



SindNova, Fondazione Di Vittorio,
IRES France, Fundación 1º de Mayo

FINAL REPORT

Edit by SindNova

*Mariangela Zito, Michela
Cirioni, Claudio Stanzani*

September 2017

Implementation of International Framework Agreements in multinational companies

From the International legal framework to the empirical
analysis of IFAs study cases



EURIDE. Employee involvement in multinational companies: from knowing and demanding
European rights to new kinds of contracts (TCA) VS/2017/0039

The project was realized with EU financial support

INDEX

INTRODUCTION

EURIDE project: objectives, methodology, results achieved, general remarks	3
IFAs and EFAs: quantitative survey by <i>Udo Rehfeldt</i>	7
IFAs: role of European Works Councils and Global Works Councils by <i>Mariangela Zito</i>	10

LEGAL PROFILES

Legal framework of TCAs. Open questions by <i>Fausta Guarriello</i>	14
Private international law and dispute resolution by <i>Aukje Van Hoek</i>	17

CASE STUDIES - NATIONAL STUDY REPORT

Bosch, ENEL, Salini-Impregilo (Italy) by <i>Michela Cirioni</i>	21
ENI, Electrolux (Italy) by <i>Salvo Leonardi</i>	47
Renault, Solvay, GDF Suez (France) by <i>Udo Rehfeldt</i>	67
Endesa, OHL, Thyssenkrupp AG (Spain) by <i>Jesús Cruces Aguilera</i>	91

CONCRETE EXPERIENCES

IFAs and BWI. Principles and objectives by <i>Vicente Sanchez Jimenez</i>	126
IFAs and sub-contracting: the best practice of Salini Impregilo IFA in constructions' sector by <i>Claudio Sottile</i>	129
Bangladesh: a successful case on TCAs effectiveness by <i>Gianni Alioti</i>	131

CONCLUSIONS by <i>Claudio Stanzani</i>	135
--	-----

INTRODUCTION

EURIDE project: objectives, methodology, results achieved, general remarks

The biannual Project “*EURIDE. Employee involvement in multinational companies: from knowing and demanding European rights to new kinds of contracts (TCA)*” VS/2017/0039 was granted by the European Commission in the framework of the budget heading VP/2015/003 “Information, consultation and participation of representative of undertakings”. The project represents a continuum in the analysis of Transnational Company Agreements, started with the previous experience of EUROACTA, a research project led by Fondazione Di Vittorio. Thanks to a consolidated partnership with this Institute, IRES France, Fundació 1º de Mayo, and the strong support of CISL¹, FILCA² and FIM³, the project aims at investigating the effective implementation of the Agreements.

Differently from other projects mainly focused on the analysis of the contents and the negotiation process, EURIDE stressed out the **analysis of the monitoring process** and the **effectiveness of Agreements’ implementation** in order to evaluate whether these tools have a real impact on plants and workers’ rights within the whole company perimeter. Starting from the information and provisions envisaged by the Agreements, the research addressed the presence or lack of tools for monitoring, reporting and disseminating the contents defined in the Agreements. During the empirical research phase, project partners focused on the effective results achieved by these tools and their concrete implementation. The research pointed out the elements that could be improved and the gaps between the provisions of TCAs and their effective compliance.

Three different types of activities were conceived in the framework of the project:

1. Research phase (home-based). Drafting of three study reports (1 Italy, 1 Spain, 1 France) on the subject of the enforceability of information and consultation rights, based on the analysis of relevant Transnational Company Agreements.

2. European seminar (Brussels). Event held in Brussels on the 5th of December 2016, at the International Trade Union House (ITUH). The audience was composed by actors involved in the debate on TCAs (GUFs, ETUFs, ETUC, ETUI, Multinational Companies and National Trade Union representatives).

3. Local workshops (Madrid, Paris, Rome). In each workshop, academics, trade union and entrepreneurial representatives, selected by the project partner hosting the event, will take part as local target group. The aim is to share concrete experiences among the local actors involved in Transnational Company Agreements for promoting the debate and analysis of the effective implementation of the texts. Moreover, the workshops’ findings will contribute to the definition of the report contents, thanks to the presence of relevant stakeholders. The workshops support a better understanding of the research topics, by underlying critical issues and gathering suggestions.

