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The Negotiation of First Agreements under the Canada Labour Code

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Résumé de l'article

Au cours des quelques dernières années, la négociation de premières conventions collectives a suscite beaucoup d'intérêt au Canada. L'intérêt majeur a porte sur les situations où le syndicat, bien qu'accrédite par le conseil de relations du travail approprie, n'a pu obtenir une première entente. Les juridictions de la Colombie-Britannique, du Manitoba, du Québec et du gouvernement fédéral (secteur prive) ont été à ce point touchées par ce problème qu'elles ont vote une loi spéciale à ce sujet. Des théories séminales et des recherches empiriques ont également été menées afin de déterminer les raisons pour lesquelles certaines premières négociations aboutissent à des ententes collectives tandis que d'autres n'y réussissent pas. George Bain, de l'Universite de Warwick, a produit la monographie intitulée: *Certifications, FirstAgreements and Decertifications: An Analytical Framework*(Labour Canada, mars 1981); et Norman Solomon de l'Universite de Windsor a publie l'article intitule: "The Negotiation of First Agreements in Ontario: An Empirical Study", *(IndustrialRelations/Relations Industrielles,* Laval, vol. 39, numéro 1, 1984). Cette étude vient ajouter et améliorer un travail précédent afin d'analyser les unités de négociation qui sont arrivées à des premières ententes et celles qui n'ont pas réussi à y parvenir. Les secteurs étudiés sont les suivants: les données reliés à l'expérience des accréditations accordées par le Conseil canadien des relations du travail (CCRT), les données reliés aux caractéristiques de l'unité de négociation de base et les données reliés au processus de négociation. Le modèle est base sur les 195 accréditations du CCRT durant 1979 et 1980. La variable dépendante est le critère, la négociation fructueuse ou non des premières ententes. Étant donné que la variable dependante est dichotomique, la méthode statistique utilisée est une analyse discriminante. Les résultats indiquent qu'une première entente a plus de chance de succès dans les circonstances suivantes: (1) si l'on nomme un conciliateur; (2) si l'unité de négociation est de dimension importante. Les résultats suggèrent également qu'une première entente a moins de chance de succès si: (1) un intervenant est présent lors de l'étape d'accréditation; (2) une plainte de procédure déloyale est portée; (3) l'agent de négociation est un syndicat international, et (4), si une grève/un lock-out a lieu.

Les résultats suggèrent donc qu'une attention additionnelle devrait être portee sur le rôle du conciliateur pour aider à négocier une première entente. Ils suggèrent également que le CCRT devrait attacher une attention directe supplémentaire aux rôles des grèves /lock-out et aux procédures déloyales dans la négociation de premières ententes. Nos découvertes indiquent aussi que les syndicats auraient intérêt à renforcer leur appui au sein de l'unité de négociation lors de l'accréditation, afin d'éviter les effets négatifs des intervenants. Mais, et cela est possiblement le plus important, les résultats indiquent que les syndicats internationaux devraient peut-être réévaluer et augmenter l'appui qu'ils accordent à leurs membres canadiens.

Des études ultérieures devraient se pencher sur d'autres variables du processus de négociation, telles les effets de pratiques déloyales au cours des premières négociations et l'attitude du CCRT dans ces cas. Etant donne que le CCRT traite des cas partout au pays, il serait intéressant d'analyser les variables économiques comme par exemple les taux de chômage locaux et d'examiner leur impact sur la négociation de premières conventions. De plus, en raison de la loi qui, depuis 1978, permet au CCRT d'imposer une première convention, il serait utile de mener une étude longitudinale comparant les négociations antérieures à 1978 et celles qui y ont succède, afin de déterminer, empiriquement, si ce pouvoir d'imposer une première convention possède un impact lors de la première négociation.

Finalement, en raison de la variance de 19% révélée par le modèle, il existe un certain nombre de facteurs inconnus qui affectent la variable dependante. Une étude qualitative devrait donc être effectuée pour déterminer la nature de ces facteurs. D'autres études devraient soumettre les facteurs nouvellement découverts à des tests empiriques afin de déterminer leur importance relative.

