both may carry on their daily association in a spirit of co-operative goodwill and for their mutual benefit. As put by Dale Yoder, "Collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relationships in their employment."¹ In other words it is the process of discussion and negotiation between an employer and a union culminating in a written agreement or contract and the adjustment of problems arising under the agreement. Thus, collective bargaining is "a process of discussion and negotiations between two parties, one or both of whom is a group of persons acting in concert. The resulting bargain is an understanding as to terms and conditions under which a continuing service is to be performed. More especially, collective bargaining is the procedure by which an employer or employers and a group of

---

¹ Yoder, Dale: Personnel Principles and Policies, p. 97.
employees agrees upon the conditions of work."² Similarly R.F. Hoxie says that "Collective bargaining is a mode of fixing the terms of employment by means of bargaining between an organized body of employees and an employer or an association of employers usually acting through organized agents. The essence of collective bargaining is a bargain between interested parties and not a decree from outside parties."³ According to C.W. Randle, "Collective bargaining has different meanings for different individuals or groups. Trade unions, managements and the public have divergent unions on this process because each is differently affected by it. Moreover, collective bargaining is dynamic and not static; and the concept is relatively now, for in terms of recognition, interpretation and extension, it is still in the process of growth. It is also difficult to get at its specific meaning because of the complexities implicit in it. Collective bargaining is a function which pertakes of the nature of psychology, debate, philosophy, human relations, dramatics and what may be loosely referred to as 'broken field running'. The proportions of each are unknown, nor indeed are they fixed."⁴ In the words of L.G. Reynolds, "Trade Unions try to

advance the interests of their members mainly by negotiating agreements usually termed 'union contracts' or 'collective agreements' with employers. The process by which these agreements are negotiated, administered and enforced are included in the term 'Collective Bargaining'."5 Thus, economic coercion may be implicit in any bargaining process, which in the words of J.H. Richardson takes place "when a number of workpeople enter into negotiation as bargaining unit with an employer or group of employers with the object of reaching agreement on conditions of employment for the work-people concerned."6 According to an ILO publication, collective bargaining refers to "negotiations about working conditions and terms of employment between an employer and a group of employees or one or more employees' organisations with a view to reaching an agreement wherein the terms serve as a code of defining the rights and obligations of each party in their employment relations with one another; fix a large number of detailed conditions of employment; and during its validity none of the matters it deals with can, in normal circumstances, be given as a ground for a dispute concerning an industrial workers."7 Collective bargaining thus signifies an agreement

---

5. Reynolds, L.G. : Labour Economics and Labour Relations, p. 188.
under which the organizations of workers and employers collectively undertake to resolve their existing or future differences with or without the assistance of a third party.

FEATURES OF COLLECTIVE BARGAINING

Collective bargaining is regarded as a constructive response to industrial conflict as it reflects a willingness to remove the conflicts by discussion and understanding rather than by welfare.

Collective bargaining is not an ideal system. At best, it is an imperfect institutional process that works reasonably well in an imperfect society. No one has now come forth with any alternative procedure that will work better. Collective bargaining is necessarily a pragmatic process.

(1) It is a two-way process. It is a mutual give and take rather than take it or leave it method of arriving at the settlement of a dispute. Both parties are involved in it. A rigid position does not make for a compromise settlement. Collective bargaining is a 'civilized confrontation' with a view to arriving at an agreement, for the object if not 'warfare' but compromise.

(2) It is a continuous process which provides a mechanism for continuing an organised relationship between the
management and trade unions. Collective bargaining begins and ends with the writing of a contract.

(3) Collective bargaining is not a competitive process but it is essentially a complementary process.

(4) Collective bargaining is a negotiation process and it is a device used by wage earners to safeguard their interest. It is an instrument of an industrial organisation for discussion and negotiation between the two parties.