According to the **methodology** set out by the Scientific Committee of the project, the study cases were selected based on the following criteria:

- **11 case studies** (5 for Italy, 3 for Spain, 3 for France)

¹ Confederazione Italiana Sindacati Lavoratori /Italian Confederation of Workers’ Trade Unions

² Federazione italiana lavori costruzioni e affini/Italian federation of Building, Wood and allied workers

³ Federazione italiana metalmeccanici/Italian Federation of Metalworkers

- Focus on **International Framework Agreements (IFAs)**⁴
- Sectors involved: **construction, metalworking, energy, chemical**
- The study cases involved both TCAs signed by a **multinational company headquartered in the country selected**, and TCAs signed by a foreign company having a **subsidiary in the country selected**. Taking into account the countries of the partners involved in the project and the related geographical areas of expertise, the selection of the cases involved Italy, France and Spain. In addition to these countries, according to the methodology criteria set up for foreign companies, also Belgium, Germany and Sweden were involved in the territorial scope of the project research.

The **interviews** were carried out through semi-structured questionnaires. Interviews were addressed to: *company management* (HR or Industrial relations department); *trade union representatives* (home and/or host country); *GUFs* and/or *ETUFs representatives*; *EWC – GWC members*. Moreover, in specific cases, EWCs' members were interviewed in those Agreements where the information and consultation bodies played a significant role in the adoption of the IFAs.

The representatives interviewed were asked to refer on the periodic report of the monitoring activities and its dissemination, the actors involved, the type of activities put in place in the framework of the Agreement. Moreover, a focus was given to the impact of the implementation of TCAs at local level, the potential conflicts with the national unions and local company management. A specific question about suppliers investigated whether these actors are informed and if they were included in the monitoring and implementation of the Agreement. With reference to the assessment, the questionnaire addressed the role of TCAs as added value compared to local/national standards, the future plans of renegotiations and any suggestions concerning the improvement of the Agreement.

With reference to the **year of signature**, with the exception of the Bosch Agreement signed in 2004 and the case Endesa signed in 2002 (subsequently substituted by the ENEL GFA after the acquisition), the majority of the study cases has at least a few years in order to allow their effective implementation.

Many agreements clearly specify the **deadline for the renewal**, some do not mention any date, and others state that the Agreement remains in force until one of the signatory parties decides to amend the text. Concerning the **Joint monitoring bodies**, with the exception of Bosch, all the Agreements foreseen the setup of joint bodies that include the participation of company and union representatives. GUFs are usually part of these bodies and often represent those countries where the threshold of representativeness is limited. EWCs and GWCs play an important role in the monitoring phase.

It is not usual to have **annual reports** drafted jointly. The drafting of the report is usually carried out by the company that can count on a better technical know-how, human resources and technical competences for performing such a task.

Concerning some **cross-cutting topics** emerged during the research, relevance was given to the following items:

⁴ IFAs usually refer to the principles established in the UN declaration of Human rights, the ILO Core Labor Standards, the UN Global Compact, The Guidelines for Multinational Enterprises of the OECD, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, ILO Declaration on Fundamental Principles and Rights at Work, etc. Among the main topics addressed: working time, no discrimination, health and safety, working conditions, vocational training, freedom of association to establish and join a trade union, free choice of employment, norms against child labor and so on.

- **Role of EWCs in supporting the negotiation process of TCAs.** The role played by EWCs in providing the stimulus for starting the negotiation process and establishing the Global Works Councils (GWCs). The legitimacy and capacity of negotiating of the actors involved as signatory parties.
- **Establishment of GWCs and their role in monitoring TCAs.** The provisions of the IFAs can include the establishment of a Global Works Council. Despite the lack of legislative framework, this information and consultation body plays a crucial role in the monitoring and assessment of the Agreements. The workforce thresholds for the appointment of the members, the rotation system of attendance and the frequency of meetings are usually defined in the IFAs.
- **Agreements renegotiated after mergers or acquisitions.** They can count on previous Agreements already signed by one or both the companies involved in the merger or acquisition, like in the case of Salini-Impregilo ENEL-Endesa, Solvay-Rhodia.
- **Role of TCAs with reference to suppliers and sub-contracting.** The reference to the sub-contractors is present in every Agreement, but not all the agreements give it equal relevance. Sub-contractors are required to respect the fundamental principles envisaged in the Agreement, but while some Agreements just recall this provision in general and potential terms, others claim more resolutely that in the lack of compliance with these principles the employment relationship with the supplier involved is terminated. However, in term of effective monitoring, it is quite complicated to evaluate on the ground if the suppliers respect these principles or not.