The Negociation of First Agreements under the Canada Labour Code

An Empirical Study

Norman A. Solomon

The purpose of this study is to analyse bargaining units which achieved first agreements and those that did not achieve first agreements in terms of: data relating to their Canada Labour Relations Board (CLRB) certification experience; data relating to basic bargaining unit characteristics; and in terms of data relating to the negotiation of first agreements.

Over the past several years much attention has been directed toward the negotiation of first agreements in Canada. A major concern has been with those situations where the union, although certified by the appropriate labour relations board, has not been able to achieve a first agreement. These situations have led many to question whether labour's legal right to organize and bargain collectively is, in fact, being adequately protected.

The importance of this question to public policy is highlighted by legislative and administrative board concerns with first contract negotiations at both the Federal and Provincial levels. Several jurisdictions have recognized the difficulty trade unions have had in securing first collective agreements. Thus the Labour Relations Board of British Columbia has had the authority to impose first collective agreements since 1974; the Canada Labour Relations Board has had such authority since 1978; the Manitoba Labour Board was given this authority in 1982; and Québec legislation has permitted the parties to request binding arbitration of such disputes since 1977[1]. The

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1 See S. MUTHUCHIDAMBARAM, "Settlement of First Collective Agreements: An Examination of the Canada Labour Code Amendments", *Industrial Relations/Relations Industrielles,* Laval, Vol. 35, No. 3, 1980, pp. 387-409. Also see M. GIRARD and Y. ST-ONGE, *L'arbitrage des premières conventions collectives,* Québec, ministère du Travail, 1982, 137 pages and appendices.

Boards in British Columbia and in the Federal sector however have taken the position that they will impose first agreements only in exceptional circumstances; and that failure of the parties to agree or occurrence of a strike or lockout may not be sufficient to get the Boards to impose an agreement[2,3].

Policy makers have also encouraged research designed to determine why certain first negotiations result in collective agreements while others do not. Thus in 1981, George Bain of the University of Warwick produced the following monograph for Labour Canada; *Certifications, First Agreements and Decertifications: An Analytical Framework*[4]. In 1984 Norman Solomon of the University of Windsor analyzed the negotiation of first agreements, in part based on Bain's framework. Solomon, using a random sample of 150 1980-81 Ontario Labour Relations Board certifications found the following: 1) the likelihood is that the greater the number of hearing days in the certification process the greater the chance of *not* reaching an agreement; 2) bargaining units composed of manufacturing employees are less likely to reach agreement; 3) parties that spend a greater number of *hours* in Board Certification hearings have a greater chance of reaching an agreement; and 4) the likelihood is that where a Statement of Desire is filed there is a greater chance of reaching a collective agreement[5,6].

The present study is a further advance in the use of empirical methods to investigate the negotiation of first agreements.

PURPOSE OF THE STUDY

The purpose of this study is to analyze bargaining units which achieved first agreements and those that did not achieve first agreements in terms of:

2 MUTHUCHIDAMBARAM, p. 407.

3 Between 1978 and 1984 the Canada Labour Relations Board received 16 first agreement referrals from the Minister of Labour. The Board has actually imposed only seven agreements, *Canada Labour Relations Board Annual Reports, 1978-79, 1980-81, 1981-82, 1982-83;* and telephone conversation with CLRB staff Nov. 19, 1984.

4 George BAIN, *Certifications, First Agreements and Decertifications: An Analytical Framework,* Labour Canada, March 1981.

5 Norman A. SOLOMON, "The Negotiation of First Agreements in Ontario: An Empirical Study", *Industrial Relations/Relations Industrielles,* Université Laval, Vol. 39, No. 1, 1984, pp. 33-34.

6 There has been only one study in the United States that has dealt with negotiation of first agreements. That study was published after the present research was conducted and also after Solomon's original study. No reference is made in the American study to previous Canadian based work on the subject. See W. COOKE, "The Failure to Negotiate First Contracts: Determinants and Policy Implications", *Industrial and Labour Relations Review,* January 1985, Vol. 38, No. 2, pp. 163-178.

data relating to their Canada Labour Relations Board (CLRB) certification experience; data relating to basic bargaining unit characteristics; and in terms of data relating to the negotiation of first agreements.

