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# European and international framework agreements: new tools of transnational industrial relations

Volker Telljohann\*, Isabel da Costa\*\*, Torsten Müller\*\*\*,  
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## Summary

*In recent years transnational framework agreements (TFAs) at global and European level have emerged as a new tool of regulation within transnational companies. Based on an outline of the origins of TFAs, a quantitative overview of TFAs and an analysis of the strategies pursued by global and European union federations in concluding TFAs, this article discusses whether and how these new tools advance the internationalisation of industrial relations. The article concludes that a whole range of sector- and company-specific conditions must exist for a TFA to be signed. Where they exist, TFAs give global and European union federations as well as European Works Councils a recognised place in the area of global social regulation, and there are cases in which they have successfully been used to solve local conflicts. Research carried out by the authors suggests that TFAs, if used strategically, have the potential to contribute to the development of international industrial relations at company level and even, in the long term, to facilitate the trade unions' organising activities. However, because of the small number of TFAs, currently fewer than 150, their contribution to the internationalisation of industrial relations has so far remained limited.*



## Sommaire

*Au cours des dernières années, les accords-cadres transnationaux conclus au niveau international et européen sont devenus un nouvel outil de régulation au sein des entreprises transnationales. Proposant un exposé des origines et une présentation quantitative des accords-cadres transnationaux, ainsi qu'une analyse des stratégies menées par les fédérations syndicales internationales et européennes dans la négociation de ces accords, cet article se penche sur la question de savoir si et comment ces*

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nouveaux outils servent l'internationalisation des relations professionnelles. L'article aboutit à la conclusion que tout un éventail de conditions spécifiques au secteur et à l'entreprise concernés doit exister pour permettre la signature d'un accord-cadre transnational. Lorsque ces conditions sont réunies, les accords-cadres transnationaux confèrent aux fédérations syndicales internationales et européennes, de même qu'aux comités d'entreprise européens, un rôle reconnu dans le domaine de la régulation sociale internationale. Dans certains cas, ils ont pu être utilisés avec succès pour résoudre des conflits locaux. Les recherches conduites par les auteurs semblent indiquer que les accords-cadres transnationaux, s'ils sont employés de manière stratégique, sont susceptibles de contribuer au développement des relations professionnelles internationales au niveau de l'entreprise, voire de faciliter les activités d'organisation des syndicats à long terme. En raison du faible nombre d'accords-cadres transnationaux (moins de 150 à l'heure actuelle), leur contribution à l'internationalisation des relations professionnelles est toutefois restée limitée jusqu'à présent.



### Zusammenfassung

In den letzten Jahren sind transnationale Rahmenvereinbarungen auf weltweiter und europäischer Ebene abgeschlossen worden, die ein neues Regulierungsinstrument innerhalb transnationaler Unternehmen darstellen. Dieser Beitrag umreißt die Ursprünge und liefert einen quantitativen Überblick über diese Rahmenvereinbarungen. Anschließend werden die Strategien der internationalen und europäischen Gewerkschaftsbünde für den Abschluss der transnationalen Rahmenvereinbarungen analysiert. Abschließend wird die Frage diskutiert, ob und wie diese neuen Instrumente zu Fortschritten bei der Internationalisierung der Arbeitsbeziehungen beitragen. Die Autoren gelangen zu dem Schluss, dass eine ganze Reihe branchen- und unternehmensspezifischer Bedingungen gegeben sein müssen, um eine transnationale Rahmenvereinbarung abzuschließen. Wenn diese Bedingungen gegeben sind, wird den internationalen und europäischen Gewerkschaftsverbänden sowie den Europäischen Betriebsräten durch transnationale Rahmenvereinbarungen eine anerkannte Rolle in der weltweiten sozialen Regulierung zuteil. In manchen Fällen sind diese Rahmenvereinbarungen auch bereits mit Erfolg angewandt worden, um lokale Konflikte zu lösen. Aus den Forschungsarbeiten der Autoren geht hervor, dass transnationale Rahmenvereinbarungen, wenn sie strategisch eingesetzt werden, zur Entwicklung der internationalen Arbeitsbeziehungen auf Unternehmensebene beitragen können und langfristig sogar die Organisationsaktivitäten der Gewerkschaften erleichtern können. Da es derzeit jedoch nur wenige (nicht einmal 150) transnationale Rahmenvereinbarungen gibt, haben sie bislang nur einen beschränkten Beitrag zur Internationalisierung der Arbeitsbeziehungen geleistet.



**Keywords: European and international framework agreements, Global Union Federations, European Industry Federations, Europeanisation and internationalisation of industrial relations, transnational bargaining**

## Introduction

The emergence of European and international framework agreements is a process which has gained considerable momentum over the last ten years. It is also only very recently that such transnational framework agreements (TFAs) have gained more attention in publications of international institutions such as the International Labour Organization (ILO 2004; Schmidt 2007; Papadakis 2008), the European Commission (Pichot 2006a and 2006b; European Commission 2008a and 2008b) and even the G8 (see EWCB 2004). This recent emergence of TFAs can be explained by the interplay of a range of political and economic conditions.

The first and probably most important driving force was the intensification and new quality of the internationalisation of economic activities on a global scale. This process is marked by the globalisation of financial markets, the marked increase in foreign direct investment and the growing importance of transnational companies (Hoffmann 2001). The increasing internationalisation of companies has been accompanied by massive restructuring activities involving mergers, takeovers, joint ventures and cooperation schemes.