Company	Previous TCAs	EWC	GWC	Joint monitoring bodies	Reports	Suppliers
Salini - Impregilo	X	-	-	X	X	X
ENEL	X	X	X	X	X	X
Electrolux	-	X	-	X	X	X
ENI	X	X	-	X	X	X
Bosch	-	X	-	-	-	X
Renault	X	X	X	X	-	X
GDF Suez	X	X	-	X	X	X
Solvay	X	X	X	X	X	X
Thyssenkrupp AG	X	X	X	X	X	X
Endesa	-	-	-	X	-	-
OHL	-	-	-	X	X	X

Source: SindNova 2016

A few **final remarks** can be drawn up:

- Breaches in the compliance with the Agreement are firstly solved at local level; if not possible, they are managed by the monitoring body;
- Difficulties have been registered in monitoring the effective implementation among suppliers;

- Further dissemination of the Agreement should be carried out at local plants because outside of main headquarters the knowledge and understanding of the Agreement may remain weak.

IFAs and EFAs: some statistical trends by *Udo Rehfeldt*

By the end of 2015, nearly 300 **transnational company agreements (TNCs)** have been signed. They take essentially two different forms. The ones which the EURIDE project is concentrating are the **"international framework agreements" (IFAs)**, often also referred to as "global framework agreements". The others are now largely known, by analogy, as **"European framework agreements" (EFAs)**. They have a scope of application limited to Europe.

The term IFA was invented by the Global Union Federations (GUFs), as the International Trade Secretariats are called since 2002. They have defined an IFA as an agreement between a transnational company (TNC) and a GUF. IFAs are called "framework" agreements because, they were initially supposed to be declined at the national or local level by an implementation agreement, which would also make them legally binding. Today however, only very few IFAs contain such an obligation and have been implemented locally by a formal agreement, as for instance the first IFAs signed by BSN-Danone.

The GUFs created in 1998 a common model for the signing of an IFA in which they laid down the conditions that such an agreement had to fulfill in order to be signed by them. The core of this obligation is that the agreement must recognize the standards of the ILO "Declaration on Fundamental Principles and Rights at Work" of 1998. These standards concern essentially the freedom of association, the right to collective bargaining, the prohibition of child labor, forced labor and discrimination. IFAs may also deal with other topics, either in the same agreement or in a later agreement, once the company has signed an IFA of the fundamental type. Some IFAs deal with topics such as social dialogue, CSR or health and safety (H&S). The GUFs have later tightened up the necessary conditions to sign an IFA. In 2014, the global federation IndustriAll has added management neutrality during organizing campaigns and the right to access to the various subsidiaries of the multinational company.

Table 1: Number of IFAs and IFAs 1988-2015

Year	Total	IFAs	Signed by Eur. TNCs	Co-signed by EWC, GWC or SEWC	EFAs	Signed by EWC or SEWC	Signed by EWC or SEWC alone	Co-signed by EWC+ ETUF	Signed by ETUF alone
1988-2011	226	115	95	18	111	81	54	17	13
2012-2013	37	21	19	4	16	11	8	2	3
2014-2015	32	20	17	0	12	7	6	1	3
1988-2015	295	156	132	22	139	99	68	20	19

Sources: GUFs, EU-ILO TCA Database, da Costa and Rehfeldt (*La Revue de l'IRES* n° 71) 2012, updated by U. Rehfeldt.

There is a strong European dimension in these IFAs. 132 of the 156 IFAs signed until 2015 were signed by a TNC from continental Europe (see table 1). 35 IFAs were signed by French TNCs, which were pioneers in this field, 27 by TNCs from Germany, 15 from Sweden, 14 from Spain, 11 from Norway. Only one IFA was signed by a British TNC (in 2008). European works councils (EWCs) have often played an important role in the preparation and the monitoring of IFAs. 24 IFAs were co-signed by an EWC or a global WC (GWC), 18 of which in the metal industry, mostly by German TNCs. The great majority of IFAs were signed by a TNC which had previously installed an EWC. The 11 Spanish IFAs signed since 2012 are an exception in this regard. The role of EWCs is diminishing in the last period. There is also a growing number of non-European TNCs which have signed an IFA: 5 from the USA, 7 from Brazil, 4 from Japan, 4 from South Africa. There are now also some "regional" IFAs, with a scope of application limited to Latin America or Asia.

