



European Foundation for the Improvement of Living and Working Conditions

# European and international framework agreements: Practical experiences and strategic approaches



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# Foreword

The increasing number of transnational framework agreements signed in recent years, both at global and European levels, has begun to attract the attention of the ILO, the European Commission and research experts. International framework agreements (IFAs) and European Framework Agreements (EFAs) are qualitatively new instruments for industrial relations that encourage the recognition of social partnership across national borders and yield entirely new forms of social regulation.

This report provides an analysis of the content of IFAs and EFAs, examines the strategies of the employer and union organisations involved in signing these agreements and assesses the contribution of these texts to the potential internationalisation of industrial relations.

The negotiation of IFAs can potentially be seen as the start of a bargaining procedure at transnational level, since they are by definition bilateral company-related agreements concluded between Global Union Federations (GUFs) and central management. In contrast, EFAs are signed by European Industry Federations (EIFs), EWCs and/or national unions and hence have a regional (European) scope of application.

IFAs and EFAs can help to close the gap between the trade unions' largely national action arena and the overarching global arena in which Transnational Companies (TNCs) operate. The rationale for taking the initiative to negotiate IFAs/EFAs can be traced back to the effects of the globalisation of production structures and human resource strategies. From the management point of view, IFAs/EFAs can contribute to facilitating the introduction of transnational policies, thereby avoiding time-consuming processes of conducting parallel negotiations in the various individual countries. The cases analysed in the research presented here reveal the potential of IFAs/EFAs as a tool for solving local conflicts.

The spread of IFAs has so far remained quite limited and it is probably unlikely that the situation will change in the near future, given the evolution of the strategies of the social partners at global level. Thus, because of their limited spread, not to mention their relatively short existence, the contribution of IFAs to the internationalisation of industrial relations has so far been slight.

I hope that this report will contribute to a greater understanding of some of the issues involved in industrial relations at international level.

Jorma Karppinen  
Director

### **Acronyms used**

BDA	Bundesvereinigung der Deutschen Arbeitgeberverbände
BWI	Building and Wood Workers' International
COM	European Commission
COTANCE	Confederation of National Associations of Tanners and Dressers of the European Community
CPC	Company Policy Committee
CSR	corporate social responsibility
EFA	European framework agreement
EIF	European Industry Federation
EMF	European Metalworkers' Federation
ETI	Ethical Trading Initiative
ETUF-TCL	European Trade Union Federation: Textiles, Clothing and Leather
EURATEX	European Apparel and Textile Organisation
EWC	European Works Council
GUF	Global Union Federation
HRM	human resources management
ICEM	International Federation of Chemical, Energy, Mine and General Workers' Unions
ICFTU	International Confederation of Free Trade Unions
IFA	international framework agreement
IFBWW	International Federation of Building and Wood Workers
ILO	International Labour Organization
IMF	International Metalworkers' Federation
IOE	International Organisation of Employers
ITGLWF	International Textile, Garment and Leather Workers' Federation
ITS	International Trade Secretariat
ITUC	International Trade Union Confederation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
NGO	non-governmental organisation
NZA	Neue Zeitschrift für Arbeitsrecht
OECD	Organization for Economic Co-operation and Development
SAI	Social Accountability International
TFA	transnational framework agreement
TNC	transnational company
UNI	Union Network International
WTO	World Trade Organisation
WWC	World Works Council

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# Executive summary

## Introduction

The increasing number of transnational framework agreements (TFAs) signed in recent years, both at global and European levels, has begun to attract the attention of the ILO, the European Commission and research experts. This report provides an analytical presentation of the content of TFAs, examines the strategies of the employer and union organisations involved in signing these agreements and assesses the contribution of TFAs to the internationalisation of industrial relations.

## Policy context

According to the European Industrial Relations Dictionary, the term International Framework Agreement (IFA) has been adopted as a means of clearly distinguishing negotiated agreements from the type of voluntary codes of conduct. While codes of conduct represent unilateral initiatives, the negotiation of IFAs can potentially be seen as the start of a bargaining procedure at transnational level, since they are by definition bilateral company-related agreements concluded between Global Union Federations (GUFs) and central management. IFAs are signed by Global Union Federations (GUFs) and have a global scope of application, whereas European Framework Agreements (EFAs) have a regional (European) scope of application and are signed by European Industry Federations (EIFs), EWCs and/or national unions and central management.

IFAs and EFAs have expanded since 2000, with only a few signed before that date. Most IFAs address the fundamental social rights or core labour standards contained in the ILO's 1998 *Declaration on Fundamental Principles and Rights at Work*. A few IFAs also address other issues such as health and safety. The vast majority of IFAs have been signed by four GUFs (IMF, ICEM, UNI and BWI). On the company side, 61 of the 68 existing IFAs were signed by companies having their headquarters in continental Europe, particularly in Germany and France. A substantial number of IFAs are also meant to be applied to suppliers and subcontractors, although the implementation of these principles varies considerably.

EFAs are more heterogeneous than IFAs, both in terms of content and procedure. EWCs play an important role not only in the negotiation and signature of these agreements (they have signed a large majority of them), but also in the implementation and monitoring processes of a growing number of them. EFAs cover a great variety of issues, including restructuring, social dialogue, health and safety, human resources management and data protection. Fundamental social rights play only a minor role in EFAs, whereas they are the predominant issue in IFAs.

## Key findings

Almost 70% of the existing IFAs mention suppliers and subcontractors, and half of the agreements merely oblige companies to inform and encourage their suppliers to adhere to the IFA. 14% of the IFAs actually contain measures to ensure compliance by suppliers, and 9% are to be applied to the whole supply chain, with the transnational company assuming full responsibility.

Most IFAs stipulate the formation of a joint body consisting of employee and management representatives in order to ensure the implementation of the agreement. The employee-side delegation usually comprises company-level representatives and a representative from the GUF and from the union of the company's home country. Sometimes a representative of the EWC is involved

as well. In other cases, no such joint body is set up and the annual meeting of the EWC is used to communicate the implementation of the IFA. If there is a World Works Council (WWC) in place, this body is in charge of the implementation of the IFA.

IFAs vary considerably in terms of the provisions defining their scope of implementation. Whereas a number of IFAs define comprehensive implementation measures, others formulate only a few steps towards implementation. Nearly all IFAs contain the obligation to inform the employees about the agreement. In 16% of all IFAs, no further implementation measures are specified. A substantial number of IFAs contain concrete steps of implementation, such as including compliance with the IFA in the catalogue of the company's corporate auditing process. Several IFAs lay the foundation for building up a structure to deal with grievances: usually, rather than stipulating a system of mediation (ombudsperson), a chain of grievance resolution is laid out. Sometimes compliance has to be integrated into all purchasing contracts with suppliers and licensees. More than 50% of existing IFAs contain provisions to strengthen the rights of local unions based on ILO- Convention No. 135, which prohibits discrimination against workers' representatives. The overall trend is that IFAs signed more recently are more precise and include more specific provisions of implementation than earlier IFAs.

The great majority of the agreements identified here as EFAs were signed by EWCs (52 out of 73): 42 were signed by EWCs alone and 10 were co-signed in cooperation with European Industry Federations, among which 3 were also co-signed by national unions. Five EFAs (Total in 2004, 2005 and 2007; Areva in 2006 and Schneider in 2007) were signed by an EIF alone (European Metalworkers' Federation/EMF). This very recent development reflects a more critical attitude of EIFs towards EWC agreements. The EMF, followed by the ETUC and other EIFs, requires that the negotiation and signature of transnational agreements be reserved to union organisations.

### **Policy pointers**

IFAs are a qualitatively new instrument for industrial relations at the global level that encourages recognition of social partnership across national borders and yields entirely new forms of social regulation at global level. Potential spill-over effects include the promotion of social dialogue and cooperation, the development of mutual trust, and new potential for conflict resolution. IFAs can also help to close the gap between the employees' and trade unions' largely national action arena and the overarching global arena in which TNCs operate.

The rationale for taking the initiative to negotiate IFAs can be traced back to the effects of the globalisation of production structures and human resource strategies. Following on from these developments, the national unions and structures of interest representation perceived the need to develop transnational representation structures and to sign IFAs in order to develop a capacity to act globally. From the management point of view, IFAs could contribute to facilitating the introduction of transnational policies, thereby avoiding time-consuming processes of conducting parallel negotiations in the individual countries.

The analysed cases indicate the potential of IFAs as a tool for solving local conflicts. The application of IFAs in the EU15 countries illustrates that this so-called 'soft' tool can also help to resolve conflicts in highly institutionalised industrial relations contexts. The analysed cases show that the coordination between GUFs and local actors can play an important role in the process of solving local

conflicts by gathering and communicating information on the cases concerned and by verifying the solutions to the problem.

IFAs serve to promote key features of the respective national models of social partnership and cooperative industrial relations. This implies that IFAs are clearly present 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, while there are only a few examples of IFAs in liberal market economies.

The spread of IFAs, particularly among TNCs from outside continental Europe, has so far remained quite limited and it is probably unlikely that the situation will change in the near future given the evolution of the strategies of the social partners at global level. Thus, because of their limited spread, not to mention their relatively short existence, the contribution of IFAs to the internationalisation of industrial relations has so far been slight.



# Introduction

The emergence of international framework agreements (IFAs) is a process that has gained considerable momentum over the last seven years. Of the 68 IFAs that currently exist, only five were concluded before the year 2000. It is also only very recently that IFAs have gained more attention in publications of international institutions such as the ILO (2004a and 2004b), the European Commission (2004, 2008a and 2008b) and the G8 (EWCB, 2004). The reasons for this very recent emergence of IFAs can be seen in 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 increasing importance of transnational companies (TNCs) (Altvater and Mahnkopf, 1996; Hoffmann, 2001; Hübner, 1998). The increasing internationalisation of companies has been accompanied by massive restructuring activities involving mergers, take-overs, joint ventures and cooperation schemes. As a consequence of these processes of growth and internationalisation, the structure and strategy of TNCs has changed considerably over the past decades and often follows a logic of 'centrally controlled decentralisation'. This means that while, on the one hand, strategic decisions are increasingly taken centrally at the TNC's headquarters, local management, on the other hand, has more discretion in implementing central decisions at the operative level.

As a consequence of TNCs' growing flexibility and capacity to shift production from one country to another, trade unions began to attempt 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, since they are largely circumscribed by national boundaries. In the light of the limited capacity for political regulation at global level, the only realistic option to create such a social framework was to push for more self-regulation through the conclusion of IFAs at global company level.

The development of such voluntaristic initiatives was fostered by parallel processes such as the growing critical public attitude towards the transnational activities of TNCs or NGOs, geared towards creating a social and ecological framework for the global economy. At the same time, the development of dialogue between trade unions and the management of TNCs about establishing global norms and rules at global company level has been facilitated by the fact that the issue of 'social responsibility' became more important for the TNCs themselves. An indicator for this growing social awareness among TNCs is the fact that more than 1,000 companies have joined UN Secretary-General Kofi Annan's 'Global Compact' initiative since 2000.

The interplay of all these economic and political conditions created a window of opportunity for the emergence of IFAs as a tool not only to establish a floor of minimum social standards at global company level, but also to establish a working relationship between the central management of TNCs and Global Union Federations (GUFs).

For many companies, IFAs are therefore one element within their increasingly complex CSR policy, which is designed, among other things, to promote a positive public image and reputation in order to avoid potentially economically damaging public campaigns, to gain access to capital markets and to build good relations with political and economic decision-takers. From this point of view the main function of an IFA is to define a set of shared moral standards and values, and to communicate these

throughout the company worldwide – rather than to engage in an industrial relations exercise of negotiating terms and conditions.

## **Defining IFAs**

As Hammer (2005) points out, a definition of what constitutes an IFA is needed in the light of the rapid growth of IFAs and other company-level initiatives in the field of corporate social responsibility (CSR) during the past seven years.

According to the European Industrial Relations Dictionary (Eurofound, 2006), the term ‘international framework agreement’ has been adopted as a means of clearly distinguishing negotiated agreements from the type of voluntary codes of conduct that corporations have increasingly adopted unilaterally to demonstrate their commitment to CSR. While codes of conduct represent unilateral initiatives, the negotiation of IFAs can be seen as the start of a bargaining procedure at transnational level since they are by definition bilateral company-related agreements concluded between GUFs and central management. By negotiating an IFA, management acknowledges the GUF’s legitimacy to speak on behalf of the whole workforce (Müller and Rüb, 2004a).

In addition to the distinction between IFAs and unilateral codes of conduct, another important differentiation needs to be made between IFAs signed at global level and European framework agreements (EFAs), which are limited to the company’s European operations (Carley, 2001; Carley and Hall, 2007), such as the ones signed at General Motors Europe (da Costa and Rehfeldt, 2006a) and Areva (Telljohann, 2007a). Thus, compared to IFAs concluded at global level, EFAs (limited to the European context) differ in scope and content, and in general focus on a broader range of topics. With regard to the role of EFAs and their relationship to IFAs, an important question to be investigated is whether regional framework agreements are to be considered a step towards an IFA, or, conversely, whether they in effect stand in the way of achieving IFAs.

## **Content of IFAs**

In general, IFAs are negotiated and signed by central management and GUFs, which serve as representatives of workers in a particular company or industry at the global level. In several cases, GUFs developed and applied model framework agreements in order to define certain minimum standards concerning both the content of an IFA as well as the negotiation procedure.

There are, however, variations in the contents of IFAs. This is a reflection of the different needs of workers and companies due to the specific characteristics of industries and their different traditions and relationships.

Despite these sector- and company-specific variations, recent analyses of the content of IFAs show that one feature common to all IFAs is that they make reference to ILO Core Labour Standards, such as the freedom of association, the right to collective bargaining, the non-discrimination of labour representatives, the abolition of forced labour, the prevention of discrimination in employment, the right to equal pay for work of equal value, and the elimination of child labour (Hammer, 2005; ORSE, 2006). Various agreements even go beyond the recognition of the ILO Core Labour Standards by also ensuring decent wages and working conditions, as well as a safe and hygienic work environment.

In certain cases, IFAs are intended to be used as a tool to extend cooperative industrial relations to the company's locations outside the home country.

The agreements establish frameworks of principles and are not detailed agreements. This means that they should not compete or conflict with collective bargaining agreements at national level. They are intended to create the space for workers to organise and bargain at the local and/or at the national level.

From the trade union point of view, the content of IFAs is apparently of growing importance. In assessing the content of IFAs, the position of GUFs seems to be that it is better to have no IFA at all than a weak one. From their point of view, a weak IFA only boosts the company's image, but hardly ever results in an improvement in workers' conditions. Furthermore, weak agreements might impact on future IFA negotiations by handing a strategic advantage to managements that are interested in signing an agreement that is limited in scope (IMF, 2006).

In this context, a particular problem regards provisions in IFAs that simply refer to national laws rather than to the ILO Core Labour Standards, for example. Many governments, not only in developing countries but also in Central and Eastern European countries, do not put pressure on foreign TNCs to respect labour standards because of the need to attract investment. Thus, IFAs are designed to be useful in countries where labour legislation is insufficient or poorly enforced (Eurofound, 2006). It has to be noted that in such cases, clauses that can be found in certain IFAs which simply refer to an obligation to respect national laws might be counterproductive.

Concerning the coverage of suppliers, several IFAs require that TNCs inform their subcontractors and suppliers, and encourage them to respect the principles laid down in the IFA. Other agreements include more binding provisions that oblige the signatory TNC to ensure that the principles stated in the agreement are respected by its suppliers and subcontractors. For the central management of TNCs, however, it has proven to be a real challenge to extend the application of IFAs to their business partners (Miller, 2008).

### **Actors and motives**

Most of the 68 IFAs that currently exist were signed in TNCs whose headquarters are in the EU15 Member States or in Norway. In most cases, the initiative to negotiate IFAs came from the home country trade unions and European Works Councils (EWCs). In a few cases, it was the World Works Council that took the initiative and in two cases it was the companies' management (Eurofound, 2006). As most IFAs were signed in European-based TNCs, from the trade union point of view it is a particular challenge to extend the dissemination of IFAs to countries outside Europe. But also within Europe, there is an unequal distribution in the geography of IFAs: there are, for example, no UK-based TNCs that have thus far signed an IFA (ORSE, 2006).

The important role taken by EWCs in initiating, negotiating, implementing and monitoring IFAs at a global level has been raised as a concern by several national trade union organisations, not all of them from outside Europe. They stress the fact that EWCs do not currently have negotiating mandates and that their composition can include non-union members whose views may not be supportive; furthermore, EWCs can clearly only represent workers within Europe. They therefore



urge that it should be the national trade unions under the direction of the GUFs that determine the agenda and content of any campaign to reach an IFA with a TNC (IMF, 2006). This position seems to be dominant in countries characterised by a single-tier system of interest representation, such as the UK. In countries characterised by a two-tier system of interest representation, trade unions seem to be less concerned about the role of EWCs. According to the German metalworkers' trade union IG Metall, EWCs enjoy the legitimacy to negotiate IFAs provided that they act in close cooperation with GUFs or European Industry Federations (EIFs).

For the employee side, IFAs are an interesting regulatory instrument for three main reasons: first, IFAs can be used to ensure a floor of minimum social standards that apply to all the TNC's operations worldwide; second, IFAs may represent a stepping stone for the establishment of worldwide networks and representation structures; and third, IFAs can provide a useful organising tool to build up and strengthen national union structures.

For companies, the potential advantages of IFAs are strategic in nature because IFAs offer an instrument to address the growing social concerns of consumers and investors. For most TNCs, it thus becomes necessary to also involve business partners in their approach to CSR. Another potential advantage for management is the fact that IFAs can provide the basis for the establishment of a continuous dialogue with the unions at global level, which in turn can facilitate a cooperative and partnership-based implementation of, for example, restructuring initiatives. Disadvantages from the employers' perspective with regard to the emergence of IFAs are linked to the perspective that these might develop into a new level playing field of industrial relations.

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

International framework agreements (IFAs) represent a qualitatively new instrument of industrial relations at global level since they constitute a formal recognition of social partnership across national borders. They provide a framework for protecting workers' rights and fostering social dialogue and negotiation processes at global level. In most cases, IFAs provide procedures whereby the signatories may jointly develop implementation and monitoring procedures. IFAs, thus, represent new forms of social regulation at the global level. Potential spill-over effects include the promotion of social dialogue and cooperation, the development of mutual trust and new potentials for conflict resolution.

Since in many cases the conclusion of an IFA has subsequently led to the establishment of a joint information and dialogue structure in charge of the implementation of the agreement, in certain cases IFAs also contribute to the introduction of global information and dialogue structures between central management and GUFs (Müller and Rüb, 2004a). Thus, IFAs might play an important role in solving conflicts within TNCs. Furthermore, they can also serve to strengthen global employee representation structures, such as World Works Councils (WWCs). This means that IFAs not only represent an important regulatory tool, but that they are also able to foster transnational networking among employee representatives and trade unions.

## **Research objectives and methodology**

Taking into account the state of play of research on IFAs, the present research pursued the following objectives:

■ **To provide a comprehensive overview of all existing IFAs.**

This part of the research was mainly concerned with addressing ‘what’ questions by providing a descriptive analysis and mapping of the 68 IFAs that currently exist. The research team paid particular attention to criteria such as the characteristics of the companies, the actors involved, the nature and content of the agreement (with particular reference to specific international standards and principles), the specific issues addressed by the agreement and provisions on the procedures for its implementation, monitoring, control, enforcement and dispute resolution.

■ **To provide new insights into the factors driving the development of industrial relations at transnational level based on company case studies.**

This part of the research was mainly concerned with addressing ‘how’ and ‘why’ questions. The qualitative in-depth analysis of four case studies was based on an actor-centred approach, which aims to understand the significance of the framework agreements from the perspective of the actors who were and are directly involved. The main focus and objective of this part of the analysis, therefore, was to unearth the key actors’ motivations to engage in the negotiation of IFAs, their perceptions of the key challenges involved in the process of effectively implementing and monitoring IFAs, and their views on the potential and prospects of IFAs as a new tool of social regulation at transnational company level. Besides the analysis of key documents, the main research method applied in the conduct of the four case studies consisted of interviews with key actors from both sides of industry.

■ **To provide an empirically based input into the ongoing debate on the Europeanisation and internationalisation of industrial relations more generally, and the development of new forms of regulation at transnational company level more specifically.**

The descriptive analysis of all existing IFAs and the in-depth qualitative analysis of four case studies complement each other. The former provides a bird’s eye view of the emerging IFA landscape, which represents an important starting point for the generation of hypotheses concerning the development of IFAs, the roles and strategies of the actors involved and, in particular, the potential impact of different types of IFAs on the Europeanisation/internationalisation of industrial relations. However, the inherent weakness in merely analysing agreements is that this method can only provide first clues as to what factors influenced the emergence and shape of IFAs because the formal provisions of agreements are likely to constitute only an approximate guide to actual practice.

This methodological weakness of documentary analysis can be offset by conducting qualitative in-depth case studies because this method allows deeper probing into the motivations of the actors involved and to explain causal relationships between different facts that have been established by the quantitative and descriptive analysis of the agreements. At the same time, the quantitative analysis of agreements helps to place the qualitative findings of the case studies in a broader context.

■ **To contribute to the conceptual clarity of the use of the term ‘international framework agreement’.**

Against this background, an important research objective is to contribute to the conceptual clarity of the use of the term ‘international framework agreement’ by distinguishing different types of IFAs

and by investigating their potentially divergent impact on the development of transnational industrial relations.

■ **To investigate the relationship between the provisions of an IFA and the development of actual practice.**

Since the experience of EWCs demonstrates that in many cases actual practice can go quite far beyond the provisions of the agreement, and that the provisions of the agreement have only marginal influence on the development of the EWCs' practice, another research objective – based on the complementary character of the two parts of the research design – was to investigate the relationship between the provisions of an IFA and the development of actual practice.

Due to the complexity of IFAs as a research object, the research design was based on in-depth case studies involving interviews and comprehensive documentary analysis. Four case studies on IFAs were carried out in order to identify good practices in the field of this new form of social regulation at company level. The cases were selected in the light of the following key criteria, ensuring the coverage of different types of experiences:

- the type of agreement;
- the sectoral coverage;
- the geographical distribution of parent companies and subsidiaries (including the coverage of different types of industrial relations among home countries of the transnational companies);
- the experience in working with the IFA;
- the implementing and monitoring procedure (including the form of involvement of the employee side; the extension of IFAs to subsidiaries, subcontractors, suppliers or even the entire supply chain; and mechanisms of control and enforcement);
- the development of global employee representation structures;
- the negotiation of further IFAs.

# Conceptual approaches to transnational framework agreements

Transnational framework agreements (TFAs) are a recent phenomena, the majority of them having been signed since 2000. Not surprisingly, the literature treating the topic is recent and scarce. No major theoretical breakthrough has yet emerged from the literature, but at least two conceptual approaches can be identified that incorporate TFAs into ongoing global debates:

TFAs are very often perceived as a recent development in the debate about codes of conduct and corporate social responsibility (CSR), about which there is a vast literature (see, for example, Schömann *et al*, 2008), but which it is not our purpose to analyse here.

TFAs can be considered as a stepping stone towards the internationalisation of industrial relations, an embryonic form of social regulation at the company level, and thus a recent development in the ongoing debate about transnational industrial relations, often discussed within the context of Europeanisation and of globalisation.

In the industrial relations literature, the issue of the internationalisation of industrial relations originally evoked the debate over the convergence or divergence of industrial relations systems at the national level. The main problem with this literature, however, is that it is designed for international comparisons between national countries and has little to say when it comes to the comparative analysis of objects whose nature is immediately transnational, such as European or international framework agreements.

## Convergence debate

The debate about the convergence of national industrial relations systems dates back to the 1960s with the publication of *Industrialism and Industrial Man* by Kerr *et al* (1960, 1964). At the time, the issue was not 'globalisation', but 'industrialisation'. Despite the wave of protest that characterised industrial relations in many countries in the 1960s, the authors chose to focus their analysis on the structures and rules of employment relations (1964, pp. 8-9):

*'Everywhere there develops a complex web of rules binding the worker into the industrial process, to his job, to his community, to patterns of behavior. Who makes the rules? What is the nature of these rules? Not the handling of protest, but the structuring of the labor force is the labor problem in economic development ... To examine the structuring of the labor force is thus to note the political realignments which define the respective roles of different groups in the rule-making processes of the society as well as the evolution of the substantive rules themselves which govern the world of work.'*

Among those groups, Kerr *et al* examined the determining strategies of various types of 'industrialising elites'. There is no need here to develop the industrial relations characteristics associated with each type of elite; suffice it to say that the authors envisioned a convergence towards what they termed 'pluralistic industrialism' (Kerr *et al*, 1964, p. 233). The thesis of *Industrialism and Industrial Man* was criticised mainly on the grounds of technological and/or economic determinism, but the work became a classic in the field of industrial relations international comparisons and set the terms of the debate around the convergence/divergence issue.

In the 1970s, studies such as Dore (1973) or Maurice *et al* (1977, 1982) compared different countries and tried to account for their divergences using cultural or societal explanations. Even though these comparisons of 'national models' did not have the international scope of Kerr *et al*, they seriously questioned the convergence thesis first put forward. In the 1980s, a series of industrial relations studies compared the industrial relations characteristics of different nation-states, often elaborating different country typologies (Giles, 1996; Rehfeldt, 1996; Fouquet *et al*, 2000). Many of the studies insisted on the persistence of national divergences in industrial relations systems; others focused on common trends. Thus the debate about the convergence or divergence of industrial relations continued and started to be applied to the Europeanisation of industrial relations.

In the 1990s, the debate was renewed with a new international comparison involving researchers from 11 OECD countries, led by a team from the Massachusetts Institute of Technology (MIT). The first results were published by Locke *et al* (1995). The team used the new theory of industrial relations, often termed 'strategic choice', aimed at determining the impact on employment relations of changes brought about by international competition and new production techniques. The country case studies do not show a uniform adaptation to the new conditions of international competition, but the authors outline common trends such as the decentralisation to the company level of industrial relations and human resources strategies, in which management is the initiator of change (p. 158); increased flexibility in the organisation of work; increased importance of training and skills in the labour market; and the decline of unionisation. In their conclusion, Locke *et al* hope that the old debate over the convergence of employment systems will come to an end. However, through their insistence on the decentralisation of industrial relations to the company level, and their tendency to favour a new model (strategies based on value added; innovations with flexibility rather than a return to 'traditional' relations and labour legislation) that resembled the American model of employment relations, their contribution was more to a renewal of the debate than to its end.