This study improves upon Solomon's earlier work in four important ways. First, this study includes as independent variables factors that are directly involved in the negotiation of an initial agreement: 1) the appointment of a conciliator; and 2) the occurrence of a strike or lockout. Secondly, the study includes "unfair practice charge filed during the certification process" as an independent variable; a fairly unambiguous indicator of employer opposition. Thirdly, this study uses data from the Federal as opposed to a provincial jurisdiction. The *Canada Labour Code,* for collective bargaining purposes, covers a smaller number of industries — transportation, storage, communications, finance, mines and construction — than do the various provincial jurisdictions. This limited coverage may be a disadvantage because it makes it more difficult to compare the immediate results with results that may be obtained in studying provincial jurisdictions. Alternatively the bargaining units certified under the *Canada Labour Code* and the negotiating units that actually bargain, unlike the units certified by particular provincial jurisdictions, may be inter-provincial in scope. The inter-provincial scope can increase the generalizability of the results. Fourthly this study develops a model based on the universe of CLRB certifications across two years, eliminating the possibility of sampling error.

Insight into factors associated with the successful and unsuccessful negotiation of first agreements should aid policy makers in determining what must be done to ensure that the right to representation won in the certification process is not lost at the bargaining table.

THE INDEPENDENT VARIABLES

Eight independent variables based on available CLRB data were selected for use as predictors to profile successful and unsuccessful bargaining situations. The variables, listed and discussed below, describe: the parties' experience in the CLRB certification procedure; the basic characteristics of the bargaining unit; and the parties experience in the negotiation of a first agreement[7].

7 The variables size of bargaining unit and total span are two of the same variables used in Solomon's original Ontario study. The other variables are not the same as those used in the Ontario study because of: 1. unavailability of data; and 2. differences in which data are collected by Federal and Ontario authorities.

Office Employees

The basic hypothesis is that if a bargaining unit is comprised of office workers that composition will have a positive impact on the negotiation of a first agreement. This hypothesis is grounded in developments specific to Canada.

The CLRB's precedent-setting unit determination decision in the banking industry in 1977[8] stimulated organization of office workers in that sector[9]. Thus it can be argued that — because of union efforts to capitalize on early organizing gains — organizing success in the banking sector translated into success in negotiating first agreements. A related argument is that organizing success in banking had a demonstration effect on office workers organizing and bargaining in other sectors.

Size of the Bargaining Unit

Heneman and Sandver analyzed twenty-one certification studies where the dependent variable was the outcome of National Labour Relations Board elections; unit size was used as a predictor of election outcomes in fourteen of the studies. In each of these studies there was a negative relationship between unit size and the union victory rate[10]. In Solomon's Ontario study, however, size of the bargaining unit was not a predictor of successful or unsuccessful negotiations[11].

Bain states that caution must be exercised in drawing conclusions about the relationship between unit size and union growth and, by inference, between unit size and negotiation of first agreements. This is because:

1) cases coming before the labour board are not a representative sample of all bargaining units in the economy as a whole since they exclude bargaining units in the public sector; and

8 Canada Labour Relations Board, Decision No. 90, June 10, 1977. *Service Office and Retail Workers Union of Canada and Canadian Imperial Bank of Commerce.*

In this decision the CLRB permitted unionization of chartered banks on a branch-by-branch basis. Prior to this ruling Canadian banks were almost completely non-union.

9 See Allen PONAK and Larry F. MOORE, "Canadian Bank Unionism Perspectives and Issues", *Industrial Relations/Relations Industrielles,* Université Laval, Vol. 36, No. 1, 1981, pp. 3-34, especially p. 15.

10 Herbert G. HENEMAN III and Marcus H. SANDVER, "Predicting the Outcome of Union Certification Elections. A Review of the Literature", *Industrial and Labor Relations Review,* Vol. 36, No. 4, July 1983, pp. 537-559.

