

**‘International Framework Agreements: enforcement of compliance and policy implications’**

**Christina Niforou  
Lecturer, Business Management Department, BCA College,  
Athens, Greece**

**cniforou@bca.edu.gr  
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## **Introduction**

International Framework Agreements (IFAs) constitute a significant attempt for the global governance of labour. IFAs are negotiated documents between global union federations and multinational companies that stipulate compliance with core labour rights and whose application extends to company operations worldwide. The first IFA was signed in 1988 while the overwhelming majority of the current total of 75 have been concluded since 2002. Although literature on IFAs is increasing, there are significant gaps on their impact in the host countries and supplier sites of the signatory companies (see Riisgaard 2005, Wills 2002, Stevis 2009, Fichter et al 2011 and Davies et al 2011 for exceptions). The aim of the paper is twofold. First, it examines the local impact of three IFAs presenting processes and outcomes of implementation, enforcement of compliance and monitoring. Second, it draws a number of policy implications for global and local unions, multinationals and the International Labour Organization (ILO).

The first part of the paper briefly presents the research design and methods of the study. The following section discusses the implementation of three IFAs signed by MNCs operating in the telecoms, energy and apparel industries: Telefonica, Endesa and Inditex respectively. Here we examine global and local practices and outcomes of IFA implementation and enforcement of compliance in MNC host-country operations (Telefonica, Endesa) and supplier sites (Inditex). The findings reveal a number of issues which have further repercussions for policy makers and practitioners. The relevance of the research for policy is discussed in the penultimate section of the paper. We conclude with a summary of key remarks.

## **Methods**

The paper has adopted a comparative case study design focusing on a number of select sub-cases while employing different methods: a small-scale survey, face-to-face interviews and internal documentation. The IFAs under scrutiny belong to three Spanish MNCs: Telefonica, Endesa and Inditex. Telefonica and Endesa have a strong presence in Latin America and an increasing presence in Europe while they are interesting on different grounds. Telefonica was one of the first MNCs to sign an IFA (2001) and the very first in the telecoms industry. It can be considered an average practice case. On the one hand, it is a 'genuine' IFA (according to GUFs' model agreements) as it is signed by corporate management and a GUF while containing references to key ILO provisions, but it also demonstrates more advanced features involving 'hard' issues like wages, working time, training etc. Nevertheless, provisions on dispute settlement and sanction mechanisms (although present in a number of IFAs) are absent from this case study. Therefore, the agreement is far from what could be classified as a leading-edge example and it is positioned in middle of the spectrum of existing IFAs.

Endesa operates in the energy sector and it is situated at the low-end of the IFA spectrum. The text of the IFA is weak in terms of both content and procedures while it was never

implemented: it is the only agreement to the author's knowledge that was officially terminated in 2003 –one year only after its signature. Corporate management, Spanish trade unions and ICEM are currently in discussions over a possible renegotiation. Yet, in global union websites and literature the Endesa IFA is still considered as a valid one.

Inditex operates in the garment and textile industry and its IFA can be situated at the high-end of the IFA spectrum. The document entails stronger commitments and detailed language while making references to different international norms besides ILO: the OECD guidelines for MNCs, the UN global compact etc. Inditex signed an IFA with the ITGLWF union in 2007. The agreement was welcomed by the ITGLWF as ground-breaking since it was the first covering the supply chain of a global retailer. In this sense, the case is interesting because it extends the empirical focus of the research to suppliers' sites –an issue still a 'black box' given the methodological difficulties associated with the high complexity and geographical dispersion of global supply chains.

Methods include a total of 40 semi-structured interviews with key managerial and union actors involved in the negotiation, implementation and monitoring of the agreements at both global and local levels. Documentation obtained and analyzed includes the three texts of the IFAs, company collective agreements, social responsibility reports, trade union letters to affiliate branches or MNC headquarters and minutes of meetings of the IFA monitoring committees. A small-scale survey targeting key informants was also distributed to managerial actors in 21 Telefonica subsidiaries with the assistance of headquarters. The survey was used in order to contextualize the in-depth findings. Despite corporate involvement in the launching of the survey, the responses were directly communicated to the researcher by participants as a way to eliminate bias and social desirability.

## **IFA implementation**

### ***Telefonica***

Telefonica operations are spread across 25 counties. Main activities comprise fixed and mobile telephony, broadband services and call centers while peripheral businesses include media and management consultancy. Telefonica has 257.000 direct and 333.000 indirect employees. 51% of direct employees work in call centers while 61% of call centre employees are women. Latin America is the biggest market of Telefonica products and services, and employees in the region account for 67% of the total workforce. In Spain, Telefonica employees are represented by the telecom branches of the two major trade union confederations CCOO and UGT. 70% of the Spanish workforce are covered by collective agreements. CCOO enjoys the majority of representation.