A common implicit hypothesis in the comparative debate is that economic changes – such as the European Single Market or increased globalisation – have an (almost direct) impact on labour relations, industrial relations systems, or the governance of employment and working conditions. The extent and nature of the impact of economic changes on employment relations, however, is neither obvious nor easy to quantify. This is particularly true of Europe where, as Hyman and Traxler (2000, p. 139) observe, '*Economic integration has been deepening and there has been progress on building European institutions of industrial relations as well. At the same time, however, national institutions retain the principal role in regulating employment*'. It is also true of the economic and human resource strategies of enterprises, national or transnational, which are far from being identical in the face of similar economic pressure. Last but not least, it is equally true of the strategies of labour at the national, regional and global levels, as will be seen in Chapter 5.

### **From convergence to articulation**

Concerning the impact of 'globalisation' on industrial relations in Europe, there seems to be no evidence of converging trends. Traxler and Woitech (2000) have showed that whereas transnational companies could conceivably have the opportunity to target investment towards countries where labour standards are low and regulatory institutions least restrict management prerogatives, those are not priorities when investors select locations and that such a strategy does not seem to be pursued. Blaschke (2000), when using a multivariate regression analysis to investigate trends in union density

in Europe from 1970 to 1995, found that the most important variable accounting for union density increase, stability or decrease was institutional, namely the existence or not of union-administrated unemployment schemes – the Ghent system. Economic factors, especially shifts in the structure of employment, also influence union density, but the evidence is ambiguous as to whether these developments can be attributed to European economic integration (*ibid*, p. 231). Thus, without taking into account that employment relations rules are not directly determined by the market but rather are mitigated by the strategies of the actors influenced by industrial relations institutions (da Costa, 2003), it would be almost impossible to explain how new rules come about and why, in the same country and same sector for example, some enterprises decide to negotiate certain agreements and others do not have the same strategy. Converging challenges, such as globalisation, can be and are actually met with different responses. This, however, does not make the challenges any less important.

Hoffmann *et al* (2002, p. 45) analyse the Europeanisation of industrial relations through the Europeanisation of the industrial relations actors, the developments in European social dialogue, European policy and macroeconomic dialogue, European coordination of collective bargaining, European works councils and the European company statute. They define ‘Europeanisation’ as ‘*the development of a complementary layer of actors, structures and processes at the European level (of a governmental and non-governmental nature) which are interacting with national institutions and actors*’.

If Europe constitutes a complementary level interacting with national levels, one of the main problems then becomes the articulation of the different actors, structures and processes. Though the issue may exist at national level, particularly in countries with multiple actors and multiple levels of collective bargaining, does the introduction of a European, and eventually a global, level just constitute a ‘complementary layer’ or rather substantially change the nature of the problem? For example, for Dunlop (1958) different levels coexisted with no particular problem – although he never envisaged an enlargement of his notion of the industrial relations system to the international level; Flanders (1970), on the other hand, identified three national levels and these levels would specialise or deal with different industrial relations contents. Is this the case with EFAs and IFAs in relation to other levels of industrial relations activity, i.e. do they deal only with particular themes? This notion is explored further in Chapter 4 on the contents of TFAs.

If we also define the internationalisation of industrial relations in the same way as Hoffmann *et al* (2002) – i.e. as a complementary layer of actors, structures and processes at the international level, which interact with national and (regional) European institutions and actors – then the problem of the Europeanisation and internationalisation of industrial relations is no longer one of *convergence or divergence*, but one of *interaction* between different levels of regulation (company, sector, national, regional, international, etc). The main question then becomes: do they constitute a supplementary level of industrial relations to be articulated to the other existing levels or are they of a different nature altogether? Are the rules set by framework agreements of the same nature as those that come out of collective bargaining? How are they negotiated and implemented? Are they articulated with rules set at other levels? What have their results been so far? Since TFAs bring about new actors, what are the strategies of these actors, what kind of coordination emerges and are there any problems in the distribution of power among them?

In order to answer some of these questions, we will first establish the contours of framework agreements – both IFAs and EFAs – and make an historical reminder of the beginnings of international bargaining at the company level (*see Chapter 3*). We will then outline the contemporary strategies of the social partners and the factors contributing to the development of IFAs. We will end with the contribution of IFAs to the internationalisation of industrial relations and the achievement of core labour standards.



# International collective bargaining at company level: A brief history

## Creation of world councils

Whereas for the management of multinational companies, the move towards internationalisation entails problems of industrial organisation and governance, for the labour movement it represents a serious challenge, which it has tried to address almost from its inception. Multinational companies can evade national boundaries by shifting production and investment across countries. At the international level, the first attempts to address the problems posed by the mobility of capital came as internationalisation intensified in the 1960s and '70s. These historical premises of international collective bargaining at company level constitute the forerunners necessary to the understanding of how IFAs developed in this century.

The project of constituting a countervailing power to that of the multinational companies at international level was elaborated in the 1960s by the International Trade Secretariats (ITSs) of the metalworking, chemical and food sectors, which were particularly affected by the process of the internationalisation of the companies. Charles Levinson – successively Assistant General Secretary of the IMF (1956-64) and General Secretary of the ICEM (1964-85) – was a key figure in the diffusion of this project. His goal was to achieve international collective bargaining directly at the level of the large multinational companies.

According to Levinson's theory, the evolution of collective action should parallel that of the companies whose multinational character would follow a series of steps up until the stage in which the companies would no longer have any particular links with a given country (Levinson, 1972, pp. 110-141). Thus, multinational union action was to progress along three stages:

- the first stage consisted in the organisation of international solidarity with a union involved in a conflict in a subsidiary of a multinational enterprise;
- the second stage included the coordination of simultaneous collective bargaining at different subsidiaries of the same enterprise in several countries;
- at the final stage, there would be integrated negotiations with the management of the multinational on the basis of common demands previously defined by the different national unions.

The ITSs encouraged the creation of world councils in order to coordinate union action and provide for the exchange of information. The idea of world councils had emerged since the 1950s within the American United Auto Workers (UAW) Union, but it was adopted by the IMF automobile conference only in 1964. European unions, particularly IG Metall in Germany, were slow to join the project they perceived as motivated by the UAW's fear of job loss if, attracted by lower wages, the American manufacturers were to shift part of their production abroad to Europe (Etty, 1978, pp. 68ff). It was only in the 1960s that the German unions accepted the American proposal. Meanwhile, a number of German companies had also become multinational.

The first automobile world councils were set up by the IMF in 1966: one for Ford, one for GM, a common council for Chrysler-Simca-Rooves, and a common council for Volkswagen/Daimler-Benz. In the following decade, over 60 councils were established, all sectors included. The figure is impressive, but the achievement actually remains rather weak given the high number of multinational



companies potentially concerned (Tudyka, 1986, p. 326). Many of these councils still exist, but others were purely formal and short-lived (Rüb, 2002). In most cases, they consisted in meeting structures for the union officials of the national federations, which met every two or three years during the world congresses of the ITSs or the sector international conferences – as in the case of the automobile sector. Sometimes the union officials who participated in the world council of a multinational company did not come out of that company. These councils were seldom composed of representatives elected by the employees of the different subsidiaries. These kinds of internal organisational shortcomings were highlighted in 1991 by a work group on the multinationals set up by the IMF to assess the activities of the world councils (FIOM, 1992).

Furthermore, certain ITSs sometimes used the world councils as a means of reinforcing their own power within the labour movement in relation to the affiliated national federations or to the international confederations that they either worked with (ICFTU) or competed with (WCL, WFTU). Several ITS leaders were openly anti-Communist. The ideological struggle was detrimental to the unity and efficiency of the trade union action at the international level. Often, as in the French case with the CGT and the CFDT, it meant the exclusion of the majority unions of the multinational headquarters. The following two examples give an idea of the complexity and difficulties of transnational union coordination at the time:

- At Michelin, the CGT, then the majority union in the company, had set up in 1968 within the ambit of the WFTU a ‘European Co-ordination Committee’ with union representatives of Michelin’s European subsidiaries. Despite the ICEM’s refusal to join that initiative, several British and Italian unions of the same tendency took part in it. The ICEM only created its own World Works Council for Michelin in 1971, after the affiliation of the CFDT’s chemical federation. FO, a minority union in the company, only joined it in 1976 (Piehl, 1974; Sinclair, 1978).
- At Dunlop-Pirelli, the ICEM created a council in 1972, which excluded the CGIL, the majority union in the company. The council was boycotted by the British shop stewards, who preferred to establish bilateral contacts with their Italian CGIL colleagues. These contacts led to what some authors have considered the first transnational European strike in 1972 (Piehl, 1974; Moore, 1978).

Despite a few important successes, the trade union action at the international level did not reach Levinson’s third stage – i.e. integrated negotiations – during his time in office. Reaching stage one (the organisation of international support during industrial conflicts) was difficult enough. The examples used by Levinson are all the more remarkable and a proof of the union activism and the efforts of international solidarity deployed by the workers in the 1970s. For stage two, Levinson gives only four examples, three of which are French: Saint-Gobain, Michelin, Rhone-Poulenc and Royal Dutch-Shell.

Levinson also mentions ‘the case of winning wage parity between Canadian workers and American workers in the same company’ (Levinson, 1972, p. 132). But the specificity of this example must be outlined because workers on both sides of the border were actually members of the same union organisation. It is precisely because unions having their headquarters in the USA also have Canadian sections that they often use the term ‘international’ in their names. There was no language barrier and the historical traditions and industrial relations structures were rather similar (da Costa, 1999). Yet, even in this example, internal coordination problems existed and, since the 1970s, there has

been a tendency towards union autonomy in Canada; the Canadian branch of the UAW, for example, broke away in 1985, becoming the Canadian Auto Workers.

As for joint bargaining with the management of a multinational (Levinson's stage three), the only example in the 1970s was Philips, whose management accepted to meet with a transnational union delegation led by the European Committee of the Metal Trade Unions (which later became the European Metalworkers' Federation (EMF) in 1971). They did this on four occasions between 1967 and 1972, but no agreement was reached. A fifth meeting, scheduled for 1975, was cancelled because the EMF tried to include a representative from the IMF in its delegation (FEM, 1995, p. 24).

Several reasons can account for the lack of success of the strategy put forward by Levinson in the years that followed. The main reason was, of course, the persistent refusal of the management of the multinationals to recognise the ITs as bargaining parties. Another important reason was the change in the economic environment. As the economic crisis started to show durable effects in terms of employment, the power relations between the unions and multinational employers started to shift. The unions became more defensive, which frequently gave rise to local or national strategies of job protection, making the emergence of international solidarity more difficult. Last but not least, the internal difficulties of organising transnational union coordination should not be underestimated. Some national unions were reluctant to transfer part of their competence to the international level.

The perceived obstacles to transnational collective bargaining were the object of scientific debate starting in the 1970s. Research, led by the Industrial Research Unit of the Wharton School of the University of Pennsylvania, and implemented in a series of case studies from 1972 to 1979, outlined the weaknesses of the early attempts of transnational bargaining and concluded that Levinson's strategy had failed (Northrup and Rowan, 1979). Some researchers closer to the union movement did the same (Ettly, 1978; Caire, 1984; Tudyka, 1986; Reutter, 1996; Müller *et al*, 2003). Gumbrell-McCormick (2000a and 2000b), on the basis of extensive interviews with leading union actors, maintains that the aim of the world councils was in fact not transnational collective bargaining, but a more modest one of transnational coordination of trade union action. It is conceivable that, after the event, actors might sometimes minimise the importance of what had been their objectives, particularly when they have not been (or only partly) attained. Levinson, however, clearly referred to transnational collective bargaining, including wages and conditions, although he was well aware that such a programme would be difficult to achieve (Levinson, 1972, p. 111).

The dominant vision in the 1970s was rather sceptical because a number of legal and sociological factors were seen as constituting obstacles to collective bargaining, even at the European level. The 'Balkanisation' of the national structures of bargaining was considered an impediment to the harmonisation of the various national systems of industrial relations. There are still considerable differences between the actors and systems of industrial relations at both global and European levels. Yet despite these differences, Levinson's final objective started to emerge at the European level, although it took a different form from that initially envisaged. What factors brought about or enabled such a change in the situation? We argue that the Europeanisation of industrial relations, and particularly the adoption of the Directive on European Works Councils, played a major role on the path that led to transnational collective bargaining and IFAs.

## European route to transnational collective bargaining at company level

In the 1970s, there was widespread public concern about multinationals becoming too powerful and out of control of the nation-states. Several plant closures of multinational subsidiaries also gave rise to general public criticism of the strategies of delocalisation or job relocation, considered as a threat to employment in European countries. Multinationals faced restrictive actions on the part of different national governments and attempts at regulation at the international level. The OECD's *Guidelines for Multinational Enterprises* were adopted in 1976, soon followed by the ILO's *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* in 1977, and there were ongoing negotiations in New York to establish a 'United Nations Code of Conduct for Multinational Enterprises'. The UN code was never adopted. But in 2000, UN Secretary-General Kofi Annan launched a 'Global Compact', which companies, as well as labour and civil society organisations, were invited to join on a voluntary basis. The ILO's *Tripartite Declaration of Principles* was revised in 2000 and in 2006. The OECD's *Guidelines* were revised in 2000 and now include a reinforced follow-up procedure.

The international labour movement favoured the attempts of the international organisations to regulate the multinationals in the late 1970s, but criticised their limits, the main one being the lack of legal instruments to force the multinational enterprises to respect the codes of conduct included in the ILO's *Principles* and the OECD's *Guidelines*, as well as the lack of sanctions in case of disrespect. It was precisely to remedy the lack of sanctions in the context of the codes of conduct about the multinationals that the European Commission presented in 1980 a project about information and consultation in multinational enterprises, known as the Vredeling Directive. The project aimed at giving the employees of large multinational companies specific rights of information and consultation. The 1980 Vredeling Directive was partly inspired by the same philosophy as the OECD and ILO codes of conduct. It was also part of a series of initiatives undertaken by the European Commission since the 1960s to promote workers' representation in European companies, including European collective bargaining in the context of the 1970 proposal of the European Company statute.

The 1980 Vredeling draft directive entailed compulsory consultation in two stages in cases of total or partial closure of subsidiaries. The first one was at the level of the subsidiary, where the employee representatives would have 30 days to formulate an opinion after being informed. If they considered that the project would directly affect their conditions of work and employment, management had to open negotiations. Although there was no obligation to reach an agreement, if passed, this directive would certainly have fostered the development of transnational collective bargaining. The project also contained the possibility for the employee representatives to directly address top management at headquarters, even when these were located outside the European Union, if they considered the information given by local management as insufficient ('by-pass' procedure). If management at headquarters agreed, it was possible to put together an overall representation for the European subsidiaries, which would have the same rights as the local representatives. After the European Economic Committee and the European Parliament gave their favourable opinion, the European Commission presented in July 1983 a modified version of the project. The most important modification was the removal of the possibility to directly address management at headquarters; in the new version, the employee representatives could only address management at HQ in writing and the response would be given by local management.

These modifications were aimed at getting the employers' approval of the directive. In fact, the reaction of the multinationals and of the UNICE to the project were extremely negative. For the UNICE, the OECD's *Guidelines* were quite sufficient and there was no need for a piece of European legislation. This position had the support of the British Government of Margaret Thatcher. The threat of using its right of veto at the European Council of Ministers was enough to prevent the adoption of the directive, at least until 1990 when the European Commission submitted a new project, about European Works Councils (EWCs), which was finally adopted by the European Council of Ministers in 1994 under qualified majority rule (a new procedure made possible by the change in the European Treaties that had taken place at Maastricht in 1992).

By that time, the European trade unions had taken over some of the collective bargaining objectives of the international labour movement, but without reference to Levinson's three-stage scheme (*see above*). As EMF General Secretary Günter Köpke stressed in 1974, this approach towards multinational companies is 'but one important element in the larger plan'. Europe-wide trade union actions were also directed towards other objectives, namely the European Commission's project on European Works Councils (Köpke, 1974, pp. 214-16). In order to set examples and put pressure on the Commission to speed up European legislation on EWCs, the EMF approached several European multinationals with the objective of creating permanent liaison committees for information and consultation. It finally succeeded in 1985 in signing a transnational agreement establishing a liaison committee with a recently nationalised French multinational, Thomson Grand Public.

The second such agreement was signed in 1986 directly at the international level (even though it had only a Europe-wide application) between the French group Danone and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association (IUF). This agreement paved the way for the signing by Danone and the IUF in 1988 of what is generally considered to be the first international framework agreement (IFA) between a multinational and an International Trade Secretariat (ITS).

The Thomson agreement served as a precedent for negotiations between other nationalised French multinationals and the EMF and other European Industry Federations for the creation of what was then called 'European group committees' and which are now considered as the first EWCs established on a voluntary basis. This movement inspired the German unions to negotiate similar agreements, most of which were signed by the German works councils and only very few were co-signed by European Industry Federations. Altogether, 32 such agreements were signed between 1985 and 1994, including by some Scandinavian and one Italian multinational. Some of the French and German agreements served as models for the 1994 EWC Directive.

The EWC Directive went into effect on the 22 September 1996. It is partly inspired by the second version of the Vredeling project. It does not, however, include mandatory bargaining in cases of restructuring, but it does establish a mandatory bargaining procedure for the constitution of a body of employee representatives for the purposes of information and consultation in transnational enterprises. It has thus encouraged a particular form of transnational collective bargaining. The agreements for the setting up of EWCs, in fact, constitute a unique European contribution to transnational collective bargaining and, for the moment, the largest number of international collective agreements at the company level. They constitute the setting up of institutional arrangements and actors at the European level, which are a prerequisite for further relations or developments at that

level and are thus not counted as EFAs. Article 13 exempted companies that had already signed a voluntary EWC agreement before this date from the obligation to negotiate with a 'special negotiation body'. The consequence was an explosion of 'voluntary' agreements during the weeks before 22 September 1996. More than 300 'Article-13 agreements' were signed in 1996. European Industry Federations have signed or co-signed nearly one-third of these and they also continued to sign some of the following Article-6 agreements (Kerckhofs, 2006).

The EWC Directive seems modest from a legal perspective since it only grants rather limited information and consultation rights. It is not a piece of legislation about trade unions or collective bargaining. It does not, however, exclude an evolution of the bargaining practices of the parties towards transnational collective bargaining at the company level on a voluntary basis. From a sociological perspective, EWCs have, in fact, been facilitators for such an evolution. EWCs are not only a tool for communication between multinational management and European employee representatives (which is their assigned task), but they are also a tool for communication among employee representatives coming from different national systems of industrial relations. Such communication is a necessary requirement for the elaboration of common objectives and finding ways to apply them. In a few companies, relationships of trust have progressively been built which, together with a number of other factors, constituted the basis for the emergence at the beginning of this century of a new dynamic leading to a new form of bargaining at European level and the signature of EFAs. EFAs include substantial transnational agreements at the company level, having far-reaching consequences in terms of industrial restructuring. The most significant so far have been those EFAs negotiated at Ford and GM Europe, the contents of which go far beyond the clauses usually found in IFAs. Other EFAs have less substantial contents, but their increasing numbers show an evolution in the functioning of EWCs – from information and consultation to the negotiation of EFAs, and sometimes even IFAs.

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 willing to signing agreements with ITs after decades of refusal to acknowledge them as bargaining partners. Part of the answer also lies with the evolution of the debate about codes of conduct, which has been the subject of several studies. The strategy of the companies, and even sometimes the personality of their managers, has been a determining factor in some cases. Before examining these union and management strategies, the content of the existing IFAs at company level is now analysed.

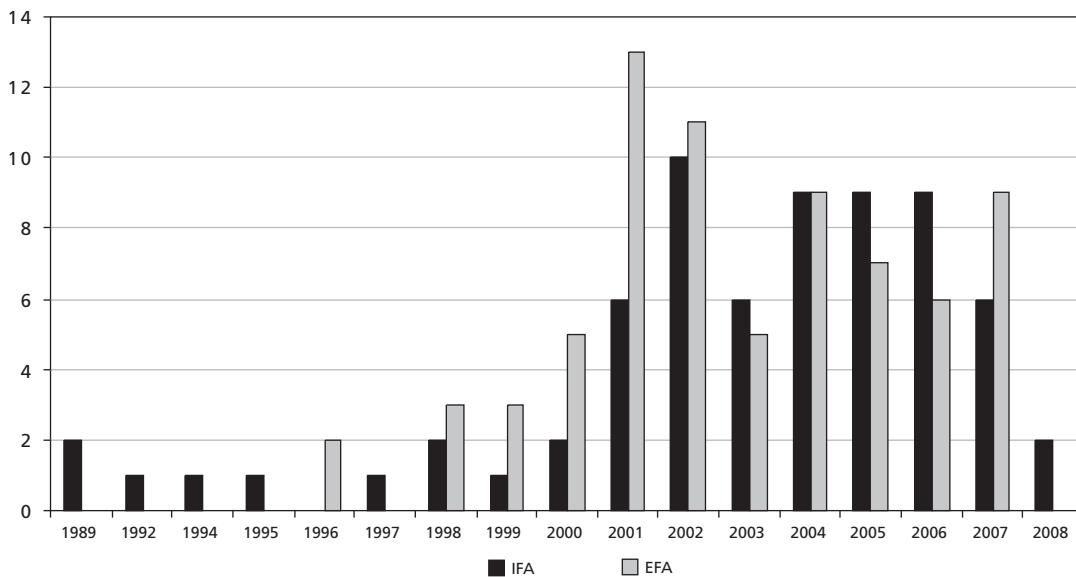
# Content of transnational framework agreements

International framework agreements (IFAs) and European framework agreements (EFAs) are included in this research in the definition of transnational framework agreements (TFAs). The differences in terms of their scope, signatories, content, implementation and monitoring have been described in Chapter 1. In the analysis in Chapter 3 of the origins of what are called IFAs in most of the literature, the role of EWCs were outlined in the process leading to the development of TFAs and it was shown how EFAs and IFAs are more closely related than the discussion about IFAs has revealed so far. The contents of IFAs and EFAs are now analysed in detail and compared to each other.

## Quantitative overview

IFAs are relatively recent, although a few pioneer agreements were signed nearly 20 years ago. At the time of writing, in June 2008, there were 68 IFAs, the majority of which came into being after 2000. As Figure 1 shows, only 11 IFAs existed before 2001, whereas since then 6-10 new IFAs have been reached annually. The same is true of EFAs – only 13 of the 73 EFAs existed prior to 2001.

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



IFAs are spread across the different sectors organised by the GUFs. The IUF pioneered the trend by signing the first agreements with Danone and Accor. The IUF has signed a total of 9 agreements, but since 2004 it has not signed any new ones. In the building and wood sector, BWI has signed 12 agreements; in the services sector, UNI has signed 12; in the chemical and energy sector, ICEM has signed 13; and in the metal sector, the IMF has signed 19 (the largest number of IFAs). Timing shows a little of the dynamics in reaching these agreements (*for further details, see Chapter 5 on the strategies of the GUFs*): while the IMF and ICEM signed most of their agreements between 2002 and 2005 (14 and 10 respectively), other GUFs such as the BWI and UNI reached their peak in signing IFAs in the last two years (6 and 7 respectively between 2005 and 2007). The remaining GUFs – the ITGLWF in



the clothing and footwear industries, the PSI in the public sector, the ITF in the transportation sector, and the International Federation of Journalists (IFJ) – have only signed one IFA each.

**Figure 2 Number of IFAs signed by GUFs**

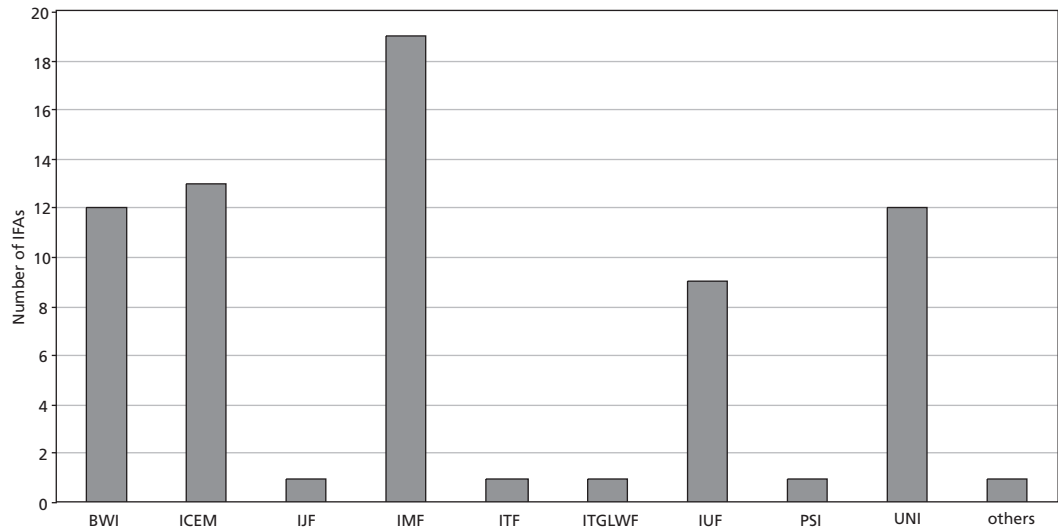
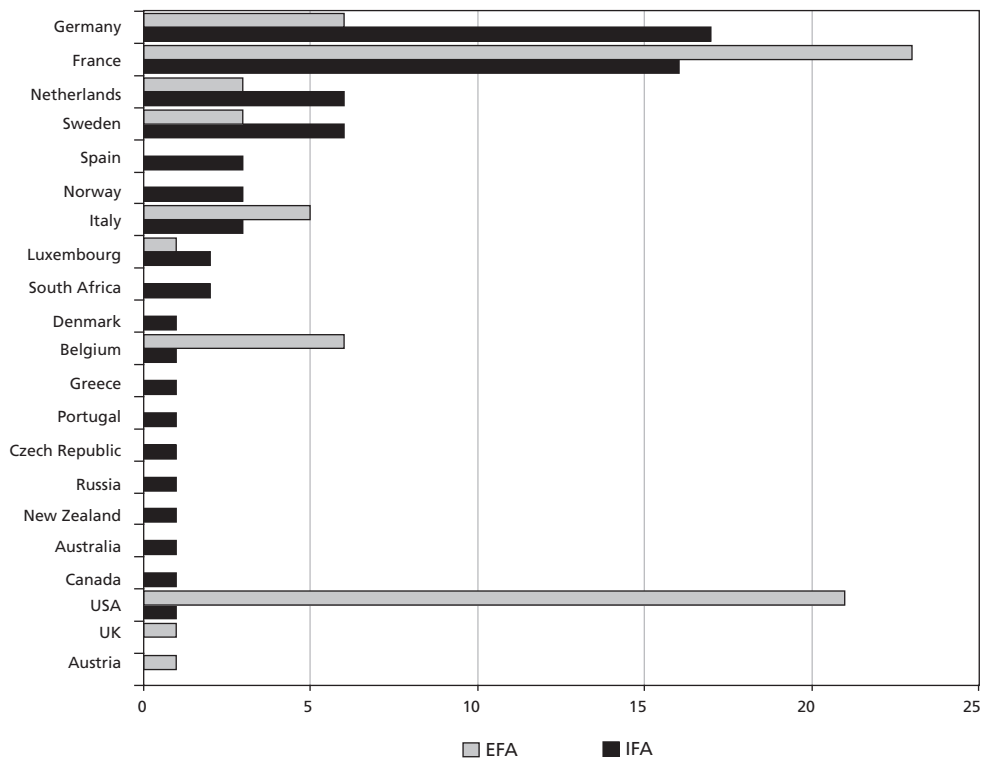


Figure 3 shows the countries of origin of the companies having signed IFAs and EFAs. The figures for the USA need some explanation. Chiquita is the only American multinational company to sign an IFA. This IFA case is particular because it has a regional scope, rather than a global one, since it only applies to Latin America, not to the USA (where the headquarters of the company are located) and not to other parts of the world. Thus, in our perspective, it should be considered as a regional agreement, similar to EFAs with their regional European scope, and in the same way as eventual future regional transnational agreements for North America or for Asia. However, Chiquita is included by all the literature in the list of IFAs and we also decided to keep it here. Concerning the EFAs under the USA, they were signed by the European subsidiaries of five American companies, in particular GM Europe (7 agreements) and Ford Europe (5 agreements). Further details are given in Chapter 6.