As a consequence of the growing flexibility and capacity of transnational companies (TNCs) to shift production from one country to another, trade unions intensified their attempts to create a social framework for the global economy in order to bridge the growing gap between TNCs' strategic options, which transcend national borders, and their own limited capacity to act, which is largely circumscribed by national boundaries. In the light of the limited capacity for legal regulation at global level, the best option available to create such a social framework was to push for more self-regulation through the conclusion of international framework agreements at global company level. In contrast, negotiation activities in the context of the European Union can draw on a higher level of institutionalisation of industrial relations. European Works Councils (EWCs) have, since the adoption of the EWC Directive in 1994, contributed to the spread of European framework agreements and even, significantly, to that of international framework agreements – the vast majority of which have been negotiated with TNCs headquartered in Europe.

For the purposes of the following discussion, it is important to distinguish between European and international framework agreements. In the context of our research project, whose main objective was to contribute to the ongoing debate about the Europeanisation and internationalisation of industrial relations, and in particular to the understanding of the development of new forms of regulation at transnational

company level, we used the term TFA in a generic way to refer to all agreements which transcend national boundaries. Depending on the employee-side signatories and the scope of application we then distinguished between international and European framework agreements. In our terms, a TFA is an international framework agreement (IFA) when it is signed by a Global Union Federation (GUF) and has a global scope of application; by contrast, it is a European framework agreement (EFA) when it is signed by European Industry Federations and/or EWCs and has a European scope of application. This definition is consistent with that used by the GUFs, which consider IFAs – or ‘global framework agreements’, as some GUFs call them – to be agreements between the central management of a TNC and a GUF, but we have added one criteria, the scope of application. However, a few IFAs, even if signed by a GUF, have only a regional scope. Some of them evolve with time: for example, all the five Danone agreements signed from 1989 to 1997 initially applied only to Europe, but were extended to the global level in 2006. On the other hand, some EFAs, even if signed by a European Industry Federation (EIF), have a global scope.

The results of our research are based on the analysis of all the IFAs and EFAs in existence by June 2008, as well as on the examination of the academic literature and policy documents of the European institutions, the European Industry Federations (EIFs), the Global Union Federations (GUFs) and the employers’ associations at transnational level. Furthermore, we carried out interviews with practitioners from both sides of industry including representatives from employers’ and workers’ organisations and EWCs. Finally, we also conducted four in-depth case studies of TNCs which had signed IFAs and/or EFAs.

The objective of this contribution is to improve the understanding of the emergence of TFAs as a new tool of transnational industrial relations and the role of global and European union federations in this process. We start by discussing the origins and providing a quantitative overview of TFAs. We then analyse the trade union strategies at global and European level before discussing the impact of EFAs and IFAs on the Europeanisation and internationalisation of industrial relations.

## Origins of transnational agreements

In the 1960s the International Trade Secretariats (ITSS), called Global Union Federations since 2002, encouraged the creation of networks and world councils within TNCs to develop exchanges of information and in due course to engage in transnational bargaining with those companies, particularly in the metal, chemical and food sectors. Given the persistent refusal of the management of TNCs to recognise them as bargaining agents, the absence of a legal framework for TNC bargaining at the international level, and internal divisions on the labour side, among other things, transnational collective bargaining (TCB) was all but an easy endeavour. The obstacles to TCB have

been the object of academic debate since the 1970s. The dominant assessment was rather sceptical since a number of legal and sociological factors were perceived as obstacles to collective bargaining even at the European level. Considerable differences exist between the actors and systems of industrial relations at both the global and European levels, now as then. Yet TCB has started to emerge. The Europeanisation of industrial relations and particularly the adoption of the Directive on European Works Councils have played an important and often underestimated role in the emergence of transnational negotiations and framework agreements (da Costa and Rehfeldt 2008).

In the 1970s, TNCs faced restrictive actions on the part of different national governments and attempts at regulation at the international level. The OECD Guidelines for Multinational Enterprises were adopted in 1976, soon followed by the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy of the International Labour Organization (ILO) in 1977, and there were on-going negotiations in New York to establish a United Nations Code of Conduct for Multinational Enterprises. At the European level, the European Commission introduced a series of initiatives, including a proposal for the so-called 'Vredeling' directive, aiming at promoting European-wide employee representation and the possibility for negotiating with TNCs. In a less ambitious version, this proposal led to the Directive on EWCs, which was finally adopted in 1994.

The agreements to set up EWCs constitute a unique European contribution to TCB. According to the ETUI's EWC database, 1486 such agreements had been signed by February 2009. This figure includes agreements to establish a number of EWCs which no longer exist because of TNC mergers, relocations, etc. However, we have not included these agreements to set up EWCs in our analysis of EFAs because, for us, EFAs are one of the results of the interaction between these new European institutions for worker representation (once set up), trade union organisations and TNCs in Europe. Indeed, an unforeseen evolution has taken place in the practical functioning of certain EWCs. Under the Directive, EWCs have only information and consultation rights, but some have now participated in the negotiation of TFAs, and even actually signed a majority of these agreements. Some of these EFAs have far-reaching consequences in terms of industrial restructuring, the most significant so far being those negotiated at Ford and General Motors, whose content go far beyond the clauses usually found in IFAs (da Costa and Rehfeldt 2007).