As for the EFAs, we have identified 139 agreements by the end of 2015. This is however only a minimal number, since there is no legal obligation to report TCAs. Signatory parties of EFAs are more diverse than for the IFAs. 99 of those 139 EFAs were signed by an EWC (or similar body), 68 by an EWC alone. Here the frontier between consultation and negotiation, i.e. between the outcome of a EWC consultation process and a formal agreement signed by an EWC, is sometimes difficult to establish. As for IFAs, there is pioneering and dominant role of French TNCs, followed by German ones, with distinct home country effects: French TNCs prefer to negotiate with union representatives, German TNCs with an EWC. Compared to IFAs, there is greater variety of themes, including restructuring, anticipation of change, H&S, CSR.

If we compare the dynamics of IFAs and IFAs, we see a more jerky movement of the EFAs, because their main subject is restructuring, a subject which very sensitive to the economic situation while there is a more continuous movement of the signature of the IFAs. In the recent period, the dynamic of EFAs is slowing down, whereas the

dynamic of IFAs continues as before. It is difficult to assess whether the slowdown of EFA is related to a growing informality of the negotiations between EWCs and TNCs or whether it is the effect of a renationalization of industrial relations in the crisis.

There is a partial convergence in the negotiation procedures between IFAs and EFAs, driven by the decisions of both the European trade union federations (ETUFs) and the GUFs to adopt rules for negotiating and signing these agreements. Most EFUFs now require a “three-quarters majority” to adopt such an agreement, whereas most of the GUFs require the adoption by at least half of the representatives concerned in the various subsidiaries. Since the EMF adopted in 2006 its rules internal rules based on mandates by their affiliates, there is a growing number of EFAs signed by an ETUF alone, essentially with French TNCs, whereas the number of EFAs signed by an EWC alone is diminishing, but remains important.

IFAs: the role of European Works Councils and Global Works Councils *by Mariangela Zito*

Worker participation in companies is the primary way in which workers can be involved in the democratic decision-making processes carried out by management, whether this is directly or indirectly via their representatives. Workers can participate in the running of the company by exercising their information and consultation rights and are able to influence decisions which affect them. Typically, when workers become fully involved in the areas of labour organisation, health and safety, employment and company reorganisation, they can steer company management towards decisions which are in their interests. However, the legislative framework remains somewhat fragmented. In the past, companies exclusively operating in their country were obliged to inform and consult workers only about collective redundancies or company transfers with the aim to reach an agreement. However, the relevant European Directive has not been applied uniformly in all Member States, even where there were previously no measures to compel companies to negotiate with workers on company decisions. Sometimes insufficient information is provided and consultation occurs after the fact, once a decision has been taken and no further negotiation is possible. Directive 2002/14⁵, as known, established a general framework for information and consultation of workers and their representatives in national companies with at least 50 employers. The transposition of this Directive within Member States, has not produced the debate and the expected results.

At transnational level, the establishing a healthy European social dialogue between workers' representatives and management, is entrusted by Directive 1994/45⁶ to European Works Councils (EWCs). European Works Councils are described in the Directive and established via separate agreements, and are vital and irreplaceable tools for social dialogue in multinationals, whose transnational nature makes worker protection even more of a pressing issue. As such, workers' representatives need information about company strategy and management, as the EWC is the only tool through which consultation and negotiation procedures can be launched with the company's central management⁷.

However, this aim is not achieved simply by companies adhering to the legal requirement to establish an EWC, as there are numerous barriers to the effective exercise of information and consultation rights. Questions include: when will the EWC members meet? How should they manage the flows of information they receive? How can they overcome linguistic and communication barriers? There are also issues pertaining to monitoring the activities of the EWC: how many EWCs have been established and what kinds of agreements have been made? How many have had to renegotiate their agreements? It can be difficult for trade unions to know which EWC members are active in their areas and therefore improve the links with European Federations. Moreover, information on how the company is structured and on the appointed delegates.

The next Directive numbered 2009/38⁸ (known as a Recast Directive) was the result of a revision process launched in 2004 by the European Commission, European Parliament and the social partners, which have

⁵ DIRECTIVE 2002/14/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.