In terms of social responsibility, the company incorporated the Global Compact in 2002 and has also elaborated an internal code of ethics (named 'Business Principles'). The 'Business Principles' entail rather generic provisions on trust and integrity, respect for the

laws and human rights but also more specific provisions addressing clients, employees, shareholders, the community as a whole and finally suppliers. The company has established a Business Principles Office (BPO) which is responsible of disseminating the Business Principles, provide training with regard to its content, intervene in cases of misinterpretations and monitor its implementation. Moreover, Telefonica produces annual social responsibility reports in 17 countries all of which are externally verified using the GRI and AA1000AS indicators.

The global union federation UNI has more than 3 million members in the telecommunications industry in more than 130 countries. UNI is organized into three divisions: ‘UNI-Europa’, ‘UNI-Americas’ and ‘UNI-Apro’ (the latter represents affiliates in Asia, Pacific and Africa). IFAs or ‘global agreements’ as GUFs prefer to call them, are at the core of UNI campaigns targeting MNCs. UNI perceives IFAs as global strategies that foster cross border cooperation between local and national trade unions and ensure that multinationals come to the bargaining table in good faith in every country in which they operate. The signature of the IFA was the culmination of union efforts from Latin America to bring their local issues to the attention of global corporate management. The text was signed in 2001 by the CEO, UNI and the telecom representatives of CC.OO and UGT.

**Table 1: Issues covered by the UNI-Telefonica IFA & references to ILO**

<ol style="list-style-type: none"> <li>1. <b>Free selection of employment:</b> references to ILO Conventions 29 and 105</li> <li>2. <b>Employment discrimination:</b> references to ILO Conventions 100 and 111</li> <li>3. <b>Child labour:</b> references to ILO Conventions 138 and 182</li> <li>4. <b>Freedom of association &amp; the right to collective bargaining:</b> references to ILO Conventions 86 and 98</li> <li>5. <b>Worker representatives’ rights:</b> references to ILO Convention 135</li> <li>6. <b>Minimum wages:</b> references to national legislation and collective agreements (as set out in ILO Conventions 94, 95 and 131)</li> <li>7. <b>Working day:</b> references to national legislation, collective agreements and industry standards (as set out in ILO Conventions 1, 47 and Recommendation 116)</li> <li>8. <b>Health and safety:</b> references to ILO Convention 155</li> <li>9. <b>Working environment:</b> commitment to harmonious relations and respect at the workplace</li> <li>10. <b>Development and training:</b> commitment to training especially with regard to the use of new technology</li> <li>11. <b>Employment stability:</b> references to national legislation and agreements</li> <li>12. <b>Respect for the environment:</b> commitment to ensure that all environmental concerns are met</li> </ol>
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The dissemination of the IFA is stipulated as a bilateral initiative. The text dictates that *“both parties shall be responsible for the administration and implementation of this agreement [and] to that end they will engage in an ongoing dialogue and they will meet regularly”*. From the management side, company intranet was used as the main (if not the only) means for dissemination at lower levels. Although the text makes it clear that

the company “will provide information concerning [the] agreement to all companies of the Group”, communication of the agreement to the unionized subsidiaries was a priority for headquarter management. As they emphasized, local managers in non-unionized operations would not really understand the spirit of the IFA and they acknowledged that they have done very little in that respect. The above relates to corporate perceptions on the IFA scope and coverage. They argue that the agreement is applicable only to unionized subsidiaries where trade unions are affiliated to UNI. This view is largely shared by home-country unions. The latter argue that the IFA is a commitment between two parties and when one of the parties is missing any implementation claims are difficult to be met. Interestingly, UNI has adopted a similar attitude. In the absence of trade unions, it is doubtful whether local managers will proceed with implementation. Yet, UNI’s role would be to use the IFA in order to facilitate organization of non-unionized subsidiaries and to bring existing unions under the umbrella of UNI.

According to the survey, respondents indicated awareness of the IFA in 15 out of the 21 subsidiaries or 71% of responding companies. Survey participants in the remaining 6 cases (where respondents were not aware of the IFA) belonged to call center and mobile telephony operations. In 5 out of these 6 cases, trade unions are not recognized. Yet, unions are recognized in 10 out of the 15 subsidiaries where managers did indicate awareness. The IFA was mostly disseminated by headquarters. Only in one case (Chile - fixed telephony operations), management reported that UNI-Americas had also been involved in raising awareness. In 3 out the 15 cases (Spain call center operations, Venezuela and USA) managers responded that their company did not possess a copy of the agreement. There were hence 12 cases left for further analysis.

