



THE KEY TO A SUCCESSFUL EMPLOYMENT INJURY INSURANCE SYSTEM

ITCILO E-CAMPUS / ONLINE KNOWLEDGE

Module 4: The role of social dialogue in
building strong EIS



International Labour Organization



International Training Centre

Overview

This module highlights the lead role of social dialogue in the process of setting up and managing an Employment Injury Insurance Scheme (EIS). It first outlines the usual positions and concerns of social partners and government involved as well as their incentives to cooperate. Social dialogue is examined under an Employers' Liability system and Employment Injury Insurances Scheme. Taking the example of the introduction of a new EIS, the module describes in details the five usual stages of tripartite discussions.

Learning Outcomes

By the end of Module 4, participants will:

- Have a better understanding of the role and functioning of an effective social dialogue for deciding the appropriate model for employment Injury Scheme in a given context
- Have an insight of the prerequisite for a strong social dialogue and its benefits
- Have a better apprehension of the structure of a social dialogue when building an EIS

Legend

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In order not to lose the current page, it can be useful to open a web page in a new tab. By default, the rule is that an external link (to another site) opens in a new tab, and an internal link (to another page on the site) opens in the same tab. But this is not always the case, and it is also sometimes useful to want to open several pages of the same site at the same time, in several tabs.

If you want to open a link in a new tab, **right click on the link and select “Open in new tab”**. You can also use the keyboard shortcut **“Ctrl”+left mouse click** on the link.

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Role of effective social dialogue

- Effective social dialogue structures and processes have great potential in resolving important economic and social issues such as:
 - Encouraging good governance and supporting democratic processes;
 - Advancing social and industrial peace;
 - Supporting economic and social resilience, competitiveness, stability and inclusive growth and development
 - Supporting policies that are legitimate, fair and adapted to the real needs and priorities of workers and employers.
- Effective social dialogue depends on:
 - Respect for the fundamental rights of freedom of association and the effective right to collective bargaining;
 - Strong, independent workers' and employers' organizations with the technical capacity and knowledge required to participate in social dialogue;
 - Political will and commitment of all parties to engage in social dialogue;
 - Appropriate institutional support.

What are the different positions of tripartite partners in a social dialogue on the introduction of an EIS?

Social dialogue can be good modus operandi for government, employers and workers to discuss certain issues, find a solution and reach an agreement on the most effective EIS.

- **Workers are concerned with** safe and healthy working environment and prompt and proper workers' compensation and protection.
 - Income replacement in case of an employment injury is crucial as they count on the income earned from providing labour for daily living and savings for their future.
 - Being able to cope financially with occupational accidents or diseases, including having access to medical care, is a matter of paramount importance for them.
 - If the costs of workers' compensation are financed by employers and in some case by government subsidy, workers would not have to hold financial resources in case of an employment injury.
 - Because of limited ability of individual workers to negotiate with their employers to get adequate employment injury insurance, they rely on workers' organisations to negotiate it through collective bargaining.
 - Where individual workers have to take legal action to get compensation, they tend to claim for the maximum amount.

What are the different positions of tripartite partners in a social dialogue on employment injury?

- **Employers** are concerned about health and safety at work while generating profit and keep their business competitive on national and global markets
 - They focus on containing or reducing production cost.
 - They understand that accidents and injuries influence negatively their business performance (e.g. because of employee absences, staff turnover, reputational damage)
- Before the no-fault principle was introduced in workers' compensation, they had to protect themselves against workers' claim on compensation in adversarial legal dispute under tort system, which involved important litigation cost.
- The introduction of the no-fault principle has reduced the total workers' compensation cost and the portion attributed to litigations and labour disputes.
- However, whether under EL or EIIIS scheme, they do not have unlimited resources to dedicate to compensation either in terms of benefits or contribution rate and to prevention activities.
- They can prefer current available cash flows to the introduction of the periodic expense of employment injury insurance.



What are the different positions of tripartite partners in a social dialogue on employment injury?

- Government, when adopting policy priorities, is highly influenced by a number of external variables, including, among others:
 - The political situation
 - The national development plan
 - The political pressure from interest groups
 - The economic and demographic situations
- Government is looking for:
 - Environment conducive to peaceful industrial relations
 - Economic growth
 - Respect of its international obligations
 - Sustainable and predictable frame
 - Societal interest



[Example of Germany](#)



[Example from South Korea](#)

Government input in an EIS

- Government can provide support to the EIS scheme, even if this is commonly financed from employers' contributions
- Such inputs can be:
 - Cost for staff payroll of the institution administrating the EIS scheme
 - Cost for implementing prevention policies or initial investment cost for operating EIS scheme at its inception.
- Governmental financial support to employment injury policy schemes has to be considered within the limits of the available resources and the other priorities.

