



With the support of the European Union



Key issues for management to consider with regard to Transnational Company Agreements (TCAs)

**Lessons learned from a series of workshops
with and for management representatives**

December 2010

Sole responsibility with respect to this publication lies with the author. The European Commission is not responsible for any use that may be made of the information contained herein.

VP 2009 003

Copyright © International Training Centre of the International Labour Organization 2010

Publications of the International Training Centre of the ILO enjoy copyright under Protocol 2 of the Universal Copyright Convention. Applications for authorization to reproduce, translate or adapt part or all of its contents should be addressed to the International Training Centre of the ILO. The Centre welcomes such applications. Nevertheless, short excerpts may be reproduced without authorization, on condition that the source is indicated.

*Key issues for management to consider with regard to Transnational Company Agreements (TCAs)
Lessons learned from a series of workshops with and for management representatives*

ISBN 978-92-9049-581-9

First edition 2010

The designations employed in publications of the International Training Centre of the ILO, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the Centre concerning i.a. the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers. The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the Centre of the opinions expressed in them.

Publications of the Centre, as well as a catalogue or list of new publications, can be obtained from the following address:

Publications, International Training Centre of the ILO
Viale Maestri del Lavoro, 10 - 10127 Turin, Italy
Telephone: +39 - 011 - 6936693
Fax: +39 - 011 - 6936352
E-mail: Publications@itcilo.org

Printed by the International Training Centre of the ILO, Turin, Italy



Contents

Foreword	4
About the project.....	5
List of acronyms.....	6
Introduction	7
About TCAs and their place in globalization	7
PART I TCAs: a useful tool for employers?.....	9
1. The need for a strategic analysis.....	9
2. The pros and cons.....	10
2.1 Reasons for engaging in TCAs.....	10
2.2 Reasons against engaging in TCAs	11
3. Trade union strategies	12
PART II Key issues to consider when engaging in a TCA	15
1. Internal coordination	15
2. Drafting and language	16
3. Legitimacy and representativeness of the parties.....	17
4. Extending the scope of the agreement to subsidiaries, subcontractors and suppliers.....	18
5. Legal content and considerations	19
6. Reference to ILO's international labour standards	20
7. Implementation and monitoring.....	21
8. Dispute settlement mechanisms	22
Conclusions	23
Further reading and useful links.....	24

Foreword

Globalization, relocation and shifts in investment patterns have had a big impact on labour relations and the way workers are organized and bargain at the workplace. Labour relations have also become more pluralistic and dependent on other actors such as consumers, civil society and NGOs.

TCAs are both a new phenomenon and the continuation of a process that started in the 1980s, namely *international* industrial relations and collective bargaining.

This publication summarizes and examines the views and key issues concerning TCAs, as expressed by employers from different companies and sectors. It analyses the pressures and opportunities related to such agreements and presents a set of issues and advice that could guide employers' choices and action when considering a TCA.

We hope to further clarify the meaning and use of these agreements. Although this publication does not provide a "one-size-fits-all solution", it reports on the issues surrounding such agreements, as presented by those directly involved in them or poised to become so.

We are grateful to our project partners for all their effort, dedication and technical advice in the production of this publication and in the EU-funded project on "Building the capacity of actors represented at company level to engage in and implement transnational company agreements (TCAs)". We also thank the European Commission for the funding and assistance provided.

December 2010



Arnout de Koster

Manager of the Employers' Activities
Programme of the International Training
Centre of the International Labour
Organization



About the project

This publication is part of the European-funded project on “Building the capacity of actors represented at company level to engage in and implement transnational company agreements (TCAs).” Under the project, five different one-day workshops were held during 2010, in five European capitals. The workshops targeted business executives and professionals from companies and employers’ organizations. They considered examples of companies that sought TCAs and those who were approached by international and European trade unions to sign such agreements.

The project was implemented by the Employers’ Activities Programme of the International Training Centre of the International Labour Organization (ITC-ILO), with the support of BUSINESSEUROPE, the leading European business organization.

The overall project and related activities were designed and run in close collaboration with the International Organization of Employers (IOE) and the project partners, namely:

- ▶ Confederation of German Employers’ Associations (BDA)
- ▶ Spanish Confederation of Employers’ Organizations (CEOE)
- ▶ Federation of Enterprises in Belgium (FEB)
- ▶ Movement of French Enterprises (MEDEF)
- ▶ Confederation of Netherlands Industry and Employers (VNO-NCW).