THE SCOPE OF COLLECTIVE BARGAINING:

The unions engage in collective bargaining in order to gain concessions from the employer that workers would not otherwise be able to obtain. The major matters subject to agreement relate to recognition, duration of the contract, wages, hours, working conditions, and adjustment of disputes. The length of the contract varies considerably among the more than one hundred and twenty-five thousand labour agreements. The tendency has been for the contract to become longer as more and more details are added regarding wage rates and working rules.

The first objective of a union must be to win recognition from the employer. Before collective bargaining can
take place, the employer must be willing to meet with the union and agree to permit the union to represent his employees. Federal and state laws enacted in the past quarter of a century compel covered employers to bargain with representatives of their workers under specific conditions. Some unions have gained recognition with the aid of these laws; but others have been able to do so only by using their economic strength — or, on rare occasions, through voluntary action on the part of employers.

The union gains additional security when the checkoff and the union hiring ball are used. Since the end of the nineteenth century the checkoff has been employed as a method of collecting union dues. It is the procedure under which the employer automatically deducts the dues from the workers' wages and turns them over to the union. Sometimes the individual worker must authorize the deduction before the employer may make it. In some contracts only members who are in arrears in the payment of dues are subject to the checkoff. As an alternative to the checkoff the company may grant the union permission to collect dues on company property. The union hiring hall frequently is the equivalent of the closed shop. The employer may agree to recruit all of his working force through the hiring hall and thus assure to the union
control over the selection of men. The hiring hall has been utilized in the maritime and longshore industries, in the clothing industry, and among the building trades.

In addition to negotiating the problems arising in connection with wages and hours unions bargain for better terms and conditions of employment. Those engaged in work where apprentices are employed attempt to regulate the conditions. An apprentice is defined as a person at least sixteen years old who is covered by a written agreement providing for at least four thousand hours of reasonably continuous employment in connection with an approved work schedule and supplemented by 144 hours of classroom instruction each year. The rate of pay must increase gradually, the average over the period of apprenticeship being about one-half the wages paid to journeymen. An apprentice is distinguished from a learner, whose period of training is much shorter, and from a helper, who is not supposed to be learning a trade but who merely assists the journeyman. In actual practice, however, the helper sometimes is able to learn enough to become a journeyman. Unions sometimes regulate the proportion of learners and of helpers in a shop.

Unions generally regulate the employment of apprentices by fixing the ratio of apprentices to journeyman and
by determining the wages which they receive. This enables the unions to limit the use of apprentices by employers and thus to protect the jobs of the journeyman. When unions negotiate higher wage rates for apprentices in relation to journeyman, employers are discouraged from using such labour, inasmuch as the relative cost may be too high. It has been found that union relative sometimes result in unsatisfactory timing of the training periods of apprentices. Unions often discourage the use of apprentices during depressions, thereby limiting the supply of skilled labour in the succeeding prosperity.

Some unions try to limit entrance to the trade by sponsoring state and city laws to require licenses for those who wish to engage in certain trades. The unions most interested in these laws are those of the plumbers, stationary engineers and firemen, electricians, barbers, and motion-picture operators. Although ostensibly enacted to protect consumers, licensing laws help the unions to increase wages, because they make it difficult for employers to secure replacements during strikes. At the same time, it is possible that such laws tend to increase the number of men in a craft, because of the attraction of the higher wages negotiated by the unions.

Unions generally attempt to exercise some control either over hiring or over layoff, and in some cases they try to
control both. The chief means of controlling hiring is either the closed shop or the hiring-hall technique. Layoffs are controlled through requiring employers to distribute the work equally among employees, through seniority provisions or through a combination of both. The principle of equal division of work is found especially among the garment and textile unions, but it is also frequently associated with seasonal industries. Under some contracts it is applied only during part of the year. Under others it ceases to be applied when the average number of hours has fallen below a specified minimum; thereafter, seniority provisions are applied.

CLASSIFICATION OF COLLECTIVE BARGAINING

Prof. Neil Chamberlain, a noted Labour Economist; has made a threefold classification of collective bargaining theories. Collective bargaining may be looked upon from three angles :

(i) **The marketing concept and the agreement as a contract :**

The marketing concept view collective bargaining as a contract for the sale of labour. It is a market or an exchange relationship and is justified on the ground that it gives assurance of voice on the part of the organised workers in the matter of sale. The same objective rules which apply to the construction of all commercial contracts are invoked
since the union-management relationship is concerned as a commercial one.