⁶ COUNCIL DIRECTIVE 94/45/EC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees. It was the main demand put forward by the ETUC at their 2nd Conference on worker information and consultation rights in 1976. At that time, social dialogue was a distant dream: it was not until the Treaty of Maastricht and its social Protocol that the lengthy legislative process could begin and discussions could take place with social partners, eventually leading to the adoption of this Directive.

⁷ Workers' representatives should therefore have the right to sit on company boards and be in a position to receive information even before the usual deadline.

⁸ DIRECTIVE 2009/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees. Two years after its entry into force (22 September 2016), the European

encouraged the adoption of the new directive by means of an agreement on the contents of the "recast". The new Directive contains a clearer definition of "transnationality", information and consultation rights, it strengthens the active relationship between local employee representation levels and EWC members, it recognizes the role of European and National workers' representations. Moreover, in addition to strengthening information and consultation rights, the new Directive stresses the need for information and consultation to occur in real time, for EWCs to be consulted on urgent issues (e.g. in case of delocalisation or site closure) and for EWC members to be trained, stressing the role of the experts participating in EWC meetings.

The EWC experience has encouraged the growth and development of the Transnational Companies Agreements (TCAs).

Although on the one hand the lack of a dedicated legal framework has allowed social partners more room for manoeuvre in negotiations, on the other hand this raises several questions about the negotiation procedure, whom should be involved, the content of a TCA and how they are to be implemented. EWCs at European level and GWCs at global level play an important role, both in negotiating and later applying their agreements, and as workers' representation bodies which can develop and coordinate trade union action beyond local borders.

EWCs play a key role in driving forward and negotiating agreements as well as in implementing them once concluded, even though Directive 2009/38 does not recognise their role as signatories of agreements. It does however recognise their right to be informed and consulted on negotiation procedures and the implementation of framework agreements. This legal clause could certainly be an excellent legal basis on which to build a case for the formal recognition and involvement of EWCs in the negotiation phase with European Trade Union Federations (ETUFs).

The European Parliament Report⁹ on the proposed optional legal framework (OLF) for transnational agreements covers this point, asserting that EWCs should be fully involved in TCA negotiations along with ETUFs, as EWCs are able to seize the opportunity to sign a transnational agreement, drive negotiations forward, and share the content of the agreements with workers. However, the ETUFs would still reserve the right to sign the TCAs.

The European Parliament Report, however, reserves only to the ETUFs the power to sign TCAs. Although the European federations support the role of the EWCs in agreement negotiation procedures, the European Parliament stresses that a European legal framework, even an optional one, cannot make an explicit reference to the role of EWCs, but should leave it to the parties with a formal transnational negotiating mandate and the EWCs to decide how and whether to take part in negotiations. The TCA does however need to clarify if and how the EWCs will be involved in the successive implementation and management of the agreement.

One of the topics covered by the **EURIDE** research project when analysing IFAs was the role played by EWCs, both during the phase leading up to and during negotiations and in the later stages of monitoring and implementing agreements, and in advocating for the establishment of Global Councils, global information and

Commission suggested revising the Directive to improve its practical application, clarify a series of definitions and strengthen the roles of the different partners (including the roles of trade unions as contributors to establishing EWCs). This will surely be positive for the daily activities of EWCs (Eckhard Voss, *European Works Councils, Assessments and Requirements*, ETUC, 2016, p.3). There is also a clear need to harmonise the Directives, which contain different definitions of consultation and consultation procedures and different concepts of what is considered "transnational".

⁹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2013-0258+0+DOC+XML+V0//EN>
European Parliament Report 2012/2292(INI).

consultation bodies which are not enshrined in a legal framework but which play an important role in monitoring whether TCAs are being correctly applied.

In the metalwork sector, the **Bosch**, **Renault** and **ThyssenKrupp** examples could be considered best practices given the role played by EWCs in this type of collective bargaining. The **Bosch** agreement was one of the first IFAs to be signed back in 2004 and displays the signature of the EWC, even though workers' representation bodies are not legally recognised as signatories. The **Bosch** EWC, also known as the **Europa Committee**, was established in 1996 and led to the establishment of a **Global Committee** which, although not formally mentioned in the Agreement and unstructured, voluntarily meets together with the EWC every four years. The **Europa Committee** launched negotiations to renew the Agreement in order to clarify meeting governance and provide the Global Committee with some stability¹⁰. Monitoring activities are not formally set out in the Agreement, but the annual **Europa Committee** meeting is the main platform for discussing problems linked to the uniform application of the agreement.