EWC initiatives and involvement coordinated with the strategies of union organisations at the national, European and global levels have given a new impetus to transnational collective bargaining with TNCs. The role of EWCs and the evolution of union strategies at the national, European and global levels help explain why European multinational companies have become more amenable to signing agreements with ITSs/GUFs after decades of refusal to acknowledge them as bargaining partners. Part of the answer lies also with the evolution of the debate about codes of conduct, which has been the object

of several studies. The strategy of the firms and even sometimes the personality of their managers have been determining factors in some cases. With the development of corporate social responsibility (CSR), of coordinated human resource practices at the group level, or during transnational restructuring for example, the management of certain TNCs has also been interested in these voluntary and autonomous forms of social dialogue.

In 2004 the European Commission announced its intention to carry out a study and to consult the social partners on the elaboration of an 'optional' framework for transnational collective bargaining. It was included in the Social Agenda 2005-2010. The group of experts submitted its report in 2005 (Ales *et al.* 2006) backing the adoption of such an optional legal framework through a Directive on the establishment of a European system of transnational collective bargaining complementing the existing national systems. The report, together with a first analysis of existing IFAs and EFAs (Pichot 2006a), was presented and discussed during a seminar organised by the Commission with the representatives of the social partners in May 2006. The representatives of the union organisations were in favour of such an optional framework whereas the majority of the employers' representatives present at the seminar were opposed to it. They all agreed, however, on the need to have more information on the subject (Bé 2008). A survey of transnational agreements interviewed human resource managers and EWC members in a sample of 25 European companies whose results were presented during a second seminar on the subject organised by the Commission in November 2006. A second analysis of existing IFAs and EFAs (Pichot 2006b) was also presented at that seminar. This time the employer representatives expressed a strong opposition to any legal framework on transnational collective bargaining, even if it were to be 'optional'. The ETUC, on the other hand, expressed its conditional support. The Commission issued a new document on the topic in July 2008 announcing the creation of a group of experts to study transnational company agreements. Since there is currently no legal framework for TCB neither at the company level in Europe nor at the international level, only TFAs co-signed by national trade unions or replicated by a series of identical national agreements can have a legally binding affect.

## **A quantitative overview of TFAs**

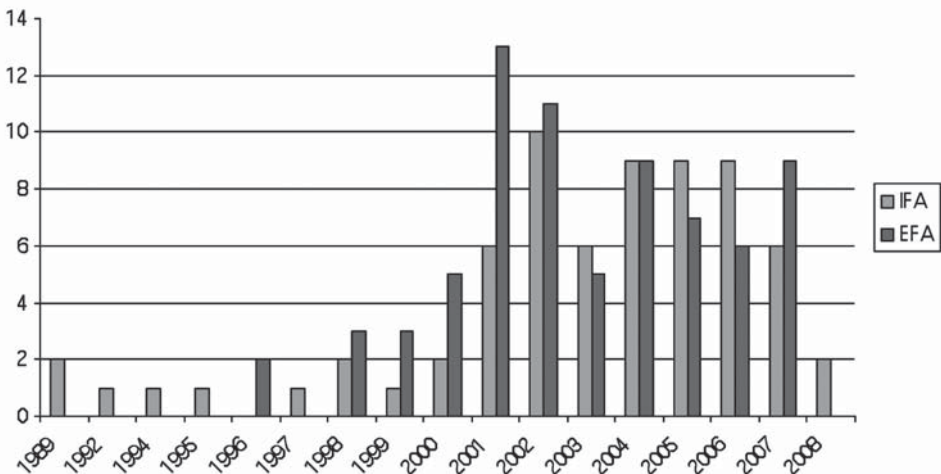
A common feature of IFAs is that they include basic labour rights. Following a recommendation first adopted in a common 'model' for such agreements elaborated in 1998 by the GUFs and the International Confederation of Free Trade Unions (ICFTU), the GUFs have decided not to sign such an agreement if it does not explicitly recognise the core labour standards contained in the Declaration on Fundamental Principles and Rights at Work, adopted by the ILO in 1998. Several of the IFAs also contain minimum terms and conditions of employment (working time, wages, health and safety). A few IFAs specifically address single issues such as health and safety (Arcelor-Mittal) or industrial relations procedures (Danone). The scope of application of certain IFAs goes beyond the TNC and also includes its subcontractors, although very few do so in a constraining manner.

Moreover, a few IFAs, although signed by a GUF, have only a regional scope – for example Chiquita, the only IFA signed by a US-based TNC, only applies to Latin America. Some of them evolve with time – for example, all the five Danone agreements signed from 1989 to 1997 initially applied only to Europe, but were extended to the global level in 2006.

Based on Zimmer (2008), we have identified 66 IFAs as of June 2008, most of which had been signed after 2000. The vast majority of IFAs (59 out of 66) were signed with companies headquartered in the European Economic Area (see Figures 1 and 2). Half of all IFAs were signed with German (17) and French (16) companies. One company alone (Danone) has signed a third of all French IFAs. Of the remaining seven non-European IFAs, two companies are headquartered in South Africa, and one each in Russia, New Zealand, Australia, Canada and the USA. The first British, Japanese and Brazilian companies to sign an IFA did so in the second half of 2008 and were not included in our study.