For more information on the project, please see:

- ▶ <http://lempnet.itcilo.org/en/tcas>

List of acronyms

BWI	Building and Wood Workers' International
CSR	Corporate Social Responsibility
EC	European Commission
EFAs	European Framework Agreements
EIFs	European Industry Federations
EWCs	European Works Council
GUFs	Global Union Federations
HR	Human Resources
ICEM	International Federation of Chemical, Energy, Mine and General Workers' Unions
IFAs	International Framework Agreements
ILO	International Labour Organization
IMF	International Metalworkers Federation
IR	Industrial Relations
ITC-ILO	International Training Centre of the International Labour Organization
ITGLWF	International Textile, Garment and Leather Workers Federation
IUF	International Union of Food workers
NGOs	Non-governmental organizations
SMEs	Small and medium-sized enterprises
TCAs	Transnational company agreements
UNI	Union Network International



Introduction

About TCAs and their place in globalization

Global companies face pressure on their operations from a variety of social actors and from markets themselves. Their reactions vary markedly, but TCAs have emerged as a means by which companies can consider the governance of their global operations in partnership with global, European and national trade unions and workers' representatives.

A TCA has been defined by the European Commission as:

“ *...an agreement comprising reciprocal commitments the scope of which extends to the territory of several States and which has been concluded by one or more representatives of a company or a group of companies on the one hand, and one or more workers' organisations on the other hand, and which covers working and employment conditions and/or relations between employers and workers or their representatives¹.* ”

Today, there are around 200 of these agreements, with about 100 companies involved - some companies have signed more than one agreement. Approximately 80 of them are defined as international framework agreements (“IFAs”) and focus on the respecting of fundamental social rights, mostly outside Europe. The remainder – European framework agreements (“EFAs”) or mixed agreements – are agreements and texts with European or mixed scope that focus on specific issues, such as restructuring, training or equality².

TCAs (i.e. IFAs and EFAs) are also a European-focused process, with the majority of agreements being signed by companies with headquarters in France and Germany. However, although these companies may have their headquarters in a particular country, their production and operations are often global, making it very difficult to make clear distinctions between European and international agreements. Of the agreements signed before

¹ EC staff working document on “The role of transnational company agreements in the context of increasing international integration” (SEC (2008)
<http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPageId=214>

² For a complete list of all the agreements completed up until February 2010, please consult:
<http://lempnet.itcilo.org/en/tcas/about-tcas/list-of-tcas>

2010, fewer than 20 were non-European. Countries like Brazil and Japan have only recently begun to take part of such processes.

In terms of sectors covered, European agreements are more predominant in the metalworking, finance and food/drink sectors. As for IFAs, the metalworking sector is again the main sector involved, while utilities, telecommunications, construction, packaging/paper and other services are also quite strongly involved.

Lastly, these agreements generally apply throughout the company, and may have implications for suppliers and subcontractors.

No two experiences are the same, nor can they be. TCAs remain an individual response shaped by the reality of the business itself. The purpose of this publication is to capture some of those experiences as reported by participants.



TCA: a useful tool for employers?

1. The need for a strategic analysis

TCA have emerged as an issue due to pressure on a company, or to a company seeing these agreements as a means to help it take an opportunity such as entering a new market.

In response to those pressures and opportunities, some companies have used TCAs, others have not. The engagement process is proactive, part of a strategy of anticipation or management of risk, or reactive, that is, triggered by an immediate specific situation or circumstance (e.g. a strike in a far-away location, or restructuring).

TCAs are also IR tools. Once signed, they form part of a company's IR "architecture". Therefore, when engaging in such processes, it is important for a company to look at the TCA not only as a tool for the immediate purpose, but also as part of its long-term IR strategy.

Accordingly, the adoption of a TCA should fit within the larger IR goals of the company. How would such a text fit within the company's own vision and long-term IR needs? Will it help or hinder the realization of that vision? Does it provide a vehicle that will add value to the strategy, or will it detract or distract the company from its objectives?

Such considerations were not always clear in the experiences reported during the workshops. A larger question that remained mostly unanswered was how companies saw the TCA as a part of a long-term IR strategy.

In fact, many TCAs were signed largely due to a single event, e.g. a union campaign. However, in approaching the text, few seemed to have really considered the impact of the language or content of the agreement in a global context, or what else they might want from a TCA.