11 Norman A. SOLOMON, *op. cit.,* p. 32.

2) the labour board's case load becomes more and more unrepresentative with the passage of time because it is increasingly composed of small units and those least susceptible to organization[12].

Presence of an Intervener

It is likely that a union will intervene[13] only if it knows it has some chance of drawing employees away from the union applying for certification. The hypothesis is that presence of an intervener during the certification process is an indication of a lack of employee solidarity; and that that lack of solidarity will make it more difficult for the union to negotiate a first agreement.

Total Span

Total span is defined as the number of days between the date a certification hearing is opened and the date of final disposition of the case: it is the number of calendar days from the date of the first session to the date when final disposition on the case was tabled.

The descriptive statistics for our data (see Table 1) indicate that successful negotiations had a higher total span figure, on average, (100.1 days) than did unsuccessful negotiations (85.1 days). The hypothesis is that a higher total span will result in a greater possibility for a first agreement. The descriptive statistics and the hypothesis run contrary to the conventional wisdom that a lengthy total span is indicative of employer intransigence. One can argue, however, that a longer total span indicates that the parties have carefully considered pre-certification difficulties. Thus negotiation of a first agreement will not be hampered by matters that should have been resolved earlier.

Unfair Practice Charge Filed During the Certification Process

A union's unfair practice charge against an employer is a fairly unambiguous indication of an employer's opposition to unionism. An employer's charge against a union may be an indication of an employer's desire to drag

12 George BAIN, *op. cit.*, pp. 12-14.

13 An intervener is a union which believes that the union applying for certification is seeking to represent employees for which the intervener has bargaining rights. The intervening union gets an opportunity to protect its interests at a certification hearing.

out the certification process and thereby weaken the union's resolve. The hypothesis is that bargaining is less likely to result in an agreement where an unfair practice charge is filed.

Strike/Lockout

Bain argues that the extent to which strikes/lockouts occur is an index of employer opposition or at least of employer strength[14].

Thus the hypothesis is that those cases involving a strike/lockout will be less likely to reach a first agreement.

Conciliator Appointed

The *Canada Labour Code* provides for a conciliator to be appointed at the discretion of the Minister of Labour in specific situations: a conciliator may only be appointed in cases where the parties have failed to commence bargaining within the time period specified in the *Canada Labour Code* or where impasse has been reached. One might argue that the very fact that the parties have failed to commence bargaining or have reached impasse indicates that the chances of securing an agreement are slim. Alternatively, one may argue that the Minister will only appoint a conciliator in those instances where the latter stands a chance of success. Thus the hypothesis is that a first agreement is more likely to be negotiated where a conciliator has been appointed.

International Union

International unions have a minority of their membership in Canada. It can be argued that therefore their interest in Canadian members and Canadian issues is less than that of unions based in this country[15]. Similarly, it can be argued that the Internationals bargain less vigorously for their Canadian members. Thus the hypothesis is that first agreements are less likely where International unions are representing the workers in the bargaining unit.

14 George BAIN, *op. cit.*, p. 20.

15 This, in fact, was one of the arguments cited by Canadian UAW Director Bob White in support of his recent decision to withdraw Canadians from the American-based UAW.

The Dependent Variable

The dichotomous criterion of successful/unsuccessful first negotiations was determined by examining CLRB records to see if a collective agreement had been negotiated and signed.

METHODOLOGY

The Data

All 195 CLRB certifications in the calendar years 1979 and 1980 were used in developing the model. These data represent the most recent CLRB data available. The descriptive statistics for the 162 (83.1%) successful bargains and 33 (16.9%) unsuccessful bargains are provided in Table 1.