All the existing ten GUFs except the Education International and the International Transport Workers' Federation (ITF) have signed at least one IFA. Three IFAs were co-signed by more than one GUF. The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco, and Allied Workers' Associations (IUF) pioneered the trend by signing the first agreements with Danone (1989-1997) and Accor (1995). The IUF signed a total of nine agreements, but, since 2004, has not signed any new ones. The International Metalworkers' Federation (IMF) signed the largest number of IFAs (19). Some IFAs are also co-signed by national or European union organisations. Nearly all of the IFAs signed by the IMF are co-signed by an EWC or, as in the case of Volkswagen, Daimler, Renault and SKF, by a world works council (WWC). This is more seldom the case with IFAs signed by other GUFs. But even when they do not co-sign the agreement, EWCs are often involved in the monitoring procedure of the IFA.

**Figure 1: Number of IFAs and EFAs signed per year**





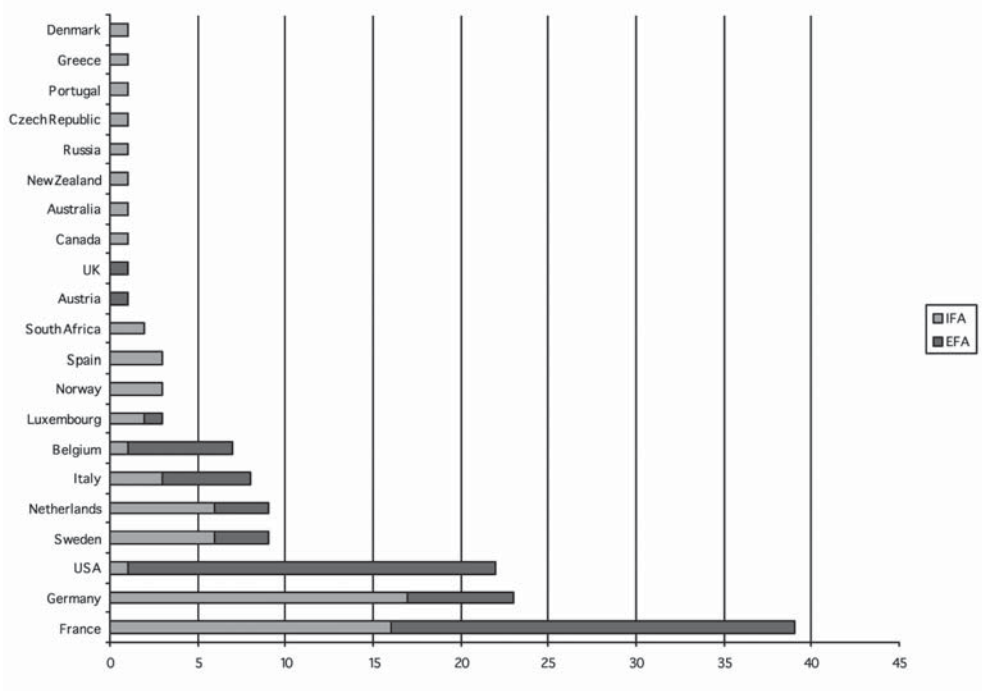
Our analysis of EFAs is based on our own research (Telljohann *et al.* 2009) and on data made available by the European Commission (2008a). The Commission document distinguishes between 'European', 'global' and 'mixed' agreements or texts. For the purpose of our comparative analysis between EFAs and IFAs, we have isolated from the data of the Commission all the agreements we had previously qualified as IFAs. We then considered the remaining agreements as EFAs, regardless of their European or global scope – 13% of the European agreements (ten in seven companies) have a global scope.

We have thus identified 75 EFAs signed between 1996 and mid-2007. This is quite likely an underestimate, since there is no centralised way to collect the data or receive the information when an EFA has been signed. Data on IFAs are easier to gather since each GUF knows exactly how many IFAs it has signed.

The first EFAs were signed in 1996, the year the EWC Directive entered into force. Since 1998, EFAs have quickly expanded (Figure 1) with a first peak in 2001 and a steady development since then. Only 13 existed prior to 2001. Unlike IFAs, a great number of EFAs were signed by TNCs headquartered in the USA, more precisely by the European subsidiaries of five US companies. With 21 agreements, they rank second, just after the 24 EFAs signed by TNCs headquartered in France (Figure 2). In terms of content, EFAs cover a variety of issues. The most frequent are restructuring, social dialogue, health and safety, human resources management/social policy, and data protection. Fundamental social rights play only a minor role in EFAs whereas they are predominant in IFAs. Similarly to IFAs, some EFAs are mere declarations of common understanding whereas others are quite detailed and codify concrete measures of implementation.

The vast majority of EFAs (54 out of 75) were signed by EWCs. Some were co-signed by national or European unions. For a certain number of agreements we lack detailed information about the identity of the signing parties. 42 EFAs were signed by EWCs alone, 11 were co-signed in cooperation with European Industry Federations, among which three were also co-signed by national unions. EWCs are often involved either in the negotiation and/or the monitoring process. Five agreements have been signed by European Industry Federations only (the French oil company Total in 2004, 2005 and 2007, Areva 2006 and Schneider 2007). This recent development reflects an evolution of the strategy of these organisations towards EFAs. The EMF, for example, followed by the ETUC as well as several other EIFs, demands that the signature of EFAs be reserved to union organisations. Thus, as we are now going to see, the strategies of the GUFs towards IFAs and of the EIFs towards EFAs are multifaceted and continue to evolve.