The vast majority of IFAs (61 out of 68) were signed with companies having headquarters in the European Union (EU) or in the European Economic Area (EEA). Of the remaining 7 IFAs, two companies have their headquarters in South Africa and one each in Russia, New Zealand, Australia, Canada and the USA. Among the 61 IFAs that were signed by companies located within the EU or the EEA, the largest number were signed with German and French companies (Danone alone signed 5 of the 16 French IFAs). All in all, two-thirds of all IFAs (45 out of 68) were signed by companies with headquarters in just four countries – Germany, France, the Netherlands and Sweden. Companies in the same four countries also account for almost half of all EFAs; if the EFAs under the USA (whose subsidiaries have headquarters in different European countries) are added, these four EU countries account for almost three-quarters of all EFAs. It should also be noted that companies with headquarters in Belgium have signed 6 EFAs and one IFA, and Italian companies 5 EFAs and 4 IFAs. Altogether, companies from the six founding Member States of the EU seem to be leading this new development of the role of EWCs.

Figure 3 Geographical distribution of TFAs



### Main characteristics of European agreements

As mentioned, although the EU Directive on the establishment of European Works Councils (94/45/EG) as well as the national transposition laws provide only for information and consultation rights, in practice EWCs – alone or in cooperation with national, European or global unions – have already signed a significant number of transnational texts (Pichot, 2006a and 2006b; European Commission, 2008a and 2008b).

In 2004, the European Commission officially expressed for the first time its intention to propose a European framework for transnational collective bargaining, to conduct a study on the issue and to consult the social partners about it. As a first step, the European Commission commissioned a study aimed at elaborating an ‘optional’ framework for transnational collective bargaining for inclusion in the Social Agenda 2005-2010, adopted in 2005. The study’s group of experts, in submitting its report in September 2005, backed the adoption of such an optional legal framework through a Directive about the establishment of a European system of transnational collective bargaining, complementing the existing national systems (Ales *et al*, 2006). The report, together with a first analysis of existing IFAs and EFAs (Pichot, 2006a), was presented and discussed during a first seminar organised by the Commission with representatives of the social partners in May 2006. The trade union representatives were in favour of such an optional framework, whereas the majority of the employer representatives were opposed to it. They all agreed, however, on the need for more information. Thus, a survey about transnational agreements was commissioned, involving interviews with HR managers and EWC members in a sample of 25 European companies. The results of this survey 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 an ‘optional’ one. The ETUC, on the other hand, expressed its conditional support. The Commission issued a new Communication in July 2008, announcing the creation of a group of experts to study transnational company agreements and accompanied by the most recent figures available on EFAs (European Commission, 2008a). The presentation here on EFAs is based on these Commission figures.

The Commission document distinguishes between ‘European’, ‘global’ and ‘mixed’ agreements or texts. For the purpose of the present comparative analysis between EFAs and IFAs, we have isolated from the data of the Commission all the agreements that we have qualified as IFAs (*Table 2 below*). The remaining agreements or texts were then considered as ‘European framework agreements’ (EFAs), regardless of whether their scope was purely European or global (*Table 1 below*) – a minority of European agreements (8 in 5 companies) have a global scope (one agreement each with Allianz, Vivendi, Metro and Hartmann, and 4 agreements with Suez). In addition, it should be noted here that the first IFAs signed by Danone were initially only European in scope, but have now been extended worldwide; also, that in the cases of Air France and Triumph, here considered as IFAs, the agreements have not been signed by GUFs but by European Industry Federations.

On the basis of the figures given by the European Commission (2008a), we have identified about 73 EFAs signed between 1996 and mid-2007 (*Table 1*). This number is probably an underestimate since, unlike what happens when agreements are signed at national level in some countries, there is no centralised way to collect the data or receive the information when an EFA has been reached. Data on IFAs are easier to gather since each GUF knows exactly how many IFAs it has signed. According to the survey led by Waddington (2006a), nearly 30% of the EWC founding agreements contain provisions for the negotiation of agreements between the EWC and central management. As there are now more than 800 EWCs in existence, one might assume that the real number of EFAs is probably much larger than 73.

**Table 1 European framework agreements (EFAs), 1996 – mid-2007**

Company	Country (HQ)	Sector	Employees	Themes	Signatory parties on the employee side	Date
Air France/KLM	France	Transport	102,500	HRM: Mobility	<i>not available</i>	2000
				HRM: Sales and marketing staff	<i>not available</i>	2000
				Financial participation ( <i>interessement</i> )	18 French unions	2005
				Financial participation ( <i>participation</i> )	18 French unions	2005
				Training	EWC	2007
Allianz	Germany	Finance, Insurance	173,000	Fundamental rights	SNB (SE), UNI Finance Europa	2006
Arcelor (Usinor)	France	Steel industry	320,000	Health and safety	EWC	2002
Arcelor	Luxembourg	Steel industry	320,000	Health and safety	EWC	2004

Table 1 (continued)

Company	Country (HQ)	Sector	Employees	Themes	Signatory parties on the employee side	Date
Areva	France	Metal, energy	58,000	Equal opportunities	EMF	2006
Axa	France	Finance, Insurance	112,000	Social dialogue and Restructuring	UNI (mandated by 18 unions of 8 countries), 5 French unions	2005
Bouygues	France	Utilities, Construction and Telecom	122,000	Corporate Social Responsibility	EWC, French WC, ETUC, CEC	2001
Club Méditerranée	France	Leisure	20,000	Restructuring: Subcontracting	EWC	2001
DaimlerChrysler	Germany	Automotive industry	372,000	Social dialogue	EWC (also on behalf of EMF)	2006
Danone	France	Food and Drink	100,000	Restructuring	EWC	2001
Deutsche Bank	Germany	Banking	75,000	Restructuring: Management of change	EWC	2004
Dexia	Belgium	Finance	25,000	Social management	EWC	2002
Diageo	UK	Food and Drink	22,000	Restructuring	EWC	2002
EADS	Netherlands	Aerospace	110,000	Restructuring	EWC	2006
Eni	Italy	Energy	70,000	Health and safety	EMCEF, 3 Italian unions	1996
				Social dialogue	5 Italian unions	2001
				Training	EWC	2003
Etex	Belgium	Construction	12,500	HRM	EWC	2002
Ford Europe	USA (Germany)	Automotive industry	283,000	Restructuring: Spin-off Visteon	EWC	2000
				Restructuring: Joint-venture CFT	EWC	2000
				Fundamental rights and CSR	EWC	2003
				Restructuring: Point-venture IOS	EWC	2004
GE Plastics (Sabic)	USA (South Arabia)	Plastics	30,000	Data protection: Internet	EWC	2002
				Social dialogue	EWC	2003
				HRM: Pre-employment screening	EWC	2004
Generali	Italy	Finance, Insurance	61,000	Social dialogue, Corporate Social Responsibility, and Restructuring	EWC	2006

Table 1 (continued)

Company	Country (HQ)	Sector	Employees	Themes	Signatory parties on the employee side	Date
General Motors Europe	USA (Switzerland)	Automotive industry	327,000	Restructuring: Joint-ventures GM/Fiat	EWC, EMF	2000
				Restructuring: Luton	EWC	2001
				Restructuring: Olympia plan	EWC	2001
				Corporate Social Responsibility	EWC, EMF	2002
				Restructuring	EWC, EMF	2004
				Restructuring: Astra	EWC, EMF	2007
				Restructuring: Antwerp	EWC, EMF, Belgian unions	2007
Geopost	France	Logistics	19,000	Social management and Employment	UNI, 3 French unions, 2 other unions	2005
Hartmann	Germany	Pharmaceutics	8,000	Fundamental rights	EWC	1999
If Insurance	Sweden	Finance, Insurance	6,600	Social dialogue	Nordic finance unions	2006
Lafarge	France	Materials Construction	71,000	Health and safety	<i>not available</i>	2003
Lhoist	Belgium	Materials Construction	7,000	Restructuring: Subcontracting	<i>not available</i>	2002
Marazzi	Italy	Ceramics	4,300	Health and safety	EWC	2001
Metro	Germany	Retail	264,000	Social dialogue	EWC	2004
Nordea	Sweden	Banking	8,000	Social dialogue	Nordic finance unions, Nordea union, EWC/SE representatives	2001
				Social dialogue	Nordic finance unions, Nordea union, EWC/SE representatives	2001
Philip Morris (Kraft Jacobs)	USA (Switzerland)	Tobacco	80,000	Smoking at workplace	EWC	1998
				Introduction of euro	EWC	1998
				Data protection: Transfer of HR data	EWC	2001
				Data protection: Data recorded by sales forces	EWC	2001
				Data protection: HR data	EWC	2002
				Social dialogue and Employment	EWC	2005

Table 1 (continued)

Company	Country (HQ)	Sector	Employees	Themes	Signatory parties on the employee side	Date
Porr	Austria	Construction	10,500	Data protection	EWC	2004
RWE	Germany	Energy	73,000	Restructuring	EWC	2007
Sara Lee	USA	Textiles and Clothing	65,000	Health and safety	EWC	2001
Schneider	France	Electrical materials	88,500	Restructuring: Anticipation of change	EMF	2007
Solvay	Belgium	Chemicals, Pharmaceuticals	30,000	Restructuring: Subcontracting	EWC	1999
				Health and safety	EWC	2002
				Social management in joint ventures	EWC	2003
Suez (Lyonnaise des Eaux)	France	Utilities and Communication	140,000	Fundamental rights and HRM	EWC	1998
				Health and safety	EWC	2002
				Equal opportunities and Diversity	EWC, ETUC, CEC, 4 French unions	2007
				Financial participation	EWC, ETUC, CEC, 4 French unions	2007
				Restructuring: Forward looking management of employment and skills	EWC, ETUC, CEC, 4 French unions	2007
Total	France	Petrochemicals and Energy	95,000	Social dialogue and Restructuring	EMCEF, FECCIA-CEC, FECER	2004
				Equal opportunities	EMCEF, FECCIA-CEC, FECER	2005
				Restructuring: Promotion of SMEs	EMCEF, FECCIA-CEC, FECER	2007
Unilever	Netherlands/UK	Food and Drink, Home and personal care	179,000	Restructuring	EWC (involved)	2001
				Data protection	EWC	2004
Vinci	France	Construction and Utilities	142,000	Health and safety	EWC	2003
Vivendi (Veolia – Générale des Eaux)	France	Utilities and Communication	270,000	Fundamental rights	EWC	1996
				Health and safety	EWC	1999
				Social dialogue	SNB assisted by ETUC, CEC, Eurocadres	2005

Source: European Commission (2008a), adapted by the authors.

The vast majority (52) of the 73 agreements identified as EFAs were signed by EWCs, 10 of them in cooperation with European Industry Federations (EIFs), among which 3 were also co-signed by national unions. Out of these 52 agreements, 42 were signed by EWCs alone — with the management

of Air France, Arcelor-Mittal (2 agreements), Danone, Diageo, Dexia, Deutsche Bank, EADS, Eni, Etex, Ford Europe (4 agreements), Generali, GE Plastics (3 agreements), General Motors (2 agreements), Hartmann, Marazzi, Metro, Philip Morris/Kraft Jacobs (6 agreements), Porr, RWE, Solvay (3 agreements), Suez (2 agreements), Unilever, Vinci, and Vivendi (2 agreements). EIFs alone have signed 5 agreements (Total in 2004, 2005 and 2007; Areva in 2006; and Schneider in 2008). In many of these cases, however, EWCs were involved either in the negotiation and/or the monitoring process. Detailed information about the identity of the signing parties is not available for a certain number of agreements. There are also special cases, such as the 2 Nordea agreements (which were co-signed by regional (Nordic) unions) or the Allianz agreement (which was signed by the special negotiation body for the establishment of a European public company (SE) and co-signed by an EIF).

This very recent development reflects a more critical attitude of these organisations towards EWC agreements. The EMF, which was followed by the ETUC and other EIFs, demands that the negotiation and signature of transnational agreements be reserved to union organisations. The EMF has recently established principles on union coordination of transnational negotiation, involving also the unionised members of the EWCs. This attitude is shared particularly by the Nordic unions, some of which have negotiated EFAs at a regional Nordic level. The cases of GM Europe and Areva show new forms of cooperation between EWCs and union organisations. The negotiations on restructuring at GM in 2004 served as a model for the EMF guidelines on negotiation about transnational restructuring, adopted in 2005 (da Costa and Rehfeldt, 2006a and 2007; Bartmann and Blum-Geenen, 2008).

In terms of content, EFAs cover a variety of issues. As Figure 4 shows, the most frequent issues are:

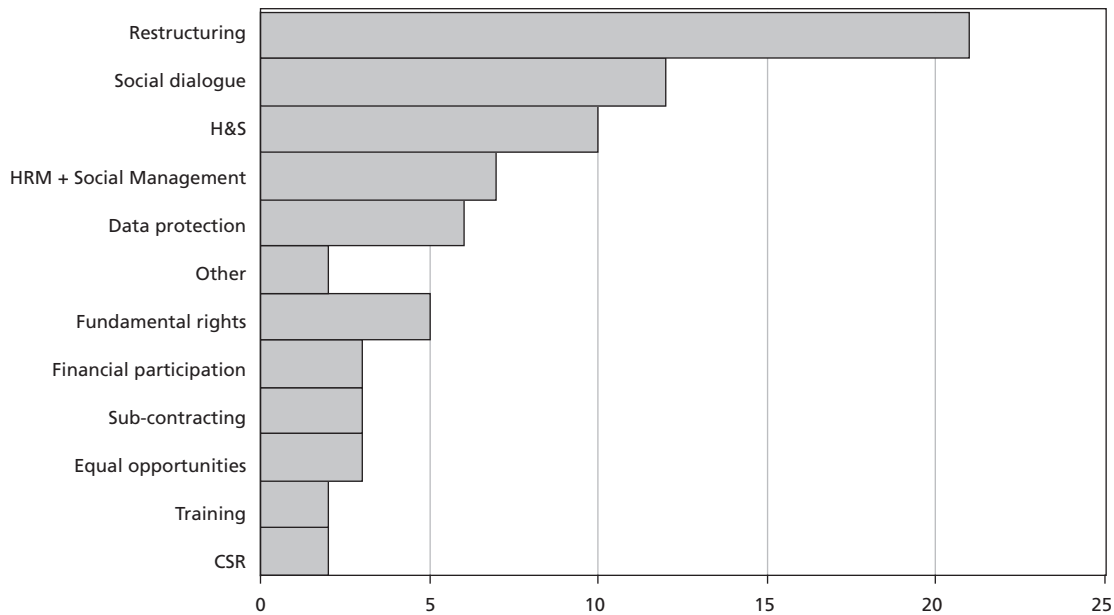
- **restructuring** – Axa, Club Méditerranée, Danone, Deutsche Bank, Diageo, EADS, Ford Europe (3x), GM (6x), Lhoist, RWE, Schneider, Solvay, Suez, Total, Unilever;
- **social dialogue** – Axa, Daimler, Eni, GE Plastics, Generali, If Insurance, Metro, Nordea (2x), Philip Morris, Total, Vivendi;
- **health and safety (H&S)** – Arcelor/Usinor (2x), Eni, Lafarge, Marazzi, Sara Lee, Solvay, Suez, Vinci, Vivendi;
- **human resources management (HRM) and social policy** – Air France, Dexia, Etex, Geopost, Solvay;
- **data protection** – GE Plastics, Philip Morris/Kraft Jacobs (3x), Porr, Unilever.

Fundamental social rights play only a minor role in EFAs, whereas they are the classical field of IFAs. It is interesting to note that two companies with their headquarters in the USA (Ford Europe and GM Europe) have accepted to sign agreements covering this field on the European level, whereas at the global level so far no US-based company has signed an IFA (with the exception of Chiquita, which is a special case because of its regional, not global, application – see Figure 3).

If the quantitative development of EFAs is compared over time with that of IFAs, one sees that their dynamic is closely linked. The first EFAs were signed in 1996 – the year in which the 1994 EWC Directive became effective. Since 1998, EFAs have quickly expanded in parallel with IFAs, with a first peak in 2001 and a steady development since then.

Some EFAs – just as some IFAs, as we will see – are mere declarations of a common understanding and contain no (or few) provisions on how to implement the agreement (such as the agreement at Paul Hartmann or Generali), whereas others are quite detailed and codify concrete rights and measures to ensure implementation (such as the agreements at Areva, Suez or Total on equal opportunities).

**Figure 4 Content of EFAs**



Thus, emerging from social dialogue with EWCs, European agreements reflect the particularities of European industrial relations. EFAs are a recent and particular form of Europeanisation of industrial relations. We have seen the differences between EFAs and IFAs in terms of scope, signature and content. EFAs cover a wide variety of themes and can have multiple signatures, although a majority show EWC involvement. Although caution is required when generalising, evidence from text analysis would suggest that closer involvement of trade unions (as, for example, at Areva, General Motors, Suez or Total) leads to more concrete agreements, which also tend to contain stronger provisions concerning the implementation of the agreement.

### Qualitative analysis of IFAs

IFAs are generally less heterogeneous at first sight than EFAs. Despite differences in terms of content and implementation procedures, it is possible to identify some common patterns for IFAs. The overwhelming majority of them have a global scope of application. Most agreements adhere to fundamental social rights and contain at least the ILO Core Labour Standards (e.g. freedom of association, collective bargaining, non-discrimination, abolition of forced labour, elimination of child labour). Several IFAs also contain minimum terms and conditions of employment (e.g. working time, wages, health and safety). A few IFAs address just one specific issue, such as health and safety (Arcelor-Mittal) or union rights (Danone). Table 2 lists IFAs signed over a ten-year time period.

**Table 2 International framework agreements (IFAs), 1989 – July 2008**

Company	Employees	Country	Sector	GUF	Year
Danone (BSN)*	100,000	France	Food	IUF	1989
Danone (BSN)*	100,000	France	Food	IUF	1989
Danone (BSN)*	100,000	France	Food	IUF	1992
Danone (BSN)*	100,000	France	Food	IUF	1994
Accor	147,000	France	Hotels	IUF	1995
Danone*	100,000	France	Food	IUF	1997
IKEA	70,000	Sweden	Furniture	BWI	1998 and 2001
Statoil	16,000	Norway	Oil industry	ICEM	1998
Faber-Castell	6,000	Germany	Office material	BWI	1999 and 2000
Freudenberg	27,500	Germany	Chemical industry	ICEM	2000
Hochtief	37,000	Germany	Construction	BWI	2000
Carrefour	430,000	France	Retail	UNI	2001
Chiquita**	26,000	USA	Agriculture	IUF	2001
OTE Telekom	18,500	Greece	Telecommunication	UNI	2001
Skanska	79,000	Sweden	Construction	BWI	2001
Telefónica	207,000	Spain	Telecommunication	UNI	2001
Air France***	102,500	France	Air transport	ETF	2001
Indesit (Merloni)	20,000	Italy	Domestic appliances	IMF	2002
Endesa	14,000	Spain	Energy	ICEM	2002
Ballast Nedam	8,000	Netherlands	Construction	BWI	2002
Fonterra	20,000	New Zealand	Dairy products	IUF	2002
Volkswagen	325,000	Germany	Automobile	IMF	2002
Norske Skog	11,000	Norway	Paper	ICEM	2002
AngloGold	64,900	South Africa	Mining	ICEM	2002
Daimler	372,500	Germany	Automobile	IMF	2002
Eni	70,000	Italy	Energy	ICEM	2002
Triumph***	38,500	Germany	Textiles	ETGLWF	2002
Leoni	18,000	Germany	Cables/Automotive	IMF	2003
ISS	280,000	Denmark	Cleaning/Maintenance	UNI	2003
GEA	14,000	Germany	Engineering	IMF	2003
SKF	39,000	Sweden	Ball-bearing/Seals	IMF	2003
Rheinmetall	30,000	Germany	Metal/Automotive/ Electronics	IMF	2003
RAG	87,500	Germany	Mining	ICEM	2003
H&M	40,000	Sweden	Retail	UNI	2004
Club Méditerranée**	20,000	France	Hotels/Leisure	IUF	2004
Bosch	226,000	Germany	Engineering	IMF	2004
Prym	4,000	Germany	Metal manufacturing	IMF	2004
SCA	46,000	Sweden	Paper	ICEM	2004
Lukoil	150,000	Russia	Energy/Oil	ICEM	2004
Renault	131,000	France	Automobile	IMF	2004
Impregilo	13,000	Italy	Construction	BWI	2004
CSA Czech Airlines	5,500	Czech Republic	Air transport	ITF-Union-Combination	2004
Electricité de France	167,000	France	Energy	ICEM, PSI	2005

Table 2 (continued)

Company	Employees	Country	Sector	GUF	Year
Rhodia	20,000	France	Chemical industry	ICEM	2005
Veidekke	5,000	Norway	Construction	BWI	2005
BMW	106,000	Germany	Automobile	IMF	2005
EADS	110,000	Netherlands	Aviation	IMF	2005
Röchling	6,000	Germany	Automotive industry/ Plastics	IMF	2005
Schwan-Stabilo	3,500	Germany	Writing material	BWI	2005
Lafarge	71,000	France	Construction material	BWI, ICEM, WFBW	2005
Arcelor (Mittal)	320,000	Luxembourg	Steel	IMF	2005
PSA Peugeot Citroën	207,000	France	Automobile	IMF	2006
Royal BAM Group	27,000	Netherlands	Construction	BWI	2006
Portugal Telekom	30,000	Portugal	Telecommunication	UNI	2006
Securitas	215,000	Sweden	Security services	UNI	2006
Staedtler	3,000	Germany	Writing material	BWI	2006
France Télécom (Orange)	20,600	France	Telecommunication	UNI	2006
NAG	40,000	Australia	Banking	UNI	2006
Nampak	17,000	South Africa	Packaging	UNI	2006
Euradius	2,600	Netherlands	Printing	UNI	2006
VolkerWessels	16,500	Netherlands	Construction	BWI	2007
Inditex	70,000	Spain	Textiles/Clothing	ITGLWF	2007
Brunel	5,300	Netherlands	Recruitment and Service Provider	IMF	2007
Quebecor	43,000	Canada	Printing	UNI	2007
WAZ	16,000	Germany	Media	IFJ	2007
Umicore	14,000	Belgium	Metal, Chemicals	ICEM, IMF	2007
Arcelor-Mittal*	320,000	Luxembourg	Steel	IMF	2008
Vallourec	18,000	France	Steel architecture/ Automotive	IMF	2008

\* IFA limited to specific issue

\*\* Regional agreement concluded by a GUF

\*\*\* Worldwide agreement concluded by a European Industry Federation

Source: Zimmer (2008)

The content of IFAs has already been examined in several studies (Schömann *et al*, 2008, Zimmer 2008). Nevertheless, three particular aspects deserve to be further explored: the scope of application, implementation and union rights. A deeper analysis is necessary because there are great differences among the IFAs and also in order to find out whether a specific issue truly became part of an agreement or whether it was merely meant as a declaration of a common understanding – a finding that may indicate either that the parties may have seen the problem but did not want to solve it in the IFA, or that they could not agree on how to solve it. However, it has to be noted that a text analysis of IFAs can only provide an informative basis about the formal provisions of the agreements. The examination of the content of IFAs will be supplemented by several case studies.



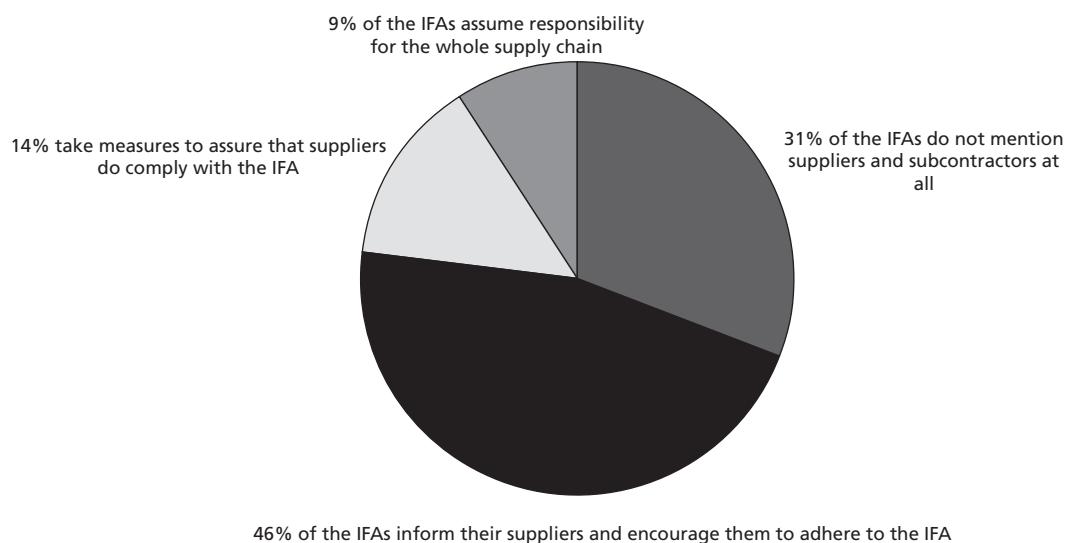
### Scope of application to subsidiaries, suppliers and subcontractors

The scope of application of most framework agreements goes beyond the enterprise and includes its subsidiaries (see Figure 5). Therefore, as a rule, all employees of the group are covered. One exception is Volkswagen: the scope of application of its IFA is limited to those countries and regions that are represented in the World Works Council of the group, a restriction which leads to the exclusion of China (IME, 2006). The working conditions at supplier companies are not necessarily included in the scope of application. Some IFAs do not mention the problem of violation of basic working rights at suppliers and subcontractors at all (e.g. Accor, AngloGold, Arcelor, BSN I, II, III, Club Méditerranée, Danone, Endesa, Eni, Faber-Castell, Fonterra, Freudenberg, H&M, Lafarge, NAG, Nampak, Prym, RAG, SKF, WAZ).