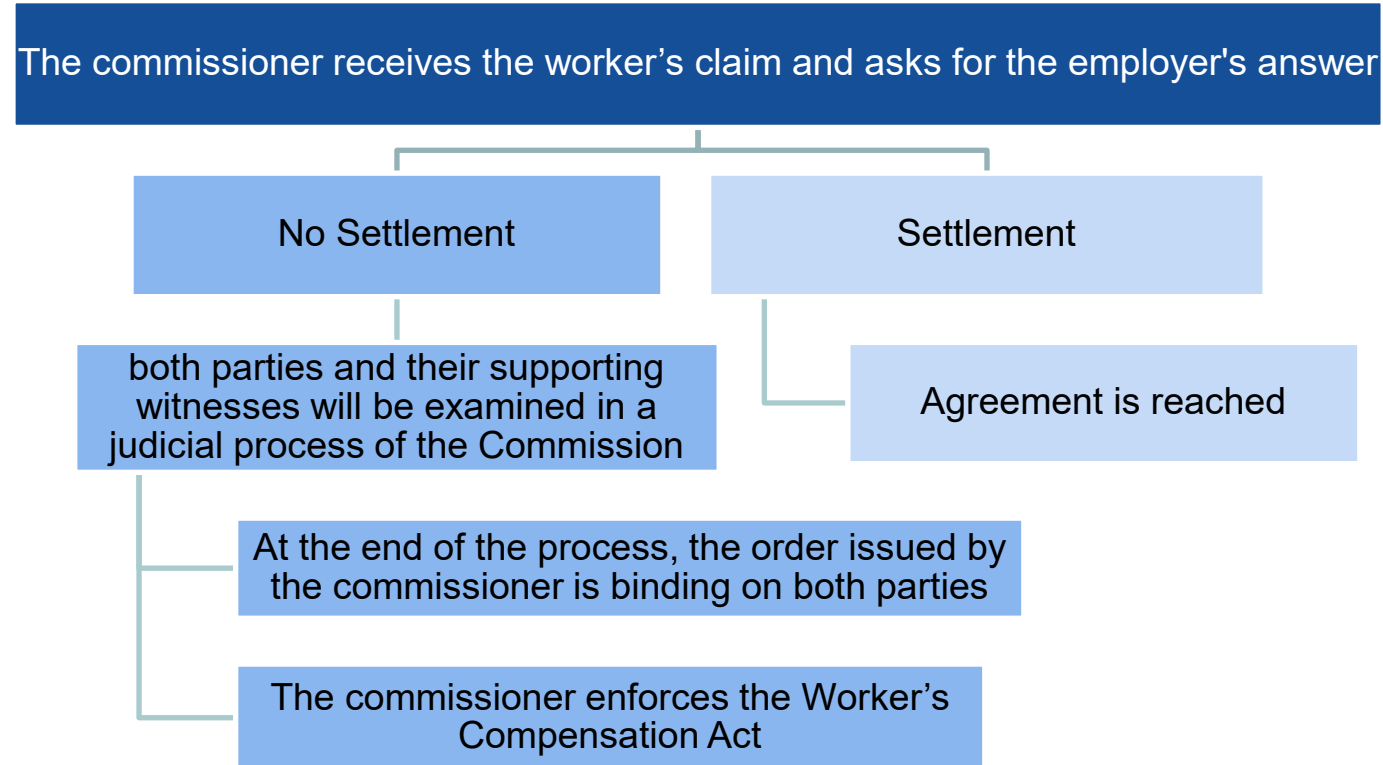
How does social dialogue work under employers' liability system?

Under employers' liability system:

- Workers' compensation is regarded as employers' direct payment to their occupationally injured or sick workers or to the workers' survivors in case of death.
- Communication is usually bipartite social dialogue between workers and management at the individual workplace.
- If workers are unionized, workers' compensation can be dealt with through collective bargaining agreements.
- Disputes often exist and involve legal action and settlement in court, even when employers purchase private insurance for the liability.

How does social dialogue work under employers' liability system?

- As workers' compensation disputes are rather specialized and related to national legislation enforcement, the government can engage in the bipartite relations by establishing a **Workers' Compensation Commission**:



- Workers may select the option of going to civil court under tort system instead of going to the Commission.

How does social dialogue work under EIS?

- EIS is a social insurance using risk pooling mechanism to address financial constraints of employers' liability system and to secure workers' compensation right.
- The introduction of EIS scheme in a country is a result of compromise reached by tripartite stakeholders.
- Under EIS:
 - The government, through the relevant ministry and a governing body supervises the institution that implements and administers the EIS scheme;
 - The institution can be a newly set or an existing social security organization administering other schemes (see module 3).
 - Such institution administers contributions and benefits and contracts with health care providers for medical services.
 - The governing body is usually a bipartite or tripartite board.

How does social dialogue work under EIS?