Figure 2: Home country of TNCs with TFAs



## Trade union strategies

### The strategies of the Global Union Federations towards IFAs

In the light of the limited scope of political regulation at global level, the GUFs view IFAs as a central tool to establish a social dimension to economic globalisation. In order to push for more self-regulation and participation in TNCs, the GUFs extended their approach vis-à-vis TNCs to include the establishment of transnational structures – such as Global Union Networks and World Works Councils – and the definition of norms and rules through IFAs.

Within this broader approach towards TNCs, trade unions pursue the following four intertwined key objectives with the conclusion of IFAs: first, the establishment of minimum social standards in all the TNCs' operations worldwide, including their suppliers and subcontractors; secondly, the development of a continuing dialogue with management at international and national/local level; thirdly, supporting trade union organising campaigns in the respective TNCs and their suppliers; and fourthly, the improvement of international cooperation between trade unions through the

establishment of worldwide trade union networks within TNCs (Rüb 2006: 7). However, the priorities of the individual GUFs with respect to these four overall objectives vary according to the interplay of a range of factors including:

- (1) sector-specific factors such as the degree of internationalisation more generally and the organisation of the commodity chains more specifically<sup>1</sup>;
- (2) company-specific circumstances, such as the tradition of industrial relations and management's attitude towards cooperating with trade unions, the interests pursued by management with the conclusion of an IFA, the depth and organisation of the companies' production and value chain, and the strength of trade unions within the respective company;
- (3) the internal constellation of interests and power among the national affiliates of each GUF.

The interplay of these internal and external factors varies but, generally, we can distinguish two different GUF approaches to IFAs. The first one views IFAs primarily as an organising tool to gain new members. Thus the IUF – based on a critical analysis of the IFAs in its organisational domain in 2005 – concluded that the practical impact of the IFAs in promoting workers' rights was very limited and that they failed to facilitate the activities of the IUF's national affiliates within TNCs. As a consequence, the IUF decided that future IFAs should go beyond the ILO Core Conventions' right to collective bargaining and freedom of association by also containing detailed provisions which:

- enable trade unions to get access to potential members,
- ensure that TNCs do not intervene in the organising activities of trade unions at national and local level,
- provide for effective arbitration, mediation and conflict resolution mechanisms,
- and provide the IUF and its affiliates with the resources necessary for the implementation and monitoring of the IFA (Weinz 2006: 25).

The improvement of the national affiliates' organising capacities is also an important element in the second approach, as pursued by the Building and Wood Workers' International (BWI), IMF and International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM). However, their approach is more pragmatic.

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1 Broadly speaking, it is possible to distinguish two different categories of IFAs depending on whether the sector is dominated by buyer-driven commodity chains (for instance, in labour-intensive industries such as textiles, clothing, and the household appliances industry) or by producer-driven commodity chains (for instance, in capital-intensive industries such as the automobile and aviation industries). In the case of buyer-driven commodity chains, the GUFs aim to conclude IFAs which apply to the supply chain because most of the production is outsourced to a complex multi-tiered network of suppliers. In the case of producer-driven commodity chains, the IFAs mainly aim to monitor the activities of the company's own operations. For a more detailed discussion of the relationship between the transnational organisation of the production process and the conclusion and function of IFAs see Fichter *et al.* 2007, Hammer 2008 and Miller 2008.

They view IFAs as ‘living documents’ which are continuously improved by actual practice. Their main focus in concluding an IFA is therefore to establish an ongoing dialogue and working relationship with the central management of companies at global level and to use this as the basis for the promotion and improvement of fundamental employee and trade union rights, including the right to organise and to collective bargaining. A special case is UNI-Global, where we can find both orientations due to the diversity of its organisational domain. It is therefore possible to distinguish UNI-Graphical’s campaign-oriented strategy in concluding IFAs from the more consensual approach of UNI-Finance, which primarily aims at the establishment of a transnational framework of industrial relations (Platzer and Müller 2009).

Regardless of these differences in the overall objectives pursued by the GUFs, we can observe a shift over time from a quantitative strategy of concluding as many IFAs as possible to a qualitative strategy which pays much more attention to the effective implementation and enforcement of the agreements. Thus, whereas in the 1990s the GUFs viewed the conclusion of IFAs as an aim in itself in order to create a critical mass of IFAs to put pressure on hesitant companies and on international institutions of global governance to adopt binding rules, over time qualitative aspects have become increasingly more important even if this means that fewer IFAs may be concluded in the future.

This shift in the overall strategy of the GUFs is also reflected in their more concrete approach towards the establishment of effective monitoring and verification mechanisms. In practice there are a variety of different approaches. The first approach is to outsource the implementation and monitoring process to external agencies such as certification and auditing firms. This option is viewed rather sceptically by the GUFs because it risks excluding them from the process and, consequently, losing control over it. They are therefore only prepared to accept the involvement of external agencies in order to assist the monitoring of widely dispersed supplier networks and then only if concrete procedures of how to monitor and how to use the results of the external monitoring have been agreed beforehand (Müller *et al.* 2008: 9).

From a trade union point of view, ‘the only real system of “independent monitoring” of workplaces is by the workers themselves through their trade unions’ (Hellmann 2007: 28). However, since the GUFs lack the structures and resources necessary for such an ‘independent’ monitoring, the majority of the GUFs try to ensure that they are at least involved in determining the monitoring rules and procedures and that they are continuously informed and consulted during the process (Kearney and Justice 2003: 109).