(ii) The Government concept and the agreement as law:

The Government concept view collective bargaining as a constitutional system in industry. It is a political relationship. The union shares sovereignty with management over the workers and as their representative, uses that power in their interests. The application of the agreement is governed by weighing of the relation of the provisions of the agreement to the needs and ethics of the particular case.

(iii) The industrial relations concept as jointly decided directives

The industrial relations concept views collective bargaining as a system of industrial governance. It is a functional relationship. The union joins with the company officials in reaching decisions on matters in which both have vital interests. When the terms of the agreement fail to provide the expected guidance to the parties, it is the joint objective, not the terms, which must control.

To some extent, these approaches represent stages of development of the bargaining process itself. Early negotiations were a matter of simple contracting for the terms of sale of labour. Developments of the later period led to the emergence of the
Government theory. The industrial relations approach can be traced to the Industrial Disputes Act of 1947, which established a legal basis for union participation in the management.

There are at least three different situations in which collective bargaining may take place, namely (1) when the union is the first recognised and negotiates for the first time; (2) when an old contract is about to expire or has expired or it is desired to amend it and (3) when it is necessary to adjust grievances or to resolve disagreements regarding the interpretation of a contract.

**TECHNIQUES OF COLLECTIVE BARGAINING:**

Collective bargaining is a device of selling the services of union members in the best possible market and at the highest possible price. Although trade unions insist on preserving the free enterprise system and maintaining competitive controls in labour markets, many of the techniques used in collective bargaining introduce monopolistic factors into that process. Unions hope to develop and maintain a monopoly of available labour supplies. Since unions have initiated and advanced collective bargaining and since management has to offer little in the way of a positive programme of demands, unions have done more to shape bargaining techniques than have managements.
Standardization is one such technique. It means the establishment of a uniform minimum price for each class of work. Unions insist on the point that bargaining can be effective only if workers in any one job are guaranteed a specified minimum wage per piece or per month. The second technique is restriction of membership. Unions seek to limit numbers of members in the union and to limit employment to unionists. Under open union practice, anyone who is acceptable to the employer is allowed to join the union. But under closed union practice, union set such severe conditions for membership that very few can qualify. As a result, unions have limited the available labour supply in a given occupation to the present members of the union. Union may restrict membership by setting initiation fees at a high level, or by imposing limitations based on sex, religion or nationality. The closed union practice is anti-social and an undemocratic device. Thirdly, attempts are made to insure that only unionists get available work and that employers do not have a choice as to hire union member or non-members. To attain this end jurisdictional limitations are imposed. Jurisdictions may be either industrial or geographic. Under the system of industrial jurisdiction all work of a certain type are allocated to the members of a certain union and under the system of geographic jurisdiction a specific area is defined
in which only the members of a specified local union may be used for such work. These limitations are imposed as a protection against the competition of other unionists either in different trades or in the same trade in other localities. Union power and control in the enforcement of jurisdictional limitations is frequently exerted through picketing. By putting pickets at the entrance of the offending establishment the union makes the public aware of the union’s case. By providing pickets the union prevents the employer from carrying on his normal business activities. The major aim of the pickets is to prevent union members and other from working, thus controlling the supply of labour.

**COLLECTIVE BARGAINING PROCESS:**

The collective bargaining process provides a platform to establish a common set of concepts and attitudes for both the parties. Collective bargaining is a rule-making and goal-directed process. Yoder identifies two major phases of collective bargaining process — the negotiation phase and the contract administration phase. The negotiation phase involves the bargaining and establishment of contract terms, while the contract administration relates to application and interpretation of these terms.
Negotiation is a process of advancing proposals, discussing and criticising them, explaining and exploring their meaning and effects, seeking to secure their acceptance and making counter-proposals or modifications for similar evaluation. Negotiation may be positive or negative. In positive negotiation, the management tends to advance its own proposals, while in the negative procedure it waits to see what the union will propose.

