

## **No.21 Collective Bargaining and Labor Agreement** (text 305-321)

### **1 Collective Bargaining**

#### **1.1 Fundamental Rule**

- Principle of multiple unions
- Duty of maintaining neutrality →Disadvantageous treatment, dominant intervention (Art. 7, item (i) and (iii) of Labor Union Law)

Principle: Identical period, identical condition, identical method

Exception: ①Reasonable treatment in accordance with organizational strength, bargaining power

#123

②Condition for mistaken call

#124

#### **1.2 Contents of Duty of Collective Bargaining**

##### **1.2.1 Particulars Covered**

- Treatments of workers like working conditions and such
- Particulars as to the operation of labor-management relations  
←Intended meaning and purpose of Labor Union Law (Art. 1)

##### **1.2.2 Mode**

- Duty of sincere collective bargaining  
#118, #120

##### **1.2.3 Relief Method for Boycott of Collective Bargaining**

- Relief by a labor relations commission
  - Relief order against unfair labor practice (infra Art. 27 of Labor Union Law)
  - Adjustment of a labor dispute(Art. 6, infra Art.10 of Labor Relations Adjustment Law)
- Relief by a court
  - Confirmation of a status to demand a collective bargaining
  - Claim for damage caused by unfair practice

### **2 Labor Agreement**

#### **2.1 Significance of Labor Agreement**

- Normative effect (Art. 16 of Labor Union Law)
- Formal nature (Art. 14 of Labor Union Law)

#### **2.2 Normative Effect of Labor Agreement**

##### **2.2.1 Scope of Normative Effect's Influence**

- Scope in terms of contents
- Scope in terms of human

##### **2.2.2 Normative Effect and Determination/Change of Working Conditions**

- Principle of advantage
  - Germany: denial
  - U.S.: affirmation
  - Japan?

- Disadvantageous change of working conditions
  - Negative theory (cf. Art. 2 of Labor Union Law)
  - Precedent
  - #101...principle and exception

<b>RESEARCH</b> As for a disadvantageous change of the working condition through the labor agreement, the court, albeit exceptional, intervened in the labor union's decision, thus denying the labor union's right to conclude an agreement. Is this kind of attitude of the court appropriate?
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- Extended application of labor agreement (general binding power)
  - Intended meaning of Art. 17 of Labor Union Law
  - What is "the same kind of workers"?
  - Does it influence other members of the union?
  - Is it possible to bring about a disadvantageous change by means of an extended application?
  - #102

### **2.3 Obligation-ish Effect of Labor Agreement**

- Effect in case an obligation is not fulfilled: claim for damage, call of duty
- Contents of an obligation-ish part
- Obligation not to dispute

### **2.4 Termination of Labor Agreement**

- Period and contract termination of a labor agreement (Art. 15 of Labor Union Law)
  - Right or wrong as to a partial contract termination of a labor agreement
- Contents of a labor contract after the termination of a labor agreement
- #103

