

Developments

Framework of Fairness Agreement: Magna and the CAW Agree to a New Approach to Labour Relations

Magna International is an auto parts manufacturer employing over 18,000 people in 45 Canadian plants. Frank Stronach is the founder and chairman of the board of Magna. Magna has been known for its human resource practices aimed at avoiding unionization, including an [Employee Charter](#) that promises employees a number of items including competitive compensation, and a hotline for employee complaints. The Canadian Auto Workers union has 260,000 members in Canada. The CAW has attempted to organize Magna employees; however, those efforts have not been successful - only three Magna plants have been organized.

On October 15, 2007 Magna and the CAW announced that they had signed a [Framework of Fairness Agreement](#) (FFA) that establishes a new approach to labour relations. The agreement includes provisions that Magna will encourage its employees to choose vote in favour of union representation, and the union will not strike if there is a negotiation impasse. On the signing of the agreement Stronach said that "...the traditional, confrontational model of labour relations is unproductive and wastes energy that would be better focused on creating the conditions that would be fair to employees and would ensure that Magna remains competitive in the global automotive industry. Magna recognizes that the CAW has the ability to be an important ally in addressing the many competitive challenges our industry is facing, ensuring the needs of employees and society are balanced against the needs of our other stakeholders, namely customers, investors and other business partners."

Some key features of the agreement and their relationship to the text are considered here.

Chapter 3: Union Objectives and Methods

In Chapter 3 union objectives and methods are reviewed. Refer to Figure 3-4 on page 52 for a summary. The union methods referred to include strikes and union - management collaboration. The FFA includes the CAW giving up the strike weapon in negotiations with Magna and relying on union-management collaboration. In adversarial labour relations management and the union have distinct roles, and the union has little or no influence on key decisions made by the employer on issues such as investment. The employer manages and the union reacts. The FFA outlines a new role for the union through an Employee Relations Review Committee (ERRC). The ERRC will consist of three company and three union representatives. The agreement provides that the committee "... will discuss...top-level issues related to investment, production, employment, technology and the general state of labour relations". The agreement lists a number of collaborative goals and projects for the committee including the following:

- working jointly to promote new investment and production opportunities,
- joint presentations to, and dialogue with, applicable government representatives on matters of importance to the Canadian automotive industry.

Although it remains to be seen how much the union will actually be able to influence management decisions, the agreement sets out a new role for the union.

Chapter 4: Employer Objectives and Methods

Chapter 4 reviews employer objectives, methods, and labour relations strategy. Refer to Figure 4-1 on page 79 for a summary of employer objectives and methods. In the FFA the employer agrees not to lockout employees if there is a contract dispute, and rely more on union-management collaboration. The FFA illustrates a change in the employer's labour relations strategy. Previously Magna employed a union avoidance strategy. It was attempting to convince employees that they did not need a union through HR practices such as a hotline for employee concerns and complaints. The text refers to a union acceptance strategy where the employer remains neutral in an organizing attempt and then attempts to negotiate the best deal possible with the union. The terms of the FFA relating to the recognition of the union go beyond a union acceptance strategy because the employer takes an active role in encouraging employees to pursue union representation.

Chapter 6: Union Representation

Chapter 6 outlines how most unions obtain the right to represent employees by making an application for certification to the Labour Relations Board after conducting an organizing campaign to obtain employee support. During the union's organizing attempt employers are allowed to campaign against the union provided that they do not commit unfair labour practices such as threatening, coercing, or intimidating employees. Labour Relations Issue 6-1 on page 129 illustrates actual employer responses opposing a union organizing campaign. If the union is certified the employer and the union attempt to negotiate a

collective agreement. The FFA is a radical departure from traditional labour relations where there could be one battle over the union gaining bargaining rights, and a second confrontation over the terms of a collective agreement, that could involve a strike or lockout. The FFA provides that employees at each division of Magna will be allowed to vote by secret ballot on the question of whether they wish to be represented by the CAW under the terms of a CAW – Magna national agreement. If employees ratify the national agreement, the CAW will be recognized as the bargaining representative for the employees at the division, and they will become members of an amalgamated local for Magna employees. The text refers to the possibility of a union obtaining bargaining rights by way of a voluntary recognition agreement on page 108.

