



Dialogue and negotiation in East Africa

Trade unions and employers' organisations achieve common results through social dialogue

Danish Trade Union Development Agency - DTDA
Confederation of Danish Industry - DI



ULANDSSEKRETARIATET - DTDA
DANISH TRADE UNION DEVELOPMENT AGENCY



Confederation of Danish Industry



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DI and DTDA in East Africa

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in East Africa

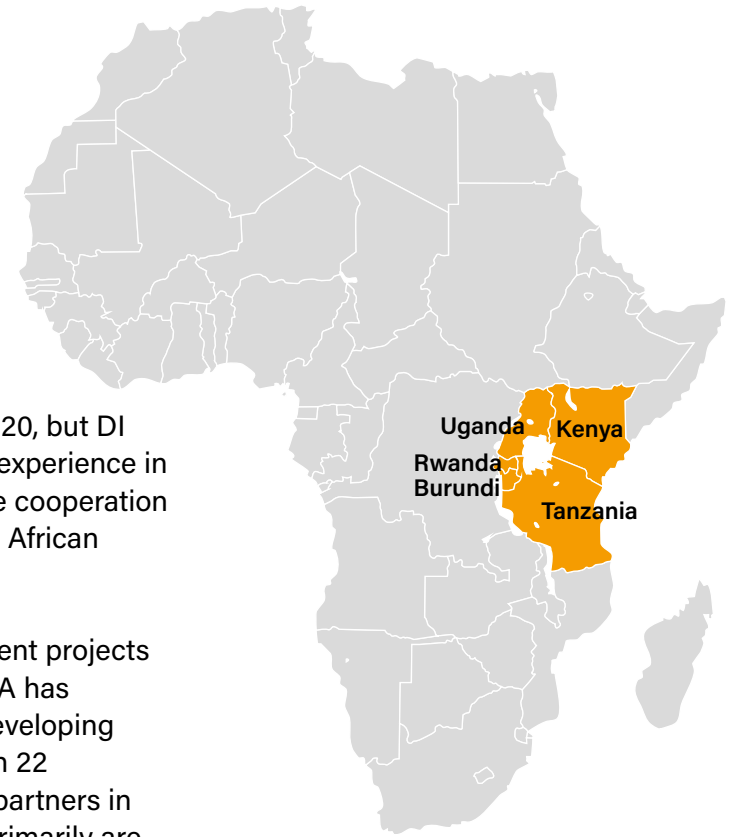


Since 2015, the Confederation of Danish Industry (DI) and the Danish Trade Union Development Agency (DTDA) have collaborated with the national employers' associations and trade unions in five East African countries, Kenya, Uganda, Tanzania, Burundi, and Rwanda as well as the regional East African umbrella organisations.

The project is funded by Danida. Among other things, the project has focused on collective agreements, alternative dispute resolution at workplace level, vocational training, minimum wage, and the free mobility of workers in East Africa.

The project expires in 2020, but DI and DTDA will use their experience in the next two years as the cooperation with partners in the East African countries will continue.

DI works with development projects in 17 countries, and DTDA has regional offices in five developing countries and partners in 22 worldwide. The two are partners in several projects which primarily are funded by Danida and the Danish Ministry of Foreign Affairs. The common goal is to create sustainable growth, decent jobs, and stable markets in developing countries.



The Danish model

The Danish model is based on social dialogue. The main components are collective agreements, strong labour market organisations, and bi- and tri-

partite cooperation. Wages and working conditions are determined by agreements between labour market organisations, not by governments or legislation.

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ECONOMIC GROWTH



What is social dialogue

Social dialogue – or dialogue and negotiation – is when trade unions and employers' organisations come together around the negotiating table to create common solutions.

It can also take place at the factory floor when management and union representatives together solve problems relating to the workplace and the working conditions. This process is known, among other things, from the cooperation committees in Danish companies.

Employers and workers, figuratively speaking, sit on opposite sides of the table – but they are still sitting at the same table.

Although they have opposing points of departure, they have common interests, such as sustainable growth, job creation, decent conditions and prosperity. They have a common interest in proper framework conditions on the labour market.