The **Renault** EWC was first established in 1993 and later renewed in 2000 when it took on the new name **Renault Group Committee**. At this point it also became a Global Committee as it was tasked with monitoring whether subsidiaries beyond European borders were respecting information and consultation rights, and equipped with the "right to visit" all Renault sites. In 2013, the Renault EWC/GWC signed the international agreement under the aegis of the company. This can be considered the best IFA in the automotive sector, not only from a content point of view, but also because of the structured monitoring process and establishment of a joint assessment committee, made up of representatives of both management and workers. Most of the agreements analysed included this provision, except for the Bosch agreement.

The 2015 **ThyssenKrupp** agreement was also signed by the Global Committee, after a long and intense negotiating period. The difficulties were mainly due to the composition of the monitoring body, as workers from all countries were not always represented, especially in the later stages of monitoring and implementation. To remedy this, the Agreement established an **International Committee** made up of the signatories of the Agreement.

Another case which highlights the important role played by EWCs is that of ENEL in the energy sector. Although in this case the ENEL EWC did not sign the agreement¹¹, it was particularly influential in establishing the Global Committee. The IFA signed in 2014 specifically states that this body is to be part of a **Multilateral Committee** together with management, which acts as a joint monitoring body for the Agreement. The company's role in the **Multilateral Committee** is to produce monitoring reports in liaison with the Global Committee. Local trade unions can report any problems at their sites to this Committee.

The **Solvay** IFA, concluded following the merger with **Rodhia**¹², was not signed by the EWC. Instead it is the **Global Forum** and **Global Safety Panel**, together with reporting activities and site visits, that ensure it is applied uniformly across the sites in different countries. Both bodies are presided by the EWC President. The **Global Safety Panel** is tasked with checking whether H&S aspects of the Agreement are being applied, while the **Global Forum** is a voluntary body which ensures social dialogue on company strategy occurs. The latter achieved formal

¹⁰ Given that the Bosch IFA does not refer to formal meetings with the GWC, these have to be negotiated each time with management, who have never withheld their consent to the holding of such meetings.

¹¹ Although the ENEL agreement was not signed by the EWC, it played an important role during the negotiation stages and contributed to the drawing up of the Agreement.

¹² Before the merger, both multinationals had signed International Company Agreements (between 2005 and 2017). Until that point, there were no IFAs in the chemicals sector.

recognition in the latest Agreement which was renegotiated in February 2017, and the option has been left open for a future Agreement to state exactly which members should be part of it.

In the cases of **Eni**, **Electrolux** and **Engie** (formerly **GDF Suez**), the EWCs have played a minor role both in the negotiation stages and later phases of IFA implementation. The **Engie** and **Eni** agreements do however make provisions for monitoring bodies, and EWC members do attend annual monitoring meetings (which typically occur after the annual EWC meetings). For **Electrolux**, however, the failure to involve trade unions in other countries in the negotiation process – which took place entirely at national level – drew criticism as workers were not adequately represented. The implementation of the Agreement was left entirely up to management, while the Swedish trade union and global federations which signed the agreement sit on the company board. This has become the only suitable forum for monitoring the compliance with the Agreement.

Finally, in the construction sector, the **OHL** and **Salini-Impregilo** agreements can be considered *best practices* in the transnational collective bargaining field, although not for the role played by the EWC: this sector normally does not have EWCs because companies do not tend to meet the minimum requirements set out in the Directive for establishing them. The existence of an International Framework Agreement in the **OHL** case has helped to resolve local problems such as in Turkey and Chile, whereas the added value of the **Salini-Impregilo** IFA, renegotiated in 2014, is in its references to topics rarely covered by TCAs such as that of migrant workers taken on as subcontractors and respect for their working conditions or bogus self-employed workers.

LEGAL PROFILES

Legal framework of TCAs. Open questions by *Fausta Guarriello*

Since the turn of the century there has been a significant proliferation of International Framework Agreements (IFAs) between the management of multinational corporations and one or more entities representing workers, primarily European and international sectoral federations, but also European Works Councils or one or more national trade unions. These are voluntary agreements drawn up without a legally binding framework at both a European and an international level, due to the absence of a set of laws defining the rules for their execution and implementation. There are no rules identifying the eligible parties, mandates, form, or effectiveness of these agreements, the forms of monitoring and control over their implementation, or the settlement procedures for disputes. In the absence of a pertinent legal framework, and given the lack of national rules for internally regulating the effects of agreements negotiated at a transnational level, such agreements operate within a normative vacuum, endowed only with the legal power acknowledged by the negotiating parties.