The next section covers some of the issues raised by workshop participants in deciding whether or not to engage. Some of them are classical and well documented; others reflect new dynamics and emerging patterns.

2. The pros and cons

2.1 Reasons for engaging in TCAs

Those that have engaged often claim that these agreements are good vehicles for deepening social dialogue, because they provide an additional platform for communication and cooperation with trade unions or workers' representatives. Perhaps not surprisingly, a majority of these agreements are entered into by companies with a long and strong culture of social dialogue.

Some agreements are a reaction or counter-measure to high-profile cases of labour conflict (often in far-away locations) or are the result of trade union requests or pressure. There are a number of examples of companies seeing their situation, at local level, improve significantly with the signing of such agreements. One participant spoke about TCAs as a way of "buying stability and peace".

A number of companies have also pointed out how these agreements provide early-warning systems or act as tools for avoiding trade union campaigns. In such situations, they seem to minimize or help control a situation before it becomes public. One company reported that "instead of sending us a letter when problems arise, we now get a phone call".

Some global actors feel unable to deal with trade unions and workers' representatives on an individual basis (union by union or strike by strike). For them, TCAs seem to provide an overall collaboration framework that can contribute to better management of labour relations.

Other types of pressure (non IR-related) come from NGOs and consumer groups or from within the CSR debate. TCAs are instruments that, like CSR codes of conduct, communicate externally what companies see as their strategy and policy in the social field. They are seen from a public relations perspective, and have the potential to enhance a company's reputation and image.

This is particularly relevant to access to public procurement markets and the role of social rating agencies. For those companies supplying the European and other public markets, these agreements seem to help with fulfilling governmental procurement stipulations and criteria. Social rating agencies' procedures and requirements are also increasingly driving companies to sign. A good "social score" influences how a company performs in financial markets, accesses capital, etc.

2.2 Reasons against engaging in TCAs

As reported during the workshops, a significant amount of companies believe that TCAs are not useful or not the right option for them. Many recognize that there are risks and ambiguities surrounding these agreements, a concern shared among those who already have agreements.

Many companies find these agreements unnecessary, or do not see the advantages of making additional commitments, or conclude that the risks outweigh the potential advantages. These companies feel they already have effective instruments with which to deal with the issues at hand.

Other companies have expressed the fear that these engagements may create new levels of regulation without clarifying how they would work. There is also a concern that these agreements would conflict with efforts to embed and implement existing codes or values in companies' operations.

Many companies are also concerned with the possible negative impact of these agreements on the legal structures for national collective bargaining and on issues such as union representation rights. As things stand today, TCAs can potentially place a company in conflict with national law on union recognition, for instance if a non-TCA-affiliated union is the long-recognized local partner.

Others are concerned with the potential legal consequences surrounding the status and effects of these agreements (see below) and opt for alternative strategies to achieve similar ends, e.g. codes of conduct or declarations.

Still others do not want to tackle such issues in a centralized way, and prefer handling them at country level. They fear that these agreements might have a negative impact on management systems and structures by leaving local people out of the process.

Lastly, a few companies have raised the issue of renewal, and of the re-enforcement of initial demands. Many of these documents have expiry dates. It is important that a company assess the meaning of renewal from the very beginning. What will it bring? Will it be possible to end the agreement without damaging the company's image? Is there a risk that additional demands would be made when renegotiating, etc?

3. Trade union strategies

“ *National unions have dealt with national companies. To deal with international companies you need international unions.*³ ”

Unite

Given the pivotal role of trade unions in this matter at international level, we will give special attention to the role of the GUFs. The main GUFs involved in these processes are the IMF, UNI, ICEM, BWI, IUF and ITGLWF.

European and nationally based trade unions are also increasingly getting involved in these agreements, specifically concerning such issues as restructuring, anticipation of change and training.

A quick glimpse at these organizations' websites (e.g. www.global-union.com) reveals a number of policies, strategies and campaigns aimed at boosting the number of agreements signed.

The following is a summary of the main strategies concerning TCAs. It is based on public information and opinions expressed by participants and by international, European and national trade unions invited to participate in the workshops.

- ▶ Trade unions see these agreements as part of an industrial relations strategy and not as CSR, i.e. they are negotiated texts and not unilateral company acts; they actively involve the unions directly in monitoring compliance with both law and their own internal CSR policies.
- ▶ TCAs fall within a broader strategic objective of global collective bargaining. Particularly at the international level, they could gradually cover such issues as minimum and living wages and other conditions and entitlements.
- ▶ Another important aspect is that of increasing membership and recouping of influence by trade unions. In one particular case, the signing of an IFA implied an automatic additional 20,000 new members for a particular GUF, upon signature.