Therefore, the parties can also come together to formulate joint

requirements and recommendations regarding the labour market to governments and authorities.

Dialogue and negotiation can lead to a consensus on the development of social, economic, and labour market conditions for the benefit of the entire society.

At the factory floor, the same mechanisms can lead to increased productivity and job satisfaction – provided that basic rights and conditions for decent jobs are met.

In any dialogue and negotiation, the parties agree on what they disagree on.

Social dialogue requires equal parties who understand the value of staying in the same room. In many countries, especially developing countries, the labour market culture is characterised by confrontation.

Workers can, for instance, demand wages that are not commensurate with productivity, while employers can perceive any criticism or fair demands



PHOTO: LENE FRØSLEV

from workers as obstinacy. Strikes and arbitrary dismissals are often part of such scenarios.

Instead, the Danish model, in which the trade unions and employers' organisations agree on labour market conditions while the government provides the framework conditions, can serve as an example. ▴

A collective bargaining agreement (CBA) is an agreement on wages and working conditions. Collective bargaining agreements are negotiated by the social partners and typically have an expiration date, and a new one must be negotiated. CBAs may cover one specific company or an entire industry.

Strong cooperation on new labour market law

After years of negotiations, Burundi is on track towards a new labour market law with major improvements.

The bill is the result of successful social dialogue between trade unions, employers, and the government.

Specifically, the bill, which will replace the current 30-year-old labour law, proposes that workers in both the formal and the informal sector will have access to some social protection. This is of great importance as the vast majority of Burundians work in the informal economy – as in almost all developing countries. For example, the law will give workers in the informal economy access to the national pension scheme, which the current law directly prohibits.

The new law also makes it easier for the workers to unionise. In the past, they had to be at least 50 members in a workplace to form a union, now 20 is enough. This also applies to the workers in the informal economy, who often work in small workplaces. Now they have got improved opportunities

to unionise. The law will also, over time, lead to a specific legislation covering workers in the informal economy.

“No one has provided as much support in these difficult times as our Danish partners,” said Nsavyimana Celestin, president of Burundi’s trade union confederation **COSYBU** (Confédération Syndicale du Burundi).

During the tripartite negotiations on the new labour market legislation, the employees of the Danish Trade Union Development Agency (DTDA) in East Africa and resource persons from the Confederation of Danish Industry (DI) have been close to the process.

“The government is listening very closely to us now,” said the general secretary of the employers’ organization **AEB**, Nzisabira Gaspard. “In the past we were guests at our own negotiations, but the government has recognised that we need a seat at the negotiation table.”

The project has made it clear to the Secretary-General that their



PHOTO: LENE FRØSLEY

negotiating position vis-à-vis the government is stronger if they first reconcile their arguments with COSYBU. “We have started a tradition of bipartite consultations” he says.

The process of the new labour market legislation is remarkable since Burundi has been thrown into a highly uncertain political and security situation due to President Nkurunziza refusing to give up his post at the 2015 elections, even though required by the constitution. Yet the work continued unabated.

“When everyone else packed their suitcases and left Burundi in a deep crisis, the Danes were still here and

continued to support us in social dialogue, negotiation techniques, communication and training,” says Nzisabira Gaspard from the employers’ association. ▲

‘The social partners’ is a collective term for the organisations representing employers and workers. Companies and employees organise themselves in employer organisations and trade unions, which negotiate agreements on behalf of their members. These can accumulate in central organisations representing all employers’ associations and trade unions in any given country.

Social dialogue resulting in new and improved legislation

On 6 September 2018, a new labour market law came into effect in Rwanda. The law is welcomed as a distinct improvement to the previous law – and a result of a good process between the trade union and the employers' association.

The labour market legislation is historic, partly because it is now stated that employment contracts are compulsory. This means that an employee is entitled to receive a contract from the employer after a maximum of 90 days employment. Furthermore, the law sanctions that the labour inspectorate can close down a business if the contract clause is violated.