Responding subsidiaries	Table 2: Telefonica IFA AWARENESS			
	Fixed Telephony	Mobile Telephony & Broadband	Call centers	Other services (media; ICT services; consultancy)
Argentina	YES	YES	NO	YES
Brazil	YES	n/a	YES	n/a
Chile	YES	NO	n/a	n/a
Colombia	n/a	YES	NO	n/a
Ecuador	n/a	NO	n/a	n/a
Mexico	n/a	NO	n/a	n/a
Panama	n/a	NO	n/a	n/a
Peru	YES	n/a	n/a	n/a
Spain	n/a	n/a	YES – no copy	YES – all 3 subsidiaries
UK	n/a	YES	n/a	n/a
USA	n/a	n/a	n/a	YES – no copy
Venezuela	n/a	YES – no copy	n/a	n/a

Source: author

The IFA has been disseminated to managers, employees and employee reps within companies in only 7 out of the 12 cases. The researcher did follow-ups on two (Chile, Colombia) of the remaining 5 subsidiaries asking respondents to account for the lack of dissemination and clarified the rest (in Argentina, Peru, UK) during the field visits. Managers in Chile reported that the issues dealt with in the IFA are addressed by the Chilean legislation, internal (i.e. company) regulations and policies, and their code of conduct. Respondents from Colombia indicated that they did not have to disseminate it because employees are not affiliated to trade union organizations in any of the companies of the Colombian group.

The means for dissemination comprised company intranet for diffusion to middle managers and communication to employees informally or via the intranet or different channels. No formal meetings and/or training took place in any of the subsidiaries. Therefore, no new instruments were elaborated. From the 12 companies who were aware of the IFA and possessed a copy of the text, 7 have integrated it into their social responsibility policies (in Argentina, Brazil, Chile, Peru, Colombia) and in the remaining 5, it only serves as a source of reference (Argentina other services, Spain, UK). Only in one case (Chile), respondents claimed that IFA issues are sometimes incorporated into the local agenda during company negotiations with trade unions.

In the UK, the IFA was communicated to O2 after the acquisition by Telefonica. The words of an O2 employee relation manager are indicative of Telefonica's preference for a non-interventionist approach: 'one of the first questions they asked was whether we were comfortable with [the IFA] ... Some things vary according to local practice but we were comfortable with it' (interview O2HR1). The agreement was disseminated only to the people that 'needed to know about it' (interview O2HR2), that is, to senior HR and employee relations management. No new instruments were developed for implementation and the respondents invoked the positive climate of industrial relations within the company and the UK institutional context:

'from an O2 UK perspective, given the mature relationship we have with our trade unions and the high level legislation around the working environment, we comply with both the spirit and the 'letter' of the Code. We are not infringing any of the principles - we are in full compliance' (interview EUHR).

With regard to the EWC, it currently covers operations in UK, Ireland, Germany, Czech Republic and Slovakia. The acquisition of O2 by Telefonica prompted discussions for a possible extension to the Spanish operations. Given the existence of the Alliance, global headquarters proposed an integrated overarching structure that would combine the Alliance and the EWC into a single mechanism albeit with different responsibilities each: the EWC would be responsible for the European subsidiaries while the Alliance for the Latin American ones. UNI would have a unifying (i.e. coordinating) role. Trade unions in both Spain and the UK refused the establishment of the above structure. The Spanish unions think that the EWC has a limited scope and potential and they believe it is purely informative when compared to the Alliance. Unions in the UK fear that they will lose

their majority rights. For O2 management, the decision to keep the two instruments (i.e. IFA and EWC) apart is reasonable and reflects the regional management structure of Telefonica:

‘Frankly, Spain has its own works councils, its own people forums. Also, Europe, Spain and Latin America are kept quite separate and we thought that if we started merging everything we would be mudding the waters. We have language challenges anyway and it would be a nightmare. There was no need to do it, there are very pragmatic reasons behind it and everyone seems reasonably content with that approach’ (interview O2HR2).

In terms of monitoring, there are two channels at the global level: the UNI-Telefonica Alliance and the joint committee foreseen by the IFA. Regarding the committee, the text states that *‘a group will be appointed that comprises three members from Telefonica and three members from UNI (UGT/CCOO – UNI) to examine and report to the President of Telefonica and the General Secretary of UNI’*. In practice, the meetings of the committee are ad-hoc and very informal and hence take place only when there is an important development and/or conflict. The paper distinguishes two important meetings of the committee, the one after the acquisition of O2 and the other on the renewal of the text. The first meeting was not directly related to the IFA and concerned the extension of the EWC to the Spanish operations of the Group. The purpose of the second meeting was to review the IFA text in relation to local practice and decide on its renewal. Here analysis is concerned with the role of the committee and the communication of the meetings’ outcomes. The informal character of the committee meetings and hence the lack of communication of their outcomes are largely attributed to the existence and operation of the Alliance: actors are keen to avoid unnecessary duplications. Yet, monitoring deficiencies are also detected at the second monitoring channel, the Alliance. The latter is a global structure which comprises local UNI affiliate organizations that meet annually with the global HR team and the president of the MNC in order to exchange information on the situation of the company and to discuss labour relations across company operations. However, there are two main deficiencies: the absence of local management from and the informative (and not consultative) nature of the meetings.

