Extension Collective Agreements in The Netherlands

*International Expert Workshop*

*Extension CLA’s*

Dr. Maurice Rojer

*Employers’ Association AWVN*
Content

• Brief Description Dutch System of Collective Bargaining
• Dutch System of Extension of CLA’s
• Extension and Wages
• Extension and Trends Collective Bargaining System
• Future of Extension
Dutch system of Collective Bargaining
Multi-Level Industrial Relations

- Central agreements
  - Union federation
    - Government
    - Employers’ federations
  - Unions
  - Employers’ organisations
  - Employer
- Sectoral collective agreements
  - Unions
- Company collective agreements
  - Works council
- Individual labour contracts
  - Employee
Legal Framework collective bargaining:

- Collective Agreements Act 1927
- Extension of Collective Agreements Act 1937
- ILO Convention 87 (freedom of association)
- ILO Convention 98 (freedom of collective bargaining)
Collective Agreements Act 1927

• Agreement between:
  - one or more unions, and
  - one or more individual employers, or
  - one or more associations of employers

• Regulating conditions of employment
• By law incorporated in individual contracts
• Binding for members parties CLA
• Employers have to apply CLA to non-unionised employees
Coverage of CLA and of Unions

Union Density

Coverage CLA

0% 25% 50% 75% 100%
### CLA’s in The Netherlands in 2011

<table>
<thead>
<tr>
<th></th>
<th>Number of CLA’s</th>
<th>Number of employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company-level CLA’s</td>
<td>503 (73%)</td>
<td>531.000 (9%)</td>
</tr>
<tr>
<td>Branch-level CLA’s</td>
<td>185 (27%)</td>
<td>5.597.500 (91%)</td>
</tr>
<tr>
<td>Total</td>
<td>688</td>
<td>6.128.500</td>
</tr>
</tbody>
</table>

*Source: Ministry of Social Affairs and Employment June 2011*
Dutch system of Extension of CLA’s
Purpose Extension of CLA’s

• To stimulate conclusion of industry CLA’s,
  - By including non-organised employers,
  - And preventing undercutting of wages

• Thereby, enhancing **stable industrial relations** and **industrial peace** (and thereby positive social-economic development)
Extension Collective Agreements Act 1937

- **Minister** can extend collective agreements to entire industry (*non-organised part*)
- **At request** of parties to the agreement
- **Criterium of representativeness:**
  - coverage of >55% employees (*already CLA-covered*)
- **And ministerial rules:**
  - not in contradiction to existing law
  - too much prejudicial to interests third parties
- **Possibility of exemption**
Coverage Types CLA

Coverage CLA

Coverage Types CLA
### CLA’s in The Netherlands in 2011

<table>
<thead>
<tr>
<th></th>
<th>Number of CLA’s</th>
<th>Number of employees</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Company-level CLA’s</strong></td>
<td>503 (73%)</td>
<td>531.000 (9%)</td>
</tr>
<tr>
<td><strong>Branch-level CLA’s</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>NO extension</strong></td>
<td>93 (14%)</td>
<td>2.260.000 (37%)</td>
</tr>
<tr>
<td><strong>WITH extension</strong></td>
<td>92 (13%)</td>
<td>3.337.500 (54%)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>688</td>
<td>6.128.500</td>
</tr>
</tbody>
</table>

Source: Ministry of Social Affairs and Employment June 2011
Extension and Wages
Extension of CLA and Wages

Theory:
- Extension CLA = Union wage monopoly
- Wages non-responsive to economic developments
- ‘Irresponsible’ wage rises = less international competitiveness
Effect of different wage setting institutions

- **legal extension**
- **company CA**
- **No CA**
Development Wage Demand and Wage Rise 1994-2010

![Chart showing wage demand and wage rise from 1994 to 2010]
Wage Policy in Dutch Industrial Relations

• Multi level co-ordination
• High level coverage industry CLA:
  - Also supported by instrument of extension
• Wage policy Unions
  - Central maximum wage demand
• Employers’ bargaining position
  - Strongly organised / low union density
Extension and Trends
Collective Bargaining System
Development range and coverage CLA’s

• Last 20 years stable CLA-coverage of 80 - 85%
• Number and coverage of industry or company level CLA’s remains also relatively stable:
  - At both levels new CLA’s emerge, CLA’s stop existing, CLA’s merge or disintegrate
• No trend of industry level CLA’s disintegrating into company level CLA’s:
  - Banking sector is probably only example, and therefore not the beginning of a trend
However, decentralisation still is the trend

All kinds of possibilities to deviate from CLA:

- Regulated by parties in their own CLA’s:
  - Layered CLA-structure (graphical industry)
  - “A-B-construction”: (metal industry)
  - Dispensation clauses (in majority industry CLA’s)
  - Delegation clauses (completion by works council)
  - Flexible conditions (labour duration; working times)

- Regulated by the Minister in context of instrument of extension
Changed policy for dispensation of extended CLA’s

- **Before 2007**: (almost) automatic dispensation for companies / sectors with own CLA’s
  - Several cases of “abuse” dispensation (fake unions and fake CLA’s), to undercut wages

- **Since 2007**: restricted policy to reduce risk abuse
  - After 2007 aprox. 30% chance of dispensation
Main conditions dispensation (by Minister) of extended CLA

- Company/industry must have own CLA
- Concluded with independent unions
- Substantial arguments why extension should not be applied:
  - *for instance: deviating specific company characteristics*
Example Extended Decentralised CLA

**Layered CLA**

- Most terms of employment standardised for whole industry (mostly minimum rules)
- Certain working conditions can be concluded at sectoral level by sectoral parties (working time; specific wage structure)
- Some working conditions can be arranged at company level with works council / workers’ representation (within boundaries CLA)
Example Extended Decentralised CLA

A-B-construction:

• Parties have decided for every article in CLA whether A- or B-type:

  • A-type = to apply in accordance with CLA
  • B-type = deviation (positively or negatively) possible at lower level, under certain conditions:
    - New “B”-CLA for deviating working conditions
    - B-CLA has to be concluded with same unions as central CLA (“preferred supplier”)
Conclusions Extension and Decentralisation

- Extension and decentralisation are not adversary
- There is room for deviation / decentralisation with instruments of CLA and extension
- CLA and extension can stimulate social partners to develop “controlled” decentralisation and differentiation
Future of
Instrument of Extension
Future of collective agreements in The Netherlands

- As long as unions and employers (associations) find collective agreements useful, they will keep on using it
- As long as collective agreements are of general interest, government keeps supporting the instrument
- Collective agreement proved to be flexible and adaptive instrument
- No indications that functions collective contracting will diminish in importance
Three forces of influence

• Employers:
  - No diminishing functionality
  - Continuing search for balance flexibility/collectivity

• Employees / unions:
  - Diminishing representativity/capacity (insiders / outsiders)
  - Tension collective good vs. individual selectivity

• Government:
  - Growing importance co-ordination / control of labour relations
  - Uncertainty of changing coalitions
Other exogenous factors?

- Changing character of labour force:
  - Growing importance flex-workers (incl. “zzp”)
  - Growing diversity of needs and preferences of employees

- Changing structures of industries
  - Decline of traditional unionized industries
  - Internationalisation / globalisation