Other IFAs include the obligation to inform contract partners (such as suppliers) about the content of the agreement or to ‘support’ and ‘encourage’ them to adhere to the principles of the agreement (e.g. BMW, Carrefour, Daimler Euradius, GEA, Röchling, IKEA, Leoni, Lukoil, Norske Skogindustrier, OTE, Rheinmetall, Renault, Telefónica, SCA, Skanska, Statoil, Umicore, VW). Formulations like this demonstrate the positive intention of the authors, but in effect can amount to little more than a declaration of common understanding: the company does not take over responsibility for the working conditions at contract partners, suppliers and subcontractors. The same is true of those IFAs that formally include the whole supply chain, but formulate its application as an objective to be reached; examples include Impregilo and Portugal Telecom, or Merloni, where the inclusion of suppliers and subcontractors is qualified with the formulation ‘if possible’.

Similar wording has been chosen in the IFAs with Bosch, Schwan-Stabilo, Chiquita, EADS, France Telecom or PSA Peugeot Citroën and Rhodia. These IFAs state that the company expects its suppliers to respect similar standards and considers this as a condition for the continuation of the commercial relationship. The IFA at Quebecor points out that the company will not knowingly use vendors or suppliers who wilfully violate the principles of the joint statement.

**Figure 5 Inclusion of suppliers and subcontractors in the scope of application**



The IFA at Brunel stipulates that in case of violations of the agreement, sanctions will be taken against the supplier. Similar wording is found in the IFA at Securitas. The IFA at Veidekke states that the company will use 'its fullest influence in order to secure compliance with the principles set out in this agreement also with its contractors, subcontractors and suppliers'.

In the cases of Air France, Ballast Nedam, EDF Vallourec, Staedtler and VolkerWessels, the signatory companies are willing to assume more responsibility. The IFA at Staedtler, for example, not only stipulates that the company will work exclusively with contract partners who adhere to the content of the IFA, but the company also includes appropriate clauses in its own supply contracts. With the IFAs negotiated between BWI and Ballast Nedam or Hochtief, the companies assume responsibility for the working conditions of direct contract partners.

Only a few companies acknowledge in the IFA a comprehensive responsibility for the whole production chain, including subcontractors. Among these are the IFAs with CSA-Czech Airlines, Inditex, Royal BAM and Triumph International. The IFAs between UNI and ISS and Portugal Telecom apply to suppliers as well as to customers (Sobczak, 2008).

### **Implementation of IFAs**

The key to understanding if IFAs can have a concrete impact rather than existing only on paper lies in their implementation processes. Some framework agreements clearly point out that the company is responsible for the implementation of the IFA (e.g. Bosch, Daimler, Triumph International). Other IFAs oblige both parties to ensure the implementation (e.g. Air France, Euradius, GEA, ISS, Rhodia, Umicore) and sometimes only the employees are asked to implement the provisions of the IFA (e.g. Rhodia, Securitas, Umicore).

Methods of implementation can be called 'monitoring'. This is a misleading term because 'monitoring' refers to 'the surveillance of labor practices against a given set of labor standards by a person (or persons) with a *regular or frequent presence* at the workplace and unobstructed access to management and staff' (Ascoly and Zeldenrust, 2003, p. 6). Monitoring, therefore, refers to a continuous process of observance, which is not laid out in a great many IFAs – although there are exceptions. The adherence to the 'IKEA-Way on Purchasing Home Furniture Products', for example, is controlled by a 'global compliance and monitoring group' that conducts internal audits. In the case of Umicore, external monitors are contracted and they present their report at the annual meeting. The most complex system of monitoring is laid out in the IFA at Inditex: the company is audited under the rules of the multi-stakeholder 'Ethical Trading Initiative' (ETI), in which both the GUF and the enterprise are active as members.

### *Body in charge of implementation*

To ensure implementation, most IFAs stipulate the formation of a body made up of equal numbers of employee and company representatives. Only the agreements with Accor, Brunel, CSA-Czech Airlines, Danone, Hochtief, NAG, RAG, Rhodia and UPU do not contain provisions for such a body. In the case of Danone, however, studies to evaluate the IFA are to be conducted and results of research about the first IFAs (equal treatment and further education) have already been published. At Rhodia, the company is obliged to report the outcomes of the IFA annually according to indicators defined jointly with ICEM. At Brunel, the signatory parties of the IFA are obliged to meet, but the agreement does not give any further details.

Usually, not only does the GUF participate on the workers' side at the annual meeting, but also a delegate of the union of the company's home country often attends (e.g. Ballast Nedam, Chiquita, EDF, Endesa, Eni, Fonterra, Freudenberg, Impregilo, Norske Skogindustrier, Lukoil, OTE, Portugal Telecom, RAG, SCA, Schwan-Stabilo, Statoil, Staedtler, Telefónica, Veidekke). The annual meeting between management and the GUF takes place without participation of the union from the home country in the following companies: Arcelor, AngloGold, IKEA, ISS, Lafarge, Royal BAM. Sometimes a representative of the EWC participates as well, as is the case at Air France Euradius, SCA, Skanska, Triumph International and Umicore; at Staedtler, a representative of the German national works council attends. At Air France, it is only the EWC that is involved in the implementation of the agreement; there is no union involvement. In the case of SCA, a delegate of the EWC has the right to participate at the annual meeting, but is not automatically present. In the case of conflict, local workers' representatives are allowed to participate as well. In the case of Arcelor, Nampak and WAZ, besides representatives of the GUF and EWC, union delegates from southern countries participate in the meetings; at Euradius and Staedtler, the latter at least have the right to participate, and at SCA they might be called in if necessary.

As a rule, the monitoring body meets annually (e.g. Air France, AngloGold, Ballast Nedam, EDF, Fonterra, Freudenberg, Impregilo, Inditex, Lafarge, Lukoil, Merloni, NAG, Nampak, Norske Skogindustrier, OTE, Portugal Telecom, Quebecor, Royal BAM, SCA, Schwan-Stabilo, Securitas, Statoil, Staedtler, Umicore, VolkerWessels, WAZ). In some cases, the monitoring body convenes twice a year (e.g. Chiquita, Endesa, France Telecom, IKEA), while at Faber-Castell, it meets only every two years. Some agreements leave it open as to how often the meeting is to be called (e.g. Brunel, ISS, RAG, Skanska, Telefónica, Triumph International).

In other cases, no additional body is set up; instead, the annual meeting of the EWC is used to communicate the implementation of the IFA (e.g. Air France, Bosch, BMW, GEA, Gebr. Röchling, Leoni, Merloni, Peugeot Citroën, Prym, Rheinmetall, Securitas). At EADS, the management of the group does not report regularly to the EWC in its annual meeting, but the company does present a report after announced breaches of the agreement; this report includes an account of corrective measures taken.

In the case of Merloni, the parties agreed that non-European worker representatives (who are not members of the EWC) will be informed by the local management about the outcome of the meeting; a similar arrangement is in place at Air France. At Peugeot Citroën, non-European union representatives participate in the EWC meeting whenever the implementation of the IFA is on the agenda; the EWC assumes for these purposes the role of a world works council (WWC). However, only those non-European trade unionists observers are allowed who are from a company that meets the criteria of the workforce defined in the EWC agreement. The IFA with Peugeot Citroën also formulates a declaration of intent to form a WWC (medium term); the final decision will be taken 3 years after signing the IFA (March 2009). Generally, if there is a WWC in place at the company, then this WWC is in charge of the implementation of the IFA (e.g. Daimler, Renault, SKF, VW). The management of Daimler has committed itself to presenting a report about the implementation of the IFA to the WWC. In the IFA with Bosch, no official reporting to the non-European workers' representatives has been planned, although a Bosch world conference took place at the beginning of 2006, the main theme of which was the implementation of the IFA.

In some companies, the annual meeting of the implementation body is prepared in an additional meeting (e.g. AngloGold, Peugeot Citroën, Portugal Telecom, WAZ); in the case of OTE and Nampak, the group of trade union officials meets one day in advance. At Chiquita, in the case of conflict, local management and local trade unionists are permitted to participate at the meeting of the 'review committee'. If the parties agree, representatives of NGOs are allowed to participate as well. The IFA with Staedtler differentiates between local trade unionists and workers – both have the right to participate; similarly at Eni. Whether a special body is created or an existing one is assigned the function of monitoring the implementation, normally this body serves as the contact in the case of violations of the IFA.

Usually, it might be the company that bears the costs of the meeting, but not all agreements explicitly codify this as a duty. Only the IFAs with Arcelor, EDF, Endesa, Eni, Impregilo, Lafarge, Nampak, OTE, Schwan-Stabilo, Staedtler and Veidekke explicitly lay down the obligation of the company to bear the costs of the annual meeting. In the case of Portugal Telecom, trade unionists who are employed in the enterprise get paid leave to participate in the meeting. If EWCs (and WWCs) are nominated as appropriate bodies, the company has to bear the costs.

However, as examples show, in some cases agreed meetings are not held. The IFA with Merloni, for example, was already signed in 2001, but the first meeting did not take place until 2006; in the case of Leoni, one year passed without convening the agreed meeting (IME, 2006). In other cases, the implementation group might have extraordinary meetings because of a detected violation of the IFA.

### *Concrete measures of implementation*

Most framework agreements provide the obligation to communicate the IFA to employees. Only the IFA between ICEM and Freudenberg and between UNI and Carrefour do not contain such provisions. In the case of Bosch and Rheinmetall, the local workers' representatives have to be consulted in advance. But as a study of BWI shows, this responsibility is not always carried out: most employees (included in the study) do not have any information about the IFA (BWI, 2006). The employees of the Euradius Group, in contrast, have to be informed about the IFA by a note on their payroll slip; this information has to be repeated periodically.

16% of all IFAs do not contain any further measures of implementation besides the obligation to inform the employees (e.g. Accor, Carrefour, Freudenberg, Röchling, H&M, OTE, Portugal Telecom, RAG, SKE, Telefónica, UPU). The IFA with Carrefour contains the provision (in a subordinate clause) that UNI and Carrefour will jointly carry out the monitoring. The agreement, however, does not contain any provisions about how this is to be done. The IFAs at Endesa and Faber-Castell mention 'appropriate' or 'corresponding' measures, but without further clarification.

Nevertheless, quite a number of framework agreements do contain concrete steps of implementation, such as that the company includes compliance with the IFA in its catalogue of the corporate auditing (e.g. Daimler, Leoni and Staedtler). The IFA with Rhodia formulates concrete reporting indicators, while in the case of Staedtler and Veidekke compliance with the IFA has to be part of the annual reporting.

Several IFAs lay the foundation to build up a grievance structure. Usually, a system of ombudsperson is not stipulated, but rather a chain of grievance resolution is laid out. As a rule, local management

is in charge; if no solution is found locally, then the national trade union will pass the case on, until finally the GUF will present the incident to the group management (e.g. Norske Skogindustrier, SCA, Securitas and Veidekke). According to the IFAs at Daimler, Nampak and Quebecor, the companies have to name definite contact persons for employees, business partners and clients, and similar obligations exist at Chiquita, Hochtief, Staedtler and Triumph International. For this purpose, Daimler has to set up a central hotline. Although not explicitly mentioned, one can assume that information about possible breaches of the IFA may be given anonymously as well.

The IFAs at Daimler, Peugeot Citroën and Securitas provide for local observatories, composed of the directorate for human resources and local trade unions. At Daimler, however, this applies only to 'the most important countries', while at Securitas, it is only 'if necessary'. Similar arrangements are in place at EDF, where it was agreed that a dialogue about the concrete modalities of implementation would start within six months of signing.

In the case of Lukoil and Statoil, training sessions for local trade unionists and local management have to be given by the management of the company and ICEM; the costs of ICEM are borne by the company. The IFA at Inditex demands the development of training sessions for the implementation of the IFA. Training sessions or information and instruction of executive staff have also been agreed in the IFAs with EDF and Staedtler.

The IFA at Eni stipulates that corrective action will be taken in case of detected infringement. The IFA clarifies that the parties may also agree on positive measures such as information or training sessions of employees; similar arrangements can be found at IKEA, Inditex, Royal BAM, Skanska and Umicore.

In the case of Triumph, the company undertakes to inform not only their product management about the content of the IFA, but also their contractors and suppliers; a similar obligation can be found in the Staedtler IFA. In several cases, compliance has to be integrated into all purchasing contracts with suppliers and licensees (e.g. IKEA, Staedtler, Triumph International). Sometimes, the principles of the IFA are integrated in existing reference books and guidelines (e.g. Bosch and Staedtler).

Thus, to sum up, the measures of implementation outlined in IFAs include:

- Information of employees by a note on the payroll.
- Questionnaire about communication of IFA to employees.
- Compliance with IFA is included in corporate auditing.
- Principles of IFA are integrated in reference books and guidelines.
- Instruction of management, contractors and suppliers.
- Training sessions for management and/or trade unions.
- Obligation to adhere to IFA is integrated in contracts with suppliers and licensees.
- Setup of local observatories.
- Setup of a body in charge of implementation, which meets annually.
- Building up of grievance structure.
- Internal and external audits.
- Corrective action (in case of violation).



### Union rights

The idea of IFAs is to enforce labour rights by strengthening unions worldwide. In principle, the existing IFAs contain the rights of ILO Convention 87 ('Freedom of Association and Protection of the Right to Organise') and Convention 98 ('Right to Organise and Collective Bargaining'). Only the IFA with Bosch guarantees these rights just on the basis of the respective national law, which might lead to a limited protection in some countries.

Nearly 54% of the existing IFAs contain more than the ILO Conventions 87 and 98, and rely on ILO Convention 135 ('Protection and Facilities to be Afforded to Workers' Representatives') which provides against the discrimination of elected workers' representatives in the enterprise. Furthermore, workers' representatives are to be given access to all workplaces insofar as this is necessary to enable them to carry out their function (e.g. IFAs at Accor, BMW, Brunel, Carrefour, Chiquita, CSA-Czech. Airline, Danone, EDF, Eni, Euradius, Faber-Castell, Fonterra, Freudenberg, H&M, Impregilo, Inditex, ISS, Lafarge, Merloni, Nampak, Norske Skogindustrier, Portugal Telecom, PSA Peugeot Citroën, Quebecor, Royal BAM, Schwan-Stabilo, SCA, Skanska, Staedtler, OTE, Telefónica, Triumph International, Umicore, VolkerWessels, Veidekke).

The agreements at OTE and Nampak specify that unions are to have (reasonable) access to workplaces to organise workers and to distribute information, including by electronic means. The IFA at Securitas recognises unions as legitimate representatives of the workers (as long as the unions are acknowledged under national law) and arranges concrete steps of cooperation. Such cooperation might include meetings with employees and training sessions. Often, the company agrees on neutrality in the case of union organising campaigns; sometimes, even a positive or open attitude toward trade unions is formulated (e.g. Accor, Brunel, Daimler, France Telecom, Inditex, Impregilo, Lukoil, Merloni, Royal BAM, Staedtler, Statoil, Telefónica, Euradius, VolkerWessels).

The strongest union rights are contained in the agreements with Danone. Workers not only receive training on union rights (IFA of 1994), but comprehensive information and consultation of workers and their representatives are also provided for (IFA of 1998 on social affairs; a further IFA of 1997 contains provisions on restructuring). In addition, the IFAs with Danone contain provisions on leave of absence and absorption of costs for union experts; similar provisions can be found at Statoil. The IFAs between the IUF and Fonterra, as well Chiquita, contain strong rights of information and consultation; similarly, the IFA about restructuring between ICEM and EDF. The agreement at Brunel also contains the obligation to inform and to consult workers' representatives before important decisions are taken; similar wording can be found in the IFA at France Telecom. IMF and PSA Peugeot Citroën agreed that employees have to be informed regularly about the business activity of the company; similar wording can be found in the IFAs at Air France and Rhodia, as well as at Euradius (in the case of a take-over). Management at Nampak pledges to consult and negotiate on employment and further education, and the agreement with CSA Czech Airlines even contains the duty to negotiate with trade unions on all relevant changes that influence working conditions.

### Commentary

The above analysis of the content of IFAs shows that they are applied to the group, not to subcontractors: only 9% of the existing IFAs are to be applied to the whole supply chain, while one-third do not even mention the question of suppliers. Not even half of the existing agreements oblige companies to inform and encourage their suppliers to adhere to the IFA. These differences might be

explained by differences in the strategy of the GUFs. Some GUFs focus on deepening the relation with the signing company over time and try to extend their IFAs step-by-step until they cover suppliers and subcontractors. Other GUFs try to negotiate agreements that cover their requirements from the start. Confronted with the evolution towards outsourcing and production in network structures, GUFs try to cover the whole production chain. If companies acknowledged their own responsibility for the whole supply chain, it might be easier to demand financial contribution for measures to improve working conditions or for training courses for suppliers.

Several companies state that they will work only with contract partners who adhere to the principles of the IFA. On the one hand, this is a positive approach which stimulates suppliers to guarantee basic working conditions. On the other hand, responsibility for working conditions is shifted from the company towards its suppliers.

A number of IFAs define comprehensive implementation measures, whereas others formulate only a few steps towards implementation. Sometimes, a report by management at the annual meeting is the only concrete measure of implementation and the management is not obliged to take further steps. The agreements as a rule do not indicate that the content of an IFA is generally part of a management system on social compliance of the company and the integration of the principles of the IFA into all sections of hierarchy is mostly not specified. Only 4 out of 68 IFAs refer to internal steps of the company to implement the agreed standard, such as implementing guidelines. Only 9% of IFAs (6 out of 68) refer to internal monitoring, while a further 8% of the IFAs are monitored by external experts. But if the company does not evaluate the IFA systematically, the annual reporting will most likely be fragmentary as well. Nevertheless, quite a number of IFAs contain a wide range of provisions on how to implement the agreement.

More than 50% of the existing IFAs contain provisions to strengthen (local) union rights. Some of these provisions are quite specific, which enables unions to truly make use of them and to actively support the implementation of the IFA. These concrete rights enable unions to organise workers – which finally is an essential step towards monitoring by the persons concerned. However, if there are no unions at the company (or even in the whole area), these provisions will not help to organise workers and the GUFs will not get the information about violations of the IFA as easily.

Recently, IFAs have tended to be more precise and to include more specific provisions on implementation. Already, the parties involved meet at least once a year to discuss problems around the topics in the IFA. Therefore, analysis of the documents shows that, overall, IFAs strengthen international industrial relations and in the long term the instruments will likely enforce the organising activities of union organisations.

IFAs are furnishing existing standards with enforcement mechanisms (Kocher, 2008). Practically all IFAs contain the principles of the ILO Core Labour Standards, as defined in the ILO Conventions. While these instruments are primarily addressed to governments, nothing prevents private actors from taking account of the principles contained in their voluntary practices. As most IFAs address issues of conditions of work from the point of view of principles without entering into specific determinations of these issues – a specific time schedule or salary, for example, thus IFAs do not define specific terms and conditions of employment (Papadakis, 2008) – IFAs can be seen as helping to disseminate and promote a certain set of common values, such as fundamental principles and

rights at work at cross-border level. In doing so, they reaffirm those standards defined by the ILO in 1998.

However, the added value of IFAs is not only to reaffirm these social rights, but also to organise an implementation process that aims to make them effective (Sobczak, 2008). The implementation and control of the standards in IFAs do not work like the implementation and control of legal standards. Different mechanisms of implementation and enforcement have been developed, such as training of suppliers and workers, grievance mechanisms and internal or external auditing. It could be noted that the mechanisms of implementation in IFAs are predominantly of a political character and not a legal one. The compliance-pull is a political one, thus social pressure is the leading source of adherence to the rules.

A document analysis, however, can only constitute an approximate guide to the actual practice of the signing parties. This limitation is confirmed by the findings of empirical case study research, which demonstrate that the actual practice of GUFs and management who sign an IFA sometimes transcends (or, in other cases, falls short of) the formal provisions of the agreements. This might be the result of a stronger position of the GUF or of a learning or development process of both parties. If the practice falls beyond the agreement, the provisions of the agreement just exist on paper.

Chapter 5 will explore the strategies of employer and union organisations in order to determine what IFAs mean to the actors, what are the interest of employers and how unions integrate transnational agreements in their global strategy towards multinational companies.





# Current strategies of the social partners

# 4

The emergence of IFAs as an instrument to establish social minimum standards within globally operating companies is a fairly recent phenomenon, emerging during the 1990s primarily at the initiative of GUFs as part of their strategy to create a social framework for economic globalisation. However, since IFAs are a voluntary tool based on negotiations between a TNC's central management and the employee side, the GUFs had to rely on companies' willingness to cooperate in order to conclude IFAs at global company level. The specific factors that prompted TNCs and trade unions to enter into negotiations on IFAs will be dealt with in more detail below. The objective at this stage is to provide an account of the perceptions of TNCs and GUFs of the economic and political framework conditions that shaped their IFA-related strategies.

## **Economic and political framework and social partners' perception of IFAs**

### **Employers' view**

One factor that contributed to the increased openness of a number of TNCs towards trade union approaches to negotiate IFAs during the 1990s was the increasingly critical public attitude towards the behaviour of TNCs. This was partly a result of consumer and NGO campaigns that targeted brand name companies – particularly in the textiles, footwear and retail industries – 'naming and shaming' them for inhumane working conditions in their supply chain. In response to the increased pressure from civil society and as companies became increasingly concerned about the potential economic consequences of such negative publicity, the issue of 'corporate social responsibility' (CSR) became more and more important for TNCs.

The various measures adopted by companies in the context of their CSR policies differ widely. They include programmes aimed directly at the TNCs' employees, programmes aimed at the wider community in which the TNCs operate, and financial engagement and sponsoring in the areas of culture, sport, science and the environment. Despite this wide variation, according to the International Organisation of Employers (IOE), all CSR measures share the following two key characteristics: first, they are 'voluntary initiatives by business that look to go beyond legal compliance in a diverse range of social, economic and environmental areas' and, secondly, they are 'a core aspect of business activities and ... a means of engagement with stakeholders in the various markets in which a company operates' (IOE, 2003). According to the IOE, CSR is therefore driven by both considerations of competitiveness and of philanthropy, and encompasses general principles of ethical behaviour as well as environmental, economic and social responsibilities. In the area of employment relations, the growing emphasis placed on CSR by TNCs is reflected in the rapidly growing number of unilateral codes of conduct adopted by TNCs since the beginning of the 1990s, in the increasing engagement of TNCs in multi-stakeholder initiatives and, in a number of selected cases, in the increasing openness towards the conclusion of IFAs.

For many companies, IFAs are therefore one element within their increasingly complex CSR policy, which is designed, among other things, to promote a positive public image and reputation in order to avoid potentially economically damaging public campaigns, to gain access to capital markets and to build good relations with political and economic decision-takers. This policy is also often driven by the strong ethical or religious motivations of the leading managers.

Within this broader context, employers tend to view IFAs as a further development or extension of existing unilateral codes of conduct in order to engage with trade unions as one specific stakeholder among many. The reasons why TNCs negotiate IFAs with trade unions will be dealt with in more detail below. However, two factors that facilitate the involvement of trade unions through IFAs are the existence of a cooperative industrial relations tradition and strong trade unions, at least in the company's home country. This may explain the concentration of IFAs in certain countries and sectors, as discussed in Chapter 3.

From the employers' point of view, therefore, the main function of an IFA is to define a set of shared moral standards and values, and to communicate these throughout the company worldwide – rather than to engage in an industrial relations exercise of negotiating terms and conditions. Against this background, employers view IFAs primarily as a 'soft' HR tool that can foster industrial peace through the deepening of dialogue with their employees. Although the specific perception of IFAs by individual companies varies from case to case depending on sector- and company-specific factors (as confirmed by studies investigating the factors that led to the emergence of IFAs, such as Fichter *et al*, 2007; Schömann *et al*, 2008; Stevis and Boswell, 2007), the employers' view nonetheless contrasts sharply with the perception of trade unions, which view IFAs as the cornerstone of an emerging industrial relations system at global company level.

### **Trade unions' view**

In the case of trade unions, two closely linked economic and political framework conditions explain their growing interest in IFAs. The first is the intensification and new quality of transnationalisation of economic activities since the beginning of the 1990s, which is marked by the globalisation of financial markets, a marked increase in foreign direct investment and the increasing importance and power of TNCs (Altvater und Mahnkopf, 1996; Hoffmann, 2001; Hübner, 1998). The second framework condition is increasing asymmetry within the existing system of global governance between the scope and potential for global economic deregulation, on the one hand, and social re-regulation on the other. This asymmetry is reflected in the growing importance and legal strengthening of those institutions designed to promote the liberalisation of trade and capital markets (such as the WTO, the World Bank and the International Monetary Fund), compared with those institutions whose primary purpose is to strengthen the social dimension of economic globalisation, such as the ILO in particular (Nahamowitz, 2002; Zürn, 1998).

As a consequence of the TNCs' growing flexibility and capacity to shift production from one country to another, trade unions increasingly came under pressure to engage in a process of transnational 'concession bargaining' in order to safeguard employment. Furthermore, since there was a growing tendency among companies, particularly in labour-intensive industries, to outsource and subcontract large parts of their production into countries that offer cheaper labour costs and less heavily regulated labour markets, the trade unions saw the danger of a downward spiral in working conditions. A representative of the International Textile, Garment and Leather Workers' Federation (ITGLWF) described the consequences of the new economic realities in the textiles, clothing and footwear industry in the following terms (Miller, 2004, p. 219): 'In such a context of internationally competitive subcontracting, whereby product is acquired as cheaply as possible within given quality constraints, the downward pressure on labour conditions has become very heavy, leading to job insecurity, poverty wages, long hours, unhealthy working conditions, abusive management regimes, child labour and the suppression of trade union rights.'