There are different ways to achieve this objective. One is to cooperate with companies and NGOs in the context of multi-stakeholder initiatives – as is frequently done by the International Textile, Garment and Leather Workers’ Federation (ITGLWF). Another way to achieve this objective is to set up joint management-trade union communication platforms within individual companies. This strategy is, for example, pursued by the BWI

with the establishment of so-called reference or monitoring groups, which normally consist of at least one representative of the BWI, of the trade union and/or of the company level employee representation structure in the company's home country and at least one representative of central management (Rüb 2006: 18). The task of these reference or monitoring groups, which meet at least once a year, is 'that of exchanging and developing views on the management system and defined standards, and on their compliance or non-compliance with the agreement' (Hellmann 2007: 28). In some cases the reference or monitoring group also organises joint factory inspections in the suppliers' sites.

In addition, the GUFs have also developed their own monitoring capacities (Rüb 2006: 20-22). Since this approach depends heavily on the activities of the GUFs' national affiliates, two central elements of this strategy are, on the one hand, organising campaigns in order to strengthen trade union presence in TNCs and their suppliers and, on the other hand, the organisation of training programmes for national and local trade unionists in order to provide them with the necessary skills to ensure an effective monitoring of the IFA. Building on these basic steps, the GUFs also try to establish global trade union networks within TNCs, which not only link trade union representatives from different countries but also local, regional and global levels of trade union representation. The aim of these structures is to create an ongoing and transparent flow of information between the different levels – both bottom-up and top-down. These networking structures therefore not only provide an opportunity to develop mutual trust among the employee representatives from different countries and regions, but they also provide a formal channel along which the information gathered at local level is effectively conveyed to the central level – i.e. the GUF, the national affiliate and/or the central company level employee representation structure in the respective company's home country. It is only on the basis of reliable information from the local level that the GUFs or their national affiliates in the company's home country can utilise their direct access to central management in order to ask for corrective measures in the case of a violation of the provisions of the IFA.

## **The European Industry Federations' approach towards European framework agreements**

Whereas IFAs are by definition signed by trade unions and therefore represent a genuine trade union tool to establish fundamental employee and trade union rights in transnationally operating companies, the majority of EFAs have been signed by EWCs, a company level representation structure which – due to the specific nature of the EWC Directive – does not provide a formal role for trade unions. The negotiation of EFAs by EWCs therefore represents a strategic dilemma for trade unions. In view of the growing transnational economic challenges, European-level negotiations by EWCs, on the one hand, represent a useful strategy to counter the increasing transnational economic activities of TNCs and to deal with their consequences. On the other hand, trade

unions need to ensure that they stay involved in company level negotiations at European company level, because if EWCs decide to enter into negotiations without involving trade unions, then unions risk being marginalised.

Euro-pessimistic observers described such a scenario already over ten years ago when European-level negotiations by EWCs were no more than a faint gleam in the eye of some Euro-optimists. Keller (1995) and Schulten (1996) for instance pointed to the risk that negotiations between EWCs and management could lead to the emergence of micro-corporatist arrangements which – particularly in dualistic industrial relations systems – could weaken national regulation by reinforcing trends towards more decentralised and company-specific forms of regulation. The two authors furthermore argue that in dualistic systems, such micro-corporatist alliances between EWCs and managements could detach national subsidiaries from their sectoral regulation systems and eventually erode the collective bargaining function of trade unions.

Against this background, most EIFs have by now set up some kind of structure consisting of the national experts who are responsible for dealing with EWCs in their national trade union in order to develop effective mechanisms to coordinate the EWC-related activities. Although these activities vary, a common feature of all the EIFs' coordinating activities is the central role played by checklists, model agreements and guidelines jointly developed and adopted by the national unions. Most EIFs have adopted some kind of common approach to the negotiation procedure and have developed standards regarding the content of agreements to set up EWCs and the role of national trade unions and their EWC coordinators. The EMF was the first EIF to go one step further by developing two sets of rules to deal first with the challenges posed by the increasingly frequent transnational consequences of company level restructuring, and secondly the rise of EWC-based company level social dialogue since the beginning of the 2000s.

The first set of rules is the 'EMF Policy Approach Towards Socially Responsible Company Restructuring' (EMF 2005), whose main objective is to provide for complete transparency of information and to ensure that trade unions remain involved at all stages of the restructuring process in order to avoid that management attempts to play off workforces from different countries.

The second set of collectively agreed standards is the 'Internal EMF Procedure for negotiations at multinational company level' (EMF 2006), which was adopted in response to the increased negotiation activities of EWCs in the absence of a legal framework ensuring the national implementation of European framework agreements concluded at company level. The growing challenge of negotiations conducted primarily via EWCs was compounded by the fact that the EMF had no official mandate from its national affiliates for the negotiation of European framework agreements. The EMF's new procedure seeks to close this gap by defining the conditions under which the EMF could be given a negotiation mandate by its affiliate organisations in order to

conduct negotiations on their behalf at the transnational company level. The first step of the EMF's internal mandating procedure is the organisation of a comprehensive information and consultation procedure involving all the national unions involved in the company, the EMF coordinator, and all EWC representatives. On the basis of this information and consultation procedure, the trade unions concerned may decide to open negotiations. The negotiation mandate sets out not only the specific issues to be negotiated but also defines the procedures to be followed and the composition of the negotiating team. The draft agreement negotiated by the negotiating team then also needs to be approved by the trade unions concerned before the EMF general secretary or an authorised person can sign the agreement on behalf of all the trade unions concerned. The mandating procedure furthermore contains a provision which obliges all trade unions concerned to implement the agreement at national level in accordance with national law and practice.