The FFA provides that Magna will take steps to facilitate the union obtaining the support of employees. The company agrees it will:

- provide the union with a list of all employees,
- provide union representatives access to employees during non-working hours, and
- allow the union to meet with employees prior to the vote on working time

The agreement requires the company to introduce the union at the pre-vote meeting and communicate to employees that the union and the company have a positive relationship.

The parties agree that they will communicate their support for the principles and values in the FFA and the national agreement. Although the agreement provides that the parties will respect the right of employees to choose whether to be represented by the union, it requires Magna to encourage employees to vote in favour of the agreement and union representation.

Chapter 8: Contract Negotiation

Chapter 8 outlines the negotiation of the collective agreement. Figure 8-1 on page 213 outlines the negotiation process and shows that if the parties are unable to reach an agreement there may be a strike or lockout.

In a radical departure from traditional adversarial labour relations, the FFA provides that there will be no strikes or lockouts if the parties fail to reach an agreement. Any outstanding issues will be referred to a form of arbitration - final offer selection. Final offer selection is referred to at page 277. As the name suggests, the employer and the union will submit their final offer on the outstanding issues to a neutral arbitrator who will choose between their proposals. Final offer selection has rarely been used in Canada. Giving up the right to strike is a significant departure from traditional labour relations and it has been criticized by some in the labour movement.

Chapter 9: Administration of the Agreement

Chapter 9 of the text refers to the administration of the collective agreement. In the traditional labour relations model complaints regarding an alleged contravention of the collective agreement become grievances that proceed through a grievance process and they are resolved by an arbitrator if the grievance is not settled or withdrawn.

Traditionally, union stewards have played a key role in the grievance process. The FFA establishes a new Employee Advocate position. Employees of each division in which the CAW is the bargaining agent will be represented by an Employee Advocate instead of union stewards. Employee advocates are not elected by employees; they are “selected via [a] consultative approach”. The Employee Advocate position will be posted and

employees may apply. Candidates will be interviewed by a Fairness Committee panel that will determine the top three candidates. Subsequently the top candidates will be interviewed by the CAW assistant president who selects the Employee Advocate. The Employee Advocate can be removed by a secret ballot vote; however, this is subject to the override of the CAW assistant president.

A brief summary of the conflict resolution process is provided here.

1. An employee with a concern is encouraged to utilize an open door process.
2. If the employee's concern is not resolved they may refer the matter to a hearing of the Fairness Committee. The Fairness Committee is made up of members elected by employees and members appointed by management including managers or supervisors. The non-managerial members must constitute at least 50% plus one of the members of the Fairness Committee. The FFA provides that “While some Fairness Committee members are also members of the union, they are not union representatives nor does their role include the representation of employees.” (Page 10)
3. If the employee’s concern remains unresolved they may refer the issue to the Magna hotline which will render a decision.
4. If the dispute is not resolved the issue is referred to the conflict resolution subcommittee of the Employee Relations Review Committee.
5. If the issue remains unresolved it is referred to the Employee Relations Review Committee.
6. If the dispute remains unresolved it is referred to an arbitrator.

The employee is responsible for the carriage of the matter to the point where the hotline issues a decision. The employee may obtain the assistance of the Employee Advocate in this process. The union takes over carriage of the matter after the hotline decision.

Summary and Significance

In Chapter 1 the issue of union-management confrontation versus collaboration is raised, and the possibility of increased collaboration is referred to through the text. The FFA, in particular the employer welcoming the union and the union giving up the right to strike, is a significant move away from confrontation towards collaboration. It should be noted that the agreement has critics among both employers and unions. Some union leaders have expressed concern about giving up the right to strike; and some employers have claimed that by encouraging unionization Stronach has abdicated his responsibility to educate employees about what they perceive as the negative aspects of union membership. Time will tell if the agreement is the beginning of a fundamental shift in labour relations towards collaboration that will be widely adopted, or it remains an exception to the traditional labour relations model.