³ <http://www.newunionism.net/library/internationalism/Leitch%20%20Global%20Unions%20Global%20Business%20-%202010.htm>

On this point, please see the following statement issued by the UNI.

“ *If a company agrees to leave open the door to union organisation, then it's up to the unions to build on this. Increasingly UNI trade union alliances have been able to obtain agreements to allow trade union access to employers with success e.g. one UNI affiliate in Brazil can claim to have more than doubled its membership in this way. For the unions in the home country of the company, it means international questions become a legitimate subject of discussion and negotiation with the management. This can be crucial when, for example, a company wishes to outsource work to another country.* ”⁴

- ▶ Union strategies also are focusing on the issue of home country rights or double standards - one company, one standard. Unions are increasingly advocating a common playing field on which employment (e.g. wages and conditions) could be flatlined throughout the operations of a particular group.
- ▶ Many participants have also mentioned the tendency of global and European unions to use TCAs to adjust bargaining and dialogue levels. For a company, this requires greater internal communication and coherence, so that they can separate issues that they wish to keep local from those they wish to address globally, and so as to avoid cherry-picking among levels of bargaining and dialogue.
- ▶ On issues such as freedom of association or collective bargaining, neutrality is not enough: employers are being asked to assist proactively in securing those rights.
- ▶ These agreements aim to promote, or give prominence to, GUF affiliates, sometimes at the expense of existing national union partners.
- ▶ Most agreements contain union recognition rights. Others go further, and support union recruitment and activity.
- ▶ Finally, unions see these agreements as a way of reaching beyond the company itself. This approach is consistent with the GUFs' and EIFs' strategy of involving themselves in companies' CSR activities and of improving trade union representation in SMEs in countries with low unionization, through the commitment of suppliers. Including provisions in these agreements concerning suppliers and subcontractors is in high demand.

⁴ http://www.uniglobalunion.org/UNISite/In_Depth/Multinationals/GFAs.html

On this point, see the following statement issued by the BWI.

“ *The purpose of International Framework Agreements (IFAs) is to assist affiliates to get recognised as unions and to start a social dialogue on the company and national level with companies, suppliers and subcontractors of BWI partner companies. This should lead to collective bargaining and finally to improved working conditions and better wages.*”⁵

⁵ <http://www.bwint.org/default.asp?Issue=Multinationals&Language=EN>



Key issues to consider when engaging in a TCA

The next section looks into the key issues raised by those engaging in TCAs and implementing them. It is divided into themes. Again, the issues and views reflect the discussions and exchanges during the workshops and therefore do not provide a comprehensive analysis of all the pertinent issues on the topic of TCAs.

1. Internal coordination

The engagement process is often triggered by external pressure. In most cases, the first approach is made by trade unions. At the international level, it is common to see companies engaged in initiatives like the Global Compact being approached in this way. From that moment on, how a company reacts varies.

Some companies find it useful to talk to other companies, the IOE and their national employers' associations, and to share knowledge and experience. Many also follow very rigorous and detailed processes of internal consultation and determination of the purpose of the agreement.

Not all companies, however, are able to devise a coherent internal strategy. Some find that the TCA issue arises suddenly during a dispute or a campaign in which the focus is on resolving the problem rather than niceties concerning the content of the agreement.

Having a clear and attainable objective in mind (and on paper) for these agreements seems to be beneficial for all. The companies with successful TCAs are those that have taken considerable time and effort over creating something that suits their needs and that of their partners. This implies working in close consultation with different departments: IR, HR, legal, marketing, etc. Another issue is how to mirror that consultation in drafting the agreement.

2. Drafting and language

The drafting can be initiated by either side, but it is often the unions that take the lead on this. In a number of cases, model agreements (usually short and vague) are used and little care is taken over the language.

As in any other document, the language should clearly express what the parties intend. Workshop participants said that whoever controls the document better controls the outcome, so it is important for the company to control the process and ensure that the content and language used is suitable.

One of the challenges is that of detail versus brevity. As in any negotiation process, language can be a tool. If vague language is used, the company should be aware of the implications. Given the diversity of global operations, there can be value in using less precise language. The length and type of language used should fit the purpose.