Contract administration relates to putting the signed agreement into effect. Union officials and the industrial relations officers should interpret the items to all participants in the organisation.

Collective bargaining forms a rational process where the parties are persuaded to change their original positions in the light of the facts and arguments given by the opposite group. Attempts are made to resolve differences of opinion by a through analysis and request for logical argument.

According to Dunlop and Healy, collective bargaining process involves three elements — bargaining demands, the deadline or threat of strike as lockout and changing positions to reach an agreement. Contract demands made by either group are usually initiated by several individuals including union members and heads of the departments. Frequently, conflicting
issues are settled through a threat of strike or lockout at the last minute. It may be due to the fact that both the groups were far apart at the beginning of negotiations. The threat of strike or lockout compels each group to re-examine its offers of settlement. The deadline also tends to remove the element of bluff used in negotiations. Finally, the groups starting at divergent points should change their positions if they intend to reach an agreement. Changing position forms the heart of the collective bargaining process. At long last, the memorandum agreement is reduced to contract language.

**IMPORTANCE OF COLLECTIVE BARGAINING:**

The necessity of collective bargaining is keenly felt for solving the problems arising at the plant or industry level. Labour legislation and the machinery for its implementation prepare a framework according to which industrial establishments should operate. The solution of common problems can be found directly through negotiation between both parties and in this direction the scope of collective bargaining is very great.

From the standpoint of workers, trade unions, and management, collective bargaining is truly beneficial. If it works well, develops a sense of responsibility and self-respect among
worker concerned and thus contributes significantly to employees' morale and productivity. Besides, it restricts managements' freedom of action, for even where management security is intact, the Company or the establishment loses its unilateral discretion with respect to bargainable issues, and thereby, learns a new code of behaviour by conceiving of the union as a method of dealing with the employees, not an obstacle to such dealing. At the same time collective bargaining proves beneficial to the management since it comes to know beforehand grievances of workers and as such gets opportunity to take precautionary measures. Further, the inclusion of provision for seniority under collective bargaining promotes a sense of job security among the workers and thereby tends to reduce cost of labour turnover to management, employees and society at large. Moreover, collective bargaining opens up the channels of communication between the top and bottom of an undertaking which is difficult otherwise. From the national standpoint, collective bargaining if properly conducted, results in the establishment of peaceful industrial climate which increases the pace of the country’s efforts towards economic and social development and the obstacles to such development can largely be eliminated or reduced. As a vehicle of industrial peace, collective bargaining has no equal. It is the most significant aspect of labour-management relations and extends
the democratic principle from the political to the industrial field. It builds up a system of industrial jurisprudence by introducing civil rights in industry and ensures that management is conducted by rules rather than by arbitrary decisions.

Except for the industrial relations legislation in some States where arrangements for recognition of unions exist, there has been lack of statutory recognition of unions for the country as a whole. There is also the lack of provisions requiring employers and workers to bargain in "good faith". Therefore, collective agreements could not make much headway in the country so far. Some historical factors have also stood in the way of collective agreements having a greater share in maintaining industrial harmony.

On the whole collective agreements have not made much headway in the country owing to the following factors -- (a) lack of proper appreciation of the philosophy, objectives and advantages of this process; (b) weakness of trade unions; (c) absence of legal provisions requiring employers and workers to bargain in good faith; (d) absence of statutory recognition of trade union for the country as a whole; and (e) excessive reliance on compulsory adjudication which has prevented the workers from developing an independent and self-reliant attitude. As put by Carpenter, "within the latitude left by the
agreement, the parties begin defining their relationship more precisely by means of oral understandings, grievance settlements, arbitration awards and the like. \(^8\) Recently, the Government of India by providing a scheme of workers' education, participation of labour in management, evolving Code of Discipline, framing works committees, joint councils and grievance procedure at the plant level have sought to give sufficient encouragement to collective bargaining in this country. Besides, tripartite conferences and committees have also provided an ingenious mechanism for promoting collective bargaining practices. Collective bargaining in India is gradually extending its area and give proper impetus, it is capable of leading the country to industrial peace and prosperity. It follows therefore that conditions have to be created for the success of the technique of collective bargaining for industrial peace. An important prerequisite of it is the encouragement to strong and powerful trade unions and evolution of satisfactory arrangements for union recognition by statute as also the creation of conditions in which such arrangements have a chance to succeed. It is difficult to place reliance on the process of collective bargaining without satisfying its prerequisites adequately. On the other hand, collective bargaining as it has