At the local level, there are not any IFA-specific monitoring mechanisms either from the management or from the union side. In all 12 companies where management holds an IFA copy, the provisions of the agreement are monitored using existing means and procedures. Available responses in our questionnaire included internal and external auditing, the Business Principles Office (BPO), ‘other’ means and absence of any monitoring<sup>1</sup>. Responses indicate that the IFA principles are monitored through the BPO and other means in the majority of cases. The BPO comprises members from the HR, Legal affairs and Internal Audit departments. Their role is to ensure that the ‘Business Principles’ are complied with and hence they provide information and training to local managers. Companies report annually to the office, which in turn reports to the HR and corporate reputations committee of the Telefonica board of directors. Other means

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<sup>1</sup> Respondents were free to choose more than one answers for each IFA principle and hence the number of responses does not always equal to 12.

usually involve labour inspections, collective agreements and internal policies and indicators.

<b>Table 3: Monitoring of IFA principles - No of responses</b>					
	<b>Internal Auditing</b>	<b>External auditing</b>	<b>Business Principles Office</b>	<b>No Monitoring at all</b>	<b>Other</b>
<b>Free selection of employment</b>	2	-	10	-	-
<b>Employment Discrimination</b>	1	1	9	-	3
<b>Child labour</b>	1	3	9	-	3
<b>Freedom of association &amp; Collective Bargaining</b>	1	2	8	-	6
<b>Worker representatives' rights</b>	1	3	5	1	7
<b>Minimum Wage</b>	2	1	5	-	4
<b>Working time</b>	2	3	5	-	7
<b>Health &amp; safety</b>	4	3	5	-	8
<b>Working Environment</b>	2	2	7	-	4
<b>Training</b>	3	3	6	-	6
<b>Employment Stability</b>	2	3	5	-	6
<b>Respect for the Environment</b>	4	3	5	-	4
<b>Total</b>	<b>25</b>	<b>27</b>	<b>79</b>	<b>1</b>	<b>58</b>

Internal and external auditing refers to subsidiary-specific monitoring arrangements whereas the BPO is a centralized arrangement which involves practices that are common for the whole group. Responses under 'other' means include inspections by the ministries of labour, collective bargaining arrangements and internal indicators that are specific to each subsidiary. Strong managerial preferences for the BPO as a means for monitoring the IFA can be explained by the nature of internal and external auditing that are mostly concerned with the standards and ethics involved in the financial operation of a company. Although auditors employed by the company (e.g. KPMG) also evaluate labour and environmental issues (i.e. distribution of the workforce, compliance with environmental indicators), the BPO is more encompassing in terms of human and labour rights. Yet, the purpose of the BPO is to monitor compliance with the group's Business Principles whose text is much more generic and with a softer language when compared to that of the IFA.

Most importantly, trade union rights with regard to collective bargaining are missing from the Business Principles text since the latter only briefly mentions employee rights to join a trade union. It is therefore questionable how compliance with the respective IFA principle is verified and enforced by the BPO.

In cases where local monitoring does not involve the Business Principles Office, the outcome is communicated to global headquarters on an informal and ad-hoc basis. In two cases, the outcome is not communicated at all (Colombia and the UK). In terms of communication of the outcome to the trade unions, this is the case in only 4 out of the 12 subsidiaries (two Spanish companies as well as fixed and mobile telephony operations in Brazil). According to all of the managerial respondents, no issues emerged with regard to the interpretation or implementation of the document. Interestingly, none of the respondents were aware of cases of conflicts and disputes where the IFA either facilitated or failed to contribute to their resolution. Yet, the interviews and legal reports indicate otherwise. There have been widespread disputes on union recognition in Telefonica operations across Latin America discussed elsewhere (Niforou –forthcoming). Below we present an example from Europe.

O2 Ireland does not recognize trade unions for collective bargaining purposes, while union membership is very low. The CWU represents around 3% of the staff in grievance and disciplinary proceedings. In 2007, the company went through a restructuring scheme. The plan was to outsource the company's network technology division to external IT providers like IBM. The outsourcing meant that a number of employees would be made redundant. Some of the employees affected by the restructuring were members of the CWU and hence the union asked to be actively involved. The management agreed and signed a formal agreement with the CWU on the role of the latter in the restructuring process. After the outsourcing, the CWU asked for formal recognition but the company refused. The reasons outlined by O2 management were that membership was very low and that the rest of the employees did not express any interest to be represented by CWU. In a letter to the HR director of O2 Ireland, the CWU cited the IFA clause on trade union recognition and the right to collective bargaining as stipulated by ILO conventions 87 and 98, and emphasized that

*'it is now imperative that O2 Ireland honours this agreement and respects the wishes of the staff ... I understand that a group of staff have all signed a letter requesting that the Code of Conduct be applied to them. In your reply you make it quite clear that your preference is to deal with staff 'without the need for external involvement' ... [or] the 'need for recourse to a third party' ... I fail to understand how Telefonica, who must be congratulated for developing the Code of Conduct as a clear statement of how it values its staff, could justify not applying the ILO Conventions to its Irish staff given that Ireland has ratified them'* (CWU letter to O2 Ireland).

