

**INTERNATIONAL FRAMEWORK AGREEMENTS IN THE USA:
ESCAPING, PROJECTING OR GLOBALIZING SOCIAL DIALOGUE?**

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Introduction: Why We Should Care About IFAs

International Framework Agreements are a potentially epochal development in global industrial relations because they are the only instance of sustained formalized relations between labor and capital beyond national boundaries. They are also a potentially disastrous initiative that instead of serving to promote global social dialogue ends up facilitating the dismantling of European industrial relations. We do not think that either of these extremes is likely in the near future. Rather, we see IFAs, individually and collectively, as contested terrains, some leading in a positive direction, some leading in a negative direction, and some leading nowhere at all.

IFAs are not only about regulating multinationals. They are also about the relations between unions within and across countries and sectors. They are not only about unionizing workers in the USA and elsewhere in the world. They are also about the future of industrial relations within and across countries. IFAs, therefore, have political and organizational implications regarding both transnational regulation and transnational collaboration and it is because of all these sets of concerns that we should care about the paths that they are creating and those they are closing.

Our goal in this paper, therefore, is not to propose IFAs as a panacea to what ails U.S. labor. They are not. Rather, what we want to provide is a concept for understanding IFAs which can be explained and demonstrated through an empirically grounded account of the impacts of IFAs on the practices of European multinationals in the USA. Our basic premise is that multinational corporations in general seek to escape from binding regulations resulting from institutional constraints, governmental fiat or collective bargaining. In regard to our particular focus, evidence suggests that European multinationals tend to abandon their home traditions in regard to labor relations once in the USA (HRW 2010; Fichter 2011; Stevis and Boswell 2008; Cooke 2001). What makes escaping despite IFAs important is that companies in a particular national setting explicitly ignore obligations they have agreed to on a global scale. If these companies can escape then the problem is all the more pronounced. Hence the title of the paper.

We start by explaining our heuristic tools. We then place IFAs within the parameters of social dialogue, in the process clarifying them in a systematic fashion. This is all the more important since Global Union Federations promote IFAs as a step towards global social dialogue. We then examine the performance of IFAs in the USA, with a particular focus on the spread of social dialogue in the USA. In the last part we discuss the factors that in our view have contributed to these outcomes.

The paper is based on results from a long-term project based at the Free University Berlin. The research concerns the implementation of IFAs in four countries, one of which is the USA.¹ We have collected and evaluated both primary and secondary material, including interviews with management and unions at all levels. A draft report on the USA has been circulated to unions and managers in the companies under study and presented to them in a special workshop on September 15th, 2011. The report is now under revision. In addition to the companies selected for case studies in the project we are compiling a complete record of IFA signatories in the USA.

Understanding Outcomes: Escape – Projection – Globalization

While much of the impetus for IFAs reflects the European origin of the corporations which have signed such agreements, there is a great variability amongst them. This variability reflects institutional origins and strategies of the leading negotiators on both the union and corporate side. As a result, and to use the language of policy analysis, there is a variety of policy outputs, i.e., that is the formal agreements, and a variety of policy outcomes, i.e., that is the results on the ground. Outcomes do not always appear to directly follow from specific types of outputs. In this part we outline a heuristic scheme for categorizing outputs and outcomes and exploring their relations.

Helfen and Sydow (forthcoming) have suggested that IFAs as policy outputs can be placed into three categories: hollow, modifying and creative agreements. Hollow agreements do not inspire much confidence due to their lack of specific standards and implementation procedures as well as due to their top-down "social dialogue-ism". As such, they do not lend themselves to a robust practice of implementation, remaining instead rather dormant and allowing corporations to escape their obligations. Modifying agreements build on existing organizational characteristics and practices which have been institutionalized mostly in the national context but also partly at the EU level. As such, existing institutions, bodies and arrangements are modified and reproduced to be projected onto a global plane. Lastly, creative agreements are an innovative response to the challenges of transnational social dialogue. Such agreements provide for the establishment of new organizational approaches and procedures with a globally inclusive character.

As for outcomes, we have found numerous IFAs which have had no impact on labor relations practices at all in regard to the standards and procedures which they articulate. Despite the existence of a global agreement, the corporate signatory has "escaped" from its implementation. In another group of cases we situate those outcomes which are limited or episodic. Impact is often characterized by ad hoc reaction in a specific conflict situation with intervention controlled at headquarter level. Interest relationships and actor constellations at that level are projected onto the handling of interest conflicts in "contested fields" (Levy 2008) beyond the home country. Finally, while still only a small minority, there are cases of achieved globalization of implementation procedures and

¹ Please see http://www.polsoz.fu-berlin.de/polwiss/ifa_projekt. Funding for the research was made possible through a generous grant from the Hans-Boeckler-Foundation, Duesseldorf.

processes. Such outcomes reflect the on-going and processual involvement of local actors. Local ownership fosters long-term constructive labor-management relations and processes of institutionalization.

While there is evidence of a strong relationship between the quality and type of the output and the quality of the outcome, there would be no cause for further examination of outcomes if these were wholly determined by the output. In some cases, knowing the goals of the corporation and the formal output is enough to suggest that the prospects for significant outcomes are not promising. On occasion, however, hollow agreements have produced unexpected outcomes. Similarly, modifying agreements end up producing variable results while creative agreements may not be implemented to their fullest potential for a variety of reasons, including changes in management and lack of collaboration amongst unions. Such cases of discrepancy between outputs and outcomes are particularly instructive and can be treated as 'critical cases' in the study of IFAs.