Thus, in the light of the growing gap between their own nationally bound capacity to act and the cross-border strategic options of TNCs, trade unions felt that the increased power of TNCs could no longer be countered by purely national instruments and strategies. In order to develop a social dimension to economic globalisation, they saw the need to develop a transnational response, which at least guaranteed a minimum floor of social standards.

There are, in principle, two options to create such a social framework for the global economy. First, through *political regulation*, i.e. through the establishment of legally binding social norms and standards by national governments and/or international institutions. The second option is *self-regulation* or 'private standard-setting', i.e. through voluntary initiatives by the actors of civil society. Traditionally, trade unions pursue both options through lobbying activities vis-à-vis supranational political and financial institutions, on the one hand, and by means of direct company-focused activities vis-à-vis TNCs on the other.

In the course of the 1990s, trade unions became increasingly sceptical about the possibilities of developing such a social framework through political regulation. Nonetheless, they continued their efforts to influence political and economic decision-makers, and intensified contacts with international financial institutions in order to encourage them to pay more attention to the social consequences of their policies and to integrate social measures into their activities. One of the most prominent initiatives in this respect is the campaign of the Building and Wood Workers' International (BWI) for the incorporation of workers' rights in the World Bank's procurement procedures, so that contractors could be disqualified from a bidding process if they fail to observe the ILO Core Labour Conventions. Another example is the ongoing trade union 'social clause' campaign vis-à-vis the WTO and national governments; here, the objective is to link trade agreements with fundamental workers' rights as set out in the ILO's 1998 *Declaration on Fundamental Principles and Rights at Work*.

However, these initiatives have yielded only very modest results so far. According to the trade unions, one of the few successes of their political lobbying activities at global level has been that in the past decade the IMF and the World Bank have become more open to dialogue; for example, regular meetings are now held with representatives of the international trade union movement. Furthermore, both institutions – at least at the level of the institutions' top management and in official publications and statements – acknowledge that the enforcement of the ILO Core Labour Standards are also covered by their own poverty-reduction mandate (ICFTU, 2004, p. 35). However, the trade unions are critical that these changes in rhetoric have so far not been translated into concrete policy changes: 'IMF and World Bank country assistance programmes still have as much emphasis on the classical structural reform policies as before: privatisation, labour market flexibility, liberalisation of trade and capital flows and deregulation' (*ibid*).

From a trade union point of view, some progress has also been made in the area of 'soft law', with the adoption of the ILO's *Declaration on Fundamental Principles and Rights at Work* in 1998 and the revision of both the ILO's *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (originally adopted in 1977) and the OECD's *Guidelines for Multinational Enterprises* (originally adopted in 1976). Since these 'soft law' instruments are still not legally binding, they do not live up to the trade unions' original objective of establishing legally binding rules for TNCs. However, these instruments have nonetheless been welcomed by trade unions because their multilateral character suggests that they can be understood to represent a mutually agreed set of

expectations concerning the social responsibility of business activities (ICFTU, 2004, p. 56). As such, they provide an important reference point for voluntary initiatives to establish minimum social standards.

The trade unions' increasing focus on voluntary initiatives can be seen as the combined result of the 'failure of public governance' (Stavis and Boswell, 2007, p. 177) and the growing importance that TNCs placed on the issue of social responsibility through the adoption of codes of conduct. For trade unions, this created a window of opportunity to push for the conclusion of IFAs at global company level as a second best option to political regulation. The point of departure of this strategy was in the early 1990s as the number of 'new' codes of international labour practice, adopted by a growing number of TNCs for their subcontractors and suppliers, grew (Kearney and Justice, 2003). In principle, the trade unions remained quite sceptical about their actual impact on labour practice. As Kearney and Justice note, this scepticism was not unfounded (*ibid*, p. 95): 'Many of the new codes are still public relations exercises and the vast majority of these kinds of codes are not built around fundamental international labour standards.' The trade unions were particularly critical of the unilateral and voluntary character of the codes of conduct adopted by TNCs. In addition, they saw the danger that TNCs could use their codes to avoid dealing with trade unions and as a tool to avoid political regulation.

However, despite these reservations, the international trade unions viewed this new generation of codes of conduct as an opportunity to engage with TNCs and to start a dialogue at international level. From a trade union point of view, these new codes addressed two of their central concerns as regards the conduct of business in the global economy. The first aspect is that with these new codes, TNCs acknowledge their responsibility for labour practices at an international level, whereas previously TNCs often insisted that labour practices should be exclusively dealt with at the national or local level. The second aspect is that TNCs also acknowledge their responsibility for the labour practices of their suppliers and subcontractors (ICFTU, 2004, p. 74).

Against this background, international trade union organisations saw the need to engage with this new instrument in order to ensure that central concerns of unions as regards content and implementation are met by these codes of international labour practice. For this reason, the international trade unions developed the ICFTU/ITS *Basic Code of Labour Practice* in 1997. The main aims of this Basic Code were, first, to promote the use of the fundamental ILO Core Labour Standards in the TNCs' supplier codes and, secondly, to provide the trade unions with a benchmark against which company codes could be compared (ICFTU, 2004, p. 68). Another reflection of the trade unions' growing involvement in private standard-setting is their participation in so-called 'multi-stakeholder initiatives', such as the Ethical Trading Initiative (ETI), the Fair Labor Association, the Fair Wear Foundation and Social Accountability International (SAI). The main purpose of these initiatives, which are based on cooperation among companies, NGOs and trade unions, is to develop model codes and effective implementation and monitoring mechanisms.

In the light of this growing interaction between trade unions and TNCs in private standard-setting, the negotiation of IFAs seemed the logical next step from a trade union point of view to achieve the establishment of minimum social standards within TNCs and in the development of international social dialogue. However, whereas for the employers the development of dialogue at global company level was the main objective in its own right, for the international trade union organisations this was

just one step on the way to achieving a genuinely international system of industrial relations and to ensuring a worldwide floor of minimum social standards.

## Social partners' IFA-related strategies

### Employers' overall objectives

Since in most cases IFAs are an integral part of the TNCs' CSR policy, the employers' overall objectives in signing IFAs are intrinsically linked with the objectives of that policy. One important objective of the TNCs' CSR policy was to avoid negative publicity arising from public campaigns scandalising violations of basic employee and trade union rights in their production sites and supply chain. However, the increasingly critical public attitude towards the behaviour of TNCs was not the only reason why TNCs saw the need to increase their CSR activities, of which the adoption of codes of conduct and the conclusion of IFAs are only two elements.

As Kocher (2008b) points out, direct economic considerations also played a role. Firstly, in order to be listed on international stock markets, companies were under pressure to adopt unilateral codes of conduct that refer to the interests of employees and that refer directly to some, if not all, social and labour standards. Secondly, companies were under increasing pressure from so-called 'ethical investors'. Or as the IOE (2007, p. 8) puts it: 'With an increased focus on "ethical criteria" for investment decisions in financial markets, some companies have noticed that, in concluding an IFA, this has resulted in advantages in this respect.' Additional pressure in this respect came from the analysts and rating agencies who regularly assess the companies' social and ecological performance as the basis for the ranking of companies. According to Kocher (2008b), this created an 'imitation effect' among companies in order to keep up with their competitors, which, in turn, advanced the spread of CSR policies. Thirdly, companies increasingly discovered CSR as a tool to improve their economic performance and competitiveness. The German Confederation of Employers' Associations, for example, states that depending on the size of the company and the sector in which it operates, CSR can contribute to a company's competitiveness by safeguarding its innovative capacity, by improving its risk management and by strengthening its market position (BDA, 2005, p. 4). The 'intrinsic' economic objectives pursued by companies with CSR vary considerably. As Kocher (2008b, p. 200) points out, some companies may use CSR to improve the quality of their products or procedures; other companies may use their CSR policy and social standards to increase control over their suppliers; and still other companies may use CSR as a tool to gain access to new markets or to position a particular brand.

As companies increasingly internationalise their activities, CSR also becomes more and more important as a risk management tool because there is a growing awareness that central management has no direct control over the business conduct of local managements in other regions, which in turn increases the risk of violations of central values of the company. In this context, CSR – through codes of conduct (and in some cases also IFAs) and the related compliance and monitoring procedures – serves as a tool to reduce these risks: firstly, it acts as a tool to define and communicate the company's values and standards throughout the company and its suppliers; and secondly, it acts as a tool to systematise the gathering of information within foreign subsidiaries and suppliers, and to take appropriate countermeasures.

However, IFAs not only played a role in the increasingly complex CSR schemes developed by TNCs in response to external pressures from civil society, financial markets and competitors. They also



became more important as an HR tool in the context of the increasing internationalisation of the companies' structures and strategies, which often involved a process of 'centrally controlled decentralisation'. This means that, on the one hand, local management has more discretion in implementing decisions at operational level; however, it also means that strategic decisions are increasingly taken centrally at the TNCs' headquarters. (In this context, some central managements viewed IFAs as a tool to internationalise their national tradition of cooperative industrial relations in the company's home country.) Another potential advantage of IFAs from an HR point of view is the fact that the monitoring and auditing processes in the course of the implementation of IFAs can serve as an early warning system of potential labour-related problems, not only in the company's own economic activities but also in those of its suppliers (Hellmann, 2007; Fichter *et al*, 2007). This, in turn, enables TNCs to deal with conflictual situations before they become manifest and therefore damaging in business terms.

### **GUFs' overall objectives**

When assessing the IFA-related strategies of the GUFs, one has to bear in mind that not all GUFs adopted IFAs as a strategic priority to engage with TNCs. The quantitative overview of the 68 IFAs that have so far been concluded illustrates the concentration on five sectors and the corresponding GUFs (*see Table 2*).<sup>\*</sup> As Stevis and Boswell (2007, p. 184) point out, the remaining federations have so far not prioritised IFAs as a tool to deal with TNCs. A special role is played by the International Textile, Garment and Leather Workers' Federation (ITGLWF) because, although IFAs are a strategic priority, the ITGLWF has so far only concluded one IFA. However, even among those six GUFs for which IFAs are a strategic priority, their actual approach and overall objectives vary considerably depending on the specific situation in the sector in which they operate and on the result of the internal strategic discussions among their national affiliates.

With this caveat in mind, the following analysis of the GUFs' IFA-related strategies first examines the content of IFAs and the overall objectives pursued by GUFs, and then goes on to look at the more practical aspects of concluding and implementing IFAs. As regards the content of IFAs and the GUFs' overall objectives, one can observe a general tendency that – in view of the limited scope of political regulation at global level – the GUFs increasingly concentrated on the company level in their efforts 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, the trade unions pursue the following four intertwined key objectives with the conclusion of IFAs (Rüb, 2006, p. 7):

- the establishment of minimum social standards in all the TNCs' operations worldwide, including their suppliers and subcontractors;
- the development of a continuing dialogue with management at international and national/local level;

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<sup>\*</sup> The GUFs are the International Metalworkers' Federation (IMF), Union Network International (UNI), the International Federation of Chemical, Energy, Mine and General Workers' Union (ICEM), the Building and Wood Workers' International (BWI), and until recently the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF).

- supporting trade union organising campaigns in the respective TNCs and their suppliers;
- the improvement of international cooperation between trade unions through the establishment of worldwide trade union networks within TNCs.

While there is general agreement among the GUFs about the importance of IFAs as a tool to develop an ongoing dialogue with management, their priorities with respect to the other three key objectives can vary considerably – as the following examples will demonstrate.

#### *UNI-Finance*

One example of a GUF for which the establishment of a transnational framework of industrial relations is the main priority pursued with the conclusion of an IFA is UNI-Finance, the section of the global services union UNI that affiliates trade unions in the banking and insurance sector. In line with most other GUFs, UNI-Finance traditionally pursued four key objectives with the conclusion of IFAs: (1) the development of worldwide dialogue with management; (2) second, the setting-up of social standards for all the companies' operations worldwide; (3) the development of monitoring mechanisms for these social standards; and (4) the establishment of global trade union networks within TNCs. However, progress in negotiating IFAs with TNCs in the organisational domain of UNI-Finance has been slow. So far, only one IFA has been concluded – with the Australian Bank NAG in 2006. One reason for this slow progress in the banking and insurance sector is that the specific structure of the finance industry means that there is little interest in signing an IFA on minimum social standards because for these companies this is less of an issue than it is for companies in the more labour-intensive manufacturing industries. Another reason is that the trade unions lacked the capacity to exert pressure on the companies to enter into negotiations with them. However, since more and more companies in the sector responded to increasing internationalisation by pursuing more international HR and business strategies, an increasing number of companies showed interest in the establishment of transnational dialogue structures as a means of facilitating the introduction of international policies, for example, in the areas of diversity or performance assessment. As a consequence, UNI-Finance's main focus in establishing IFAs shifted from an approach largely aimed at the establishment of minimum social standards to an approach geared towards the establishment of an international industrial relations framework that links the national and the international level of industrial relations and that pursues commercial success without losing sight of the interests of employees.

This recent shift in the focus of UNI-Finance's approach towards IFAs was a pragmatic adaptation to the existing practice based on the realisation that, in the finance sector, IFAs as a voluntary instrument can only be achieved in those areas in which both parties benefit. For companies, the advantage of the establishment of an international framework of industrial relations is that they get a partner for dialogue and negotiations at central level, which facilitates the introduction of transnational policies. By negotiating at central level, they can avoid the often time-consuming process of conducting multiple negotiations in each individual country. For UNI-Finance, such a system not only serves as the basis for the establishment of dialogue with TNCs, but it also provides the opportunity to improve transnational communication and cooperation among its affiliates, which, in turn, is a prerequisite to achieving the other core objectives pursued with IFAs.



*Building and Wood Workers' International (BWI)*

A different approach is pursued by the Building and Wood Workers' International (BWI), the international federation of trade unions in the construction, building, wood, forestry and allied trades. The BWI's main focus in concluding IFAs lies in establishing minimum social standards within TNCs by ensuring the full recognition of trade union rights and the effective implementation of all ILO Conventions (IFBWW, 2003, p. 2). The strong focus on minimum social standards can be explained by three key characteristics of the industries in which the BWI operates: (1) the predominance of SMEs in comparison to big multinationals, which account for less than 10% of the overall employment; (2) the poor working conditions and precarious employment status of many workers in the industry, which in part results from (short-term) contracts that offer only little social protection arrangements; and (3) the more generally bad image of the sector because of the dirty and dangerous work involved and because of the potentially environmentally damaging production processes, both of which make companies vulnerable to negative publicity and therefore potentially increase their openness to sign an IFA.

Against this background, the BWI developed a 'toolbox' to promote and protect workers' rights in TNCs. This 'toolbox' includes several interlinked instruments, such as IFAs, European works councils, global company councils, corporate campaigns, international instrument and guidelines, dialogue with employers' federations, and the use of workers' involvement in pension schemes and real funds (*ibid*, p. 2). The specific role of IFAs in the context of the broader approach towards TNCs is to engage TNCs in the promotion of workers' and trade union rights by establishing a continual working relationship and dialogue between the BWI and TNCs in order to achieve socially responsible business practices at international level. According to the BWI's Assistant General Secretary, Marion Hellmann, IFAs 'constitute a formal recognition of social partnership at the global level' (*ibid*, p. 24). This means that by signing an IFA with the BWI, TNCs commit themselves to respect workers' and trade union rights on the basis of the ILO Conventions and to cooperate with trade unions in the implementation and monitoring process and in resolving any issue related to non-compliance with the terms of the agreement. IFAs therefore serve as a tool to achieve the BWI's main objective of establishing social minimum standards in TNCs in two different ways: first, by directly committing TNCs to respect the provisions of the agreement and, secondly, by assisting the BWI's national affiliates to gain union recognition and to engage in a process of dialogue with the company and its subsidiaries, suppliers and subcontractors at national level. The capacity of national unions to organise workers and to conduct collective bargaining at national and enterprise level is, in turn, viewed by the BWI as a necessary prerequisite for the full implementation of the IFA and to provide the foundation for the improvement of workers' living and working conditions.

The strong emphasis that the BWI places on the establishment of minimum social standards in negotiating IFAs is reflected in the new BWI model framework agreement, which was approved by the BWI World Council in November 2007. It not only contains a detailed catalogue of measures to be fulfilled by TNCs, which goes beyond the ILO Core Labour Standards (covering issues such as hours of work, health and safety of workers, welfare of workers, skills training and conditions for the establishment of an employment relationship), but it also contains detailed implementation and conflict resolution mechanisms (BWI, 2007).

*International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)*

While the BWI views IFAs as 'living documents' which are continuously improved by actual practice, the approach of the IUF as one of the pioneers in concluding IFAs is much more stringent. For the IUF, IFAs are first and foremost an organising tool. Thus, the main yardstick for assessing the success of an IFA is an increase in trade union membership and strength within TNCs (Weinz, 2006, p. 23). This approach is fairly new and is based on a critical evaluation of the IFAs in the IUF's organisational domain in 2005. This evaluation had concluded that the practical impact of the IFAs in promoting workers' rights was very limited and that they in particular failed to facilitate the activities of the IUF's national affiliates within TNCs. The IUF identified three main reasons for this (*ibid*, p. 24): (1) the provisions of the IFAs were too general and largely only reiterated the ILO Core Labour Standards; (2) it was not possible to fully implement and enforce the IFAs because there were no effective mediation and conflict resolution mechanisms in place; and (3) due to a lack of resources, the IUF itself and its affiliates were not in a position to continuously monitor the implementation of IFAs. On this basis, the IUF concluded that IFAs in their current form mainly serve TNCs as a tool to improve their public image. The IUF furthermore saw the danger that IFAs as voluntary initiatives could undermine trade union efforts to establish legally binding norms.

As a consequence, the IUF saw the need for more detailed rules in IFAs, particularly in the area of the workers' rights to join a trade union. The aim is to draw a clear distinction between IFAs as a CSR tool of management and IFAs as a trade union tool to promote the rights of workers and trade unions. In practice, this meant that for the IUF it is no longer enough if IFAs provide for the right to collective bargaining and freedom of association, as embodied in the ILO Core Labour Standards. Future IFAs should go beyond this and contain detailed rules that enable workers and trade unions to actually use these rights and join a trade union. In order to achieve this objective, IFAs should contain detailed provisions that enable trade unions to get access to potential members, ensure that TNCs do not intervene in 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 IFAs (*ibid*, p. 25).

*International Textile, Garment and Leather Workers' International (ITGLWF)*

Analytically, those cases in which attempts to negotiate an IFA failed are as illuminating as successful initiatives because they shed some light on the sector- and company-specific factors that shape the strategies of GUFs. A case in point is the ITGLWF, the global union representing workers in the textiles, clothing and footwear industry, which only very recently (in 2007) managed to conclude an IFA with the Spanish company Inditex. Why is it that the ITGLWF did not succeed in concluding more IFAs, especially since at its 2000 Congress the organisation made IFAs a strategic priority in the context of its policy regarding TNCs?

Miller (2004 and 2008) points to four sector-specific conditions that made it so difficult for the ITGLWF to conclude IFAs with TNCs: (1) the sector is characterised by multi-tiered and buyer-driven production chains so that in many cases brand-owners and retailers have only partial knowledge of where precisely their goods are produced and of the extent of subcontracting activities by their suppliers (Miller, 2008, p. 168). The resulting lack of transparency creates extremely difficult conditions for trade unions' organising efforts; (2) in no other sector are there so many codes of conduct adopted unilaterally by TNCs as part of their CSR policy in response to public pressure

accusing them of violation of worker and trade union rights in their supply chain. These codes are generally viewed by TNCs as alternatives to bilaterally negotiated IFAs; (3) according to Miller, the sector is notorious for the anti-union stance of many employers, which in turn makes it very difficult to establish a dialogue with TNCs; and (4) the ITGLWF's national affiliates are characterised by low unionisation rates and have in most cases only limited access to strategic decision-takers in the headquarter countries, which, as the experience of other sectors illustrates, are crucial prerequisites to convince TNCs to negotiate an IFA.

Since until very recently these framework conditions proved to be insurmountable, the ITGLWF was forced to pursue a multi-faceted alternative approach vis-à-vis TNCs, aiming at the establishment of some kind of dialogue with TNCs and at the improvement of its membership base as the necessary prerequisites to negotiate an IFA. A central element of this alternative approach was to convince companies to disclose the locations of their suppliers, so that the ITGLWF's national affiliates could better target organising campaigns. In the absence of IFAs, the ITGLWF furthermore encouraged its national affiliates to use the TNCs' unilateral codes to resolve national conflicts – in particular in those cases in which 'labour standards contained in the multinational buyer's code had been breached' (Miller, 2008, p. 177). A third element of the ITGLWF's approach vis-à-vis TNCs was an increased involvement in private standard-setting through multi-stakeholder initiatives. This not only served to develop effective reporting, auditing and monitoring systems for the industry, but it also facilitated the development of a dialogue and working relationship with CSR representatives of TNCs as a potential stepping stone to the negotiation of IFAs. All these measures were accompanied by global campaigns in order to facilitate dialogue between the ITGLWF and TNCs over such issues as supply chain management, health and safety, and the resolution of specific disputes.

The ITGLWF has made considerable progress, in particular with the disclosure of suppliers' locations and the establishment of social dialogue with TNCs, which are increasingly open to meet with the ITGLWF and its national affiliates in order to discuss compliance failures within their supply chains and the urgent problem of implementing freedom of association and collective bargaining measures. In the light of these developments and the recently signed IFA with the Spanish company Inditex in 2007, Miller (2008, p. 185) concludes that 'the opportunities for moving towards mature industrial relations in parts of the industry have never been better'. However, he also cautions against an over-optimistic view: since it remains to be seen whether this change in thinking on the part of the TNCs will lead to further IFAs, the ITGLWF will continue to seek dialogue with TNCs through alternative approaches, such as involvement in multi-stakeholder initiatives, global campaigns and national meetings between TNCs, their suppliers and the ITGLWF's national affiliates. In order to address the ongoing problem of violations of trade union rights, the ITGLWF will furthermore try to conclude other types of global agreements (in addition to 'traditional' IFAs) that specifically focus on trade union access to production sites, as well as neutrality and non-interference of TNCs' in union organising campaigns.

#### *International Metalworkers' Federation (IMF)*

Within the IMF, the approach towards IFAs is embedded in its broader company policy of developing an ongoing relationship of dialogue and negotiations with TNCs in order to improve the conditions of employees. The second central pillar of this strategy is the establishment of global company-level representation structures. This policy has a long tradition within the IMF, dating back to the late 1960s when the IMF set up the first world councils in the automobile industry. In the field of IFAs,

however, the IMF was a late-comer compared to other GUFs. Although the IMF declared IFAs a strategic priority at its 1997 Congress, it took another four years until the first IFA was signed (in 2001) at the Italian company Merloni (now Indesit). Since then, however, the IMF has signed another 17 agreements, which is the largest number of IFAs signed by any individual GUF.

The IMF considered the increased openness of TNCs to conclude IFAs as a window of opportunity to achieve its central company policy objectives – firstly, because by signing an IFA, TNCs recognised the IMF as a legitimate partner for dialogue and negotiations, and, secondly, because IFAs can be used as a tool to establish minimum social standards worldwide in all of a TNC's operations and its suppliers. Against this background, the IMF Executive Committee adopted a 'model agreement' in 1998, which is based on the ICFTU 'model code' of 1997. The IMF model agreement not only refers to the ILO Core Labour Standards, but it also contains provisions on wages, working time and more general working conditions, such as health and safety standards. Recently the IMF reviewed the practice of the IFAs signed in its organisational domain and held a global conference in 2006 in order to discuss the future direction of IFAs with its national affiliates. Following this conference, the IMF formulated a set of recommendations that set out specific guidelines for the negotiation, implementation and enforcement of IFAs (IMF, 2006). In these recommendations, the IMF places even stronger emphasis on the use of IFAs to support organising campaigns in order to 'build strong industrial metal unions, with a membership base not only in the TNCs, but extending into their supply chains and the local enterprises' (*ibid*, p. 2). It also recommends the creation of a stronger link between IFAs and the establishment of transnational union networks within TNCs in order to ensure the effective implementation and monitoring of IFAs.

Regarding the actual negotiation of IFAs, the IMF pursues a fairly pragmatic approach in stating that 'a representative of the IMF, or a duly authorised person of the IMF, shall be a signatory party' (*ibid*, p. 1). As a consequence, most of the IFAs are co-signed by European Works Councils, World Works Councils or by IMF representatives (Bourque, 2005b; Stevis and Boswell, 2007). This approach leaves enough room to negotiate IFAs according to national or company-specific industrial relations traditions and practices. However, even if the IMF does not play the leading role in negotiations, and correspondingly is not the sole signatory of the agreement, this approach nonetheless ensures that the IMF is recognised by the company as a legitimate representative of the employees' interests worldwide.

#### *International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM)*

Together with the establishment of global company networks and campaigns, IFAs are a central element of ICEM's company policy. In this broader context, ICEM views IFAs primarily as an industrial relations tool to solve local conflicts through the establishment of social dialogue with TNCs at all levels of the company. Some first successes have been achieved in this respect. For example, at the French company Lafarge the intervention of central management led to the conclusion of a collective agreement in an American quarry operation, while at Norske Skog the IFA helped to convince local managers at a Malaysian company (which is 30% owned by Norske Skog) to drop a Labour Court appeal and to accept workers who had been excluded from the company (ICEM, 2007a).

As a result of a recent review of the practice of existing IFAs, ICEM plans to strengthen the links between IFAs and the other two central company policy tools – global company networks and

campaigns. In practice, this means that ICEM will explore the possibilities of targeting carefully selected companies – in particular, those with a strong anti-union record – for global campaigns in order to sign an IFA. ICEM also plans to place more emphasis on using IFAs as an organising tool and as a tool to develop global networks in order to promote effective forms of trade union coordination as a prerequisite for the effective monitoring of the company's compliance with the provisions of the IFA (ICEM, 2007b).

#### *Summary of GUFs' IFA-related strategies*

These examples of the strategies of the various GUFs illustrate that while the different GUFs pursue a shared set of overall objectives with the conclusion of IFAs, their specific priorities and approaches vary depending on the specific situation in the sector in which they operate and on the evaluation of their previous experience with IFAs. It should be emphasised, however, that the specific strategy they pursue in individual cases is very much determined by company-specific factors, in particular management's attitude towards cooperating with trade unions. Furthermore, it is important to stress that GUFs are not monolithic organisations. Within GUFs, unions from different countries with different industrial relations traditions and structures have different views of the main purpose of IFAs. National trade unions from countries with a voluntaristic and more adversarial tradition of industrial relations are more likely to view IFAs mainly as an organising tool than will trade unions from countries with a highly institutionalised and more cooperative tradition of industrial relations; the latter are more likely to view IFAs as a first step in the development of an ongoing relationship with management in order to solve existing problems at global level. Which view in the end prevails and becomes official policy of the respective GUF depends in part on the internal constellation of interests and power among the national affiliates of each GUF.

