

CAPE

Questions and Answers: January 2011 Bargaining

- 1. The collective agreement of the TR group expires on April 18, 2011 and the collective agreement of the EC group expires on June 21, 2011. What would be the usual, expected process and calendar for collective bargaining?**

 - *The Public Service Labour Relations Act (PSLRA) stipulates that either party to a collective agreement can give notice to bargain as early as 4 months prior to the expiration of a collective agreement. For the EC table, notice to bargain the next EC collective agreement can be given as early as February 21, 2011; for the TR table, notice can be given as early as December 18, 2010.*
 - *In the past actual bargaining began shortly after the expiration of a collective agreement. It takes about six months of preparation before sitting down for the first meeting at the bargaining table. And unfortunately, it takes about 12 to 18 months to complete a round of bargaining.*
 - *EC members decide what goes to the EC bargaining table. The EC members on the EC bargaining team make decisions at the EC table. EC members decide by means of a ratification vote whether to accept a tentative agreement negotiated by their colleagues. The same is true for the TR group.*
- 2. What happened that has now affected the usual and expected process and calendar?**

 - *Treasury Board approached the Public Service Alliance of Canada, then the Professional Institute of the Public Service of Canada, then finally the other federal public service bargaining agents who were not yet at the table to propose re-opening existing collective agreements.*

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- *A collective agreement is a contract of a limited duration tying the parties to the conditions of the contract during the life of the contract. The working conditions and rights outlined in a collective agreement are in force for the duration of the agreement.*
- *Treasury Board proposed meeting immediately with bargaining agents in order to discuss amending certain clauses during the life of existing contracts rather than wait for the expiry of the various collective agreements.*
- *In other words, Treasury Board has proceeded by inviting bargaining agents to re-open their collective agreements prior to their respective expiry dates.*

3. What authority allows bargaining agents to consider and in some cases accept to meet with the employer at the bargaining table before the usual and expected period?

- *Collective agreements have re-opener clauses that allow the parties to open a collective agreement before it expires.*
- *For the TR group, the re-opener provision is found in Article TR-41.03. For the EC group, the re-opener provision is found in Article EC-52.01. Parties can propose re-opening and changing parts of the collective agreement.*
- *While the parties “negotiate”, re-opening a collective agreement is a process that is very different from the negotiation process defined in the PSLRA and to which we are all accustomed. For example, there is no recourse to a third party or recourse to a strike if there is an impasse at the table.*
- *The parties set the “rules” for bargaining, or the bargaining parameters, prior to agreeing to re-open an agreement; then they proceed accordingly to attempt to find mutually acceptable amendments to the existing collective agreement.*
- *Furthermore, because time constraints make it necessary to have bargaining teams that are well informed of issues that were outstanding at the table, CAPE has asked the members of the bargaining committees that negotiated the current EC and TR*

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contracts to meet with Treasury Board to discuss the possible re-opener amendments. Striking new bargaining committees or teams is neither feasible nor desirable under the circumstances.

- *It is most important to note that the process does not guarantee any changes to the collective agreement. Both parties do prepare and negotiate in good faith with the objective of reaching an agreement. However, it is possible that no agreement will be reached at the table as was the case for two Public Service Alliance of Canada tables.*
- *Even if there is an agreement at a table, it is also possible that the agreement is rejected by the CAPE members of the relevant bargaining unit. If there is an impasse at the table or if members reject a tentative settlement, then it is simply business as usual, the current collective agreements remains in force, and both parties prepare for bargaining in April for the TR group or in June for the EC group. Again it is important to remember that when the parties re-open a collective agreement, there is no recourse to break an impasse: no arbitration, no strike. An impasse is followed by business as usual and a return to the regular bargaining calendar.*

4. What are the parameters to which Treasury Board and CAPE have agreed for bargaining in January?

- *The parties have agreed to follow the following process:*
 - i. *The parties will meet during five consecutive days in January for the TR collective agreement and another five consecutive days for the EC collective agreement.*
 - ii. *Each party will bring a short list of proposals to the table, similarly to what the parties did in 2006 for the EC group when they agreed to the provisions of a new collective agreement after only a couple of weeks of bargaining.*
 - iii. *The parties will bargain in good faith with the intent to negotiate a new agreement.*
 - iv. *If there is no final agreement at a table, the parties will walk away from the table and bargaining will resume according*

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to the usual calendar, in April for the TR group and in June for the EC group.