At the time of writing, the mandating procedure had been applied in three companies (Areva in 2006, Schneider in 2007 and Thales in 2009). It is therefore still too early to assess the effectiveness of the EMF's coordination procedure as a tool to ensure trade union involvement in the negotiation of EFAs. However, an examination of some of the obstacles encountered may prove instructive.

The first problem is the question of how binding these internal procedures and standards actually are for the EMF's national affiliates. Even though the political approach to restructuring and the mandating procedure have been approved by all national affiliates through the EMF Executive Committee, the EMF still relies on the cooperation of its national affiliates actually to implement the commonly agreed standards because it has no means to sanction non-compliance other than by exerting moral pressure. The EMF's lack of power to enforce these guidelines is particularly problematic in situations of company restructuring when economic core interests of workers are concerned and trade unions from different countries are in competition with each other. In such a situation, compliance with the EMF approach requires a high degree of solidarity and European consciousness on the part of the national affiliates including the preparedness, if need be, to make concessions for the benefit of workforces in other countries and to communicate these concessions to its national constituency. Furthermore, even if national full-time officers are prepared to follow the EMF 'rule book', these full-time officers still need to convince the company level employee representatives, which in turn presupposes the existence of effective and close links between full-time trade union officers, company level employee representatives and the EWC representatives at national level.

However, despite these potential problems, the EMF's declared intention to develop a genuinely European approach to company level restructuring as well as the definition of a procedure to deal with the problem of the potential decoupling of EWCs and trade unions in the context of negotiating European framework agreements are still the most

advanced examples that exist so far and serve as a best practice example for most of the other EIFs. Building upon this analysis of the strategies of GUFs and EIFs at sectoral level, the following section will look more closely at developments at company level.

## **New dynamism in European and global industrial relations?**

We have analysed four cases in depth for which we interviewed key actors: Daimler, Danone, ENI and General Motors Europe (GME). All have developed company level industrial relations at transnational level showing how TFAs can contribute to the internationalisation of industrial relations. The Daimler case shows, for example, how the conclusion of an IFA provided the basis for the establishment of dialogue and negotiation procedures between management and the World Employee Committee at global company level and how this impacts on industrial relations in countries outside the EU. Danone is the company with the longest experience in the field of international industrial relations. The agreements that have been signed since 1988 can be considered breakthroughs in international industrial relations. This longstanding experience makes Danone an important case with regard to the development of an articulated system of company level industrial relations. The IFA on international industrial relations and CSR signed at ENI has contributed to supporting the company's international growth and sustainable development strategies as well as to creating a global union network. In the case of GME, since the beginning of this decade several EFAs dealing with social responsibility and the social regulation of restructuring processes have been signed. Thus, the GME case provides important insights into the contribution of EFAs to the development of an articulated system of industrial relations at European level, showing how the different levels of collective bargaining are interlinked. In all these cases TFAs are part of a broader system of interlinked levels of employee interest representation which comprises various national and transnational institutions. The cases also show the potentially mutually reinforcing relationship between the development of European and/or global company level employee representation structures and the implementation of a TFA. As regards the impact of the international agreements on the internationalisation of industrial relations, the cases reveal the potential of IFAs as a tool for solving local conflicts. The application of IFAs also in the EU-15 countries illustrates that this so-called 'soft' tool can also help to resolve conflicts in highly institutionalised industrial relations contexts.

It can be observed that the most recent IFAs tend to be more precise and tend to include more specific provisions on the implementation of the agreement. The case studies as well as the analysis of the documents thus suggest that IFAs have the potential to contribute to the development of international industrial relations at company level and, in the long run, to facilitate the trade unions' organising activities.



However, the experiences with IFAs also illustrate that these are still exceptional developments which depend heavily on company-specific factors such as the existence of strong trade unions and/or company level employee representation structures in the company's home country. Even if these exist, it still takes the willingness of these strong national employee-side actors to use their privileged position in the national industrial relations context to push for the negotiation of IFAs. Furthermore, due to the voluntary nature of IFAs, management must be willing to cooperate with trade unions. The fact that only in very few cases have GUFs managed to compel management to the negotiation table by organising global campaigns underlines the importance of management's openness towards the conclusion of IFAs. A third factor which facilitates the emergence of IFAs is the existence of a cooperative industrial relations tradition in the company's home country.

All in all, the spread of IFAs has so far remained quite limited, not only in comparison to the overall number of TNCs but also to the number of unilaterally promoted codes of conduct (Schömann *et al.* 2008). If the situation remains unchanged, the existing IFAs might just remain a significant but restricted number of positive cases. The situation might, however, change if management attitudes evolve; if the GUFs intensify their global campaigns; or if the World Bank, as reported by the BWI, agrees that trade unions' rights to organise and to collective bargaining will become mandatory, rather than just encouraged, on all Bank funded infrastructure projects. According to BWI (2009) the new commitments will be introduced in 2009. This may provide an incentive for companies to sign additional IFAs with GUFs.