Some agreements come with an obligation to translate them into different languages. This can have repercussions on how the agreement is seen and read by different local subsidiaries, and issues of interpretation may rise. It is wise, nonetheless, to specify a language for interpretation and reflect on what can be lost in translation: some languages may lack certain terms, interpret them in different ways, etc.

3. Legitimacy and representativeness of the parties

TCAs involve different sorts of parties and signatories on both sides:

- ▶ On the employers' side, the most frequent choice is that of the company CEO, sometimes together with the chairman and/or the managers of the group's subsidiaries. Very often, these agreements look to bind the entire group, including the group's subsidiaries, suppliers and subcontractors.
- ▶ On the employees' side, global unions, EIFs, national trade unions, EWCs, and national works councils are normal signatories. It depends on the scope and type of agreement. Many agreements involve a combination of parties.

For the employers, it is important to be clear as to the capacity in which a CEO or other staff member is signing, e.g. on behalf of the company, so as to avoid personal legal responsibility. The inclusion of subsidiaries, suppliers and subcontractors in these agreements may conflict with the principle of their "separate legal personality" (see below).

For international TCAs, GUFs tend to be the main signatory on the employee side, although in many cases European and national trade unions also sign. One employers' concern is that the unions signing be representative enough to cover the scope of the agreement and to fulfill their obligations and responsibilities under it.

A GUF is supposed to represent workers in all companies worldwide, in a particular sector. But what happens when it does not? Or when the national trade union with whom the company or a subsidiary deals is not part of the GUF? The same applies to EIFs.

The involvement of trade union organizations in issues such as restructuring also comes up against national systems in which works councils may have a role but responsibility for execution lies elsewhere. Moreover, their representativeness is, at best, national and not transnational.

4. Extending the scope of the agreement to subsidiaries, subcontractors and suppliers

One of the main characteristics of TCAs is their extension to, or coverage of, the company's subsidiaries, subcontractors and suppliers.

Some legal systems make it difficult to consider the holding company as the employer of the workers in the group's subsidiaries. Only obligations assumed by them can be directly binding.

The inclusion of subsidiaries is therefore uncertain and subject to the means used to give effect to the TCA. In many cases, companies have included provisions in these agreements stating that they only apply to those subsidiaries over which the parent company exercises a dominant influence (in terms of share ownership). In others, they have included the signature of the subsidiaries' managers as a way of ensuring collective awareness of the text.

There are different ways in which these agreements refer to suppliers and subcontractors or include them within their scope. In some cases, the company commits itself to informing its suppliers and promoting the provisions of the TCA among them. Other agreements include the respecting of TCA provisions as a criterion for establishing or continuing business relations. Lastly, some agreements make compliance with the TCA mandatory for suppliers, for instance through a commercial agreement. This could create a situation where a supplier would be more bound to the TCA than the company signing it.

5. Legal content and considerations

The legal status of these agreements is unclear. They have never been tested in a court of law, so questions remain about their status and enforceability. It is a mistake, though, to assume that they have no legal status – it has still to be tested.

Their legal status may also differ between common law and Roman law jurisdictions. And even if an agreement does not have legal status, a court may still hold it to be relevant when assessing damages.

To overcome this uncertainty, some believe it helpful to state what law would apply in a legal dispute. Indeed, many agreements contain informal resolution mechanisms, which may prove effective. However, a national court may determine that such clauses are overly prejudicial (e.g. to the plaintiff) and may not accept them. Moreover, placing a jurisdiction clause in an agreement may lead the court to hold it to be a legal document.

Similarly, some agreements specify which language version to refer to. This may or may not provide any guarantee. Nothing prevents a national court of law from choosing another jurisdiction (and language) that would be more convenient to a potential plaintiff.

In any case, the workshops made clear that the issue of the legal status is not a key determinant when considering entering a TCA. A lack of legal certainty may actually be an expression of general intent.

One way to address this issue is to include in the text a clear statement as to what status the agreement has. Indeed, a number of agreements expressly state that they are not regarded by either party as legally binding.

However, the main conclusions from the workshops were that companies should treat these agreements as if they were legal texts, with regard to both content and execution, and subject them to the same legal scrutiny and due diligence as any other legal text.

Some companies decide not to enter into any agreement, preferring to use other means, such as codes of conduct, value statements or guiding principles, coupled with modern HR and IR practices.