In order to evaluate outputs, outcomes and their relationship to each other we propose the use of four intervening factors. The first one is the content of the IFA as negotiated and signed. Agreements may be short and contain only very general language or they may be quite detailed. They may also vary in their referencing of international labor standards. Some IFAs specifically list ILO Conventions or the core labor standards from the ILO's 1998 Declaration on Fundamental Principles and Rights at Work. Other IFAs refer only generally to the ILO, some make no mention of it at all, and some name only other bodies such as the Global Compact. Furthermore, it is important to evaluate the content of an IFA in regard to the procedures it lays down for implementing and monitoring as well as in regard to the organizations involved in such processes.

A second factor revolves around the negotiation phase of the IFA process. As we have argued previously (Fichter et al. 2011a), the relationship of actors charged with the implementation of the agreement to the negotiation of its content is a crucial element of the overall process. While it is not practical for all potentially affected actors – both management (national offices, subsidiaries) and unions (national unions, locals) – to be represented or even present at the bargaining table, the extent to which they have been informed of negotiations or have been able to offer input into the negotiations may contribute to its content (output) and its implementation (outcome).

A third factor that we must consider is the overall practice of implementation. Such practices start with the dissemination (information and communication) of the agreement; a second step beyond the initial dissemination involves training practices; thirdly, we regard operational practices as a further step. In this we are referring to the introduction of routines, rules and procedures as well as related organizational and inter-organizational structures (e.g. an inter-organizational team in charge of coordinating the monitoring process). Such steps may be taken by labor through transnational union networks linking a GUF with its affiliates or connecting a works council with unions and local employee representatives at various subsidiaries. On the management side, the extent to which these three steps are integrated into corporate policies and operations is important (Stevis 2011). And beyond these separate activities of labor and management, implementation

should be ideally conceived as a process of combined and joint activity and decision-making by management and labor.

While the above factors offer robust connections between outputs and outcomes the empirical record also suggests that subsequent changes in the views, practices and strategies of management and unions can affect the translation of outputs into outcomes. For example, changes in ownership, management or market dynamics may lead corporations to change their approach to their IFA commitments. On the other hand, host country unions may adopt the strategy and engage in transnational collaboration despite non-participation in earlier stages or even skepticism. Most often than not such positive learning experiences involve an enhanced role by GUFs and/or the formation of transnational networks that help improve the relations between home and host country unions and employee organizations.

Industrial Relations and Social Dialogue.

Social dialogues are corporatist forms of governance that are not limited to the relations between labor, capital and states. Because, however, social dialogues are most evident and prominent in labor relations their future has important implications for industrial relations, in general, and global industrial relations, in particular. In what follows we focus on social dialogue in the case of IFAs, an important step since the GUFs have made it a point to emphasize the IFAs are a strategy for the promotion of global social dialogue between organized labor and multinational corporations.

Social dialogue is a type of corporatist industrial relations (for general background see Branch 2005; Leonard et al 2007; Smismans 2008a). It is the ‘collaborative’ element of social dialogue that often makes them unpalatable to unionists in countries familiar with more contentious relations, like the USA. For them collaboration means cooptation and lack of autonomy. While there are many instances of works councils and even union cooptation, European social dialogues are not the outcomes of cooptation and manipulation. Rather, they are the result of political struggles and compromises involving political parties, unions, capitals and states that produced particular outcomes in particular times and places. That these compromises are not all identical is evidenced by the varieties of capitalisms in operation since WWII. As the understandings or balances amongst those forces shift so will social dialogue with the important proviso that even in their twilight the existing institutional arrangements often exercise a significant degree of relative autonomy. So long as there is someone to push for them or raise the costs of abandoning them, these rules matter. *Comites d’entreprise*, for instance, are one of the reasons why French unions, more fragmented politically and with lower union density than USA unions, exercise influence well beyond their size. Similarly, national works councils or codetermination will continue to empower core corporate workers for the foreseeable future.

Social dialogue, then, implies a clear commitment, amongst participants who recognize each other’s legitimacy, to resolve conflicts and establish policies through dialogue rather

than force. This does not mean that contentious tactics and strategies may not be used. Nor that the dialogue is open-ended or all-inclusive. Structural questions involving labor and capital are not subject to social dialogue, even in the case of the strongest national dialogues. Finally, in connection with the global dimension, one must consider whether particular IFAs lean in the direction of global enterprise-unionism and the implications of such a trend for global social dialogue (Stavis and Boswell 2007). Thus, we think that it is useful to examine the variations amongst IFAs in a systematic fashion (Ishikawa 2003) pointing out what kinds of characteristics that reflect and reinforce escape, globalization, or projection.

Participation. The key characteristic of IFAs is not that they are negotiated. A number of other multi stakeholder agreements are also negotiated. Their key characteristic is that MNEs *recognize* an actor that represents workers globally, whether that actor is a Global Union Federation or a global employee council. This is a major breakthrough. Previous to IFAs, MNEs refused even informal interactions with unions at the global level lest they legitimate them (for a historical overview by a participant see Gallin 2008; Northrup and Rowan 1979). It is for this reason that IFAs have increasingly drawn the attention of analysts interested in the implications of IFAs for global social dialogue and industrial relations (Bourque 2005; Hammer 2005; ORSE 2006; Schömann et al. 2008; Papadakis 2008; European Commission 2008; Muller et al 2008; Telljohann et al 2009; Stevis 2010; Fichter et al 2011b; Papadakis 2011).