It may sound odd with the 90-day rule and the tough sanctions. Part of the explanation is that the new labour law tries to formalise the informal economy. In Rwanda, as well as in many other developing countries, the majority of workers are employed in the informal economy, often as day labourers.

The new law does not distinguish between formal and informal workers,

and in practice this means that workers can only work informally for three months before they must have a contract.

The law is, among other things, a result of cooperation by the Confederation of Danish Industry (DI) and the Danish Trade Union Development Agency (DTDA) in East Africa. The trade union confederation **CESTRAR** (Centrale des Syndicats des Travailleurs du Rwanda) and the employers in **PSF** (Private Sector Federation) have both been involved in the negotiations with the government for the formulation of the new law.

“Social dialogue has helped bringing the parties closer together – be less aggressive,” said Africain Biraboneye, president of CESTRAR. “The Danes have simply helped changing the culture at the negotiating table,” he says.

He mentions that Danish resource persons from DTDA and DI have travelled to Rwanda and trained both parties in social dialogue and negotiation techniques.

For Lean Pierre Rusanganwa from the employers' association PSF, the improved relationship with the other side is an important benefit of the project:

“It's a great result for us that we are able to sit together with the unions. Both employers and trade unions have a clear interest in ensuring proper working conditions at the workplace. We both know that good working conditions lead to increased productivity,” he says.

The new law also includes the national pension scheme NSSF, which now gives workers in the informal economy and the self-employed the opportunity to contribute to pensions. With the previous law, only members of the military and civil servants could join the scheme.

This is another sign that the social partners have come closer to each other. The fruitful cooperation has, among other things, resulted in that the Labour Market Act now considers bi- and tripartite negotiations within various areas.



PHOTO: MIKE HUTCHINGS/SCANPIX

Africain Biraboneye says: “Before, the disagreements on each side seemed too steep a mountain to even contemplate climbing, let alone reach its peak. But time and experience have shown us that by joining hands, we can even think of conquering the mountain itself.” ▴

Collaboration solves disputes at the workplace

“Alternative dispute resolution is a good thing. It brings peace and tranquility to the workplace.” Says Kurwa Uledi, Operations Manager at Hotel Serena on the paradise island of Zanzibar.

He has participated in the training of “alternative dispute resolution and mediation” through the trade union confederation **ZATUC** (Zanzibar Trade Union Congress) and the employers’ association **ZANEMA** (Zanzibar Employers Association), which are supported by the Danish Trade Union Development Agency (DTDA) and the Confederation of Danish Industry (DI).

Alternative dispute resolution is a method that prevents disputes and conflicts at the workplace from escalating – or exhausting lawsuits.

The many postcards sent from Zanzibar by almost 500,000 annual tourists show a beach paradise. Tourists rarely see the other side of the developing country, where one third of the population live below the official poverty line. Thus, the jobs are highly

sought-after – not least within the extremely important hotel and tourism industry. It puts pressure on working conditions such as wages and working hours and this can lead to unrest.

Disputes at workplace level – and on the labour market in general – lead to a poorer work environment and lower productivity. Therefore, employers’ organisations and the trade union movement have a common interest in resolving disputes and conflicts.

With the support of DI and DTDA the hotel industry of Zanzibar has set up local committees at selected hotels with representatives from employees as well as employers.

“We must build a culture of social dialogue in Zanzibar,” says Mohammed Khamis, Secretary-General of ZATUC.

Since 2013, DI and DTDA have supported initiatives for training both sides in social dialogue.

“Before, it was very difficult and one



PHOTO: BERTEL HENNING

of the challenges was that disputes took far too long to be solved,” says Mohammed Khamis.

Before, it could take a couple of weeks of conflict at the workplace, then maybe a month in an arbitration – and then the parties took the cases to labour court. In short, solving a case would take much too long. Obviously, this does not benefit neither the employees nor the workplaces.

“Today it may only take a few days,” says the director of ZANEMA, Salahi

Salim Salahi, “and it is much better. The relationship between the sides has improved, and it improves the productivity as people can be at work instead of being in a court room.”