Over time, we can observe a tendency among GUFs to give the *quality* of agreements priority over *quantity*. Or, to put it differently, the GUFs' approach towards IFAs has shifted from a quantitative strategy of concluding as many IFAs as possible to a qualitative strategy of paying much more attention to the effective implementation and enforcement of agreements. This is reflected in the revised model framework agreements adopted by many GUFs in recent years. These not only go beyond the ILO Conventions as regards content, but they also contain detailed provisions on the establishment of effective implementation and conflict resolution mechanisms. 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 it means that in future fewer IFAs may be concluded. According to this new approach, the GUFs aim to put pressure on companies and international global governance institutions by creating a critical mass of best practice examples.

#### **GUFs' process-related strategies**

Regardless of the overall objectives pursued with IFAs, the process of actually implementing the agreements can be divided into three distinct phases: initiation and negotiation; implementation and monitoring; and conflict resolution.

#### *Initiation and negotiation of IFAs*

The vast majority of IFAs have been negotiated at the initiative of trade unions. There are only a few examples, such as Renault, PSA Peugeot-Citroën and Lafarge, in which management approached the



trade unions with the intention to negotiate an IFA. On the management side, the HR department at the company's headquarters was mainly responsible for conducting negotiations of IFAs, often in consultation with other corporate divisions such as the departments for CSR, purchasing and/or legal affairs (Schömann *et al*, 2008, p. 55).

On the employee side, the situation is much more complex. Although IFAs are by definition signed by GUFs, on the employee side a whole range of other actors are potentially involved in the process of initiating and negotiating an IFA, including national trade unions and global and European company-level employee representation structures. In most cases, the negotiation of an IFA was initiated by the GUFs' national affiliates (often in cooperation with existing national company-level employee representation structures) in the respective TNC's home country, utilising their privileged access to central management. However, even within the same sector, the initiation and negotiation process did not follow a standard procedure and depended heavily on company-specific factors, in particular on pre-existing industrial relations structures at national and international level, and management's approach to trade unions and company-level employee representations structures.

An illustrative example of the wide variation in the process of initiating and negotiating an IFA within one sector is provided by Holdcroft (2006) for the metal industry. According to Holdcroft, a large number of IFAs in the metal industry – and particularly those concluded in German TNCs (which account for 9 out of the 17 IFAs that have so far been concluded by the International Metalworkers' Federation/IMF – can be attributed to the strong commitment of the national affiliate in the company's home country, which has taken a leading role in initiating IFAs. However, there are also other cases, such as SKF and Volkswagen, where the already existing World Works Council initiated the IFA and led the negotiations. In the case of Arcelor, for example, it was the EWC that initiated a proposal for an IFA; in the case of Renault and PSA Peugeot-Citroën, it was management that directly approached the IMF with the intention to negotiate an IFA. Depending on the process followed, the degree to which the IMF was directly involved in the negotiations varied considerably. Whereas in the cases of Renault and PSA Peugeot-Citroën, the IMF played a leading role throughout the negotiation process (Holdcroft, 2006, p. 19), most of the IFAs in German TNCs have been negotiated by the IMF's German affiliate, IG Metall, in cooperation with company-level employee representation structures on behalf of and in close coordination with the IMF.

As Schömann *et al* (2008, pp. 50-51) point out, the leading role of EWCs in negotiating an IFA is hotly debated within GUFs and their affiliates. The main criticism raised against a leading negotiation role for EWCs is that EWCs as a European institution have no mandate to negotiate a global agreement, which also affects workers outside the EU. The second argument against a leading negotiation role for EWCs is that they are not genuine trade union bodies and that they potentially can also include non-unionised delegates. Whereas some GUFs (e.g. IUF) reject a negotiating role for EWCs and insist on a leading role for the GUF, other GUFs (e.g. IMF and BWI) are more pragmatic and accept a leading negotiation role for EWCs as long as the GUF concerned stays informed and involved in a coordinating role.

More generally, the role of GUFs in the process of initiating and negotiating IFAs can be described as serving the following three key functions:

- they have a representative function vis-à-vis TNCs in those cases in which they are directly involved in the establishment of contacts and negotiations with TNCs;

- they have a servicing function vis-à-vis their affiliates by providing them with contacts to unions in other countries or with guidelines (e.g. in the form of model framework agreements) that specify certain minimum requirements as regards content and procedure. Another servicing activity of GUFs is the organisation of conferences and seminars, both at global and regional level, in order to raise their affiliates' awareness of the importance of IFAs and in order to provide them with the necessary skills to negotiate an IFA;
- they play an important role as a coordination and communication platform. In doing so, GUFs not only ensure that their affiliates adhere to the agreed minimum requirements, but also that all the trade unions represented in the respective TNC are informed and consulted throughout the negotiation process. The GUFs' coordinating role also involves the representation of the interests of those affiliates that are not directly involved in the negotiations.

#### *Implementation and monitoring*

According to the GUFs, the company is responsible for the implementation of the IFA by integrating the provisions of the agreement into the company's policies and by ensuring that an effective management system exists which guarantees that the IFA is successfully implemented. From a trade union point of view, two essential prerequisites for the successful implementation of an IFA are, first, the translation of the IFA into all the relevant languages and, secondly, actions taken to ensure that all employees (including those in managerial positions) are informed about the content of the IFA, including those employees of the respective company's subsidiaries, suppliers and subcontractors. As Rüb (2006, pp. 13-15) and Schömann *et al* (2008, pp. 60-62) note, this can be done in a variety of ways. The measures used by companies to disseminate IFAs range from seemingly straightforward methods (such as publishing the IFA on the company's website and in the social report and company newspapers, distributing leaflets and putting the IFA up on the noticeboard of all the company's production sites) to more elaborate methods (such as regular meetings by representatives of top-level management of all the company's subsidiaries, informing suppliers and subcontractors via the company's B-to-B website and developing information kits). The GUFs support the companies by organising regular seminars and implementation workshops, bringing together trade unionists and company-level employee representatives from different world regions, and by encouraging their affiliates to inform employee representatives about the IFA at all national and local meetings of the same company.

However, in practice, the implementation of an IFA in suppliers and subcontractors is often not as straightforward as it might seem. There are several factors that complicate the application of an IFA to suppliers and subcontractors. First, in sectors such as textiles, clothing and footwear with buyer-driven commodity chains in which large retailers and merchandisers outsource the greater part of their production of goods to a complex multi-level network of suppliers (Bair and Gereffi, 2000, p. 198), it is often difficult to even inform the suppliers and subcontractors who are lower down the supply chain because in some cases they may not even be known to the sourcing company (Miller, 2004, p. 219). Secondly, suppliers are often subjected to several different and sometimes contradictory codes of sourcing companies, which makes it difficult for one particular company to impose its specific IFA on a supplier. Thirdly, particularly in capital- and technology-intensive industries dominated by producer-driven commodity chains, such as the automobile and aviation industry and the computer and heavy mechanical engineering industries (Bair and Gereffi, 2000, pp. 197-98), some first-tier suppliers may have such a strong market position vis-à-vis the sourcing company that it is difficult for the latter to influence the conditions under which the former produce a certain product (BDA, 2005, p. 15).

However, from a trade union point of view, the real challenge in making an IFA work is the establishment of effective monitoring mechanisms. The trade unions distinguish between monitoring and verification. According to the ITUC, 'the term monitoring implies a continuous or frequently repeated activity' (ICFTU. 2004. p. 72), which means that the monitoring of an IFA requires a continuous presence at the workplace. Trade unions take verification to mean 'a comprehensive process, involving checking on both code compliance of the supplier and the implementation systems of the company that has adopted the code' (Kearney and Justice, 2003, p. 109). Against this background, the GUFs are very sceptical towards the so-called 'independent monitoring' performed by external auditing and accounting companies. Their main points of criticism are: (1) due to the complexity of the supply chains, it is not possible for external auditors to monitor each of the company's suppliers on a continuous basis; (2) external auditing and accounting companies often do not have much experience in dealing with fundamental trade union rights, such as freedom of association and the right to free collective bargaining in particular, since many of the ways in which workers are prevented from exercising their rights stipulated in the IFA (e.g. their right to join a trade union) are very difficult to detect; (3) where external auditing and accounting companies are engaged, trade unions are often excluded from the monitoring and verification process; and (4) by engaging external auditors on a contractual basis, the company essentially retains control over the whole process.

Thus, as Hellmann (2007, p. 28) emphasises, for the GUFs 'the only real system of "independent monitoring" of workplaces is by the workers themselves through their trade unions'. This, however, requires that independent trade unions exist in all the company's production sites (including the supply chain). To a certain extent, this amounts to a 'chicken and egg' dilemma: it is frequently not until the fundamental trade union rights detailed in an IFA have been successfully implemented that trade union organisation is even possible. In other words, a trade union presence is often an intended result of an IFA and therefore may not always be relied upon as a prerequisite for monitoring its implementation in the first place.

One of the GUFs' main objectives with respect to the establishment of effective monitoring and verification mechanisms is therefore to ensure that they are involved in determining the rules and procedures of how the monitoring and verification should be performed and also that they are continuously informed and consulted during the process (Kearney and Justice, 2003, p. 109). There are different ways to achieve this objective: one way is to cooperate with companies and NGOs in the context of multi-stakeholder initiatives, while another way 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, p.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, p. 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 and verification capacities (Rüb, 2006, pp. 20-22). Since this approach depends heavily on the activities of the GUFs' national



affiliates, two central elements of this strategy are: (1) organising campaigns in order to strengthen trade union presence in TNCs and their suppliers, and (2) 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, linking not only 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 the formal structure to ensure that 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.

#### *Conflict resolution*

In line with the GUFs' main objective of establishing an ongoing dialogue with TNCs through the conclusion of an IFA, the GUFs usually try to settle any violation of the provisions of an IFA in cooperation with management. While, as the study by Schömann *et al* (2008) shows, the actual handling of disputes may vary from company to company, the GUFs' more general approach towards conflict resolution can be described as follows. In the case of an alleged violation of the IFA, the GUF tries to obtain more information about the case in question in order to make sure that there really was a violation. If the violation is confirmed, the GUF encourages its affiliates to try to resolve the issue at local/national level with the local/national management. If this fails to resolve the problems at local or national level, the GUF in cooperation with the national affiliate (and/or company-level employee representation structures) in the company's home country will bring the complaint to the attention of central management, whose task it is to develop a catalogue of corrective measures (from a trade union point of view, ideally in cooperation with the trade unions) and to ensure its timely implementation. It is only if the involvement of central management still fails to resolve the issue to the satisfaction of the trade unions concerned that the GUF envisages resolving the issue through a binding arbitration procedure or through the organisation of a public campaign in order to put pressure on the company. The termination of the IFA is considered to be the final resort if all attempts to come to a satisfactory solution have failed.

### **Regional framework agreements at European level**

A special type of IFAs are regional frameworks at European level, signed by companies and employee-side actors such as EWCs and European Industry Federations (EIFs). Like IFAs, the emergence of European-level framework agreements is a recent phenomenon. The differences between IFAs and European-level framework agreements as regards their content has been discussed in Chapter 3. However, they also differ procedurally in terms of the role played by different actors. In the case of European-level framework agreements, transnational company-level employee representation structures (i.e. EWCs) play a much stronger role in initiating, negotiating and signing the agreement. The role and motivation of company-level actors in this process will be dealt with in more detail in Chapter 6, which describes a number of case studies. The main focus in the following

discussion is on the strategies of the EIFs as the main sectoral-level actors involved. However, in order to fully understand the strategies of EIFs in pursuing European-level framework agreements, it is essential to look first at the factors that prompted the emergence of this new phenomenon.

The emergence of European-level framework agreements can be explained by the interplay of a whole range of actor-related and structural framework conditions. One important factor was that an increasing number of 'participation-oriented EWCs' (Lecher *et al*, 2001) over time developed effective internal working, communication and networking capacities. This enabled them to go beyond the information and consultation role stipulated in the EWC Directive by taking a joint European approach in negotiating European-level agreements on 'soft' issues, such as health and safety, equal opportunities, mobility and training, and data protection.

As several studies on the development of negotiations at European company-level illustrate, the EWCs; development of a negotiation role was also facilitated by the existence of certain company-specific structural framework conditions (Arrowsmith and Marginson, 2006; Hall *et al*, 2003; Léonard *et al*, 2007; Marginson *et al*, 2004). The findings of these studies are succinctly summed up by Marginson and Sisson (2004, p. 237): 'Employee-side organisation and networking activity was found to be strongest, and the impact of the EWC on management decision-making greatest, in single business companies whose operations are spread across countries and where production and other activities are integrated across borders.' Another conducive structural factor was the existence of a European management structure that corresponds with the EWC – or put differently, if there is a fit between the EWC and the existing management decision-making structures (Hoffmann *et al*, 2001).

In many cases, European-level negotiations between EWCs and management were triggered by concrete events or problems. In some cases, it was management's plan to introduce transnational HR policies, which the EWC used as an opportunity to convince management to enter into negotiations at European level. In other cases, transnational restructuring programmes prompted negotiations that were mainly initiated by EWCs and trade unions in order to prevent workforces from different countries from being played off against each other and in order to ensure that the restructuring programme was carried through in a socially responsible way. Ford and GM Europe, where the first European-level agreements on restructuring were signed in 2000, are the two most prominent examples, where the employee-side's transnational capacity to act on the basis of strong cross-border networks and cross-border forms of action pressurised management into entering negotiations at European level.

However, in the absence of such a well-developed transnational capacity to act on the part of the employee-side, another important factor that triggered negotiations at European company level is the fact that management can also benefit from European-level negotiations. Léonard *et al* (2007, p. 65) mention two main motivations why companies may opt to engage in European-level negotiations – (1) they seek to secure legitimacy for transnational policies on employment and HR issues through the approval of the EWC and (2) they hope to 'avoid transaction costs, in terms of management time and resources, involved in a series of local negotiations, each searching for a solution to a common problem'.

More than 50 agreements have been signed so far by EWCs (European Commission, 2008a). While this undoubtedly represents a major step towards the development of a European system of industrial

relations, for the trade unions this situation presents a strategic dilemma. In view of the growing transnational economic challenges, European-level negotiations by EWCs represent, on the one hand, a useful strategy to handle the consequences of and to counter the increasing transnational economic activities of TNCs. 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-pessimists described such a scenario already, more than 10 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 example, 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. Both 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.

In light of the growing negotiation activity of EWCs, such a scenario will become more and more real for trade unions if they do not manage to maintain close links with EWCs, despite the fact that the EWC Directive provides no formal role for trade unions. Against this background, trade unions increasingly see the need to develop effective mechanisms to coordinate their activities at company level through the respective EIF in their sector. How they go about doing this will be outlined in the remainder of this chapter, which describes the approach of the European Metalworkers' Federation (EMF) and of the European Federation of Textile, Clothing and Leather (ETUF-TCL) as two of the most advanced examples in this respect. In particular, the EMF's coordination and mandating approach has provided the other EIFs with an important precedent.

## **Strategies of European Industry Federations**

### **European Metalworkers' Federation (EMF)**

The structural preconditions for a more effective transnational coordination of trade unions within the EMF in the field of EWCs were already created at the beginning 1995 with the establishment of the company policy committee (CPC) (or 'EWC task force' as it was called at the time), consisting of the national experts who were responsible for dealing with EWCs in their national trade union. The CPC's three main functions were: (1) to ensure an ongoing and open exchange of information and documents among the national trade unions; (2) to serve as a 'clearing house' in the case of concrete problems; and (3) to develop binding guidelines for the EMF's national affiliate in order to ensure a common approach and strategy towards the coordination of EWCs. After the adoption of the EWC Directive in September 1994, the EMF adopted the first guidelines regarding the trade union coordination of EWCs. A central element of these guidelines was that for each EWC a national coordinator should be appointed, usually from the dominant national trade union in the home country of the company concerned. The main task of this coordinator was to ensure a constant flow of information between the EWC, national trade unions and the EMF (EMF, 2000).

Along these lines, the EMF reacted to the new challenge posed by the increased negotiation activities of EWCs in the cases of transnational company restructuring since the beginning of the 2000s by formulating a jointly agreed policy entitled *EMF policy approach towards socially responsible company restructuring* (EMF, 2005). The key elements of this policy approach are:

- the establishment of an ‘early warning system’, which in practice means that as soon as the EMF coordinator gets hold of information about the company’s restructuring plans, he or she will immediately inform the EMF, which, in cooperation with all the unions concerned, will develop appropriate measures;
- if need be, the establishment of a European trade union coordination group, composed of EWC representatives, members of the EMF secretariat, the EMF coordinator and one representative of each national trade union involved. The key objective of such a European trade union coordination group is to ensure the involvement of trade unions in the process of restructuring and to develop a jointly coordinated response to management’s plans. A necessary prerequisite for the development of a coordinated approach is complete transparency of information in order to create trust among the delegates and in order to avoid management starting separate negotiations in individual countries in an attempt to play off workforces from different countries;
- the third key element of the EMF’s policy approach states that ‘no negotiation will be concluded before having informed and consulted with the colleagues concerned or the coordination group’;
- finally, the development of a platform of jointly agreed demands in order to signal to management that the employee-side speaks with one voice. On this basis, the EMF strives for European-level negotiations in order to ensure a solution that is acceptable for all the parties involved. On the part of the employee-side, the negotiation will be conducted by the European coordination group.

While the EMF, in principle, supports negotiations by EWCs at European company level on the basis of the policy approach outlined above, it still faces the problem that there is no legal framework ensuring the national implementation of European framework agreements concluded at company level. In practice, this means that each European-level agreement needs to be implemented through negotiations at national level in accordance with national law and practice. Another problem was that the EMF had no official mandate from the national affiliates for the negotiation of European framework agreements. The EMF has addressed these problems by adopting the policy *Internal EMF procedures for negotiations at multinational company level* (EMF, 2006). 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 decide to open negotiations. The negotiation mandate specifies not only the concrete issues to be negotiated, but it also defines procedural aspects of the negotiation process 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 that obliges all trade unions concerned to implement the agreement at national level in accordance with national law and practice.

Although the EMF’s coordinating procedure has been successfully applied to the negotiations of European framework agreements at the French companies Areva and Schneider, there are still some problems in practice. The first problem is the question of how binding these ‘binding’ guidelines actually are for the EMF’s national affiliates. Since even though the binding guidelines have been approved by all national affiliates through the EMF executive committee, the EMF still relies on the cooperation of its national affiliates to actually follow the guidelines because the EMF has no power to force national affiliates to follow the guidelines and to sanction non-compliance other than by

exerting moral pressure. The EMF's lack of power to sanction non-compliance with 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 guidelines requires a high degree of solidarity and European consciousness on the part of the national affiliates to make concessions, if need be, 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 guidelines, for the successful implementation the 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 at national level. However, despite these potential problems, the EMF procedure to deal with the problem of the potential decoupling of EWCs and trade unions in the context of negotiating European framework agreements still is the most advanced and efficient example that exists so far.

### **European Federation of Textile, Clothing and Leather (ETUF-TCL)**

Another route to that of the EMF has been chosen by the ETUF-TCL, which has developed an articulated strategy of transnational bargaining over the past 20 years. According to its Secretary General, Patrick Itschert (2008), this strategy was developed in 4 stages:

1. Stage 1: The negotiation of European sectoral framework agreements to be integrated into national collective agreements at sectoral level.
2. Stage 2: The negotiation of company codes of conduct by national unions and/or EWCs.
3. Stage 3: The negotiation of European framework agreements at company level.
4. Stage 4: The negotiation of international framework agreements.

The reasons why the ETUF-TCL has adopted this top-down strategy on a sectoral and European level are twofold. The textile–clothing sector is strongly globalised and subject to radical restructuring processes, but there are only very few EWCs (about 40). On the other hand, there are three sectoral social dialogue committees where the ETUF-TCL is present – in footwear; tanning and leather; and textiles and clothing. In these committees, employers and unions often find a way to develop common views in order to get support for their economic and social problems from the European institutions.

The first transnational negotiation at sectoral level took place in the footwear committee in 1993. Information about the use of child labour in Portugal prompted these negotiations, which led to the signature of a European framework agreement on child labour with the European employers' organisation for the footwear industry. In 2000, a sectoral code of conduct on fundamental rights at work, with reference to the ILO Core Labour Standards, was agreed, which in 2002 was also co-signed by the employers' representatives of the distribution sector.

In 1997, a sectoral framework agreement on fundamental rights at work was signed with Eurotex, the European employers' organisation of the textile and clothing industry, and in 2000 a similar agreement was signed with the European employers' organisation of the tanning and leather industry. These framework agreements were to be implemented by integrating them into the national sectoral collective agreements. In the textile sector, a leaflet campaign ensured that employees were informed



about their rights (Nordestgaard and Kirton-Darling, 2004). Different methods of evaluation of the application were discussed in the dialogue committees. The ETUF-TCL also tried to involve the EWCs in these monitoring processes.

As a first result of this involvement of EWCs in Stage 2, the EWCs of several European companies negotiated the transposition of the sectoral codes of conduct into company codes of conduct. In the case of the American clothing company Sara Lee (SLBA), an agreement was signed in 1996 by the EWC which was inspired by the precedent of the Danone agreement. On the basis of this agreement, the EWC could create specific working groups with the right to propose 'common understandings' on the following topics: employment, training, union rights, non-discrimination, security and working conditions. These rights concern the production of Sara Lee worldwide.

In 2001, the Swiss clothing company Triumph signed an agreement with the EWC on fundamental labour rights, which also included its subcontractors. The negotiation started after a campaign against the company's use of subcontractors in Burma. The agreement installed a joint monitoring commission with representatives of management, the EWC and the ETUF-TCL.

In 2004, two agreements were signed with the Italian clothing company Gucci, one on fundamental rights at work and the other on social and environmental certifications. The agreements were negotiated by the three Italian textile union federations and co-signed by the ETUF-TCL and the EWC.

The experience of Stage 2 led to the first direct negotiation between the ETUF-TCL and a multinational company. It took place in 2006-07 with the French company Trèves (DBA). Negotiations started on a European framework agreement about restructuring, but were in the end not concluded by an agreement. The experience, however, led to the adoption by the ETUF-TCL in September 2007 of guidelines on transnational bargaining. These guidelines are directly inspired by those of the EMF (*see above*) and foresee a mandating procedure for transnational bargaining accompanied by a ETUF-TCL coordination committee in which the national unions and the unionised members of the EWC are also involved.

This Stage 3 paved the way for the first framework agreement at international level – the IFA signed by the ITGLWF and the Spanish apparel company Inditex (Zara) in October 2007. The ETUF-TCL, like the other regional structures of the ITGLWF, mandated this GUF for these negotiations.



# IFAs: New dynamism in European and global industrial relations?

Compared to codes of conduct, IFAs represent a qualitatively new instrument since they constitute formal recognition of social partnership at global level. They provide a framework for protecting workers' rights and fostering social dialogue and negotiation processes at global level. Thus, IFAs might be considered more a feature of global industrial relations than a part of corporate social responsibility (CSR).

Most IFAs provide procedures whereby the signatories may jointly develop implementation and monitoring procedures, whereas corporate codes of conduct are implemented and monitored only by the companies themselves. Therefore, IFAs represent a new form of social regulation at company level.

Since in many cases the conclusion of an IFA has subsequently led to the establishment of a joint information and dialogue structure overseeing the implementation of the agreement, IFAs also represent an important stepping stone for the introduction of global information and dialogue structures between central management and GUFs (Müller and Rüb, 2004a). Thus, IFAs represent a possible way to resolve conflicts or problems before they become serious by fostering dialogue and establishing a certain amount of confidence within the relationship.

There are various examples that show that IFAs can also serve to strengthen global employee representation structures, such as World Works Councils (WWCs), by providing a concrete issue that the members of the global structure can address. On the trade union side, however, we also find positions that are sceptical vis-à-vis WWCs, instead preferring the development of trade union-led global union networks (Ilossi, 2006). In any case, it seems that IFAs not only represent a potentially important regulatory tool, but they are also able to foster transnational networking among employee representatives and trade unions, thus providing the potential to strengthen employee participation at global level (Müller and Rüb, 2004a).

IFAs are thus a qualitatively new instrument for industrial relations at the regional and global levels. They instil a recognition of social partnership across national borders and yield entirely new forms of social regulation at global level. Potential spill-over 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 employees' and trade unions' largely national action space and the overarching global space in which TNCs operate.

In the following discussion, the main features of the negotiation, implementation and application of the IFAs at Daimler (Germany), Eni (Italy) and Danone (France) will show how this new instrument can contribute to the internationalisation of industrial relations at company level. It has to be borne in mind that the three TNCs in the case studies represent cases of good (or even advanced) industrial relation practices in their respective home countries.



## IFAs in the context of advanced company-level industrial relations

### Daimler case

The 'Social Responsibility Principles of DaimlerChrysler' signed in 2002 was the first international agreement concluded by central management and the employee side (Müller and Rüb, 2004b). After the sale of Chrysler in 2007, the social responsibility principles remained in place, unchanged.

The IFA at Daimler is part of a broader multi-level system of employee interest representation, which comprises national and transnational institutions such as the Central Works Council (CWC), EWC, World Employee Committee (WEC) and representation on the supervisory board, as well as transnational agreements at global and European level. The effectiveness of the transnational institutions and norms within this multi-level system is firmly based on the powerful position of the German top-level employee representatives in the national industrial relations context and their well-established working relationship with central management. This can be seen by the fact that the first transnational agreements, both at global and European level, were negotiated by the German top-level employee representatives on behalf of the respective international structure. Thus, at Daimler one crucial factor for the development of international norms and their practical implications is the willingness of the German top-level employee representatives to use their powerful position in the national context to push through transnational issues.

In the IFA, the company acknowledges its social responsibility and the nine social principles that form the basis of the United Nations' Global Compact initiative, to which the company committed itself in 2001. Beyond these general commitments, which are included in most such global agreements, the Daimler principles also contain a number of provisions that are more specifically concerned with industrial relations issues, namely:

- Daimler respects the principle of equal pay for work of equal value (within the scope of national legislation);
- the company acknowledges the principle of freedom of association, which means that during trade union organisation campaigns the company and its executives will remain neutral;
- Daimler respects the right to collective bargaining. The elaboration of this human right is subject to national statutory regulations and existing agreements;
- cooperation with employees, employee representatives and trade unions will be constructive in order to ensure 'a fair balance between the commercial interests of the company and the interests of the employees';
- health and safety at the workplace will be ensured at a level no less than that required by national legislation, and the company supports the continuous improvement of working conditions;
- the company honours the right to 'reasonable compensation' at a level no less than the legally established minimum wage and that paid in the local job market;
- national provisions and agreements regarding working hours and regular paid holidays will be complied with.