The CWU argued that the Irish conflict was the main reason why union representatives went to the 2009 meeting of the Telefonica-UNI alliance. They spoke with the CEO and the global HR director who both said that they would talk to O2 Ireland management. Yet, the involvement of UNI and Telefonica headquarters did not resolve the dispute.

Headquarters were aligned to the position of O2 management. In the words of the European HR director,

“Why would we let CWU have formal representation with 3%? Because then any other body with 1% would want to do the same ... Telefonica was fully aligned with us. [The global HR director] wrote to UNI to reinforce that the UNI agreement guarantees rights for employees, not for trade unions and that it also guarantees neutrality by the company. So I can't show favouritism to one union versus the other unions in Ireland unless it is because our employees have joined them. Otherwise I am not being neutral and impartial. My management team in Ireland, if they did what the union told them to do, they would actually feel it was a breach of the UNI agreement” (interview EUHR).

The IFA was renewed in 2007 when UNI achieved the reformulation of the clause on company neutrality during union organizing campaigns. The clause now defines neutrality as ‘*not preventing or hindering the trade union from setting up in workplaces*’. Overall, the overwhelming majority of respondents indicated that the IFA did not have any impact on company practice because their company practice either meets or supersedes the minimum requirements of the text. In the words of O2 UK management, ‘it is not something [they] have to pull out and consult on a daily basis’ (O2HR3) – a feeling also shared by local managers in Argentina and Peru. Yet, in 7 out of the 12 cases, respondents stated that the agreement assisted in reinforcing social dialogue. According to the global HR team, a major achievement of the IFA is that it makes both parties enter into dialogue or at least consider the possibility of dialogue, something which in countries like Ecuador or Colombia is still either foreign or inconceivable.

### ***Endesa***

Endesa operates in the electricity, gas and renewable energy sector. It is present in Spain, Portugal, Morocco, Argentina, Brazil, Chile, Colombia, Peru and Central America. It has a total of 26.586 employees of whom 49% work in Latin America. In Spain, Endesa employees are represented by the sector organizations of CCOO and UGT (F.M CCOO and FIA-UGT respectively). UGT enjoys the majority. In terms of CSR, the company incorporated the Global Compact in 2002 when it also elaborated a ‘Corporate Responsibility Protocol’ for suppliers and contractors. The aim of the Protocol is to inform suppliers and contractors on the company’s commitment to the Global Compact and to encourage them to comply with its ten principles. Endesa’s environmental policies include embracing ISO14001 and EMAS accreditation.

ICEM is the International federation of Chemical, Energy, Mine and general workers' unions and it enjoys a membership of more than 20 million workers. The negotiation of global agreements is the number one of the ICEM agenda followed by the establishment of global networks between ICEM affiliates and multinationals. The Endesa IFA was signed in 2002 by the CEO, the managing director of Endesa, ICEM as well as the general secretaries of F.M. CCOO and FIA-UGT. The agreement’s main objective was to establish dialogue with trade unions at the international level. For reasons discussed

below, attempts to implement the IFA were unsuccessful and hence the agreement has been inactive since 2003.

**Table 4: Issues covered by the ICEM-Endesa IFA & references to international standards**

<p><b>Human rights:</b> general reference to ‘international standards’</p> <p><b>Trade union freedom and the right to organize:</b> general reference to ‘ILO conventions’. Numbered Conventions are missing.</p> <p><b>Health &amp; Safety:</b> respect of ‘standards and required behaviour’</p> <p><b>Vocational training:</b> a plain statement that it is beneficial for both parties</p> <p><b>Service:</b> commitment to the provision of high quality service</p> <p><b>Expansion &amp; company growth:</b> support for Endesa’s expansion plans</p> <p><b>Dialogue:</b> establishment of dialogue with trade unions at the international level</p>
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Source: adapted from the IFA text

According to the text, “*ENDESA and the trade unions signing the present agreement will disseminate its content to all companies, in the international area, over which ENDESA exercises control*”. Company intranet and union websites accounted for the main means of dissemination. The document also foresaw the elaboration of ‘*distinct codes of conducts in order to achieve the objectives of the agreement*’. The interpretation given by corporate management was that the wording allowed for the implementation of the IFA in distinct ways according to local needs. Headquarters also reaffirmed the importance of maintaining at all times local autonomy as established by the IFA document: ‘*the information exchanged under the protection of the present agreement shall not replace or interfere with labour relations at the local level*’. Yet, as discussed in the next paragraph, this was never tested in practice.