\(^8\) Carpenter : Case Studies in Collective Bargaining, p. 5.
developed in the West may not be quite suitable for India; it
cannot approximately coexist with the concept of a planned
economy where certain specified production targets have to be
fulfilled. 9

CONDITIONS ESSENTIAL FOR SUCCESSFUL
COLLECTIVE BARGAINING:

For collective bargaining to be fully effective there are
certain essential prerequisites. These are described below:

1. A favourable Political Climate:

If collective bargaining is to be fully effective, a favourable
political "climate" must exist; in particular, the government
and public opinion must be convinced that collective
agreements are the best method of regulating certain
conditions of employment. Collective bargaining has often
been practised in countries where the authorities have been
hostile to it and it has been hampered by obstacles and
restrictions; in other countries the authorities have merely
tolerated it without giving any positive encouragement. In
such conditions the establishment and maintenance of
collective bargaining processes is a hard struggle and can
have only a limited success. In some extreme cases, as in

Germany under the National Socialist regime, collective bargaining has been eliminated entirely by the radical step of abolishing trade unions and employer’s organisations, conditions of employment being regulated by the State. Obviously, wherever trade unions have been made illegal there can be no collective bargaining.

2. Freedom of Association:

Freedom of association is essential for collective bargaining. Where such freedom is denied collective bargaining is impracticable, and where it is restricted, collective bargaining is also restricted. Freedom of association can be facilitated by the removal of legislative restrictions on combinations where they exist, leaving workers and employers free to form associations as they please.

It should be borne in mind, however, that the removal of such restrictions does not necessarily imply that strong organisations of either workers or employers will in fact be formed and does not in itself confer any positive rights to bargain collectively. It still leaves employers in a position to discourage worker from forming trade unions or to refuse to employ union members. Company-dominated unions may be set up to hinder the formation of free trade unions. In some
countries trade unions have, after a period of struggle, grown strong enough to prevent or greatly limit such attempts to deny or restrict freedom of association. In other countries, governments have enacted legislation giving workers the right to form associations and making illegal any attempt by employers to interfere with this right; but in such cases the law still leaves workers free to choose whether they will organise or not.

3. Stability of Workers' Organisation:

Workers may have freedom of association but, unless they make use of that right and form and maintain stable unions, collective bargaining will be ineffective. If an organisation is weak, employers can say that it does not represent the workers and will refuse to recognise it or negotiate with it. Before entering into agreements with a trade union, employers will want a reasonable assurance that it will be able to honour its understandings, and this implies both that the union can exercise authority over its members and that its membership is sufficiently stable. If the latter fluctuates widely, at times covering only a small fraction of the workers, it cannot be considered as a reliable instrument for collective bargaining. In the early stages of trade union organisation in any country, industry or occupation the smallness and instability of union membership is one of the main reasons for the
infrequency of collective bargaining. This is particularly true in main occupations in the industrially under-developed countries.

Before recognising a union, employers sometimes demand evidence that it has enough members to justify entering into collective bargaining with it. A frequently used test is the number of members who are in good standing (i.e., who regularly pay their dues to the union). This test is applied where official recognition, carrying with it the right to bargain on behalf of the workers, is to be granted to a union.

4. Recognition of Trade Unions:

Even assuming that freedom association exists and that the workers have established stable organisations, collective bargaining cannot begin until employers recognise the organisations for that purpose. Employers will give such recognition only if they believe it to be in their interest or if they are legally required to do so.