And Salahi is proud of the new way of resolving disputes:

“I am very proud of the way things are now being resolved. I am proud of the relationship between employers and employees. And I am very proud that we have moved beyond the enmity between the parties.” ▀

Better vocational education in Tanzania

Hiring graduates can be a costly affair for Tanzanian companies.

Too few young jobseekers have the fitting competences, even after completing an education. Many companies have to create their own intensive training programmes to train newly hired employees from scratch.

This makes it hard for graduates and unemployed to gain entry to the labour market. Dan Sora Tandasi from the employers' organisation ATE thinks that a reform of the vocational education is essential:

"It is necessary to change a theorybased education to a more practical one. In this way, they will develop skills that enhance the employability of youth and induce an entrepreneurial mindset among students and graduates."

The large gap between the skills that graduates have and the skills that companies require is hampering Tanzania's growth potential. This analysis is shared by the employers'

organisation ATE (Association of Tanzania Employers) as well as the trade union confederation TUCTA (Trade Union Congress of Tanzania).

With the support from the Confederation of Danish Industry (DI) and the Danish Trade Union Development Agency (DTDA), they have come together to improve Tanzania's vocational training.

Through social dialogue and a joint study, the social partners have identified the weaknesses of the current system and compiled a list of recommendations to the government.

Among the proposed changes are improved financing, more involvement of trade unions and employers, establishment of sectoral councils, more apprenticeships in companies as well as better teachers, databases, and information systems to ensure that the education adequately meets the requirements of companies.

"Today we witness the government and social partners increasingly



PHOTO: JACOB ROSDAHL

working together on the improvement of the technical colleges in order to curb the unemployment problems among the youth," says Said Wamba, acting Secretary-General of TUCTA.

The social partners in Tanzania are normally counterparts, but collaboration has brought the organisations closer to each other.

They see the impact they have when they are cooperating on an issue, because they normally are

counterparts. Dan Sora Tandasi from ATE has taken this lesson to heart:

"Before we started this project, there was limited cooperation and knowledge. But we have seen that even though employers and workers have different interests, there is a huge potential for implementing joint intervention. Today we have a better relationship with the trade unions. The level of communication and consultation has increased, and we are taking the initiative together." ▴

New framework creates ground for the first industry-wide CBA

If everything goes according to plan, Tanzania's hotel employees will soon be part of an industry-wide collective bargaining agreement (CBA). The agreement is currently being negotiated between the employers' organisation **ATE** (Association of Tanzania Employers), and the trade union **CHODAWU** (Conservation, Hotel, Domestic and Allied Workers Union).

It is the first time that these organisations are trying to reach an industry-wide agreement. If successful, the agreement will create better conditions and stability in the hotels in Tanzania.

For Dan Sora Tandasi from ATE the negotiations demonstrate the shift in mentality that the social partners in Tanzania have gone through during the years when they have worked with the Confederation of Danish Industry (DI) and the Danish Trade Union Development Agency (DTDA):

"The most important thing we have learned is that cooperation between employers and workers is key for a functioning labour market and for

enhancing industrial relations, labour market efficiency, and private sector development," he says.

The current negotiations are a direct result offshoot of the support that DTDA and DI have provided to create a framework for CBAs in companies.

Historically, social dialogue in Tanzania has taken place in individual companies, where workers and employers have negotiated an agreement covering a specific company. This has created a jungle of different CBAs with highly divergent terms and conditions. Thus, the labour market in Tanzania is an opaque and unequal playing field.

These conditions also make it hard to reach agreements as the social partners must spend considerable energy discussing which topics to include in the CBA. Often the partners also have different understanding of technical terms. Instead of discussing salaries and working conditions, they have unnecessary conflicts about the meaning of specific terms.



PHOTO: ULANDSEKRETARIATET

Therefore, the primary focus of DTDA and DI's work in Tanzania has been to support the partners create a framework for company CBAs. In training sessions, Danish resource persons assisted ATE and TUCTA develop a common framework. In the future, it will be easier for employers and employees in Tanzanian companies to reach a CBA, since they do not need to define elements and

key terms on their own. ATE and TUCTA have already done this work together.