The IFA further stipulated the creation of an international joint *monitoring* forum comprising headquarter management, ICEM officials, two representatives of each of the Spanish union organizations and one trade union representative of each of the Latin American subsidiaries. The forum would meet annually to exchange information on local practice regarding the issues addressed by the IFA. Corporate management made it explicit that no decisions would be taken during the meetings and that their character would be purely informative. Yet, none of these meetings ever took place because Latin American unions lacked the capacity to nominate representatives. The reasons were twofold. First, only a few local trade unions were affiliated to ICEM. Second, each subsidiary was represented by more than one trade union organizations and, apart from the lack of consensus on the nomination of a sole representative as foreseen by the text, there were additional reasons relating to the public origins of the companies: a number of trade unions were public sector organizations and their affiliation to ICEM was unfeasible. Due to the above, the IFA remained ‘on ice’ for a year until its expiry in 2003.

Attempts by home-country unions to solve the representation problem included support for more affiliations to ICEM and discussions on the potential participation of PSI (Public Services International –the global union for the public sector) as a co-signatory of the new IFA. They hope that with the two global federations they will increase coverage. They do not aim for any changes in terms of content and they argue that it is important to have an agreement in place, make sure it works, test it for a couple of years and then ask for stronger commitments. For global headquarters, the participation of local unions in the negotiations of the IFA would have averted representation problems and would have made the agreement ‘truly global’: ‘as it is now, it is more like a national agreement with some international scope’ (interview note: ENHR1).

### *Inditex*

Inditex operates in the textile and garment industry and employs 89.112 direct staff. The company is trading well-known brands such as ZARA, Pull & Bear, Massimo Dutti etc. It has 4.607 stores in 74 countries across Europe, America, Asia-Pacific, Middle East and Africa. Europe is Inditex’s biggest market accounting for almost 82% of its total number of stores. In 2001, the company elaborated a ‘code of conduct for external manufacturers and suppliers’ which was modified in 2007. Since 2005, Inditex has incorporated the Ethical Trading Initiative (ETI) and in 2006, it elaborated separate guidelines for the implementation of the code of conduct.

ITGLWF is the International Textile, Garment and Leather Workers Federation with 217 affiliate organizations in 110 countries. The Inditex IFA was signed in 2007 by the CEO and the general secretary of ITGLWF. In contrast to Telefonica and Endesa, home-country unions (CC.OO and UGT) were absent from the signature of the Inditex IFA. So far it is the only ITGLWF agreement and the first covering the supply chain of a global retailer. The IFA was welcomed by the ITGLWF as signalling a new approach to ensuring decent work in the textile, garment and footwear supply chains. The Inditex document is also one of the few among existing documents with the title ‘International Framework Agreement’.

The bilateral nature of the IFA is strongly reinforced in the document: *‘Inditex and ITGLWF have agreed to establish a collaborative International Framework Agreement ... to ensure the effective application of all International Labour Standards throughout the “supply chain”’*.

Yet, Inditex’s internal Code of Conduct for External Manufacturers and Suppliers underpins the IFA. The code is annexed to the agreement which in turn refers to forced and child labour, discrimination, freedom of association and the right to collective bargaining, harsh and inhumane treatment, minimum wages, working time, environmental awareness and regular employment. Apart from ILO, the text makes references to other international instruments:

*‘both Inditex and ITGLWF undertake to collaborate to ensure the application of International Labour Standards, including International Labour Organisation (hereinafter ILO) Conventions N° 29, 87, 98, 100 y 105, 111, 135, 138, 155 and 159 as well as the Universal Declaration of Human Rights, the UN Convention on the Rights of the Child and the OECD Guidelines for Multinational Enterprises’*.

**Table 5: Issues covered by the ITGLWF-Inditex IFA & references to international standards**

References to the Universal Declaration on Human Rights, the UN Convention on the Rights of the Child, the OECD Guidelines for Multinational Enterprises and ILO (Conventions N° 29, 87, 98, 100, 105, 111, 135, 138, 155, 159 and Recommendation 143).

‘ITGLWF will work with Inditex to help secure full compliance with the following standards set out in the international instruments mentioned above and the Inditex Code of Conduct for External Manufacturers and Suppliers:

- 1.No Forced Labour.
- 2.No Child Labour.
- 3.No Discrimination.
- 4.Respect for Freedom of Association and Collective Bargaining.
- 5.No Harsh or Inhumane Treatment.
- 6.Safe and Hygienic Working Conditions.
- 7.Wages are paid.
- 8.Working Hours are Not Excessive.
- 9.Environmental Awareness.
- 10.Regular Employment.
11. Code Implementation’.