The IFA also contains a provision stating Daimler's intention to support and encourage its suppliers 'to introduce and implement equivalent principles in their own companies'. Since February 2008, the

agreement's supplier clause was extended: it now explicitly mentions that Daimler *expects* suppliers and sales partners to incorporate the company's principles as a basis for relations with Daimler.

With regard to the implementation and monitoring of the IFA at Daimler, management is responsible for the implementation and enforcement of the social responsibility principles, which are part of a complex system of standards guiding corporate behaviour. In 1999, the company adopted a unilateral code of conduct – the so-called 'Integrity Code' – which defines a binding set of guidelines for the actions of all the company's employees worldwide. After the social responsibility principles were signed by management and the employee side in 2002, they were integrated into the Integrity Code in 2003.

Within Daimler, the enforcement of ethical standards and the monitoring of compliance is the joint responsibility of the following three departments: Corporate Compliance Operations, Corporate Audit and the Legal Department. In order to further improve compliance with the principles voluntarily adopted by the company (which also includes the social responsibility principles), the company set up a worldwide compliance organisation at the beginning of 2006. The purpose of this organisation is to control the implementation and execution of the company's compliance programme. One central element of this organisation is the compliance committee, which comprises representatives from the Legal Department, Corporate Audit, Finance and Controlling, HR, Sales and Daimler Financial Services, and which reports directly to the board of management.

The fact that the social responsibility principles are an integral part of Daimler's Integrity Code and that, as a consequence, the company's complex compliance and monitoring system also applies to the social responsibility principles illustrates that for Daimler management the social responsibility principles are more than just a PR exercise. In its sustainability report, the company also states that dialogue with the WEC is an important complement to the management's own compliance and monitoring.

As a matter of fact, all the 18 cases of violations of the social responsibility principles were detected and brought to the attention of central management by the employee side. It is important to emphasise that all of the cases concerned business partners of the company, i.e. suppliers and sales organisations. None of the violations so far occurred in Daimler's own production sites. The geographical distribution of the cases were Turkey (8 cases), Germany (5 cases), Brazil and the USA (2 cases each) and Costa Rica (1 case).

The procedure to handle the conflicts, which can be described as a 'wait and react approach', was as simple as it was effective. The first step was that local employee and/or trade union representatives reported an alleged violation of the social responsibility principles. This was done either through the IMF or through establishing contacts with the German trade union IG Metall, which then notified the German president of the WEC. The second step in every case was that the German members of the WEC, with their well-established working relationship with central management in the national industrial relations context, informed central management and asked for an investigation of the alleged violation of the principles. In all the cases, this procedure proved successful.

From the very beginning, it was the explicit intention of the WEC delegates to extend and specify some of the aspects of the principles through further international agreements. A first step in this

direction was the conclusion of a second international agreement – the International Guidelines on Health and Safety – signed by the WEC and central management in 2005. These guidelines define the commitment of the company to a comprehensive and integrated health and safety policy, protection against occupational hazards, ergonomic work organisation and prevention policies. Since the agreement has so far never been used to resolve conflictual situations, it is probably more important politically than in terms of its content – first, because by signing the agreement management acknowledged the negotiation role of the WEC, which extended its function beyond the information role stipulated in the WEC agreement, and secondly, because management recognised that by negotiating with the WEC at central level it can avoid the time-consuming process of conducting parallel negotiations in each individual country.

### **Eni case**

Eni was one of the first major oil companies in the world, and the first in Italy, to sign an ‘Agreement on International Industrial Relations and Corporate Social Responsibility’. The IFA was underwritten in 2002 together with the International Federation of Chemical, Energy, Mine and General Workers’ Unions (ICEM) and the Italian trade unions during the ICEM World Conference for the Energy Industry in 2004. By means of this agreement, Eni fostered dialogue on human and social rights with the trade unions, thus implementing a continuous information exchange in order to improve and promote best labour practices.

The IFA is part of Eni’s traditional commitment to constructive dialogue with trade union organisations, which it has maintained over time and has achieved over a phase of renewed industrial relations development launched in 2001. Today, this takes the form of regular meetings aimed at information exchange at the national, European and global levels.

The new model has developed along with Eni’s growth at international level and its transformation process from an industrial holding into an integrated multi-divisional operating company. The Agreement on International Industrial Relations and CSR is, in fact, aimed at supporting Eni’s international growth and sustainable development strategies. In particular, it should contribute to identifying risks that are inherent to the activities and critical contexts in which Eni operates, and to enhancing cultural and national diversities, which, if incorrectly handled, may lead to conflicts. This is to guarantee long-lasting sustainable growth, based on the company’s good reputation, the minimisation of conflicts and the ability to compete in the best practices of human capital management. Eni has, in fact, maintained its strong position among ‘ethical companies’ with regard to the improvement of social and environmental organisation.

As regards the implementation and monitoring of the IFA since 2002, annual meetings have been held regularly with ICEM and the Italian sectoral unions, where the issues provided for in the agreement have been clearly expounded. These include economic and financial issues regarding Eni’s activities at the international level, employment trends and prospects, the development of Eni’s industrial relations in different countries, the implementation of CSR programmes and actions in the field of workplace health and safety. Furthermore, the IFA should contribute to guaranteeing certain standards with regard to pay levels and working conditions.

The annual meetings have also allowed the development of best practices in the field of social dialogue and human resources management in very complex societal contexts. Cases in Egypt and Nigeria have been singled out and examined in cooperation with local trade union representatives.

As regards the activities assigned to contractors, Eni will draft a suitable wording against possible violations within the framework of existing contractual relations. The IFA regards all of the countries where Eni is present.

As regards the monitoring of the IFA, there are internal processes entrusted to the company. Furthermore, the monitoring also takes place through the network of trade union organisations. As regards the extra-European situation, the international trade union organisation supports the monitoring process. So far, only a few critical cases have been reported and nearly all of them are the result of critical situations not directly linked to Eni's activities but, for example, with the social and political problems in certain African countries. There have been some notifications that did not come through the trade union network; some cases were reported by NGOs, others were individual notifications.

From the trade union point of view, monitoring is considered one of the main challenges and the trade unions see the need to strengthen their own networks. The major problems with regard to the monitoring processes are probably also a consequence of a lack of resources. It would seem important to get local trade union representatives of the countries with the more pronounced social problems involved in the annual meetings. Thus, these meetings are also aimed at developing global trade union networks.

In general, management and trade unions are interested in developing further industrial relations in areas characterised by social and environmental turbulence, as well as by representation systems that are different in terms of organisation and efficacy. Indeed, the IFA focuses rather on industrial relations than on respect for the social standards. One of the commitments of the IFA is that Eni must have a proactive attitude to industrial relations and thus try to establish 'constructive relations' with the trade unions and employee representatives.

#### **Danone case**

Danone (formerly BSN) definitely has the longest experience in continuous transnational bargaining of all the multinational companies. This began in 1984 when management and European trade union officials decided to set up, on a voluntary basis, the first 'European Group Committee', which foreshadowed some of the prescriptions of the 1994 EWC Directive.

Danone management's strategy was characterised by a participative approach to industrial relations. In April 1986, an informal agreement, on the grounds of an exchange of correspondence, was reached on holding annual meetings, with the European Committee of Food Catering and Allied Workers (ECF-IUF, now EFFAT), the European Industry Federation affiliated to the ETUC, also invited to attend.

At the IUF-BSN meetings, which took place in Geneva, representatives of the affiliates in Belgium, France, Germany and Italy were present initially. On the management side, central management (CEO, HRM), as well as national managers from the European plants, were in attendance. At the following meetings, unions affiliated to the IUF from outside Europe were represented by the regional secretaries of the organisation.

On 23 August 1988, BSN and IUF underwrote a ‘joint opinion’, which is today considered to be the first IFA. In the following years, this was complemented by a series of further framework agreements dealing with:

- workplace equality for men and women (1989);
- economic and social information for the staff and their representatives (1989);
- training (1992);
- trade union rights (1994).

Follow-up agreements for these framework agreements were negotiated at the national level, for example, in Belgium for the biscuit sector or in Germany for the dairy products sector.

After the adoption of the EWC Directive in 1994, a voluntary EWC (in compliance with Article 13 of the Directive) was set up in 1996. This EWC was called the ‘Danone Information and Consultation Committee’. Its make-up and functioning was supposed to allow for the continuation of the work started by the IUF in 1984. The secretariats of the IUF and the ECF-IUF were appointed members of this committee, although membership was no longer limited to the IUF affiliates. This EWC was one of the first to which an explicit negotiating role was accorded from the very outset. Today, the committee also includes delegates from Eastern Europe and Russia.

In May 1997, Danone, the EWC and the IUF underwrote another ‘joint opinion’ on structural changes affecting employment and working conditions. Like the previous framework agreements, it contained only general principles that had to be transposed by means of local agreements. One of these principles was the right of employee representatives to have prior information and consultation in cases of restructuring ‘that would affect a significant number of jobs’. On the one hand, management was under the obligation to find alternatives to compulsory redundancies inside the group and, on the other, the unions were accorded the right to present alternative propositions, which the management had to respond to within a month.

This agreement was strongly challenged in 2001 when the Danone management planned to cut 3,000 jobs in Europe, 1,700 of which were in France. These plans had been drafted without prior union consultation. In the end, Danone decided to close down two biscuit-making plants in France, which were at that time CGT strongholds. The official announcement of these plant closures led to a very hostile reaction both from the unions and the public, which culminated in a call for a boycott of Danone products. The French Government and the European Commission also took a stand against Danone, so that the company eventually had to accept to engage in consultation with the unions to find alternative employment opportunities within the Danone group. This led to an agreement on restructuring, signed by the EWC in 2001. In 2007, Danone decided to sell its biscuit-making branch to the American company Kraft Foods, entering into the commitment, jointly with Kraft, that this would not lead to job losses for the following three years.

For all Danone framework agreements, a monitoring procedure was agreed, based on parallel enquiries by the Danone management and the IUF in order to make an inventory of the situation and to propose measures in case there was a need for an enhancement. The monitoring procedure was initially limited to Europe, but in 2005 it was extended to Danone subsidiaries at global level. In 2006, Danone appointed a full-time IUF officer in order to liaise with them. Another IUF representative was appointed to organise the monitoring procedure. A joint IUF–Danone steering

committee was set up to assess the application of the different IFAs. This committee meets four times a year. In 2005, another IFA was signed, dealing with the reporting and evaluation process, based on 20 jointly defined social indicators.

Most recently, in June 2007, an agreement on diversity management was signed by Danone and the IUF. Danone committed itself to revising the set of its 6 IFAs to date and to integrating the ILO Core Labour Standards into this corpus, to be published in 20 languages. The company's subcontractors will also be covered by this commitment.

### **Outcomes and impact on the internationalisation of industrial relations**

Daimler, Danone and Eni represent cases characterised by highly developed company-level industrial relations. In particular, at Daimler and Danone, the IFAs are part of a broader multi-level system of employee interest representation, which comprises various national and transnational institutions.

Since IFAs are voluntary tools, another crucial factor in all the analysed cases was management's openness to conducting negotiations at the international level and its commitment to the effective implementation of the agreements.

As regards the impact of the IFAs on the internationalisation of industrial relations, the analysed cases reveal the potential of IFAs to act as a tool for solving local conflicts. An essential factor that contributed to the successful settlement of local conflicts was the fact that central management did not just pay lip service to the principles, but was actually committed to their enforcement. The fact that in the case of Daimler the principles were applied to 5 cases in Germany further illustrates that an IFA as a 'soft' tool can also help to resolve conflicts in a highly legally institutionalised industrial relations context, such as that of Germany. The Daimler case also demonstrates the importance of a suppliers' clause in the IFA since all the cases that have been raised with reference to the principles concern suppliers and sales partners.

Practice at Daimler and Danone shows the important role of the Global Union Federations (GUFs). In the case of Daimler, the IMF played a crucial role in solving local conflicts by gathering and communicating information on the cases concerned and by verifying the solutions to the problem. Through its dense network of contacts with its national affiliates, the IMF was better placed to detect violations of the principles than the German top-level employee representatives, for whom it is very difficult to have a complete knowledge about the situation in Daimler's production sites worldwide (let alone the suppliers and sales partners). As such, the principles also served to raise the profile of the IMF.

In the Eni case, a more effective monitoring of the IFA is considered one of the main future challenges. The major problems with regard to the monitoring processes at Eni are also probably a result of the fact that trade unions and company-level structures of interest representation have fewer resources at their disposal. In order to improve the monitoring, however, trade unions intend to develop a more effective network at transnational level in which the trade unions, especially in countries with critical situations, have to be better integrated.



In this respect, the practices at Danone, and in particular at Daimler, show the potentially mutually reinforcing relationship between the development of global company-level employee representation structures and the implementation of an IFA. In the case of Daimler, the conclusion of the social responsibility principles facilitated the development of mutual trust and internal cohesion among the WEC delegates because it provided a concrete tool for cooperation – and in doing so, it strengthened the role of the WEC as a collective actor vis-à-vis central management. On the other hand, the WEC played an important role in the process of monitoring compliance with the provisions of the principles and in redressing violations of the principles. Furthermore, by concluding agreements with the WEC and the EWC, management acknowledged the transnational representation structures as the legitimate representatives of the interests of the company's employees outside Germany. This also holds true for the Danone case.

In all cases, the IFAs serve to export the respective model of social partnership and cooperative industrial relations since they have been shown to be capable of contributing to the solution of local conflicts and to handling transnational issues in a socially responsible way without escalating them.

In the cases analysed, the IFA experiences were predominantly industrial relations-driven. It has, however, to be pointed out that the negotiation of IFAs can also be linked to the implementation of management's CSR programmes, as happens in the case of Eni. In the cases of Eni and Daimler, the rationale for taking the initiative to negotiate IFAs is traced back to the effects of the globalisation of production structures and HR strategies. It can be put down to these developments that the national unions and structures of interest representation perceived the need to develop transnational representation structures (Daimler) and to sign IFAs in order to develop a capacity to act globally.

From management's point of view, IFAs might contribute to facilitating the introduction of transnational policies, thereby avoiding time-consuming processes of conducting parallel negotiations in the various individual countries.

### **Contribution to the internationalisation of industrial relations**

As has been shown above, in the context of advanced company-level industrial relations, IFAs are capable of contributing to a process of internationalisation of industrial relations. Looking at IFAs from a quantitative point of view, the conclusions with regard to their impact on the internationalisation of industrial relations will probably be different.

Although the spread of IFAs has gained considerable momentum over the past 7 years, their overall number is still very limited, not only in regard to the overall number of TNCs but also to the number of unilaterally promoted codes of conduct (Schömann *et al*, 2008). In addition, as mentioned previously, the TNCs that have signed an IFA are highly concentrated geographically. About 90% (61) of the 68 IFAs that currently exist were signed in TNCs whose headquarters are in the EU15 Member States or in Norway. In most cases, the initiative to negotiate IFAs came from the home country's trade unions and EWCs; in a few cases, it was the World Works Council that took the initiative and in two cases it was the company's management. As most IFAs were signed in European-based TNCs, from the trade union standpoint, it is a particular challenge to extend the dissemination of IFAs to countries outside Europe (ORSE, 2006).



IFAs are clearly concentrated in TNCs with headquarters located in social market economies characterised by collective interest representation as the basis for the regulation of work and the labour market, while there are only a few experiences in 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. Apart from reasons linked to the tradition and culture of industrial relations, there might also be economic reasons for the very limited spread of IFAs in liberal market economies, such as USA, for example, where the costs for unionised workers are much higher. Similar cost advantages for non-unionised companies in general do not exist in social market economies. Another reason is linked to the fact that IFAs often do not represent a priority for trade union organisations in liberal market economies.

The crucial role of TNCs with headquarters in social market economies also means that, in many cases, framework agreements are signed at companies that would respect core labour standards even without IFAs. In such companies, IFAs are, generally speaking, the result of converging interests and thus represent a win-win situation. There are, however, many TNCs that respect core labour standards and yet do not want to sign an IFA. Some of these companies prefer informal consultations with the trade unions rather than formal negotiations with GUFs. In other cases (e.g. Eiffage), TNCs seek to avoid formal obligations, arguing that they are unable to guarantee compliance with an IFA along the whole of the supply chain and in their operations in developing countries.

As the case of Quebecor shows, it is even more difficult to promote negotiations in companies unwilling to respect core labour standards. By pursuing a strategy of mobilisation and alliance-creation, the case of Quebecor has, however, proven capable of obliging central management to enter negotiations. Quebecor probably represents one of the few cases of enforced legitimisation of a GUF as a bargaining partner at the global level.

The above-mentioned factors might explain why the spread of IFAs has so far remained quite limited. It should also be borne in mind that at global level there is no legal framework for the enforcement of IFAs. This means that any enforcement of IFA provisions relies on management's willingness to cooperate with trade unions or on the capacity of trade unions to convince companies to sign an IFA and to apply it properly. It is unlikely that the present situation will change in the near future since there are no main drivers at the level of global institutions to foster the spread of IFAs. In the trade unions' view, IFAs should be seen as part of a broader package of initiatives capable of fostering the development of international industrial relations. A crucial factor in this respect is the role of international political and financial institutions, such as the World Bank.

Without main drivers, the risk is that IFAs will remain a limited number of positive cases. However, some trade unions have developed strategies that seek to make IFAs a point of reference for the entire sector. UNI Finance, for example, is planning to reach a certain number of agreements in order to create a critical mass that would be expected to contribute to the development of a general framework. By trying to define the standards for the industry in this way, it might also be possible to put pressure on the other companies within the sector.

The strategy of creating a critical mass implies the need for adequate resources. Thus, this strategy might encounter the problem of the trade unions' lack of resources. Experience has shown that campaigns, as well as the effective implementation and monitoring of IFAs, require significant resources to conduct meetings, maintain networks and coordinate activities. Indeed, in several cases,

the effective implementation of IFAs seems to be undermined by the GUFs' lack of resources. As Müller and Rüb (2004a) state, many employee-side initiatives at global company-level would not have been possible without the help of a range of supporting organisations that assist GUFs and their national affiliates in the establishment and practical operation of global union networks, in the organisation of training programmes and in the implementation of IFAs.

Since the beginning of the decade, there has been a strong progression in the signing of IFAs. This means that GUFs also have to dedicate more resources and time to the follow-up phase of implementation and monitoring. Thus, the impact of IFAs very much depends on the trade unions' local capacity to ensure effective monitoring and enforcement of the agreements. Given the resources at the disposal of GUFs, it seems unlikely that an effective follow-up for all IFAs will be assured. Without implementation, however, it is difficult to imagine any progress in the direction of the internationalisation of industrial relations.

As a result of the above-mentioned quantitative and qualitative factors, the contribution of IFAs to the internationalisation of industrial relations has so far been very limited.

Given the limited resources from the trade union standpoint, the development of a general framework should, therefore, be the result of setting binding rules. In this context, the experiences with EC directives in the field of information and consultation rights are considered to be an important frame of reference.

## **Europeanisation of industrial relations**

As has been shown, an important differentiation needs to be made between IFAs signed at global level and regional framework agreements that are limited to the company's European operations (EFAs) (Carley, 2001; Carley and Hall, 2007; European Commission, 2008a).

In the case of EFAs, the focus on the respect of fundamental rights is less frequent, probably because it is assumed that in the European context these rights are already guaranteed by national labour law and collective agreements signed in the respective countries in which these TNCs are represented with plants and other operations. Thus, compared to IFAs concluded at global level, framework agreements limited to the European context are in general focused on different issues. According to Léonard *et al* (2007), the topics addressed by regional agreements can be grouped under four headings:

- CSR, covering also basic labour rights and core labour standards;
- devising of key principles that underpin company employment and personnel policies;
- business restructuring and its effects;
- specific aspects of company policy, such as health and safety.

This finding is basically confirmed by the report of the European Commission (2008a) on transnational texts. According to this report, the most frequent topics dealt with at European level are:

- restructuring and anticipation of change;
- training, mobility and working conditions;

- health and safety;
- procedures and social dialogue;
- CSR and HR policy.

Thus, EFAs differ from IFAs signed at global level in scope and content, with EFAs covering a broader range of topics. An example is the EFA signed between Areva and the European Metalworkers' Federation. This agreement expresses a genuine commitment on the part of the signatories to improve standards of equal opportunities for men and women, and for the professional integration of people with disabilities (Telljohann, 2007a).

As regards the role of EFAs and the relationship between European and international agreements, an important question that needs to be investigated is whether EFAs are to be considered a step towards IFAs or, conversely, whether they in effect stand in the way of achieving such agreements. Differences seem to emerge on this question, especially between GUFs and EIFs. As in the case of Areva, EIFs consider such agreements *a milestone for industrial relations in Europe* (Telljohann, 2007a), while GUFs seem to be more critical (IMF, 2006). Thus, there is a need to know more about the motivations of the social partners – both management and trade unions/company-level employee representation structures – to engage in the negotiation of one or the other type of international agreement. In the following discussion, the role of transnational framework agreements is analysed in the context of restructuring processes carried out in EU Member States.

### **Role of transnational framework agreements in the context of restructuring**

In recent years, many Western European companies have undergone major restructuring processes, which in many cases include the relocation of entire production sites (or parts thereof) from Western European countries and North America to the new EU Member States and countries on the periphery of the European Union, as well as to Asian and South American countries. As a consequence, the shifting of production activities from countries with higher wage levels to countries with lower wage levels has become an important issue in industrial relations across Europe.

Among the strategies based primarily on labour-cost reduction, it has become widespread practice to implement restructuring at the European level on the basis of internal benchmarking (Léonard *et al.*, 2007). Hence, European plants are above all made to compete with one another in the context of restructuring to increase productivity by means of wage reductions, longer working time (with wages unaltered) and/or employment cuts.

From the point of view of trade unions, the success of any approach to change processes, capable of taking into account both the need for improved competitiveness and the social aspects of corporate restructuring, depends to a large extent on an effective system of social regulation – i.e. on advanced industrial relations practices and modern forms of workers' participation. In several cases, EIFs and EWCs have tried to take on an active role in the context of restructuring processes (Carley and Hall, 2007).

Although the concrete experiences of social regulation of restructuring processes at transnational level are still very limited, there is an upward trend with regard to the number of EFAs dealing with restructuring and anticipation of change at the European level. As the European Commission (2008a) points out in its report on transnational texts, the main aims of these texts signed at European level

consist either in the social regulation of restructuring processes or in the anticipation of change processes. This means that if in the previous decade there still was a stronger focus of negotiation processes on so-called 'soft issues', such as fundamental rights, HRM policies and health and safety, in this decade a 'hard issue' – restructuring – has become the most frequent topic of negotiation.

A large number of EFAs dealing with restructuring were signed in the European metal industry. This can probably be put down to the fact that in the past the EMF has been particularly keen to develop trade union responses to European-level restructuring processes. In the following section, several case studies of social regulation of European-level restructuring processes are presented. The TNCs examined are General Motors Europe, Electrolux, Daimler, Indesit Company and Schneider-Electric. The cases show different characteristics with regard to the concrete restructuring processes, the cultures of industrial relations and the strategies of the respective actors. The fact that all TNCs are operating in the metal industry allows us to analyse and compare the concrete application of the EMF strategy of socially responsible company restructuring.

### **General Motors Europe case (GME)**

The most advanced examples of European-level negotiation processes in the context of restructuring processes are found in the automotive industry. A first significant example was the agreement signed between the Ford EWC and central management on the spin-off of the car component producer, Ford Visteon (Klebe and Roth, 2000). As regards the General Motors Europe (GME) case in 2000, an agreement was signed between management and the European Employee Forum (EEF) on the consequences of the alliance with Fiat.

In 2001, another important framework agreement on restructuring initiatives was underwritten between EEF and GM management. In this agreement, management committed itself to avoiding forced redundancies in relation to the planned restructuring initiatives and to maintaining vehicle production in Luton, UK. This agreement 'provides for a concrete set of rules to be applied in specific circumstances; and a framework for lower-level action' (Carley, 2001, p. 53).

Faced with a deep competitiveness crisis in 2004, GME presented another restructuring programme that provided for a reduction of the labour costs, valued at €500 million a year. The initial plan provided for delocalisation processes, with the closing down of at least one manufacturing plant, a reduction in employment levels and a cut in wage levels. In order to maximise the results of the restructuring plan, the Group tried to force the various plants to compete with one another. As had already occurred in 2000 and 2001 with the support of the European Metalworkers' Federation (EMF), a day of European-wide industrial action was organised to oppose company strategy. After the action day, management accepted the need to negotiate with the workers' representatives at European level. These negotiations led to the signing of a framework agreement between the central management of GME and the EEF that provided for the waiver of the closure of plants and dismissals for company reasons. The framework agreement laid down the foundations for the subsequently more detailed negotiations at national level (da Costa and Rehfeldt, 2007).

As a decision was due to be made in 2007 concerning future production of the Delta platform for the Astra and the Zafira, a group known as the Joint Delta Working Group (JDWG) was set up within the EMF in the winter of 2005. The JDWG includes plant-level employee representatives and the national unions of the five sites affected, namely: Antwerp (Belgium), Bochum (Germany), Ellesmere

Port (UK), Gliwice (Poland) and Trollhättan (Sweden). The JDWG aims to contribute to the development of a joint strategy based on the 'principles for equitable and equitable plant utilisation at all European General Motors sites'.

In November 2005, the EU project 'Requirements and perspectives of the General Motors Europe employee cooperation' (GMEECO) was launched. The project aims to set up a cross-border negotiating body and to establish rules and tools for cooperation. Furthermore, the project seeks to provide research support for the development of an alternative competition strategy, taking into account plant-level, regional and social factors. Thus, this strategy should contribute to promoting social dialogue and formulating a cross-border framework agreement. As a first step, the European solidarity pledge was introduced, establishing common objectives and procedures. The pledge was signed in December 2005 by the EEF, EMF, national trade unions and plant-level employee representatives. The pledge challenges the company's competitive approach with an approach based on solidarity.

After GME management had initially refused to enter into European-level negotiations in 2007, it accepted the JDWG as a negotiating partner. The employee representatives succeeded in achieving that the future of the Delta sites would be settled in a European framework agreement. If employee representatives have so far focused on the European-wide site selection process, the future challenge will also involve formulating responses to the global site competition that GM is quite likely to implement (Bartmann and Blum-Geenen, 2008).