6. Reference to the ILO's international labour standards

At the international level, most TCAs refer to the principles of the ILO's international labour standards (or the ILO's core labour standards⁶) and deal with CSR and fundamental social rights. EFAs' content focuses on specific issues such as:

- ▶ health and safety at work, equality in employment and data protection;
- ▶ restructuring, work organization, training and mobility;
- ▶ human resources policy and CSR.

International labour standards are legal instruments drawn up by the ILO constituents (governments, employers and workers) that set out basic rights at work. They are either Conventions, which are legally binding international treaties that may be ratified by member states, or Recommendations, which serve as non-binding guidelines for states.

ILO Conventions are ratified by countries, not companies. Until such ratification is reflected in national law, the actual content of a Convention is not applicable in that member state.

Despite this, companies are making reference to those ILO instruments. Consequently, it is important that companies be aware of the content of the Conventions and understand what obligations could be incurred by including them in any text.

⁶ The ILO's core labour standards or fundamental principles and rights at work are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour, and the elimination of discrimination in respect of employment and occupation.

7. Implementation and monitoring

Implementation and monitoring will vary in accordance with the type of agreement, but follow-up provisions appear in most of the texts. These provisions include some form of monitoring commitment, usually in the form of an annual review or meeting on the implementation of the text and/or the setting-up of a monitoring committee.

EFAs may have a different monitoring structure, depending on their subject. In such cases, monitoring committees usually include internal staff and involve the EWC. The European or international trade union organizations are also included if they are signatories, and in some cases provide for external monitoring.

When it comes to implementing TCAs, many operational issues arise. This is still a relatively unknown area, since the overwhelming majority of agreements are still very recent and implementation is still under way.

Good internal communication and endorsement by management of these agreements are factors in successful implementation. As regards suppliers, some companies inform and communicate with all their partners and make the agreement a binding framework. However, suppliers are rarely involved in monitoring the IFA itself.

Nevertheless, there are examples of companies asking suppliers to prove that they are operating in accordance with the agreement. In at least one case, this is done via a questionnaire, based on ILO principles, aimed at checking whether these international principles are fulfilled. This type of approach also aims at raising awareness and improving knowledge of ILO principles.

Some companies also monitor and audit their subcontractors and suppliers for compliance with the TCA. To date, such monitoring does not extend throughout supply chain. In fact, almost all those participating in the workshop admitted that supply chain management posed a larger challenge.

Lastly, whereas in many TCAs companies bear the cost of implementation, newer TCAs increasingly took to share the cost with their union counterparts.

8. Dispute settlement mechanisms

Dispute settlement systems in these agreements are still rare, but may provide an informal, internal tool for resolving implementation, interpretation and application issues.

There are few examples of actual cases being raised, and even then issues are usually settled before the final stages of the procedure.

Some participants stated that a good conflict-resolution system can minimize disputes. Others remarked on how rare it is to see these systems used by both sides of the agreement. Some companies, nonetheless, hold their union counterparts accountable through one.

The content of dispute settlement provisions is still evolving. What is important is to ensure that the system meets the company's needs, helps implementation and does not become simply a grievance mechanism for all issues and all locations. Companies still prefer to resolve issues at the local level whenever possible.

Conclusions

It is difficult to draw conclusions from a process, or a set of processes, that seems to be very internal to each company and that is still new. Ultimately, the decision to engage or not is a purely entrepreneurial one that will depend on the market positioning of the company and the scope of operations and precise objectives of its market. There is no single message here.

In any case, from the experiences recounted and debates held during the five workshops, we have gathered a number of elements that may shed light on how the debate on TCAs might evolve.

First, we have noted how corporate labour dynamics are changing. Pressure to engage in TCA processes does not emanate only from the trade union side but is increasingly propelled by market reasons.

Secondly, we are still looking at a somewhat marginal phenomenon – the average lies between 10 and 15 agreements per year in a universe of about 80,000 multinationals worldwide. It is an activity that focuses very much on companies that have major importance to trade unions, in key sectors such as metalworking and telecommunications. Nonetheless, the pressure is there and has the potential to increase across all sectors of the economy.

The uncertainties as to the legitimacy and representativeness of the parties, and to the language used, may reflect the perception (and intention) that the parties may have when entering into such agreements, namely that they are not legally binding, nor are they seen as collective bargaining agreements (or a first step towards them). For most companies, they are mere declarations of intent that reflect the overall company policy or strategy, or provide a platform for dialogue with workers' representatives. Accordingly, informality seems to be preferred.