"Today it is now easier and faster for us to negotiate a CBA with employers because we can customise and fill out the broad CBA frame that was agreed upon. It was good for us to hear how the Danish consensus-oriented culture worked," says acting TUCTA Secretary-General Said Wamba. ▀

A common struggle for a minimum wage

After years of struggle, Uganda's parliament has decided to introduce statutory minimum wage applying to all wage earners in the country. This happens after a long period of joint pressure from the trade unions and the employers' organisations.

Labour market organisations estimate that millions of workers, especially in the informal economy, may emerge from extreme poverty and be secured more decent working conditions.

Yazidi Baligasima from the trade union confederation, **NOTU** (National Organisation of Trade Unions), says:

"It is a great victory and a huge milestone for the trade unions"

And the enthusiasm is backed by the director of Uganda's employers' organisation **FUE** (Federation of Uganda Employers), Douglas Opio:

"It is a huge achievement. We have had this discussion for years without accomplishing anything. This is a big step in the right direction."

It is expected that the minimum wage in Uganda will be around 130,000 shillings a month. This corresponds to approximately 35 US dollars. At the same time, it is ensured that the workers will get employment contracts and not just a non-binding oral agreement, which so far has been the norm, Douglas Opio says.

Yazidi Baligasima points out that for many workers this will mean a doubling of their monthly salary.

The pressure of the organisations to get a minimum wage adopted is supported by the Danish Trade Union Development Agency (DTDA) and the Confederation of Danish Industry (DI). Based on the Danish initiative, NOTU and FUE have launched a study of various parts of the labour market, and the two organisations have agreed on how the minimum wage should technically work – a proposal incorporated into the law.

So far, the government and President Museveni have refused to introduce minimum wages. The government



PHOTO: ULANDESEKRETERIATET

believes that a guaranteed minimum wage will damage competitiveness and scare away foreign investors. But neither NOTU nor FUE agrees with that assessment.

During the process, NOTU has pointed out that serious investors prefer stability and specific minimum standards. Likewise, NOTU has argued that reductions in poverty will increase the overall growth and prosperity of the country.

Douglas Opio from the employers' organisation FUE agrees: "I don't think that the minimum wage will have a negative effect," he says. He points out that employers want

to get rid of the rumour that they are exploiting the workers and do not care about the development of society. He believes that the minimum wage will motivate workers and help increase productivity in companies.

We have a saying that "if employers pretend to pay, then workers pretend to work." You do not necessarily benefit the most from that," says Douglas Opio.

Now the organisations are eagerly waiting to see if their joint pressure and the approval from Uganda's parliament will get President Museveni to change his mind and sign the minimum wage bill. ▴

A powerful alternative

For a long time, cases in Kenya have piled up in the labour courts. It is unsatisfactory for both employers and trade unions that decisions on disputes and conflicts drag on – and that disputes end up in court at all.

Therefore, the trade union confederation, **COTU** (Central Organization of Trade Unions), and the employers' association **FKE** (Federation of Kenya Employers) have tested procedures for alternative dispute resolution with the support of the Danish Trade Union Development Agency (DTDA) and the Confederation of Danish Industry (DI).

Cases do no longer drag on for years, but alternative dispute resolution also has the advantage of social dialogue being the focal point – and thus there is a chance that conflicts or disputes do not escalate.

“If the situation becomes locked between the parties, they become enemies, and if they end up in court, the winner will exult over the loser even if it was only a matter

different opinions, which could have been the entry point of negotiation. In reality, it's not something for which you absolutely need a third party to judge,” says Rose Omamo, who is Secretary-General of the metal workers' union AUKMW (Amalgamated Union of Kenyan Metal Workers).

Stephen Obiro from the FKE (Federation of Kenya Employers) agrees:

“We try to promote alternative dispute resolution and use the tools from the toolbox. More and more cases are being resolved in that way. Moreover, we have seen that it leads to a better relationship between employers and employees.”

But one thing is what happens at the individual workplaces. The relationship between the organisations has also improved.