TABLE 1

Descriptive Statistics
1979, 1980 CLRB Certification Cases
Mean, (Standard Deviation), [Frequency], {Relative Frequency, %}

Variable	*Successful Negotiations, N=162*	*Unsuccessful Negotiations, N=33*
Office Employees	[53] {32.7}	[5] {15.2}
Size of the Bargaining Unit	25.8 (34.1)	18.1 (18.0)
Presence of Intervener	[30] {18.5}	[10] {30.3}
Total Span	100.1 (119.7)	84.3 (85.1)
Unfair Practice Charge	[27] {16.7}	[9] {27.3}
Strike Lockout	[8] {4.9}	[2] {6.1}
Conciliator Appointed	[50] {30.9}	[0] {0}
International Union	[103] {63.6}	[26] {78.8}

An examination of the descriptive statistics show differences between the successful and unsuccessful cases on the following variables: office employees; size of the bargaining unit; presence of interveners; total span; unfair practice charge filed; conciliator appointed; and international union.

Office employees were more likely to comprise bargaining units in successful than in unsuccessful cases. A more detailed analysis of the office variable reveals that 42 of the successful cases were in banks while 11 were in other sectors; three of the unsuccessful cases were in banks while two

were in other sectors. Thus banks accounted for 78% of all the office cases, comprised 79% of the successful office cases and comprised 26% of all successful cases.

Bargaining units in successful cases were likely to be larger with an average of 26 employees; while bargaining units in unsuccessful cases had an average of 18 employees. Interveners were more likely to be found in unsuccessful than in successful cases and unfair practice charges were more likely to be filed in unsuccessful cases. The total span was likely to be greater for successful than for unsuccessful cases. Conciliators were more likely to be appointed in successful cases while International unions were more likely to be found in unsuccessful cases than in successful cases.

The differences between the successful and unsuccessful cases on the strike/lockout variable were minor.

The Analysis

Step-wise discriminant analysis was used to determine those characteristics which typify bargaining units that negotiated a first agreement and the characteristics of those where one was not negotiated. Since discriminant analysis provides a means of distinguishing statistically between two or more groups, it is a useful technique in developing bargaining unit profiles. To distinguish between bargaining units, the researcher selects a collection of descriptive variables that measure characteristics on which the groups are expected to differ. The mathematical objective of discriminant analysis is to weigh and linearly combine these descriptive variables in some fashion so that the bargaining unit groups are differentiated as much as possible[16]. In this study, the bargaining unit groups consisted of those which had first negotiations culminating in a signed agreement and those bargaining units in which a signed agreement was not negotiated[17].

Discriminant analysis provides two types of output that are especially valuable in profiling bargaining unit groups. First, it produces a discriminant function, or functions, representing a dimension along which the bargaining unit groups differ. The coefficients of the discriminating variables composing this function, when in standardized form indicate the relative importance of each of the variables.

16 Norman H. NIE, C. HALDA, Jean G. HULL, Jean G. JENKINS, Karin STEINBRENNER and Dale N. BENT, *Statistical Package for the Social Sciences,* 2nd ed., New York, McGraw-Hill Book Company, 1975, p. 435.

17 See also Norman A. SOLOMON, *op. cit.,* p. 29.

The second output results from the use of the discriminant function to classify bargaining units into either of the two groups. Thus, once the discriminant function has been developed, it can be applied to a sample of bargaining units, say, in a new time period, and can predict how many will belong to a particular group[18,19].

The utility of discriminant analysis in profiling groups has led to its widespread use and sometimes abuse. An example of the potential problem was presented by R.G. Frank, W.F. Massey and D.G. Morrison[20]. The authors pointed out the existence of two possible sources of bias in discriminant analysis — sample bias and search bias.

The way to avoid these problems is to develop discriminant functions on one part of the data set, referred to as the analysis sample, and apply the obtained functions to the other part, referred to as a hold out sample, to test their validity. This method was used in the development of the profile for bargaining units reported here. The sample of 195 cases was split into two parts — one containing 98 cases the other 97 cases[21]. A step-wise discriminant analysis using a combination of certification procedures data, bargaining unit data and bargaining process data was carried out on the first group. The classification results for the analysis sample are provided in Table 2. The resulting sets of discriminant functions were then applied to the other part for cross-validation.