If we consider GME and Ford as the two most advanced experiences of involvement of European-level actors in restructuring processes, it is interesting to note that both experiences have taken place in TNCs with headquarters outside Europe. It is, in fact, likely that in the case of restructuring processes in the EU-based TNCs, the respective national trade union organisations are interested in controlling the process. In these cases, the EWCs are often dominated by the delegates of the home country who, in certain cases, consider the EWC an appendage of the national industrial relations system and for this reason prefer not to see the EWC involved. In general, these clearly dominating home country structures do not exist in TNCs with headquarters outside Europe. Consequently, this probably makes it easier for European bodies, such as the EWCs and EIFs, to take on a coordinating function in the event of restructuring. This means that in the case of TNCs with headquarters outside the EU, the 'country of origin factors' (Hall *et al*, 2003) seem to be less relevant and EWCs have more freedom to develop a really European strategy of interest representation.

### **Electrolux case**

The household appliances industry represents another example for far-reaching restructuring processes, aimed at further offshoring production to low-cost countries, including the new EU Member States. One of the most prominent cases of restructuring in this sector is represented by Electrolux. This case shows that benchmarking can be used to justify closing down less competitive plants, as in the case of the AEG Nuremberg plant, or simply to threaten relocation to obtain unilateral concessions from workers in the name of competitiveness.

In response to (threatened) relocation processes, trade unions have tried to develop different approaches aimed at negotiating both the anticipation of change and the effects of restructuring on employment and the social consequences of outsourcing and relocation processes in the medium and



long term. Although there is a general trend towards relocation in the context of broader restructuring strategies, the concrete cases show that there are substantial differences in how change processes are being managed. In this context, transnational framework agreements are gaining growing importance.

As reported by Artus (2006), in response to global competition Electrolux announced in 2004 a programme aimed at cost-cutting in production and purchasing. In this context, by 2009 half of the 27 Electrolux 'white goods' factories located in high-cost countries will be relocated to low-cost countries. In particular, production sites in Spain, Germany, Italy, Denmark and Sweden are affected by management's restructuring programme.

In the face of this global restructuring, the European Metalworkers' Federation (EMF) decided to set up a European trade union coordination group, consisting of the trade unions involved in the company, the EWC, the EMF EWC coordinator and the EMF secretariat. This group was intended to develop a coordinated response to restructuring at European level, aimed at ensuring a sustainable future for the European production sites.

The position of the EMF consisted in demanding socially responsible solutions, also taking into consideration repercussions for the industrial fabric of the regions and an industrial strategy based on innovation and high technology, with a view to securing the future of Electrolux in Europe. In order to avoid plant closures, the EMF strategy aimed at improving the competitiveness of the existing sites. The EMF urged management to engage in discussions at European level about alternatives to plant closures. This approach was supported in particular by German and Italian trade unions, and by EWC members. The demand for European-level negotiations and a European-level framework agreement was, however, rejected by Electrolux central management.

The trade union strategy aimed at entering into European-level negotiations encountered not only management opposition, but also a lack of conviction on the part of the Swedish EWC members and the Swedish metalworkers' union, IF Metall, which basically agreed with the strategy of central management (Artus, 2006). The diverging positions of the Swedish metalworkers' union and EWC members, on the one hand, and the German and Italian trade unions and EWC members, on the other, proved incompatible. As a consequence, the process of developing a shared European-level strategy, able to counterbalance management restructuring plans, entered into a crisis. In the case of Electrolux, it was thus not possible to link up with the European-level negotiation processes carried out at General Motors Europe in 2004, as described above (Carley and Hall, 2007; da Costa and Rehfeldt, 2007).

One explanation for the failure of the attempt to develop a European-level trade union strategy might be the structural and cultural differences between national systems of interest representation (Müller and Rüb, 2007). As Knudsen (2005) shows, there seems to be a specific Scandinavian attitude towards the Europeanisation of industrial relations, in general, and to EWCs, in particular. This attitude can be traced back to the specific culture of industrial relations in Scandinavian countries, which differs from industrial relations in other EU countries. In general, Scandinavian representatives are inclined to support management strategies because they are convinced that what is good for the company should also be good for the workers. Consequently, they accept the fact that the company has to make profits in order to remain competitive. Favouring cooperative industrial relations, Scandinavian representatives seem to be less interested in antagonistic approaches. As regards

restructuring processes, this position also implies that there is no ambition to influence management decisions. According to Knudsen, Scandinavian representatives thus do not see a need for action at European level.

Knudsen (2005) also emphasises the fact that collective bargaining is considered the core of trade unionism in Scandinavian countries. The central role of collective bargaining at national level explains why Scandinavian trade unions do not want EWCs to take on a role of negotiation. Thus, Scandinavian trade unions try to contain the activities of EWCs, which, in their view, should be confined to dealing with so-called 'soft' issues. According to this position, a more far-reaching bargaining role for EWCs would tend to undermine trade unionism. It must also be mentioned that, due to the success enjoyed by Swedish trade unions in the national context, the Swedish system of industrial relations is probably considered superior to any structure of interest representation at European level.

Another obstacle to concluding framework agreements at European level is reported by Pulignano (2007). Quoting a Swedish trade unionist, Pulignano points out that Swedish trade unions tend to avoid interfering in company-level trade union activities. According to this principle of independence of shop stewards, framework agreements would be regarded as not representative of the will of company-level trade unions.

In the case of the Electrolux restructuring programme, this specific attitude towards the Europeanisation of industrial relations – which is summarised by Knudsen (2005) as the concept of 'Scandinavian scepticism' – finally blocked the attempt to develop a trade union response at European level.

It is, however, questionable whether the scepticism shown by the Swedish EWC members and the Swedish metalworkers' union is part of a specific Scandinavian attitude vis-à-vis European-level strategies or whether it is an example of a phenomenon called 'home country effect' or 'country of origin factors' (Hall *et al*, 2003) – i.e. the influence of industrial relations traditions and practices in the country in which the TNC is based.

#### **Daimler case**

To date, three European framework agreements (EFAs) have been concluded at Daimler between the EWC and central management:

- the framework agreement on information and consultation with employees and employee representatives in the local European operations of DaimlerChrysler AG in May 2006;
- the framework agreement regarding measures to adjust staffing levels at DaimlerChrysler Group companies in the European Union in September 2006;
- the framework agreement on the social consequences of the spin-off of the Chrysler sales organisation in July 2007.

The agreements were signed by two representatives of the central HR management, as well as by the President of the EWC and the EMF coordinator of IG Metall. All the agreements, directly or indirectly, deal with restructuring processes.



The first EFA signed in May 2006 was an agreement on information and consultation in the company's local European operations. At the EWC meeting in 2003, the ESSWG members complained that they did not feel adequately informed by their local management and demanded common European standards for information and communication processes. In the context of the European-wide cost-saving and restructuring programmes CORE and HERMES, launched by the company in 2005, the lack of communication between the management and employee sides in some national market performance centres was again raised at the EWC meeting in 2005. Since the employee side suspected that CORE and HERMES could have far-reaching consequences for employees throughout Europe (in particular, in sales and services operations), the top-level German employee representatives took the initiative and started negotiations with central management on an EFA that was concluded in May 2006.

Based on the European Directive on information and consultation at national level (2002/14/EC), adopted in March 2002, the EFA defined a set of minimum standards concerning both the contents and procedures of the information and consultation processes between the management and employee sides. In particular, it specified a catalogue of issues on which national management needed to inform and consult:

- the current as well as the future economic and financial development of the company or establishment (e.g. commercial, production or sales situation);
- the employment situation, employment structure and planned employment development in the company or its establishments;
- significant planned changes to one or more establishments;
- significant changes to labour organisation (e.g. new work and production processes), working conditions or employment contracts;
- the planning and implementation of professional skills measures for employees;
- other significant issues that affect employees and employee representatives.

As regards the procedures for the information and consultation processes, the EFA also stipulated that employees and employee representatives had to be regularly informed (i.e. at least twice a year) in writing and in a timely manner to enable the employee side to examine the information, to prepare a hearing and to influence decisions by expressing opinions.

In the context of the cross-border restructuring programmes CORE/HERMES and WIN, as well as the introduction of the New Management Model, a second EFA on measures to adjust staffing levels in the DaimlerChrysler Group companies in the EU was underwritten in September 2006. After it became apparent that the company's restructuring programmes would also involve job cuts and the transfer of employees, the EWC saw the need for an EFA to ensure that the necessary measures would be implemented in a socially acceptable way. Against this background, in May 2006 the EWC approached management in order to start negotiations, which, after six months, led to the conclusion of the second EFA. The key points of this agreement were:

- in the event of redundancies, every attempt will be made to find an adequate position for the people concerned within the same location, the same affiliate or within another company of the group in the same country;

- if there are redundancies even after these measures have been applied, the necessary personnel reductions will be implemented using socially acceptable measures, such as programmes for early retirement, severance payments, outplacement or part-time work and sabbaticals (as far as possible according to the national regulations and practice);
- Group management will regularly inform the EWC on the implementation of this agreement;
- management of the national subsidiaries will inform the employees and employee representatives at an early stage, in compliance with national regulations and practices and with the European framework agreement on information and consultation;
- the provisions of this agreement have to be implemented by binding rules in the respective countries.

The third EFA deals with the spin-off of the Chrysler sales organisation. In June 2007, the EWC and the ESSWG met for an extraordinary meeting convened to discuss the spin-off of the Chrysler sales and services organisation in the context of the Chrysler sale to the financial investor Cerberus. As the spin-off affected 400 people in several European countries, the EWC decided to enter into negotiations with central management so as to reach an agreement on how to handle the social consequences of the spin-off. Due to contractual obligations of DaimlerChrysler vis-à-vis Cerberus, the negotiations took place under extreme time pressure. The EFA was signed on 31 July 2007, after just 18 days of talks. The key points of this agreement were:

- there will be no dismissals as a consequence of the transfer of the undertaking;
- regulations of working conditions remain in place within the newly created Chrysler sales and services organisation for at least two years;
- transferred employees will receive €7,500 (in the Czech Republic and Poland: €4,370) as a so-called 'welcome bonus';
- should the new Chrysler sales and services organisation go out of business, the possibility to return to Daimler will be examined. This rule applies for three years;
- in the event of personnel overcapacity in the new Chrysler sales and services organisation, the agreement will guarantee socially acceptable solutions for two years.

This EFA is innovative in two respects:

- For the first time on the employee side, the negotiations were driven by a truly international negotiation group. While the first two EFAs were negotiated by the German top-level employee representatives on behalf of the EWC, the negotiation group in this case also included employee representatives from Belgium and the Netherlands.
- Also for the first time, the EFA on the spin-off of the Chrysler sales and services organisation dealt with monetary issues.

### **Indesit Company case**

In the case of the Italian-based TNC Indesit Company, the restructuring approach is of particular interest since it seeks solutions for redundant workers at territorial level. Like Electrolux, the Indesit Company is also a producer of household appliances and is facing major restructuring processes

since the beginning of the decade. In 2002, it was the first TNC in the metal industry to sign an IFA. In line with the principles of the IFA, management has shown itself to be committed to carrying out restructuring in a socially responsible way. In the past, socially responsible restructuring was applied in the case of plant closures or employment cutbacks in Portugal, France and Italy. It has, however, not been possible for the EWC to get involved in the various restructuring processes because management had defined the restructuring processes as 'national' or 'local' measures, denying their transnational character. Furthermore, it is doubtful whether the Italian trade unions would have agreed on an active role for the EWC in the context of restructuring processes.

The most innovative approach to managing change at local level is represented by the so-called 'Refrontolo Agreement', underwritten in 2006 at the plant in Refrontolo, Italy. This agreement was signed at territorial level between central management, the trade unions and local institutions (Telljohann, 2008). It contributes to identifying alternative employment opportunities through the introduction of an innovative approach to labour market mobility. As in the previous cases of plant closures at Setubal (Portugal) and Thionville (France), the restructuring process in the case of Refrontolo was negotiated in the context of national industrial relations.

Although the actors at international and European level did not play an active role in the negotiation process, the national actors in the negotiations referred to the principles laid down in the IFA. As a result, social dialogue has been shown to be efficient in managing the restructuring process. According to Indesit Company management, entering into an agreement that binds the entire organisation and affects both workers and the surrounding area means that a CSR culture has been rooted throughout the company, involving management and personnel at all levels. Furthermore, the agreement is an example of sharing social values and problem-solving at territorial level. Also, from the point of view of the Italian metalworkers' unions, the Refrontolo Agreement is a positive experience because it responds to the basic demands put forward by the trade unions in the face of restructuring.

### **Schneider-Electric case**

In the case of Schneider Electric, an agreement on 'Anticipating change' was signed between management and the European Metalworkers' Federation (EMF). Management agreed to enter into European negotiations with the involvement of the EMF since the union was capable of aggregating the interests of the various national affiliates. In this way, the central negotiations saved management from having to negotiate separately with trade unions in various other countries.

The negotiation team consisted of the select committee of the EWC, full-time officers from the French plants and two representatives of the EMF. The main objective of the EMF in the negotiations consisted in achieving employment guarantees that management refused to give. Finally, the negotiating partners reached a compromise: on the one hand, the EMF acknowledged the need for change, but, on the other, the negotiating partners also agreed that there should be the chance to voice an opinion on the social consequences of the restructuring initiatives.

The EFA commits the company to promoting lifelong learning and thus should contribute to overcoming skills discrepancies and increasing the long-term employability of its employees. In particular, the company has to provide the means and training programmes for workers to adapt their skills, based on a mapping of existing skills and those needed in the future. The EFA also states

that the EWC should be involved in defining ‘the Group’s priorities and major plans’. Through consultation with the EWC, Schneider-Electric showed its commitment to offering employee representatives the possibility to voice their opinions and potentially influence the company’s strategy (Whittall, 2007).

The EFA is of particular importance from the trade union point of view because it represents a first concrete approach to dealing with the issue of flexicurity. Furthermore, the agreement provides relevant indications from a procedural point of view, in particular with regard to the involvement of the affiliates and its members.

## Concluding remarks

The case studies cited above show that it seems necessary to distinguish between responses to *actual* processes of relocation and to relocation potential or plant closures in general (Hoffmann, 2006). The responses at the level of the various framework agreements correspond 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* (Galgóczy *et al.*, 2006). Approaches characterised by reducing incentives can be based on a proactive strategy or, as happens more frequently, on defensive trade union strategies, such as concession bargaining.

The case of Electrolux shows what factors might hamper the signing of EFAs. In this case, European-level interest representation did not play a major role. It has become obvious that, from a trade union point of view, cross-border restructuring processes cannot be effectively discussed at national level, but have to be addressed at EU level, guaranteeing the presence of central management and the involvement of the EIF and EWC. Although the EMF succeeded in setting up a European trade union coordination group to develop a coordinated response in the end, it was not possible to develop a shared strategy to offset management’s restructuring plans. Conflicting interests among the EWC members and national trade union organisations led to shortcomings with regard to mutual trust and internal cohesion, and thus prevented the development of a European-level strategy. EWC members were unable to overcome divergent views, which can be put down to structural and cultural differences between national systems of interest representation. In addition, the converging positions of all home country actors have impeded the development of internal cohesion within the EWCs.

As a consequence, in the case of Electrolux, the EWC has not been able to autonomously identify common interests and values, to agree on common objectives and, finally, to define and carry out a joint strategy. Consequently, the European trade union coordination strategy has failed in the case of Electrolux. From the standpoint of the European trade unions, the Electrolux case thus represents a missed opportunity. As a result, the consequences of relocation processes in the context of the Electrolux restructuring programme were dealt with in the context of national industrial relations. In these cases, trade unions had to resort to adjustment policies.

At Daimler, it has been possible to sign 3 EFAs dealing, directly or indirectly, with the social regulation of restructuring processes at European level. While the first EFA defines the application of minimum standards concerning both content and procedure of information and consultation processes, the

other two EFAs guarantee a socially responsible approach to restructuring processes. In these cases, the agreements define adjustment policies aimed at handling the social consequences of restructuring processes.

In the case of the Indesit Company, adjustment policies are aimed at finding new employment opportunities and guaranteeing compensation. This case seems to show that it is also possible to manage change processes on the basis of cooperative industrial relations. The tradition and culture of cooperative industrial relations, which is also expressed by the IFA, has a major influence on the dissemination of experiences of socially responsible restructuring. In this context, the application of the basic principles laid down in the IFA can also have a positive impact on industrial relations in the EU Member States. It has to be stressed that management has, in fact, lived up to its CSR strategy. The Indesit Company case, therefore, suggests that the factors that might influence the success of socially responsible approaches to restructuring first of all include management strategies in line with corporate identity and CSR policy.

At the Indesit Company, an agreement was underwritten involving broad alliances between various actors at various levels. The social regulation of restructuring takes place at local and territorial level, involving trade unions and structures of interest representation at different levels. We can conclude that in this case the IFA becomes part of a multi-level bargaining approach.

The framework agreements signed at Schneider-Electric and GME both contribute to reducing incentives for relocation. As the case of Schneider-Electric shows, the most promising ability to envisage and anticipate change, and therefore the choice of a more proactive strategy, considerably extends the range of actions and the ability to take on a positive approach to restructuring. While the agreement signed at Schneider-Electric is characterised by a proactive approach aimed at anticipating change, the agreements signed at GME are more focused on cost-reduction strategies aimed at the avoidance of plant closures.

Looking at the various framework agreements, there is also a basic difference with regard to the legitimisation of employee representatives and trade unions. Particularly in the case of GME, the EFAs are in general accompanied by conflicts between European-level actors and management arising in the context of restructuring processes. In these cases, EIFs and EWCs develop a European-wide strategy in order to obtain an *enforced* legitimisation by management. In the other cases, EIFs and EWCs try to identify common interests and to obtain a *voluntary* management legitimisation.

Finally, as regards the relationship between EFAs and IFAs, we can conclude that both types of transnational framework agreement differ in scope and content. While the great majority of IFAs focus 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 EFAs represent a step towards IFAs; conversely, there is no evidence that EFAs stand in the way of achieving IFAs.

For an assessment of the recent dynamics of transnational bargaining, we have to look back at the explanatory factors that either prevented or fostered the development of transnational bargaining before the 1980s. In the brief historical account given in Chapter 3, we pointed out the strategies of some ITFs, starting in the 1960s, to initiate international collective bargaining with a number of multinational enterprises and the earlier unwillingness of the management of those companies to recognise international union organisations as bargaining or dialogue partners. We then identified a European detour that institutionalised a new transnational form of employee representation, the EWCs, the role of which evolved from information and consultation on transnational texts to their negotiation and signing.

Thus, some of the changes in the internationalisation of industrial relations were in part outcomes of the process of European integration, often analysed in the literature in terms of the 'European social model'. This is a rather ambiguous term and there is no clear evidence that the process of Europeanisation of industrial relations entailed any convergence of national industrial relations arrangements (see Chapter 2). The questions at stake are rather the articulation of the levels of industrial relations and the coordination of the strategies of the actors at the different levels.

EWCs are an important part of the *acquis communautaire*. Even if EWCs were only ever intended as information and consultation bodies, they have in a limited number of cases (52) engaged in transnational collective bargaining and the conclusion of EFAs. The European and international union organisations relied on this institutional consolidation in order to develop their own, partially autonomous, bargaining strategy. Even if most of these organisations express more and more openly their ambition to play the leading role in transnational collective bargaining, none of them ignores the existence and the accumulated experience of EWCs. The eventual tensions between the claims of the union organisations and the experiences of the EWCs for the dominant role in bargaining with companies at transnational level can be overcome if unions are able to develop a coordination strategy. At the EU level, some European Industry Federations (EIFs), following the initiative of the EMF, have begun to do so. At the global level, union strategies are more pragmatic than explicit, but some GUFs, prominently the IMF, have accepted that EWCs play a certain role in the IFAs they have signed, either during the negotiation phase and/or during the implementation and monitoring of the agreement. In many cases, GUFs and EIFs also accept that EWCs co-sign these transnational agreements.

Up to now, the coordination between unions and EWCs has not posed any major problems because the EWCs concerned with these cases were all highly unionised. Unions fear, however, that EWCs might in the future undermine the historical and legal role that unions have gained in many European countries. This question remains largely theoretical as long as there is no legal framework at international level that would make IFAs or EFAs binding. At European level, there are, however, initiatives to this end.

The absence of a legal framework for international collective bargaining has not prevented the development of IFAs and EFAs, the dynamic of which has continuously increased in recent years. Another question is whether this movement will also spread outside the EU. Up to now, very few IFAs have been signed by non-European companies, none by British or Japanese companies, and only one by an American company (but which does not apply to the USA). What are the obstacles to the spread of IFAs to those TNCs? Are they rooted in their industrial relations traditions? Are they cultural



or ideological? Are they anchored in specific management philosophies that give priority to unilateral action and therefore to voluntary codes instead of negotiated IFAs? Is this attitude linked to a more adversarial type of industrial relations in the home countries of those TNCs? These are all questions for further research.

The key objective of the present research was to investigate the potential impact of IFAs on the development of international industrial relations based on an analysis of the strategies of management and union organisations that negotiate and sign IFAs. However, as a first step, the research set out to map the terrain with an in-depth analysis of the content of existing IFAs.

As regards the question of including suppliers and subcontractors, the analysis shows that although almost 70% of the existing IFAs mention suppliers and subcontractors, only 9% of the existing IFAs are to be obligatorily applied to the whole supply chain. Nearly half of the agreements merely oblige companies to 'inform' and 'encourage' their suppliers to adhere to the IFA. Several companies state that they will work only with contract partners who adhere to the principles of the IFA. On the one hand, this is a positive approach which stimulates suppliers to guarantee basic working conditions; on the other, responsibility for working conditions is shifted from the company towards its suppliers.

IFAs vary considerably with respect to their implementing and monitoring provisions. A number of IFAs define comprehensive implementation measures, whereas others formulate only a few steps towards implementation. In some cases, a report by management at the annual meeting is the only concrete measure foreseen in the agreement. The agreements as a rule do not indicate that the content of an IFA is generally part of a management system on social compliance and the integration of the principles of the IFA into all sections of the management hierarchy is not specified in most cases. Only 4 out of 68 IFAs refer to internal steps to implement the agreed standards, such as the formulation of implementation guidelines. Only 9% of the IFAs (6 out of 68) refer to internal monitoring, while a further 8% of the IFAs are observed by external monitoring.

Quite a number of IFAs do, however, contain a wide range of provisions on how to implement the agreement. More than 50% of the existing IFAs furthermore contain provisions to strengthen (local) trade union rights. Some of these provisions are quite specific, which enables unions to use these provisions in practice and to actively support the implementation of the IFA. These concrete rights also potentially enable unions to organise workers – which, finally, is an essential step towards monitoring by the people directly concerned. However, in practice, it is frequently not until the fundamental trade union rights detailed in the agreement have been implemented that union organisation is even possible. In other words, the successful use of IFAs as organising tools often presupposes the existence of trade unions at the workplace in the first place.

It can, however, be observed that IFAs in the recent past tend to be more precise and tend to include more specific provisions on the implementation of the agreement. Therefore, the analysis of the documents suggests that IFAs have the potential to contribute to the development of international industrial relations and, in the long run, to facilitate the trade unions' organising activities.

Emerging from social dialogue, IFAs very much conform to the European social model and reflect the traditions of European industrial relations. The agreements cover a wide range of issues, such as restructuring, health and safety, data protection, HR management and social dialogue. Although



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

While the analysis of the content of IFAs is an important step in mapping the emerging IFA landscape, it can only provide first clues as to what implications IFAs may have for the internationalisation of industrial relations. Since the actual practice often goes beyond the formal provisions of agreements, the content of IFAs is likely to constitute only an approximate guide to the actual practice.

Against this background, the next step in the present research was to investigate the IFA-related strategies of companies and trade unions, based on interviews with the people directly involved. At first sight, the findings suggest a rather sceptical conclusion because the view of the two sides of industry seems to be difficult to reconcile. The employers tend to view IFAs as an element of their broader CSR policies, the objectives of which are, among others, to promote a positive public image in order to avoid potentially economically damaging public campaigns, to gain access to capital and product markets, and to build good relations with political and economic decision-takers. Within this broader CSR context, TNCs mainly view IFAs as a tool to deepen dialogue with employees and trade unions, and to define and communicate a set of shared norms and values, rather than as an industrial relations exercise. In contrast, GUFs view IFAs as a tool to establish global minimum social standards and to be recognised by TNCs as legitimate partners for dialogue and eventually negotiations at global company level. Against this background, trade unions tend to view IFAs as a stepping stone for an emerging system of global industrial relations.

However, the actual practice of IFAs demonstrates that the common interest of employers and trade unions in developing dialogue has led in some cases to developments that resemble industrial relations practices. By concluding an IFA, TNCs and GUFs jointly established a set of norms and rules that applies to all the company's operations worldwide. By signing an IFA, the employers furthermore acknowledged the trade unions as the legitimate representatives of the employees' interests. In some cases, the conclusion of an IFA not only led to the establishment of joint communication and consultation structures, but also advanced the development of global trade union networks.

However, the analysis of the IFA-related strategies of employers and trade unions also illustrates that these are 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 requires 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, it also requires management's willingness to cooperate with trade unions. The fact that GUFs, as the main driving force behind the conclusion of IFAs, have managed only in a very few cases 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 that facilitates the emergence of IFAs is the existence of a cooperative industrial relations tradition in the company's home country.

The process of internationalisation of industrial relations seems to be characterised by the fact that IFAs serve to promote key features of the respective national model of social partnership and 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, while there are only a few experiences in 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 quantitative spread of IFAs seems to be limited. This is particularly true since – in contrast to the European level – there exists no legal framework that could support this development. Without main drivers, the prospect is that IFAs will remain a limited number of positive cases. Due to their limited spread, the contribution of IFAs to the internationalisation of industrial relations has so far been quite restricted.

EFAs, signed at European level, differ from IFAs, signed at global level, in scope and content. While the great majority of IFAs focus 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 EFAs represent a step towards IFAs; conversely, there is no evidence that EFAs stand in the way of achieving IFAs.

In the context of European-level negotiation processes, restructuring and anticipation of change represent topics of major importance. EFAs dealing with restructuring differ 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 options, the response consists of reducing incentives for relocation or plant closures in general.

There are, however, various factors hampering the negotiation of EFAs, such as the lack of a legal framework at European level as well as structural and cultural differences between national systems of interest representation. These factors seem to be particularly relevant in cases of actual relocation and less incisive in cases characterised by a proactive approach aimed at anticipating change, such as at Schneider-Electric.

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