Once a trade union is strong enough, employers may decide that it is in their interest to recognise it and negotiate with it; otherwise, they may be faced with strikes, and the ensuing financial losses may be far greater than the cost of any concessions on wages and conditions they may have to make in
negotiations with the union. The granting of recognition may also have the positive benefit of improving industrial relations, and this may react favourably on production.

A group of employers or an employers' organisation may find it to their advantage to recognise a trade union not only because recognition could be means of avoiding losses from strikes, but also because any agreements negotiated would regulate conditions of employment for all the employers and thus safeguard all of them against competition by undercutting labour standards.

5. Willingness to "give and take" :

The fact of entering into negotiations implies that the differences between two parties can be adjusted by compromise and concession in the expectation that agreement can be reached. Obviously, if one or both sides merely make demands when they meet there can be no negotiation or agreement. Consequently, at the start each side normally puts forward claims which are intended to provide a basis for bargaining, and as the negotiations proceed one side will agree to reduce its demand on one item in return for some concession by the other side.
The art of bargaining is for each side to probe the other to find out its strength and weakness. On some points one side may be unwilling to depart much from its starting position, whereas on others its attitude may be more flexible, the attitude of the other side is probably similar though the points on which it is relatively rigid or flexible may be different. In these circumstances the two sides have considerable room for manoeuvre and for "give and take".

Willingness to "give and take" during negotiations does not necessarily mean that concessions made by one side will be matched by equal concessions from the other. One side may make greatly exaggerated demands which it will have to tone down considerably if agreement is to be reached. Also, depending on the relative strength of the two parties, economic conditions at the time and skill in negotiation, one side may win more concessions than the other.

6. Avoidance of Unfair Labour Practices:

Unfair practices in collective bargaining sometimes resorted to both by employers and by trade unions. They are liable to hamper the development of collective bargaining and to embitter negotiations so much by the suspicion and distrust they cause as to make agreements difficult to reach. It cannot be sufficiently emphasises that only in an atmosphere of mutual
recognition and respect collective bargaining will have a reasonable chance of success. Collective bargaining is a process to reach a certain goal, and it is, therefore, important to make sure that it is really a common goal. There must be the common objective of maintaining peace and discipline, improving work methods and working conditions, increasing earnings of employees as well as profits of the undertaking. That the management has the right to manage and the union has the right to organise itself and fight for justice must be fully recognised and accepted by both sides. Unless there is this basic unanimity of views collective bargaining is a mere trial of strength.

The management should recognise that a union is there to bargain collectively for the workers. The management should have a clear bargaining procedure. Keith Davis rightly emphasis this fact when he observes, "Procedures for bargaining sessions have a significant influence on agreement, just as attitudes do. It bargaining procedures are not clear, each party never quite understands what the other is doing, and agreement becomes almost impossible until they can begin to communicate with each other. For example, what is the role of a lawyer at the bargaining table? Is the lawyer speaking as a bargaining representative of the employer, or only as a legal
adviser? The same question can also be asked concerning an international union representatives, if one is present. In fact, the overall question of who will attend the bargaining sessions is an important one. Each side will have a chief negotiator, but usually more than one person will speak across the bargaining table as a negotiator. However, it is wise to limit the size of the negotiating committees, because this reduces human relationships to a reasonable number. If the group is small, all active negotiators can get to know each other fairly well as negotiations develop". 10

The union should also understand that it is there to bargain for the workers actively rather than to lead them to a physical fight with the people. It would be blunder on the part of the union leaders that they instigate the workers to indulge in violence; or at least led them to a stage when they could not prevent themselves from indulging in these activities. Actually a strike is meant to compel the employer to enter into negotiations rather than to start a violent quarrel. As a matter of fact violents solve no problems; ultimately it is through negotiations that every problem is solved. Keith Davis observes that when the employer and the employees fail to arrive at an agreement, they should try to have a mediator. He says, "If an

agreement cannot be reached, the union may call a strike, or a mediator may be brought to the scene by one of the parties or by government. The mediator's role is that of an outside specialist who is free of the emotionalism in which the parties are involved. Mediators have wide experience and a fresh viewpoint, which may enable them to suggest settlements not previously considered. Mediators also help hold down emotionalism and use direct persuasion to try to get the parties to come to agreement. One comprehensive study reported that a mediator's two most important skills were intellectual ability and "tough" human relations. From a human point of view an important function is that of confidential intermediary carrying messages and view-points from one party to other."\(^{11}\)