But what does it mean to say that IFAs are global agreements between unions and corporations. It turns out that their formal similarity hides a great deal of variability both in terms of who participates and how they participate. This variability has important implications for their implementation and impacts globally and in the USA. We discuss this variability first with respect to corporations and then unions.

Corporate Participation. Most of the companies that have signed agreements are from continental Europe. Increasingly, however, there have been agreements with companies from the UK, Russia, Japan, South Africa, Malaysia, and Brazil. Most of them have been small companies but the trend is encouraging. What would break the barrier would be the signing of agreements by large USA and Japanese companies, and there are signs that there is some movement in the USA.

Corporations are complex organizations, the more so as they globalize via acquisitions of mature companies. There is very little evidence that subsidiaries have participated in the negotiations of IFAs or that they have even been consulted or informed in advance. As a result they are often unaware of the IFA and its implications. In most cases, USA subsidiaries have been hostile or skeptical once informed, a significant problem if they have a transnational presence of their own and significant operational autonomy. Local managers have told us that headquarters are not aware of the specific circumstances in the USA. The problem is compounded with respect to suppliers and business partners who are even less aware of the negotiation and existence of IFAs. In short, participation on the company side has been locked into central management. To the degree that MNCs manage to successfully insulate their overseas subsidiaries from the requirements of the

IFA and delay bringing their suppliers on board, to that degree we can say that they are escaping even the modest obligations that IFAs require.

While HQs are always involved in the negotiation of the agreements they are much less involved in their implementation. This may be due to the power of national subsidiaries or tactical and strategic choices by MNCs. In some cases strong subsidiaries exercise veto power over their operations. In other instances MNCs take a very passive approach to implementation and may react only if pressed by unions. And in still other cases they never were interested in implementing it. So far we have found no instances of US subsidiaries taking a leading role in the implementation of an IFA on their own. While some subsidiaries can show a better record than others, this is largely due to pressure by national unions and, more often, transnational pressure. Companies that have signed creative agreements in good faith are more likely to explore ways towards implementing the agreement. Those that have signed modifying agreements are more likely to exhibit a patchwork of practices that reflect a 'hub and spoke' type of projection more so than a globalization of labor relations. Finally, those that have signed hollow agreements are not likely to do much at the implementation stage.

But an explanation of uneven participation within corporations because they are complex organizations should not be exaggerated. Yes, in some cases subsidiaries cannot be made to do much that they do not wish to. And clearly there are different kinds of corporate organization, e.g., global, transnational or multi-domestic, with implications for management across borders (Bartlett and Ghoshal 1998). Even so, subsidiaries are subject to strategic organizational and financial supervision, especially where their practices may implicate the parent company's resources or brand. In most cases, HQs are hegemonic if not dominant. What we find, moreover, is that corporate choices and internal bargains are not homogeneous across all functions. In general, HQs tend to exert more influence at the financial, organizational, R&D, and human resource levels while with respect to labor relations or environmental practices they are prone to prefer a localization strategy (Jonas 1998).

One of the significant aspects of IFAs is that they often cover the whole supply chain, thus expanding the boundaries of corporate governance. Because some suppliers are stand-alone corporations there are agreements or efforts at agreements with them. Suppliers, however, have never been included in the negotiations of these or other agreements nor in the organizational arrangements set up to implement and monitor the agreement. Even in those cases in which the practices of suppliers were resolved as a result of the IFA, suppliers have been outsiders with no formal participation in the IFA. If IFAs (and other efforts at regulating the supply chain) are to seriously redraw the boundaries of corporate responsibility in labor matters then there must be ways for major supplier representation both in the negotiation and implementation of IFAs.

Labor: This brings us to the nature of the participants from the point of view of unions, since any hope that escape may be stopped or moderated will depend on the nature of transnational union cooperation. The global world of organized labor is a multilevel one that has become more complicated in recent years (Stevis 1998; Stevis and Boswell

2008). As we look at IFAs we notice that the participants on the worker side include combinations of national, regional and global union organizations as well as enterprise-based workers' organizations, such as the European Works Councils and World Works Councils (Steiert 2001; Rub 2002; Benites 2005; Seifert 2008). It stands to reason that agreements with limited participation may engender conflicts while their institutional arrangements may not travel across systems of industrial relations (Torres and Gunnes 2003; Herrnstadt 2007).

Formally, IFAs involve Global Union Federations as signatories, but there is significant variability in terms of GUF involvement, including formal involvement. In some cases, particularly in the case of the ICEM, GUFs play a more prominent role. In the other sectors there is more variability. For example, the IMF has been only marginally involved in the negotiation and implementation of several agreements in its sectors. In one such agreement, for instance, the GUF was not allowed to participate in negotiations because of corporate opposition and internal preferences of employee representatives. And its involvement at the implementation stage has been that of an outsider bringing issues to the attention of the world works council that is the principal player on the worker side.

Where GUFs are primary actors then we can talk about a move towards global social dialogue in terms of participation. This is a positive development in that it reflects an inclusive globalization of an originally European initiative. It indicates that the relevant GUF has gained some supranationality and/or that no member unions were willing or able to veto the negotiations. This does not mean that GUFs have the resources to act as global unions. Rather, that they play a leading role in coordinating national unions or, inversely, that national unions are willing to allow some transfer of authority. Ultimately, the true measure of a GUF's success will be its ability to establish and coordinate global networks of unions across a company's production and supply/distribution chains. In our view, such networks must be institutionalized in some fashion and cannot depend on grants or other forms of temporary resources.