18 Joseph F. HAIR, Rolph R. ANDERSON, Ronald L. TATHAM and Bernie GRABLOWSKY, *Multivariate Data Analysis: With Readings,* PPC Books, Tulsa, Oklahoma, 1979, pp. 85-86.

19 By default the SPSS-X Discriminant program assumes equal probabilities for group membership when classifying cases. This is not desirable in the present situation where we know that there is a very high probability that any given case belongs to the "successful" group. Therefore, one would want to classify a given case into the "unsuccessful" group only if the evidence was very strong that it belongs there. This was done by adjusting the posterior probabilities to account for prior knowledge of probable group membership (See Table 1, Descriptive Statistics). See also, William R. KLECKA, *Discriminant Analysis,* Sage Publications, Beverly Hills, 1980, p. 46.

20 R.E. FRANK, W.F. MASSEY and D.G. MORRISON, "Bias in Multiple Discriminant Analysis", *Journal of Marketing Research,* 2, August 1975, pp. 250-258.

21 The sets of descriptive statistics for the analysis and hold-out samples were similar to each other and similar to the statistics for the entire sample. Complete listings of the descriptive statistics for the analysis and hold-out samples are available from the author.

TABLE 2

Classification Results for Analysis Sample

Actual Group	*No. of Cases*	*Predicted Unsuccessful (0)*	*Predicted Successful (1)*
Group Unsuccessful (0)	17	5 29.4%	12 70.6%
Group Successful (1)	81	3 3.7%	78 96.3%

Percent of Analysis cases correctly classified: 84.7%

Results

Table 3 reveals that the cross-validation discriminant functions correctly classified successful and unsuccessful bargaining situations in the hold-out sample in 82.5% of the cases. The proportional chance criterion for the sample was 72.5%[22].

TABLE 3

Classification Results for Hold-out Sample

Actual Group	*No. of Cases*	*Predicted Unsuccessful (0)*	*Predicted Successful (1)*
Group Unsuccessful (0)	16	4 25.0%	12 75.0%
Group Successful (1)	81	5 6.2%	76 93.8%

Percent of Hold-out cases correctly Classified: 82.5%

Table 4 lists the canonical discriminant functions. The data indicate that not only are the functions significant at the .007 level but they also explain 19.1% of the variance.

22 It should be noted, however, that the cross-validation discriminant functions do a much better job of classifying successful bargaining situations (93.8%) than of classifying unsuccessful bargaining situations (25.0%). Thus researchers should exercise caution in using the model to draw conclusions about unsuccessful cases.

TABLE 4

Canonical Discriminant Functions

Function	*Eigenvalue*	*(Canonical Correlation)*^{2}	*After Function*	*Wilks' Lambda*	*Chi-Squared*	*D.F.*	*Significance*
1	0.23625	.1911	0	0.8088949	19.406	7	0.007

Table 5 lists the standardized canonical coefficients for the discriminant functions and the canonical discriminant functions evaluated at the group means (group centroids).

TABLE 5

Standardized Canonical Discriminant Coefficients and Canonical Discriminant Functions Evaluated at Group Means (Group Centroids)

Standardized Canonical Discriminant Coefficients

Conciliator Appointed	-0.69031
Size of the Bargaining Unit	-0.59117
Presence of Intervener	0.53616
Unfair Practice Charge	0.44539
International Union	0.41844
Office Employees	-0.30109
Strike/Lockout	0.28517

Canonical Discriminant Functions Evaluated at Group Means (Group Centroids)

Group	*Function 1*
0	1.04349
1	-0.22174

NOTE: Coefficients represent the relative importance of a particular variable in differentiating between successful and unsuccessful bargaining relationships. Multicollinearity, or interrelatedness among the variables can sometimes cause coefficients to be unstable and potentially misleading. An examination of the correlation matrix did not show this to be a problem here. The three highest correlations were as follows: size of the bargaining unit and unfair practice charge, .51; total span and size of the bargaining unit, .29; and conciliator appointed and strike/lockout, .26.

The standardized coefficients indicate that the variables which discriminate best are: (1) conciliator appointed; (2) size of the bargaining unit; (3) presence of intervener; (4) unfair practice charge; (5) international union; (6) office employees; and (7) strike/lockout.