The IFA further includes provisions on issues of interpretation and makes references to specific procedures for implementation as these are set out in detail in Inditex’s code of conduct. Dissemination is a bilateral obligation. The IFA text stipulates that *‘Inditex undertakes to inform its external suppliers of the content and intent of the Agreement while ITGLWF will do likewise with its trade union affiliates and other relevant trade unions as appropriate. Inditex and ITGLWF undertake jointly to develop training policies and programs on labour issues designed to progress the implementation of the Agreement throughout the Inditex “supply chain”.*

In terms of monitoring, according to the Inditex document, both parties *‘agree to an annual review of the application of the Agreement and accordingly will create a committee comprised of three representatives from Inditex and three representatives from ITGLWF to undertake that annual review’.* The text makes special references to the right to form and join a trade union and to negotiate collectively:

*‘Inditex and ITGLWF shall keep under review developments on Freedom of Association and the Right to Bargain Collectively throughout the Inditex “supply chain”. Where problems are detected Inditex and ITGLWF will cooperate in finding solutions, including collaborating on training programmes for the managements and workers concerned’.*

Regarding enforcement of compliance, the signatories '*undertake to inform each other of any breach of the Agreement, as soon as the breach is discovered, to enable the earliest possible implementation of a remediation action plan*'. In early 2007, the same year when the IFA was signed, a supplier of GAP in Peru made 85 employees redundant. According to Peruvian unions, the supplier gave no specific reasons for the redundancies and aimed at eliminating union presence in the plant since all 85 dismissed employees were union members. Local unions contacted CC.OO in Spain who assisted them in communicating with representatives of GAP and the global union ITGLWF. Both parties travelled to Peru and after a two-day meeting signed an agreement that reinstated the dismissed employees. Yet, in 2008 the company proceeded with further dismissals.

The IFA was invoked in 2008 in the case of a Portuguese supplier that employed two workers of 14 and 15 years of age. Initially Inditex announced that it would proceed with the termination of the business contract but Spanish and Portuguese trade unions interfered in order to save 140 jobs that would be lost if the contract was terminated. Instead, the supplier committed to undertake corrective measures. The measures were outlined during a meeting between ITGLWF representatives, home-country and local unions, the CSR director of Inditex, managers of the in-compliant supplier and representatives of the Portuguese business association of the sector along with their legal advisor. The measures gave unions a leading role in disseminating information on employee and trade union rights.

## **Discussion**

Despite the calls for greater labour protections in the form of binding global norms by trade unions and activists, the notable shift towards 'softer' initiatives reflects the general stance on the questionable relevance and effectiveness of legally binding regulation at the global level. Indeed, debates on an optional European legal framework for transnational collective bargaining (Ales et al 2006) have quietened down while ILO has demonstrated strong preferences for techniques based on moral suasion and benchmarking. Regarding the legal framework, the paper questions the potential of such an instrument in delivering the desired policy objectives. Apart from the obvious shortcoming that it would not essentially cover MNCs with non-European headquarters, the paper sees the framework's binding nature as a serious barrier to ensuring managerial consent for negotiating a global agreement. The issues of implementation, enforcement of compliance and monitoring presented above demonstrate that local disputes are resolved at the level which offers the least protections, or what the paper calls an ill-perceived principle of subsidiarity: IFAs allow for policy issues to be addressed at the most convenient rather than the most appropriate level. Yet, even GUFs use this 'subsidiarity' as a way to justify their cautious approach when pushing for stronger commitments.

Moreover, ILO could potentially take the lead in addressing IFA deficiencies. For this to become a reality, the role of ILO and other international labour jurisdictions should be outlined within IFA texts in an unambiguous manner. One option would hence be to move beyond simple references towards drawing explicit links. Again there is the issue of

whether the explicit involvement of, for instance, ILO supervisory bodies in addressing local MNC disputes would bring global headquarters to the negotiation table. What we view as a more realistic way forward is to enhance the informal complementarity between IFAs in their current form and the instruments they refer to. Such informal complementarity would be achieved in practice by using the IFAs as the vehicle for increasing the regulatory potential of ILO, the UN Global Compact etc and vice versa. For example, local actors could invoke IFA references (and therefore company's commitment) to international standards when employing external means of enforcement (for instance, labour tribunals). Although so far there has not been a case of an IFA reaching a Tribunal, we argue that the above references are likely to endow IFAs with a quasi element of legality and encourage the proliferation of Court rulings similar to the one that acutely challenged the right to the freedom of association as established by the Argentinean Constitution and invoked the interpretation of Convention 87 by ILO supervisory bodies (see Goldín 2009). Yet, apart from quasi legality, the latest legal IFA analyses allow for some optimism demonstrating that IFAs can be enforced in US federal courts under section 301 of the Labor Management Relations Act. Section 301 grants courts authority to hear claims for breach of contracts involving labour organizations (see Coleman 2010). Drouin (2010), however, argues that the parties to the IFAs do not envisage seeking IFA implementation through court adjudication and therefore suggests the development of independent and impartial arbitration procedures foreseen by the IFA texts.