The authors are fully aware of the limitations of GUFs (Stavis 1998; Fichter and Helfen forthcoming). These range from their policy-making and resource limitations to the hegemonic role of individual unions historically from the industrial world. Our argument is not that it is possible or desirable to transform GUFs into unitary supranational entities. Rather, that the globalization or transnationalization of social dialogue requires that a global labor entity be a meaningful player along with national and regional unions and employee organizations. Global labor needs a well articulated, multilevel system for governing its own affairs.

The second scenario involves one or more national unions from the country of origin playing the dominant role in the negotiation and implementation of the agreement. If the relevant GUF plays a significant role and if these national unions set up global organizations or networks that give voice to host country unions then we are moving towards a more global social dialogue. While creative agreements are more likely to move in that direction, such a move can well take place during implementation. On the other hand, jealously guarding national primacy can and has negatively affected IFAs. In

such a case we can talk about a global projection of national forms of participation that are likely to work at cross-purposes. The same kind of problem can emerge if European Industry Federations (EIF) become primary movers. An EIF that prioritizes Europe at the expense of the rest of the globe is likely to foster divisions and competition amongst unions, albeit at a regional level.

This brings us to the most interesting and problematic form of participation. A number of agreements, especially in the metal sector, involve employee organizations –and in a few cases these are the dominant partners. While EWCs are involved in a number of IFAs the employee organizations that have proven more powerful are national works councils and the few world works councils which are often very much tied to national works councils. The relationship between unions and employee organizations is an important question (Whittall 2005; Brewster et al 2007; Patriarka and Welz 2008). Most national employee organizations are largely controlled by union members but this is often not the case with EWCs. Moreover, there is evidence that various European and national councils are as close to management as they are to unions.

Institutional arrangements, such as works councils, are more profound than any of the alternatives at the global level but they do not adapt very well globally because they are grounded in national and European laws and practices and reflect particular industrial relations systems. Liberal systems of industrial relations cannot easily accommodate such collaborative institutional arrangements. On the other hand, paternalistic industrial relations where enterprise-level unions play a dominant role cannot adjust easily to the fact that strong sectoral labor unions are frequently the dominant force behind employee organizations (Lewchuk and Wells 2006). This does not mean that existing organizational arrangements cannot be the kernel of transnational organizational arrangements. For that to happen, there has to be creative intervention by management, unions and national or European employee organizations.

The significance of permanent, well-funded, transnational organizations such as world works councils is not to be underestimated (Rub 2002). However, there is good reason to ask whether the organizations can travel across countries in the absence of the broader institutional traditions and rules that engendered them. Moreover, if the goal of IFAs is unionization, then workplace organizations that are not articulated with strong and networked unions presage micro-corporatism. In the absence of transnational public policy the role of GUFs is likely to prove critical. In order to play such a role, we have suggested, they have to be allowed a degree of supranational authority.

Content. Even the most profound European social dialogue is embedded within capitalist social relations. Stated differently, structural questions are not on the agenda. Within these parameters, social dialogue and industrial relations are based on understandings as to which issues are on the agenda and which are not. An agenda may be very comprehensive or very narrow. A social dialogue or a system of industrial relations may deal, for instance, with decisions on restructuring or only with the mitigation of the impacts of restructuring. Or, it may deal with the range of rights or only with workplace standards. In regard to IFAs it should be noted that in addition to the scope of issues that

are negotiable they can also be differentiated in terms of the scale of coverage. Do they apply in some or all countries where the company operates? Do they apply to some subsidiaries or divisions but not others? Do they include the whole supply chain or are they limited to the formal employees of the corporation?

IFAs are centered on a few core labor standards and rights, particularly the rights of association and collectively bargaining, aiming to enable workers to unionize (for useful summary tables see Papadakis 2008a, tables 2-4). Questions of wages, work organization and restructuring are not central to any of the agreements, although there are references here and there.

IFAs leave a great deal to be desired as far as the scope of their content is concerned. In case after case we have found that for IFAs to be effectively implemented, organized labor must weigh in heavily and directly. As a framework for establishing minimum labor standards and achieving union recognition, IFAs are certainly not a global extension of robust European systems of labor relations. In certain respects, they may be compared to EWCs in terms of the broad range of their functionality, i.e., some EWCs are "hollow" operations with little to show for their existence, while others are "creative" bodies which have taken on a bargaining role in addition to being informed and consulted in cases of restructuring.

What is significant from the point of view of the central questions of this paper is the source of inspiration of the labor rights included in IFAs. Most IFAs clearly identify the ILO but some give equal position and even primacy of place to the Global Compact (cf. DaimlerChrysler and IMF 2002). These choices are not accidental but reflect specific power relationships in the negotiation process and, more generally, the ongoing debate between public and private social regulation (for management views that highlight this concern see IOE 2007). IFAs contribute to the emergence and legitimacy of global public governance to the extent that the ILO is specified as the inspiration for and the arbiter of the meaning of the labor standards and rights specified in IFAs. References to the Global Compact or other private organizations and initiatives, on the other hand, add legitimacy to the privatization of social dialogue and, thus, of authority (for different views see Ruggie 2004 and Shamir 2008).