European framework agreements, on the other hand, reflect the traditions of European industrial relations. The agreements cover a wide range of issues such as restructuring, health and safety, data protection, HRM and social dialogue. The emergence of EFAs can be explained by three main factors. First, a growing number of EWCs developed their internal working, communication and networking capacities in ways which enabled them to go beyond the information and consultation role stipulated in the EWC Directive by initiating European-level negotiations. Secondly, the external pressure resulting from companies' restructuring programmes prompted EWCs to initiate European-level negotiations in order to prevent workforces from different countries from being played off against each other. And thirdly, management increasingly discovered European-level negotiations as a tool to facilitate the introduction of transnational policies and as a tool to avoid the often time-consuming process of conducting multiple negotiations in each individual country.

Thus, EWCs play a pivotal role in the emergent forms of transnational bargaining through the conclusion of EFAs (and even IFAs). Most EIFs support this negotiating role of EWCs provided that they (and their national affiliates) stay involved in the process. Even though many EIFs more and more openly express their ambition to play a leading role in transnational negotiations at company level, none of them ignores the existence and the accumulated experience of EWCs.

Although EWCs played an important role in negotiating and concluding EFAs, empirical evidence suggests that the stronger involvement of trade unions – like, for instance, at General Motors Europe, Areva, Schneider, Suez or Total – leads to more concrete agreements which also contain stronger provisions concerning the implementation of the agreement.

This seems to be particularly true for EFAs dealing with restructuring processes (Telljohann 2007). The responses at the level of the various framework agreements correspond to the different challenges that have to be met in the respective cases. Here we can distinguish between responses to actual processes of relocation and to the threat of relocation or plant closures in general. In cases of actual relocation, management and workers' representatives try to apply adjustment policies (e.g. Ford, GME), while in the case of relocation threats the response consists in reducing incentives for relocation or plant closures in general (Galgóczy *et al.* 2006). Approaches characterised by reducing incentives can be based on a proactive strategy (e.g. Schneider) or on defensive trade union strategies (e.g. GME) (Telljohann 2008). The case of Schneider, for example, shows a promising ability to envisage and anticipate change. At Schneider, an agreement was signed between the management and the EMF on 'anticipating change', which committed the company to promoting lifelong learning. Thus, the agreement aims to contribute to overcome skills discrepancies and increase the long-term employability of its employees. The management agreed to enter into European negotiations with the involvement of the EMF, since the EMF proved to be able to aggregate the interests of the various national affiliates. In this case, the early choice of a proactive approach to restructuring considerably extends the range of possible actions.

## Conclusion

IFAs are a new instrument for industrial relations at the global level that instil recognition of social partnership across national borders and yield entirely new forms of social regulation at global level. Potential spillover effects include the promotion of social dialogue and cooperation, the development of mutual trust, and new potential for conflict resolution. Finally, by giving employee representatives and trade unions new opportunities to form networks and pursue mutual goals, they can also help to close the gap between the largely national context in which employees and trade unions act and the overarching European and/or global context in which TNCs operate.

The process of internationalisation of industrial relations seems to be characterised by the fact that IFAs serve to promote key features of the dominant national models of cooperative industrial relations. This implies that IFAs are clearly concentrated in TNCs whose headquarters are located in social market economies characterised by collective interest representation as the basis for the regulation of work and the labour market, whilst there are only a few experiences in more liberal market economies where

labour-management cooperation often reflects an employer-led perspective driven by short-term financial performance and the decentralisation of collective bargaining.

Since the conclusion of IFAs requires the existence and interplay of a whole range of favourable company-specific factors, the prospects for a massive spread of IFAs, particularly to companies from outside continental Europe, seem to be limited, since at the global level – in contrast to the European level – there is no mechanism for worker representation equivalent to EWCs to coordinate with and support the strategy of the GUFs. If trade unions' rights to organise and to collective bargaining become mandatory on all infrastructure projects funded by the World Bank, however, the diffusion of IFAs might gain a new impetus.

European framework agreements differ from IFAs signed at global level in scope and content. Whilst the large majority of IFAs focuses on fundamental rights, EFAs cover a broader range of topics. This is probably due to the higher level of institutionalisation of industrial relations at EU level. Thus, there is no evidence that European framework agreements automatically represent a step towards an IFA; conversely, there is no evidence that EFAs stand in the way of achieving international framework agreements. As the situation has become more complex, however, there is clearly an increased need for trade union coordination between the national, European and global levels.

In the context of European-level negotiation processes, restructuring and anticipation of change represent topics of major importance. EFAs dealing with restructuring vary according to the different challenges that have to be met in the respective cases. In cases of actual relocation, management and workers' representatives try to apply adjustment policies, while in the case of relocation threats the response consists in reducing incentives for relocation or plant closures in general. There are, however, various factors hampering the negotiation of EFAs in the context of restructuring processes. Apart from a lack of institutionalised rights to negotiate at the European level, structural and cultural differences between national systems of interest representation as well as diverging interests have often proven to be major obstacles, although more relevant in actual relocations, than in cases of a proactive approach aimed at anticipating change. All in all, the global and European transnational agreements we have analysed constitute new industrial relations tools with a potential for regulation within transnational companies. Whether or not they will endure and even develop in the context of the current financial and economic crisis remains to be seen.

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