- v. *If there is an agreement at a table, the agreement is submitted for a vote to CAPE members belonging to the relevant bargaining unit.*
- vi. *If the tentative agreement is accepted by the members of the group, changes are made and the members of the group have a new collective agreement.*
- vii. *If the tentative agreement is rejected, the parties walk away and bargaining resumes according to the usual calendar.*
- *The employer and CAPE have also communicated to each other the following positions from which there will be no change at the table:*
 - i. *CAPE has heard in no uncertain terms from its membership that it is not interested in the settlement that was signed at three of the five Public Service Alliance of Canada tables. Under no circumstances will CAPE agree to the settlement signed by the Public Service Alliance of Canada and Treasury Board.*
 - ii. *Treasury Board has communicated that it continues to function under severe financial constraints, requires financial predictability, and requires certainty for its employees. It is limited in what it can concede at the table for the period of constraints.*

5. Would you have enough time to prepare for the TR bargaining table and the EC bargaining table if there is no settlement in January?

- *Yes. However, because it takes several months to prepare for a new round, we are preparing for both the re-opener round scheduled for January and for the normal rounds in April (TR) and June (EC) at the same time.*
- *We must be ready for all possibilities including the possibility that the round in January is not successful for either the EC table or the TR table or both.*

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- *The EC bargaining committee for the June round has already met once. The TR bargaining committee for the April round is about to have its first meeting.*

6. What should be expected from bargaining in January?

- *The short answer is that we don't know for sure what to expect, until we start talking.*
- *This is the principal reason that we have accepted to go to the table. We believe that it is in the interest of the membership to have discussions with Treasury Board and ascertain what is available for our members and what Treasury Board expects in return.*
- *If Treasury Board makes an offer that the respective teams believe could be accepted by their group members, then there will be a tentative agreement that will be brought to the members of the group for a decision to accept or reject.*
- *If the CAPE bargaining teams believe that, after bargaining in good faith, what is on the table has no chance of being accepted, then they will walk away, and bargaining will resume in April for the TR group and in June for the EC group.*

7. What is CAPE's position on the tentative agreement signed by three of the five Public Service Alliance of Canada tables?

- *The Public Service Alliance of Canada collective agreements are negotiated by Public Service Alliance of Canada members who are knowledgeable about the circumstances in which Alliance members work and who understand their colleagues' interests.*
- *These interests may converge in some instances with the interests of CAPE members. In some instances they may be very different.*
- *CAPE does not know what was said at the various Alliance tables. CAPE will not second guess what Alliance members at those tables have decided.*
- *We respect their decision as serving best the interests of the Public Service Alliance of Canada members that they represent.*

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- *It is up to the members that they represent to make the final decision with the ratification votes.*
- *CAPE representatives have always had the utmost confidence that its members will make the right decisions.*
- *We know the same to be true for members of the Public Service Alliance of Canada: whatever they decide in the ratification votes is the right decision for them.*

8. What is CAPE's position on the Professional Institute of the Public Service of Canada's decision to not meet with the employer at the bargaining table?

- *Again, it is not up to CAPE to second guess a decision made by another bargaining agent.*
- *The members of the Professional Institute of the Public Service of Canada who were members of its bargaining committees decided that it was in the best interest of their group members to reject Treasury Board's invitation to talk at the bargaining table for the purpose of re-opening collective agreements.*
- *Professional Institute of the Public Service of Canada members know what is best for the members of the Professional Institute of the Public Service of Canada. Their conditions are different from the working conditions of CAPE members. Their interests converge in some ways and diverge in other ways with the interests of CAPE members.*
- *We respect their decision as serving best the interests of the Professional Institute of the Public Service of Canada membership.*

9. How can I be involved in the January bargaining?

- *Your bargaining team needs to know what is most important to you.*
- *CAPE will not be able to ask for membership input by means of a questionnaire in the short time that it has to prepare for the January bargaining tables.*

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- *So, we ask members to help their respective bargaining committees by providing input through emails.*
- *Please write to the Association with your list of priorities. Provide your bargaining committee with input for the January re-opener.*
- *Tell the committees what you want to see in the collective agreement now. Please write, no later than December 15, 2010 to:*

TR_JAN_2011@acep-cape.ca

or

EC_JAN_2011@acep-cape.ca

10. What else should I know?

- *There has been remarkable interest already expressed by CAPE members on the matter of Treasury Board's initiative to invite bargaining agents to re-open collective agreements.*
- *Members have taken the time to write to CAPE's national office, sometimes very detailed e-mails explaining personal situations and/or points of view.*
- *CAPE's national office takes this opportunity to thank you.*
- *However, this is not the time to stop. We continue to need your guidance and advice.*
- *Please write.*
- *Please provide your colleagues at the bargaining table with your list of bargaining priorities so that they may represent you well.*
- *Your fellow EC or TR representatives will do a good job at the table.*
- *Then, if there is a tentative agreement, it will be up to you. If there is a settlement at the table for your group, you will be asked to vote on the tentative agreement for your group.*
- *And again your participation will be invaluable.*

Thank you.