Another set of tensions emerges when national or regional standards are given primacy over global ones. This is evident when an IFA allows the option of respecting national labor laws, even when these are weak. Unions are resolutely opposed to using national standards if these do not legitimate global rules. Accordingly, strong attachment to national laws that delegitimize the idea of global core labor standards can also be a problem.

More broadly, it is important to underscore that the efficacy of commitments to international labor standards varies depending on the country in which they are applied. A particular implementation in one country may not be appropriate in another. Corporations may well like to use this complexity and variability as an excuse for avoiding global social dialogue. From the point of view of unions, however, global social

dialogue will allow the creative articulation of national practices within legal interpretations provided by the ILO. Alternatively there will emerge a ‘hub and spoke’ system with corporate HR or home country unions passing judgment on other countries’ practices on the basis of their own immediate interpretations and interests –rather than on the basis of some globally accepted criteria.

Intensity. A social dialogue may be very inclusive in terms of participants and comprehensive in terms of content but, also, very superficial. The weakest dialogue would include the communication of information while a bit more profound would be that of consultation, such as is the case with European Works Councils (for an overview of EWCs see Patriarka and Welz 2008). Negotiation would be the next level of intensity. Negotiation implies that corporations see unions or workers’ organizations as active counterparts rather than recipients of information or submitters of views as would be the case under consultation. IFAs clearly involve negotiations between workers and management at the global level (Hammer 2005). With the exception of an ITF-negotiated collective contract (Lillie 2006), IFAs are the only instruments of direct global negotiations between capital and labor². For that reason alone they are a new and interesting phenomenon.³

The EU-mandated social dialogue manifests a higher level of intensity because the long term goal is the production of binding EU level rules, a goal reinforced by the prospect that the EU will adopt a rule in the absence of progress (Smismans 2008a and b; Branch 2005). The EU’s social dialogue has been slow but it is certainly unique at the transnational level (on EU social dialogues see Leonard et al. 2007). Here, moreover, it is worth noting that since 2001 the European Social Dialogue has employed the route of ‘autonomous’ agreements, i.e., agreements negotiated and implemented by the major partners (labor and business). While this move is still taking place in the “shadow of hierarchy” it does accentuate the relative autonomy of the partners (Leonard et al 2007).

Finally, collective bargaining and national level agreements are the strongest kinds of social dialogue because they are binding and enforceable. The only instance of global collective bargaining has been that between the ITF and the International Maritime Employers Committee (Lillie 2006). According to some analysts some “joint texts” between European Workers Councils and particular corporations may be close to collective bargaining. Agreements reached at GM Europe on restructuring and investments fit this category (Gajewska 2009).

This general account of the intensity of IFAs is formally accurate but may not be

² The ArcelorMittal health and safety agreement, which was signed in 2008, is a global agreement involving such negotiations. But it is not an IFA because it covers only health and safety issues and does not include reference to the ILO Core Labor Standards. The United Steelworkers of America, however, considers the occupational health and safety agreement that it has signed with ArcelorMittal (along with the EMF and the IMF) as a “binding global collective bargaining agreement”. (ArcelorMittal et al. 2008)

³ “Joint texts” that have been negotiated between European Works Councils and corporations often have global implications but are not negotiated by global union organizations nor, often, by global corporations (see European Commission 2008). On ‘European Framework Agreements’ negotiated by EWCs and European Industry Federations see Telljohann et al 2009.

complete. A closer look at IFAs reveals the possibility of significant intensity in some cases. Here we want to outline the most prominent scenarios. The pace of new IFAs has slowed in recent years because national and global union organizations have decided that IFAs have to be stronger, particularly with respect to dispute resolution. There is good evidence that some of the new agreements, as well as the renegotiated agreements, are now stronger in that respect. The negotiation of IFAs that do provide for stronger institutional arrangements, particularly with respect to dispute resolution, is worth noting (e.g., provision for arbitration in 2008 ISS agreement as well as EADS agreement). While the mechanisms provided for by IFAs are not legally binding they can very well lead to legally binding results – the second scenario. One way in which IFAs can be legalized is through the unionization of workers along a company’s production or supply chain or through national agreements implementing the IFA. More and more cases like these will certainly blur the boundaries between ‘soft’ and ‘hard’ law and will develop a dynamic of their own. We will note later that there are such cases even in the USA.

IFAs as Social Dialogue. While framework agreements, then, are rather narrow in terms of the scope of participation when compared to the more sectoral and inter-sectoral forms of social dialogue they have the potential of expanding the scale of participation across countries and up and down a company’s production and supply chains –in short to expand the scope of participation via the expansion of its scale. In these ways they go beyond both the scope and the scale of European social dialogue, which is limited to the European Union and to the firms represented in sectoral associations – but not their suppliers. Accordingly, IFAs contribute to the increasing trend towards redrawing the boundaries of corporate governance in ways that European level agreement do not. To the degree that IFAs establish long lasting and representative organizational arrangements (including networks) we can talk about globalization.

The content of IFAs is certainly narrower than public policies but it is wider than EWC agreements in that IFAs focus on the whole production and supply chain. As a result they explicitly recast the unit of organization from the formal corporation to the broader networks within which it is embedded. To the degree that IFAs reinforce this global scale on the basis of ILO rules we can say that they are globalizing social dialogue. On the other hand, weak language that equivocates on global rules by juxtaposing national rules or shrouds itself in social responsibility instruments lends itself more readily to projection or even escape.