- Employers are responsible for reporting the list of workers and the occurrence of occupational injuries and diseases to the EIS institution and pay due contribution to the scheme.
- In return, they are free from legal liability under national workers' compensation act. With the introduction of an EIS, the employers' liability is transferred by law to the EIS. It is a no-fault system. This is a great incentive for employers to support such a scheme.
- Periodic and fixed contribution to the EIS scheme makes cost for workers' compensation predictable in terms of production cost.
- Workers, in case of occupational injury (accident or disease), have quick access to known and guaranteed benefits from the EIS institution.

What is expected in a tripartite social dialogue on EIS?

- In the design and implementation of a new social security scheme as well as in the revision of an existing one, the social dialogue among relevant stakeholders is prerequisite.
- A tripartite social dialogue for introduction of EIS generally follows the sequence below:
 - 1. Raising EIS issues to social dialogue agenda**
 - 2. Initial discussion stage on EIS by tripartite social dialogue**
 - 3. Feasibility study, costing and design of EIS**
 - 4. Final discussion stage for consensus on EIS**
 - 5. Drafting EIS legal framework based on the tripartite agreement**

What is expected in a tripartite social dialogue on EIS?

1. Raising EIS issues to social dialogue agenda

- An issue such as *converting existing employer liability system into EIS scheme* needs to be raised politically;
- Stakeholders can add the point to their own political agenda to discuss it at the tripartite forum;
- It can happen that the necessity for conversion of EII scheme was felt but the discussion could not reach the level of main agenda;
- Studies on the occurrence and economic costs of occupational accidents/diseases may be used as a possible measure to raise the understanding of and interest in the subject.
- Some circumstances such as a large scale industrial accident or an initiative from relevant international organization (ILO), if occur, can incite a tripartite dialogue on EII.

What is expected in a tripartite social dialogue on EIS?

2. Initial discussion stage on EIS by tripartite social dialogue

- Active social dialogue starts in a tripartite forum such as a national tripartite workshop;
- If the country has a permanent mechanism for social dialogue such as national tripartite committee on social and economic development, the mechanism can be used from the beginning;
- Tripartite social dialogue includes discussion on current employers' liability system and its issues and disadvantages, as well as the merit of an eventual EIS scheme.
- In many cases, EIS experts help in building tripartite partners' capacities through training on EIS. They might conclude that conducting a feasibility study and costing of scheme design options on EIS in the country is needed, and resources necessary for such a study must be determined.
- Sometimes, for the sake of objectivity of the feasibility study, the social dialogue may be extended to selection of experts for the realization of the study.



What is expected in a tripartite social dialogue on EIS?

3. Feasibility study, costing and design of EIS

- Cooperation of all tripartite stakeholders is needed for the experts to obtain related data and information.
- Before the final version of the feasibility study comes out, a draft is submitted and shared among the stakeholders, who examine it and give their feedback during the intermediate workshop planned for the presentation of the draft.
- The experts take feedback into account for their final report.
- Employers, for whom contribution rate is the main issue, may ask for more justification of the necessity to convert existing employers' liability into EIS, in terms of cost and benefit context. For the employers, a reasonable level and stability of their financial contributions to the EIS is important in order to remain competitive. Also, their liability for EI should be completely transferred to the EIS and does not persist in parallel to the liability of the EIS. Employers may ask that these points are comprehensively addressed in the feasibility study.
- Workers tend to ask for as high as possible EIS benefit level and the ability to keep collective bargaining on workers' compensation at individual workplaces, along with EIS.
- Government concerns include whether EIS is in line with national development strategy, what effect the EIS scheme will bring to national economy and what type of administrative structure is suitable for EIS implementation.