We have also seen how some companies have achieved success with their TCAs, securing market share and avoiding conflict. Some companies are using these agreements extremely well, making full use of the provisions negotiated to achieve their objectives.

Most importantly, we have reflected on the need to make rational decisions throughout the process. The companies with successful TCAs are those that have taken the time and made the effort to create a document that suits their needs. They have integrated communication and dialogue into structures that support their global IR/HR management. It is therefore important that companies do good preparatory work and actively manage the process from beginning to end.

Further reading and useful links

Guides and articles

IOE

International Framework Agreements, an employers guide, IOE, 2010

- ▶ http://www.ioeemp.org/fileadmin/user_upload/documents_pdf/papers/guides/english/guide_2007august_ifasrevi.pdf

European Commission

Commission Staff Working Document - The role of transnational company agreements in the context of increasing international integration SEC (2008) 2155

- ▶ <http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPagelId=214>

Mapping of transnational texts negotiated at corporate level_EC

- ▶ <http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPagelId=214>

Lyon conference 2008 papers

- ▶ <http://ec.europa.eu/social/main.jsp?catId=782&langId=en&eventsId=166&furtherEvents=yes>

ILO

Signing International Framework Agreements: case studies from South Africa, Russia and Japan, Papadakis, ILO, 2009

- ▶ <http://www.ilo.org/public/english/dialogue/ifpdial/downloads/papers/wp4.pdf>

Cross-Border Social Dialogue and Agreements: An emerging global industrial relations framework? ILO, 2008

- ▶ <http://www.ilo.org/public/english/bureau/inst/download/cross.pdf>

The Impact of International Framework Agreements: Lessons from the Daimler case, ILO, 2009

- ▶ http://www.ilo.org/wcmsp5/groups/public/ed_emp/documents/publication/wcms_120440.pdf



European Foundation for the Improvement of Living and Working Conditions

Codes of conduct and International framework agreements: New forms of governance at company level, EUROFOUND, 2008

▶ <http://www.eurofound.europa.eu/publications/htmlfiles/ef0792.htm>

European and international framework agreements: Practical experiences and strategic approaches, EUROFOUND, 2008

▶ <http://www.eurofound.europa.eu/publications/htmlfiles/ef08102.htm>

Others

“Legal Dimensions of International Framework Agreements in the Field of Corporate Social Responsibility”, Andre Sobczak, *Relations industrielles / Industrial Relations*, vol. 62, no. 3, 2007, p. 466-491.,

▶ <http://www.erudit.org/revue/ri/2007/v62/n3/016489ar.pdf>

Global Law Working Paper 01/05., “International Framework Agreements: A Collaborative Paradigm for Labor Relations“, Lisa P. Rudikoff. NY School of Law

▶ Http://ecmappdlv01.law.nyu.edu/ecm_dlv1/groups/public/@nyu_law_website__global/documents/documents/ecm_dlv_015853.rtf

International Framework Agreements on Corporate Social Responsibility: Conflict of Laws and Enforcement, *Business Law International*, Pieter De Koster and Peter Van den Eynde

Useful links

- ▶ <http://ec.europa.eu/social/main.jsp?catId=707&langId=en&intPageId=214>
- ▶ <http://www.ioe-emp.org/>
- ▶ <http://www.ilo.org/public/english/dialogue/ifpdial/info/xborder/index.htm>
- ▶ <http://lempnet.itcilo.org/en/home>
- ▶ http://www.bda-online.de/www/arbeitgeber.nsf/id/EN_Home
- ▶ <http://www.ceoe.es/ceoe/portal.portal.action>
- ▶ <http://www.vbo-feb.be/index.html?page=2&lang=en>
- ▶ <http://www.medef.com/>
- ▶ <http://www.vno-ncw.nl/Pages/Default.aspx>
- ▶ <http://www.global-unions.org/>
- ▶ <http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/internationalframeworkagreement.htm>
- ▶ <http://www.imfmetal.org/index.cfm?c=7786>
- ▶ http://www.uniglobalunion.org/UNISite/In_Depth/Multinationals/GFAs.html
- ▶ http://www.unitetheunion.org/resources/international/international_solidarity_work/international_framework_agreem.aspx
- ▶ http://www.csreurope.org/solutions.php?action=show_solution&solution_id=137