In terms of intensity, stronger provisions included in the IFAs themselves will globalize social dialogue, provided that these provisions are negotiated through inclusive processes. Additionally, the effective use of IFAs to generate stronger commitments along the company’s production and supply chains will also raise the intensity of the engagement. On the other hand, if their intensity depends more and more on national characteristics that have not been integrated into a global whole we can speak of projection.

Globalization in Unlikely Places: IFAs in the United States

Our research suggests that, in general, IFAs have not had a positive impact in the USA.

In most cases the local subsidiary and/or HQs claims that the IFA does not apply to the USA and/or that circumstances in the US are different and not well understood by European unions or GUFs. This is particularly likely to happen if the local subsidiary is strong and has a labor strategy of its own or is in sectors with strong anti-union traditions, as is the case with private security. This does not mean that the subsidiary always adopts a comprehensively hostile attitude towards unions. Often, its responses reflect union density and other calculations that are not related to the IFA. This is quite common amongst construction companies which are often dependent on public policy.

Another important way in which signatories of IFAs can escape their obligations is by situating themselves in "right to work" states, particularly some of the most hostile to unions, such as Alabama and Tennessee. This allows companies which may be implementing their agreement elsewhere in the world and which may be behaving in accordance with it elsewhere in the USA to avoid their obligations with respect to particular plants, especially automobile plants.

Surprisingly there are also some instances of globalization taking place but clearly these are exceptional. But why surprising? Because the record suggests that European companies in the USA are more apt to use union busting or union avoidance strategies that they would not condone in Europe (HRW 2010; Fichter 2011). Nevertheless, there is evidence of some European companies projecting home country best practices to the USA. These include some IFA signatories such as SCA and Faber-Castell as well as non-signatories, such as Gamesa.

What makes globalization surprising, however, is not only the generally anti-union politics in the USA. It is also the difficulties involved in bridging arrangements developed in coordinated and social democratic systems of capitalism to the most liberal capitalist system in the world. While it is not true that there are no workplace organizations in the USA –there are with respect to occupational health and safety –there is generally a great deal of suspicion towards employee organizations that are independent of unions. In fact, one of the major provisions of the National Labor Relations Act is to prohibit such union-like organizations. As a result, globalization is ‘unlikely’ in the USA both because of anti-unionism and because labor laws that are properly intended to empower unions have institutionalized deep skepticism about employee organizations such as works councils. In what follows we outline a number of globalizing experiences as well as some potentially globalizing ones. The cases that provide evidence of the globalization of social dialogue are those of Rhodia, Dannon (Danone) and ArcelorMittal. Additional cases, however, raise hopes that these are not limited exceptions.

In the case of Rhodia the original IFA was negotiated and signed in 2005. Since then, it has been renegotiated twice (2008, 2011) based on information gathered from affiliates and production sites worldwide and on joint missions of ICEM and management to China, Brazil and the US. The agreement has been used successfully in the US to overcome anti-union policies of local management and to facilitate union recognition and contract negotiations (ICEM 2010). In addition, following a fatal accident at a sub-

contractor, ICEM initiated negotiations over the formation of a global OH&S committee that is now operational. The committee brings together unionists from the key countries of the company's production chain, including China. However, it does not include representation or some type of access by suppliers, a limitation common to all agreements.

A second case which may be moving us in the direction of transnational social dialogue is that of Dannon. This is the first company to sign an IFA in 1988 (long before they were called that). Ever since it has negotiated a number of more specific agreements with the IUF, the most recent in the Fall of 2011. In 2009 it also created a global Consultation and Information Committee through the modification of its EWC and two USA unions are active participants in it (particularly the Bakery, Confectionary, Tobacco Workers, and Grain Millers (BCGTM)). The Agreement has been used to facilitate unionization in two plants in the USA.

When Mittal bought Arcelor, the existing IFA was not renegotiated and is no longer considered an active IFA. While there have been discussions ever since, a new agreement has not been announced. However, the company and a global network of unions have set up the Joint Global Health and Safety Committee which has been operational for a number of years and which has received good reviews. The USW, for instance, considers it as a significant accomplishment (USW et al 2008). It is interesting to note here that the USW and the IMF consider this Committee to be attached to a global network and that the USW is largely skeptical of IFAs. Yet, the IMF continues to be very active in the Committee. By any name this is not a purely union network but, rather, a global arrangement recognized and supported by the company as well as unions.

Another case that offers evidence of the possibility of globalization is that of the Swedish SCA. After a rocky start due to SCA's purchase of an anti-union company, the USW and SCA have developed a close relationship, including organizational arrangements and a neutrality agreement. Because, however, there is no global organizational arrangement or network this may be a case of positive projection that could well mature into a global social dialogue (as distinguished from a hub and spoke arrangement).

The US experience also includes a strategic engagement of the IFA strategy which is promising in terms of the globalization of social dialogue. This are largely associated with the SEIU which has aggressively adopted the strategy and has been at the forefront of campaigns for IFAs with European companies such as G4S, Securitas, ISS and Sodexo. In addition to promoting IFAs the SEIU has also sought to use IFAs to promote unionization in the USA. One important step in that process was the resolution of a long-standing dispute with Wackenhut via an IFA with G4S. More recently it pursued a campaign to leverage its IFA with Securitas into a national agreements. Significant developments in that sector will have to await further analysis.