With regard to the very actors involved in IFAs and their strategies, the overall favourable European industrial relations traditions have made global union leaders shift their focus to MNCs headquartered outside the European area. This is not to say that the exercise of labour rights within Europe is always straightforward, as demonstrated by the examples of child labour in Portugal and trade union recognition in Ireland in this study. However, the non-European labour rights regime and especially that of the Global South is much weaker. GUF attempts to 'transfer' the collaborative industrial relations tradition of Europe to regions such as Latin America have been largely unsuccessful. The above ill-perceived subsidiarity that is maintained by MNCs and GUFs' political approach to IFAs reflects the persisting barriers to (and perceptions on the tentative relevance of) homogenizing labour practices across the Global North and the Global South. GUFs therefore perceive the signature of IFAs by non-European companies as a more viable strategy where all the actors involved will 'speak the same language' both literally and metaphorically –as, for instance, UNI-Americas' latest attempts to approach a Chilean MNC with operations across Latin America (interview note – UNI-Americas). Yet, even in such cases, local inter-union rivalries need to be addressed prior to an IFA signature.

The strategy shift of GUFs towards regional (non-European) structures is also evident in the failed attempts to integrate the Telefonica IFA and the EWC into a single global arrangement where UNI would have a coordinating role. Concerns about the possibility of jurisdictional duplication and overlap which could deprive actors of significant rights traditionally associated with their involvement in one or the other structure (i.e. Alliance or EWC meetings) brought the EWC integration discussions to a halt. Recent work on EWCs reveals that tensions between global and European industrial relations institutions

are far from novel (Waddington 2011). The global structures of GUFs often characterize EWCs as ‘non-trade-union-institutions’ while they perceive EWCs attempts to broaden their realm and move beyond the Directive as invading foreign territories, i.e. MNCs (ibid: 43).

GUFs’ approaches towards IFAs have been accompanied by a growing focus on the development of regional forms of global union networks. GUFs increasingly view regional networks as the vehicle for expanding the geographical reach of IFAs. Such a network comprises GUF affiliate bodies that represent the employees of a regional division of a MNC and aims at strengthening communication, cooperation and coordination among members (i.e. different networks for the South American and Asia-Pacific operations of a company as with the ICEM networks within BASF). In this regard, the UNI network of Telefonica provided fertile grounds for both the adoption and successful review of the IFA. However, the failure to effectively incorporate European actors in the Alliance is an additional manifestation that these structures work better when regional. Similarly, the failure of the Endesa IFA could be further attributed to the absence of such a network. The latter would ensure the durability of the agreement by acting in essence as a pre-IFA learning exercise on how to overcome institutional and structural imbalances in light of the pursuit of common objectives. As Croucher and Cotton (2009: 68) put it, ‘it seems more important to help trade unionists to operate both technically and politically within multinationals than to attempt to create agreements they cannot use’.

To GUFs’ regional approaches for the development of effective and democratic IFAs, the thesis adds two interrelated policy considerations: (a) the linkages between IFAs and MNC information and consultation structures and (b) IFAs as a clear CSR strategy and ‘not an industrial relations exercise’ (IOE 2007). With regard to the first, a way forward could be the adoption and operation of IFAs within the jurisdiction of WWCs. Yet, given the limited number of WWCs, the fact that they are dominated by the metalworking industry and also their strong Eurocentric culture (Rüb 2002), such a linkage is by no means automatic. Instead, we see the GUF corporate networks discussed above as a more relevant and plausible scenario. These networks could gradually secure managerial consent to inform and consult members not only on the financial outlook and strategic decisions that affect employment (i.e. restructuring) but, principally, on the exercise of core labour rights. In other words, they would strengthen the labour realm of information and consultation within MNCs and, once established and developed into mature bodies (i.e. see discussion above on networks as learning exercises), they would proceed with the adoption, implementation and monitoring of IFAs. Moving to the second issue, the possibility of an IFA would then be presented to management (but even to union members) as what it is: a bilateral CSR instrument with a dominant labour dimension and not a collective agreement. Such an instrument would hence be built on a shared understanding, it would secure the participation of all relevant parties (i.e. need for collective ownership), avoid ‘hard’ issues (i.e. references to national minimum standards on wages, working time etc that are essentially cosmetic) and address only core labour rights and health and safety standards albeit using an unambiguous language on coverage, actors’ roles and sanction arrangements.

## Conclusions

Overall, we have detected significant variation across the three cases in terms of implementation processes and outcomes: a moderate impact of the Telefonica IFA, failure of the Endesa IFA and a more substantial (albeit not sustained) impact of the Inditex agreement. The above variation is explained by the content and procedural character of the IFA texts as these shape and have been shaped by institutional (i.e. different trade union legacies, existing CSR policies) and industry influences (i.e. relative sensitivity of each industry to market and reputational accountability). Both sets of influences can have a constraining (as in the cases of Telefonica and Endesa) as well as an enabling role (Inditex IFA). The policy considerations outlined by the paper stem from the aforementioned shortcomings and include the need to strengthen the informal complementarity among the different global public and private labour governance arrangements, incorporate IFAs in regional forms of global trade union networks, enhance linkages between IFAs and MNC information and consultation structures and finally to correct misconceptions regarding the true nature of IFAs as bilateral CSR instruments with a strong labour dimension.

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