“This means that we now work together in areas other than conflict resolution. This applies, for example, to labour market legislation and



PHOTO: ULANDSSEKRETARIATET

the efforts against COVID-19,” says Stephen Obiro from FKE.

“The employers have the resources; we have the manpower. We need each other and it's a win-win situation,” says Rose Omamo. ▴

Impacting all East Africa

In East Africa, it seems that in the future workers will be able to take their pensions across national borders.

However, regional integration between countries is not a simple feat as for instance the EU knows. And it is also true for the **EAC** (the East African Community), which is the base for regional cooperation between Rwanda, Burundi, Kenya, Tanzania, Uganda, and South Sudan.

The EAC can be compared to the EU in terms of ambitions for a common market – and ultimately political integration. This applies to the free movement of labour, goods, capital, free settlement, and the difficulties of harmonising, among other things, social benefits.

Of course, things are not progressing by leapfrogging in such complex, political processes as integration between countries. However, the project of the Confederation of Danish Industry (DI) and the Danish Trade Union Development Agency (DTDA) on social dialogue has helped push

the processes in the EAC, especially in terms of bargaining power and the inclusion of pensions and cross-border social benefits.

“The project has shown that you can talk to each other and thus become better at negotiating,” says Caroline Khamati Mugalla, Executive Secretary of the regional trade union confederation EATUC (East African Trade Union Confederation).

According to Caroline Khamati Mugalla, there was not much cooperation between the trade union and employers in relation to the EAC in the past. As a result, there were no joint recommendations and demands from the parties to the East African Community on important labour market issues.

Important issues such as removal of red tape of visa rules and tariff restrictions are now looming, and this is mainly because the trade unions and employer organisations have become better at engaging in bi-partite negotiations and ultimately

speaking with a stronger common voice to the EAC.

“It is especially because our organisations get to know each other across the board,” says Caroline Khamati Mugalla. “People at several levels – technical and political – talk together. It’s not just top bosses and top politicians. We have actually learned that from the Danes.”

The biggest victory in relation to the EAC is that the social partners succeeded in getting free movement of social benefits and cross-border pensions on the agenda. Traditionally, the EAC countries have had relatively porous borders as the inhabitants often move back and forth between countries. On the other hand, bureaucracy is enormous, making it difficult to gain a foothold, for example, if a Kenyan citizen wants to move permanently to Tanzania.

So, it is a huge task that the East Africans have set themselves – but it is new that the trade union movement and employers’ organisations have



PHOTO: CHRISTIAN JEPSEN

taken a completely different role and voice. Important decisions on joint proposals are made between the two parties, leading the lobbying of the EAC to become more effective.

“I remember at a meeting of the EAC that the president said, ‘think about how the employers and the trade union movement can sit here and work together, and even implement things! It was completely new, according to Caroline Khamati Mugalla, who also says that the organisations now travel around to other regions on the continent and share their experience on social dialogue. ▴



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**COVID-19:
The dialogue continues in difficult times**

In the spring of 2020, during the final phase of the collaboration between the Danish Trade Union Development Agency (DTDA) and the Confederation of Danish Industry (DI) in East Africa, the corona crisis hit the world. At that point, the results achieved in the social dialogue projects for the trade union movement and for employer organisations faced a test. The full consequences of the health crisis are still unknown, but the economy, especially in developing countries, is suffering. More than ever, there is a need for developing the labour market

– and cooperate for common interests. This is more successful some places than others. The parties do not always get everything they want at the negotiating table. But the trade union movement and the employer organisations continue negotiating. For example, a tripartite agreement took place in Kenya in late April. At times, the parties were frustrated and split up but nonetheless, they eventually landed a compromise. The deal ensures that an agreement will be maintained after the temporary COVID-19 suspension; the workers

can go to work if the employers provide protective equipment, and low-paid workers are temporarily exempt from tax.

Additionally, in Rwanda, the Danish support has proven to pay off. The trade union confederation CESTRAR and the employers have, among other things, negotiated an agreement with the government, which ensures financial assistance to small and medium-sized companies. In return, companies have committed to pay salaries to repatriated employees.



Confederation of Danish Industry