Another promising development is the UAW's commitment to a global strategy which targets foreign companies in the USA (and all automotive companies around the world),

while at the same time opening a perspective for setting labor standards at the foreign subsidiaries of US auto manufacturers. What makes this strategy important is the decision to pursue a collaborative approach with European (primarily German) and Japanese unions (on transatlantic union relations see Greven 2008). The UAW is also involved in intensive dialogue with the works councils at the home country plants of German auto manufacturers and suppliers. If the UAW is successful the results will be felt far and wide. However, its experience with works councils at German companies are mixed, ranging from far-reaching support for its unionization efforts to skeptical attitudes and resistance.

In addition to SEIU and the UAW a number of smaller unions have adopted strategic engagements with IFAs. One example is the Boilermakers whose experience with the Lafarge IFA has led them to become more engaged internationally and invite the ICEM's Secretary General to be a keynote speaker at their Fall 2011 convention. The Lafarge IFA is noteworthy because the company refused to implement it in the USA in a rather aggressive fashion. When it tried to renegotiate its health care obligations with a Boilermaker local the union's campaign became progressively national and international. As we were told the union leadership learned about the IFA through a meeting that discussed IFAs. On that basis they decided to adopt an international strategy which, evidently, has influenced their approach towards further international collaboration more generally.

The Bakery, Confectionary, Tobacco Workers, and Grain Millers union (BCGTM) has also become strategically engaged with the Dannon agreement as a result of an international campaign that allowed it to unionize Dannon plants in Ohio and Utah. Subsequent to this positive experience BCTGM workers have been actively involved in the global Consultation and Information Committee.

Yet, over the last few years there have also been instances in which IFAs have been used to promote unionization without being recognized and utilized as part of an overall transnational strategy. In one case the invocation of the IFA led local management to adopt a stance consistent with the agreement and resulted in a successful unionization vote. While the national union participates in the agreement's implementation and recognizes the role of the IFA in facilitating the unionization drive it remains skeptical of the IFA strategy. This also seems to have been the case with H&M. While the UCFW has successfully unionized a number of stores there is no mention of the IFA with H&M. In a number of other instances IFAs were included as part of the campaign (e.g. IKEA's Swedwood) or were recognized as a basis for calling on the GUF, the home country union and the works council (e.g., BMW in Southern California) to support the local union's struggle. In both the IKEA and the BMW cases, the national unions involved (International Association of Machinists, International Brotherhood of Teamsters), however, are very skeptical of IFAs.

Even in cases where the agreement was explicitly used to legitimate the campaign and motivate transnational collaboration we have been told that it played no role and that, in fact, it was other relations, such as bilateral union to union agreements, that played the

dominant role. We have no reason to doubt that a bilateral agreement has more power than an IFA. However, we are perplexed by the effort to dismiss the utility of such an agreement, especially when combined with strong organizational ties. It may be that the expectation of USA unions was that the agreements would change the attitudes of local subsidiaries without any additional effort. While this would be an ideal result, it would run counter to the reality of many labor-management relations, in which the content of contracts must continually be reaffirmed. However, IFAs can also be used to facilitate collaboration amongst unions articulated around the stronger claims towards multinationals that IFAs embody. There are many examples that taking this additional, albeit difficult step, have produced results.

The IKEA case is illustrative in this regard. The company clearly reneged on its obligations under the IFA in regard to its Swedwood operations in Danville, Virginia. The IAM Woodworkers sector then decided to use the IFA as a component of its campaign. In its campaign, the union contrasted the terrible working conditions and treatment of workers at the plant with the honorable commitments IKEA had signed onto in its IFA, making this part of its transnational campaign. This resulted in the company finally agreeing to stop anti-union activities of its local management and allow a union recognition election – which the union won. To date, the union has been able to even achieve a first collective bargaining agreement. Whether IKEA will abandon its escaping practices or will continue a spoke and wheel strategy at locations in other countries will depend on both the company and the network of unions that led to the successful unionization of the plant.

While this case illustrates a successful IFA strategy, a similar conflict which occurred at the same time and in the same town shows that such an approach is not self-evident. At that plant in Danville (a Polish owned supplier), the USW ran the campaign as a local one (perhaps based on its long standing experience with a different company located in the town). Invitations to join with the IAM campaign were rejected. The end result was that the USW lost its recognition election decisively within weeks of IAM's success amidst anti-union campaigning by management.

If one assumed that IFAs were an autonomous regulatory instrument their global and USA records would be grounds for renouncing most of them. If one accepted that IFAs are a contested terrain both with respect to regulating MNCs and with respect to transnational union collaboration the number of those that should be renounced would be significantly smaller. Unions around the world are right in asking why they should fight to turn into reality commitments that are inscribed in formal agreements signed by multinationals. Since there are no other instruments legitimating transnational claims on corporations, however, unions should probably use an agreement before abandoning it. In a few cases they will get positive results fairly quickly. In some additional cases the IFA can be an important component of their global campaign. There is evidence that such efforts have contributed to making IFA implementation more profound.

In light of our comments at the very beginning of the paper the measure we are using is not whether IFAs have been successful most of the time. They have not. The measure is

whether we can identify enough evidence to suggest that even in a liberal capitalist country with declining unions in the private sector there is some evidence that IFAs can produce some positive results. We have suggested that they have. In this last part, then, we propose reasons for failure but, also, reasons for success.