The discriminant coefficient for conciliator appointed is -0.69031 (a positive measure because of the sign of the centroid). Therefore the likelihood is that where a conciliator is appointed the parties have a greater chance of negotiating a first collective agreement. Similarly because the discriminant coefficient for size of the bargaining unit is -0.59117 and because the discriminant coefficient for office employees[23] is -0.3109, larger units are more likely to reach a first agreement as are units comprised of office employees.

The discriminant coefficient for presence of intervener is 0.53616 (a negative measure because of the sign of the centroid). Therefore, in those situations in which an intervener is present there is a greater chance of *not* reaching a first agreement. The coefficients for the following variables are also positive: unfair practice charge (0.44539); international union (0.41844); and strike/lockout (0.28517). Thus in cases where: an unfair practice charge is filed; an international union is the bargaining agent; and a strike or lockout occurs, respectively, there is a greater chance of *not* reaching a first agreement.

DISCUSSION AND IMPLICATIONS

Hypotheses relating to the following variables were clearly supported: conciliator appointed; presence of intervener; unfair practice charge filed; international union; and strike/lockout.

Thus, perhaps additional attention should be paid to the role the conciliator plays in helping to negotiate a first agreement. For example, what conciliation techniques are most effective?; would it help if conciliators, as a matter of course, were appointed either prior to or at impasse?

The results suggest that the CLRB may find it useful to direct additional attention to the role of strikes/lockouts and unfair practices in the negotiation of first agreements. To date the Board has expressed a reluctance to use its power to impose a first agreement even where unfair practices and strikes/lockouts have occurred. The Board views its power to impose an agreement as a last resort. The concept of promoting unfettered collective bargaining casts the Board's view in a favorable light; however, the practical implication is that the right to representation guaranteed by certification may be lost in negotiations as a result of Board inaction.

23 In order to test the hypothesis that negotiation of first agreements for non-bank office employees had been positively affected by bank results, it was necessary to re-run the analysis omitting bank observations. The canonical discriminant functions were significant at the .01 level and explained 17.3% of the variance. The coefficient for office employees, however, was not among the standardized discriminant coefficients that discriminated best. A complete listing of this set of results is available from the author.

The results also imply that in order to avoid the negative effects of interveners unions may want to strengthen their support within the bargaining unit during certification drives. Perhaps more importantly the results suggest that international unions may wish to re-examine and to increase the bargaining support given to their Canadian members.

The results on office employees support the hypothesis that office workers are more likely to negotiate a first agreement. The analyses also indicate, however, that this experience was in large part due to success in the banking sector. Success that, given recent terminations of bargaining rights in that sector, has been short lived.

The results on size of the bargaining unit were not predicted. The finding that larger units are more likely to negotiate a first agreement may be peculiar to this data set. One reason for the peculiarity may be the rather large standard deviations for both successful and unsuccessful cases (See Table 1).

This study has used recorded CLRB certification process, bargaining unit, and bargaining process data to examine factors determining the successful and unsuccessful negotiation of first agreements.

Future studies should examine additional process variables such as the commission of unfair practices during first negotiations and how the Board deals with these practices.

Also, because the CLRB handles cases in different parts of the nation it may be worthwhile to analyze economic variables, such as local unemployment rates and examine their impact on the negotiation of first agreements. In addition, because legislation permitting the Board to impose a first agreement came into effect in 1978, it may be useful to conduct a longitudinal study that compares pre-1978 negotiations with 1978 and post 1978 negotiations to determine empirically if the power to impose an agreement had an impact on negotiating a first agreement.

Finally, because the amount of variance explained by the model is 19% there are clearly a number of unknown factors affecting the dependent variable. Thus, a qualitative study should be undertaken to determine what these factors might be. Such a study might include in-depth interviews with management, Labour Board and Federal Mediation and Conciliation service representatives. Further studies should subject the newly discovered factors to empirical tests to determine their relative importance.