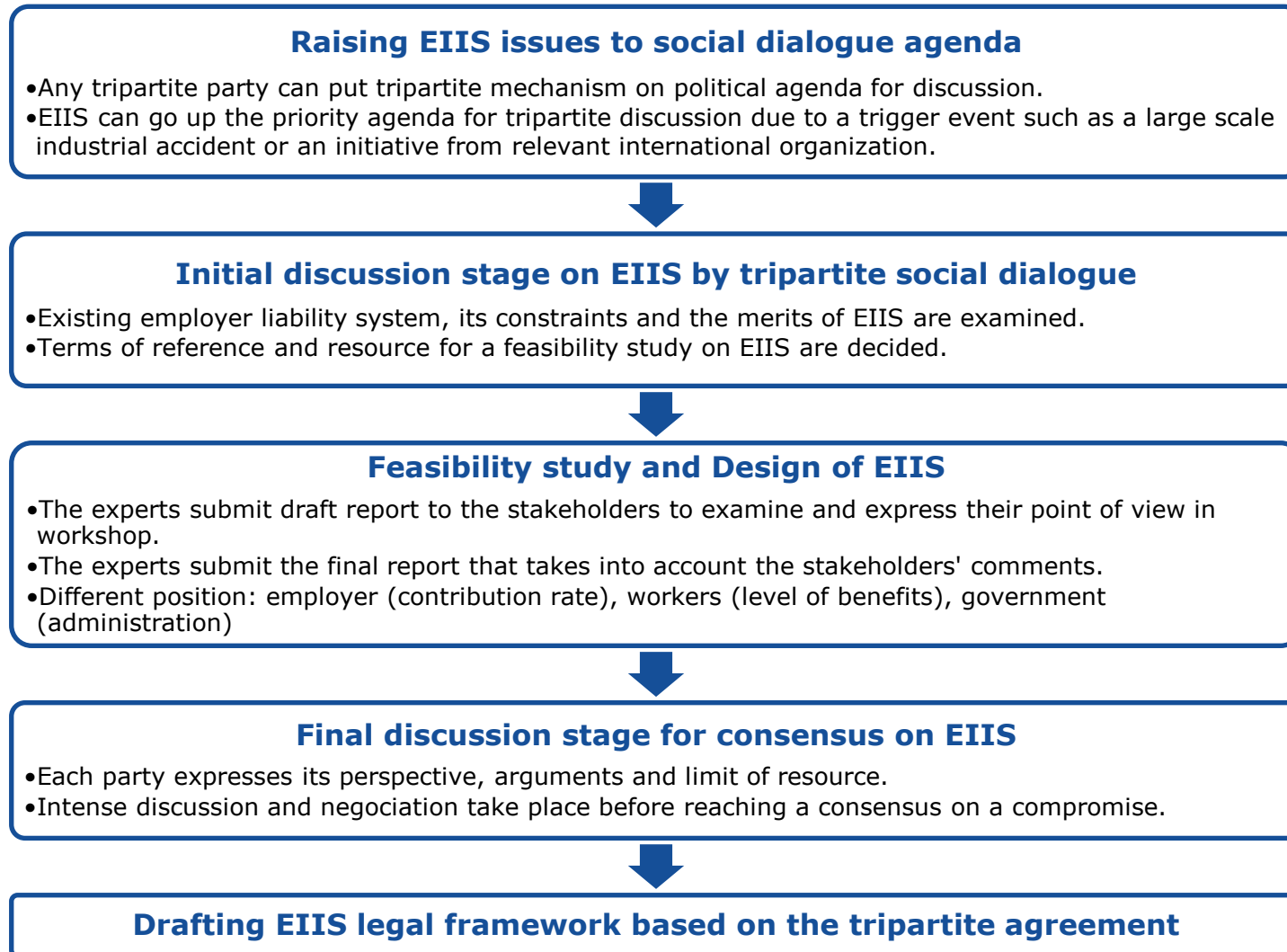
What is expected in a tripartite social dialogue on EIS?

4. Final discussion stage for consensus on EIS

- General options for the design of the scheme are submitted to tripartite stakeholders.
- Political negotiations take place among the stakeholders through tripartite social dialogue.
- Stakeholders express their respective perspectives, arguments and limits of resource, sometimes through intense discussion and negotiation.
- After many give and take steps, a compromise can be agreed upon.

5. Drafting EIS legal framework based on the tripartite agreement

What is expected in a tripartite social dialogue on EIIS: A summary




What is expected in a tripartite social dialogue on EIS?

- Consensus on a new EIS scheme or on the way to reform an existing one through a social dialogue is a time consuming process, which can take more than two or three years.
- When the discussion among stakeholders finds itself in an impasse, the government's leadership and political will are most needed to end the deadlock.

Additional Resources

Additional readings

-  [Social Dialogue and Social Security Governance: A Topical ILO Perspective](#)
-  [ILO - National Tripartite Social Dialogue: An ILO Guide for Improved Governance](#)
-  [Social Protection Floors. Volume 3. Governance and Financing](#)
-  [Compensation and Work-related Traffic Injury Benefits in Japan](#)



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What are the different positions of tripartite partners in a social dialogue on employment injury?

Germany, 19th century

When the EIS was introduced, there was a strong labour and socialist movement that caused social unrest; the ruling regime suppressed the movement but accepted their claims by making them realized in social insurance system.

South Korea

EIS can be regarded as prerequisite for industrialization by policy makers, as in the case of the introduction of EIS at the beginning of national development plan implementation in South Korea.



What is expected in a tripartite social dialogue on EIS?

A number of issues could be raised in relation to the scheme's design such as:

- What kind of mandate would the EIS have ?
- Would it also help in reintegration of workers, and also in preventive activities ?
- How would the contribution rates be set ?
- Would some incentives be introduced (e.g. based on performance but also investments in preventive activities) ?
- Would it be a general scheme or sectoral schemes ? Etc.