National Commission of Labour in 1969 made the following recommendations after considering the problem.\(^{12}\)

(a) Government intervention in Industrial relations particularly in the settlement of industrial disputes, should be reduced gradually to the minimum possible extent. Compulsory adjudication of disputes should be used only as a last resort.

---


(b) Trade unions should be strengthened both organisationally and financially by amending the Trade Union Act of 1926 to make registration of unions compulsory, enhance the union membership fee, reduce the presence of outsiders in the union executive among the office-bearers and increase the minimum of members in respect of union applying for registration.

(c) Legal provision may be made either by a separate legislation or by amending an existing enactment for:

(1) Compulsory recognition of trade unions and certification of unions as bargaining agents.

(2) Prohibition and penalisation of unfair labour practices.

(3) Bargaining in good faith by both employers and unions.

(4) Conferring legal validity and legitimacy on collective agreements.

Suggestions for the Effective Functioning of Collective Bargaining:

(i) There must be a change, in the attitude of employers and employees. They should realise that the collective bargaining approach does not imply litigation as it does under adjudication. It is an approach which indicates that
the two parties are determined to resolve their differences on their respective claims in a peaceful manner relying only on their own strength and resources; they do not look to a third party for the solution of their problems.

(ii) Collective bargaining is best conducted at plant level. The bargaining agents of both the parties should be determined to arrive at an agreed solution of their respective problems. The employers should be represented by the management and the workers by their trade union. Both should know which one is the recognised union, in case their is more than one in a part; and this union, recognised in the proper manner, should be the sole bargaining agent of all the workers in an organisation.

(iii) Employers and employees should enter upon negotiations on points of difference or on demands with a view to reaching an agreement. The trade union should not make or put forward unreasonable demands. Any refusal to negotiate on the part of either side should be looked upon as a unfair practice. Rigid attitudes are out of place in a collective bargaining system.

(iv) Negotiations can be successfully only when the parties rely on facts and figures to support their point of view. The trade union should be assisted by such specialists as
economics, productivity experts and professionals, so that their case is properly presented to the representative of the management. In order to bring this to pass, the organisational set-up of a trade union will have to be changed; and the latter should adopt a constructive approach at the bargaining table rather than the present agitational or litigation oriented approach.

(v) To ensure that collective bargaining functions properly, unfair labour practices should be avoided and abandoned by both sides. The negotiations between the management and the recognised trade union will then be conducted in an atmosphere of goodwill, which will not be vitiated by malpractices, and neither side would take advantage of the other by resorting to unfair practices.

(vi) When negotiations in an agreement, the terms of the contract should be put down in writing and embodied in a document. When no agreement is reached, the parties should agree to conciliation, mediation or arbitration. If no settlement is arrived at even then, the workers should be free to go on a strike, and the employers should be at liberty to declare a lock-out. To restrict this right is to inhibit and defeat the very process of collective bargaining.
(vii) Once an agreement is reached, it must be honoured and fairly implemented. No strike or lockout should be permitted in respect of issues which have already been covered in the contract; and the trade union should not be allowed to raise fresh demands.

(viii) A provision for arbitration should be incorporated in the agreement, which should become operative when there is any disagreement on the interpretation of its terms and conditions. The disputes arising out of the agreement should be referred to an agreed third party with a view to arriving at final and binding decision.

These conditions must necessarily exist if collective bargaining is to become meaningful and effective. If any or all of them do not exist the obstacles should be removed by legislative enactments or by the adoption of other suitable measures.