Explanations

But why these outcomes? We think that our account of the elements of the social dialogue exemplified by IFAs has made it apparent that seemingly similar instruments are actually quite variable. It is not surprising, therefore, that there will be variable outcomes. Our closing section offer some explanations for this variability, with more weight given to the forces that seem to drive the globalization of social dialogue in this unlikely place. Let us start with escape.

There are good reasons to suggest that the primary agents behind escaping are European multinational companies who are internationalizing or deepening their internationalization and which tend to prefer more liberal kinds of global industrial relations compared to those present in a number of continental European countries. The industrial relations landscape in the USA very much facilitates their ability to escape European institutional arrangements. This can take place in a number of ways. In some cases, European companies realize that their subsidiaries are strongly anti-union, as was the case with Wackenhut and G4S. Moreover, that these subsidiaries are too strong and important to heed global headquarters, as is the case with Turner construction and Hochtief. Accordingly global headquarters has to decide whether they have the means and interest in disciplining their local subsidiary (as has been the case with G4S) or allowing them to do business as they see fit (as is the case with Hochtief).

In other cases the company chooses to locate in places which are inimical to labor unions, largely in the US South. In these cases companies do not need to act or sound anti-labor because local development boards and political leaders do that for them. In fact, these groups and leaders may actually threaten the company. Of course, the company chooses to locate where it does and they do adopt a classical strategy of union avoidance. On balance, then, escaping European industrial relations may involve direct actions by the company or a collusion of various interests at critical junctures of the production network.

In addition to corporate intransigence and strategic calculations there is also strong evidence that this escape can often be facilitated by the absence of collaboration amongst unions across the Atlantic as well as within the USA itself. For this reason we pay particular attention to the attitudes of US and European unions towards IFAs and each other. A number of USA unions are programmatically skeptical of IFAs. There are many good reasons for that, including the fact that agreements are negotiated top down and without participation by host country unions and subsidiaries. US unions do have a strong case when they demand that IFAs produce 'positive neutrality' on the part of corporations. In short, they demand that corporations do not simply stand by but actually facilitate the process through providing access and contact information and promoting a

collaborative pro-union attitude and practice. Both of these reasons are valid and worthy of close attention by European unions and employee organizations.

However, we have often felt that the opposition to IFAs goes deeper and reflects real or possible concerns over international union collaboration, power relations within global union organizations and networks and, also, concerns over micro corporatist influences. These concerns are not limited to US unions, of course. Home country unions on both sides of the Atlantic routinely act as if home companies are their companies –an attitude reinforced by states in the case of national industrial champions. Internal employee bodies such as works councils are frequently in danger of succumbing to a company perspective in close proximity to management. This in turn may expedite their tendency to constitute fiefdoms within national unions.

Given such tendencies what accounts for instances of transnational union cooperation and the use of IFAs to globalize labor standards? There is good evidence that in the most promising cases corporate commitments and decisions are a key factor. Despite problems, Rhodia, Dannon, ArcelorMittal and SCA are companies with deeply ingrained labor values. One could simply dismiss them as exceptional instances of good companies doing the right thing. However, there has been local resistance by subsidiaries which HQs was willing and able to overcome (in most cases). What is significant from our point of view is not simply the good labor record of these companies. Rather, it is their role as pioneers in ‘landing’ constructive labor relations in the USA. Collectively and individually they demonstrate the possibility.

The role of unions is not to be underestimated here. Home and host country unions have played important roles in directing these companies towards union recognition. In the case of ArcelorMittal the USW has played a leading role while in the case of SCA the Swedish Papers, and in the case of Swedwood/IKEA, the IAM, have done the same. A third important factor has been the role of the GUFs. ICEM and the IUF have played key roles in the Rhodia and Dannon cases, respectively.

There are many instances of corporations not changing their practices despite every effort by unions and global union federations. However, there is also strong evidence that concerted union action has delivered results under less than optimal circumstances. One such example involves a company from the construction industry which had signed an agreement that it did not intend to implement –a hollow agreement (Fichter et al 2011). This intention became evident in the USA where it sought to decertify unions by hiring union busters as well as engage in whip saw bargaining. What looked like a lost case resulted, due to collaboration amongst unions in the USA and transnationally, in reversing the flow of events and forcing the company to commit to neutrality. The company has not totally changed its attitude on a worldwide basis but the unions involved in the USA learned a valuable lesson and one of them has become an active participant in

international labor politics in its sector. Moreover, the GUF is currently renegotiating the global agreement with the company to make it stronger.

In the IKEA/Swedwood case the mobilization and participation of unionists from around the world was impressive. The success speaks volumes about the ability of unions to organize under hostile circumstances. The agreement itself played a tactical role as part of a broader campaign. Arguably, unions should not have to go through such a campaign given that an agreement was in place. Yet, the failure of the parallel campaign that did not seek transnational collaboration and did not use the agreement adds credence to the argument that IFAs can help focus and cement relations across boundaries.

In closing, it is not only multinationals that need to change if this modest strategy for labor standards and union recognition is to succeed. Unions around the world, especially in countries that have important MNCs, also need to recognize the implications of their choices. As we have shown, the record suggests that there are some promising practices, even in the USA. In order for IFAs to become a consequential global strategy, however, there must be more cooperative efforts across borders. While many companies will resist the globalization of recognized standards basic to IFAs there is evidence that such a development can be facilitated through a combination of national and global union collaboration. It is for this reason that we started our paper by suggesting that IFAs are not only about the regulation of multinationals but, also, about the relations between unions across sectors and countries.

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