La négociation des premières conventions collectives sous l'empire du Code canadien du Travail

Au cours des quelques dernières années, la négociation de premières conventions collectives a suscité beaucoup d'intérêt au Canada. L'intérêt majeur a porté sur les situations où le syndicat, bien qu'accrédité par le conseil de relations du travail approprié, n'a pu obtenir une première entente. Les juridictions de la Colombie-britannique, du Manitoba, du Québec et du gouvernement fédéral (secteur privé) ont été à ce point touchées par ce problème qu'elles ont voté une loi spéciale à ce sujet.

Des théories séminales et des recherches empiriques ont également été menées afin de déterminer les raisons pour lesquelles certaines premières négociations aboutissent à des ententes collectives tandis que d'autres n'y réussissent pas. George Bain, de l'Université de Warwick, a produit la monographie intitulée: *Certifications, First Agreements and Decertifications: An Analytical Framework* (Labour Canada, mars 1981); et Norman Solomon de l'Université de Windsor a publié l'article intitulé: "The Negotiation of First Agreements in Ontario: An Empirical Study", (*Industrial Relations/Relations Industrielles,* Laval, vol. 39, numéro 1, 1984).

Cette étude vient ajouter et améliorer un travail précédent afin d'analyser les unités de négociation qui sont arrivées à des premières ententes et celles qui n'ont pas réussi à y parvenir. Les secteurs étudiés sont les suivants: les données reliées à l'expérience des accréditations accordées par le Conseil canadien des relations du travail (CCRT), les données reliées aux caractéristiques de l'unité de négociation de base et les données reliées au processus de négociation.

Le modèle est basé sur les 195 accréditations du CCRT durant 1979 et 1980. La variable dépendante est le critère, la négociation fructueuse ou non des premières ententes. Étant donné que la variable dépendante est dichotomique, la méthode statistique utilisée est une analyse discriminante.

Les résultats indiquent qu'une première entente a plus de chance de succès dans les circonstances suivantes: (1) si l'on nomme un conciliateur; (2) si l'unité de négociation est de dimension importante. Les résultats suggèrent également qu'une première entente a moins de chance de succès si: (1) un intervenant est présent lors de l'étape d'accréditation; (2) une plainte de procédure déloyale est portée; (3) l'agent de négociation est un syndicat international, et (4), si une grève/un lock-out a lieu.

Les résultats suggèrent donc qu'une attention additionnelle devrait être portée sur le rôle du conciliateur pour aider à négocier une première entente. Ils suggèrent également que le CCRT devrait attacher une attention directe supplémentaire aux rôles des grèves/lock-outs et aux procédures déloyales dans la négociation de premières ententes. Nos découvertes indiquent aussi que les syndicats auraient intérêt à renforcer leur appui au sein de l'unité de négociation lors de l'accréditation, afin d'éviter les effets négatifs des intervenants. Mais, et cela est possiblement le plus important, les résultats indiquent que les syndicats internationaux devraient peut-être ré-évaluer et augmenter l'appui qu'ils accordent à leurs membres canadiens.

Des études ultérieures devraient se pencher sur d'autres variables du processus de négociation, telles les effets de pratiques déloyales au cours des premières négociations et l'attitude du CCRT dans ces cas.

Étant donné que le CCRT traite des cas partout au pays, il serait intéressant d'analyser les variables économiques comme par exemple les taux de chômage locaux et d'examiner leur impact sur la négociation de premières conventions. De plus, en raison de la loi qui, depuis 1978, permet au CCRT d'imposer une première convention, il serait utile de mener une étude longitudinale comparant les négociations antérieures à 1978 et celles qui y ont succédé, afin de déterminer, empiriquement, si ce pouvoir d'imposer une première convention possède un impact lors de la première négociation.

Finalement, en raison de la variance de 19% révélée par le modèle, il existe un certain nombre de facteurs inconnus qui affectent la variable dépendante. Une étude qualitative devrait donc être effectuée pour déterminer la nature de ces facteurs. D'autres études devraient soumettre les facteurs nouvellement découverts à des tests empiriques afin de déterminer leur importance relative.