This situation of legal uncertainty should not, however, be overestimated. These agreements are endowed with the legal validity attributable to a contract which, in both *common law* and *civil law* traditions, has the power of law between the parties. The parties themselves establish the scope, mutual rights and obligations, duration of the contract, conditions for its renewal, and forms of monitoring and control over its implementation. These are procedural rules that are typically included in the so-called compulsory part of collective agreements, aimed at jointly establishing the rules and procedures with which the parties involved will comply during the negotiation and implementation stages of a transnational agreement. In the current phase involving the development of transnational negotiating practices (with the signing of 173 International Framework Agreements), what is of particular interest is the attention paid to their actual implementation, which has thus far proved to be the Achilles Heel of such practices. It is therefore possible to see a consolidation of the rules governing information on the content of these agreements in all company branches and local trade unions, the joint monitoring of their implementation, the bottom-up method of dealing with complaints, joint training programmes, periodic reporting mechanisms, and visits to local branches. The trend of including the supply chains and sub-contractors used by multinational companies in the implementation of transnational agreements, as well as the sanctioning mechanisms envisaged for agreement violations by third parties linked by contractual relations, emphasises the procedural-institutional aspects of these agreements, thus creating the core of a system for transnational industrial relations.

Albeit indirectly, a multitude of sources contribute to the definition of this framework. Firstly, Directive no. 38/2009 on European Works Councils (EWCs), which updated Directive no. 45/1994 on the establishment of EWCs, contributed to improving the right to information and consultation of workers' representatives in transnational corporations, and acted as the driving force for collective bargaining in agreements between multinational enterprises and for the voluntary expansion of worker representation in non-European branches through the creation of Global Works Councils. The existence of EWCs within the European Union and the customary practice of holding discussions and establishing a social dialogue between the management of a multinational enterprise and EWCs have fostered the development of *praeter legem* negotiating practices especially in multinationals operating under European management which, unsurprisingly, account for the overwhelming majority of companies that have signed International Framework Agreements.

Secondly, international sources that have inspired such practices include the OECD's guidelines for multinational enterprises (1976), recently revised and strengthened with regard to a national government's obligation to oversee multinationals; the International Labour Organisation's (ILO) Tripartite Declaration of Principles concerning Multinational Enterprises (1977), updated in 2017 to include in its guidelines the concept of due diligence in contractual relations with third parties and the promotion of an agenda on decent jobs and respect for human rights in the global supply chain; and the United Nations Global Compact (2000). Although these are soft law and non-binding instruments, these sources have fostered the propagation of a culture of social dialogue and promoted a number of conventions on fundamental rights in multinational enterprises. This has also been made possible through Corporate Social Responsibility (CSR) instruments, such as the charters and codes of conduct, which are becoming the basis for the development of a new generation of International Framework Agreements.

There is, in fact, a degree of continuity with CSR practices that can be seen in the contents of International Framework Agreements, based on compliance with the ILO core conventions set out in the 1998 Declaration (addressing the freedom of association, the right to collective bargaining, and the prohibition of forced labour, child labour, and discrimination), but also on the protection of health and safety in the workplace and migrant workers, and on decent wages, including in supply and sub-contracting companies. These norms also protect training, equal opportunities, and sometimes wage factors connected with a company's performance at the global level. In the transition from CSR's unilateral instruments to negotiated framework agreements with Global Union Federations (GUFs), not only do substantial contents tend to become more specifically negotiatory in nature, but control and monitoring procedures regarding the implementation of such agreements tend to become contractually mandatory and gain greater effectiveness, entrusted to the monitoring capacities exercised by the international trade union through affiliated local organisations, and to the multinational company's ability to influence local management.

These agreements are by their very nature incomplete, requiring a series of negotiation processes in the various countries and individual branches of multinational companies, which specify their contents or indicate any difficult situations or clear violations of said agreements. It is precisely in the implementation stages of such framework agreements that it appears necessary for trade union organisations to establish roots at a local level, and to be able to manage such agreements and activate complaint procedures should the agreements fail to be complied with. It is at this stage that the main crucial problems are encountered, with regard to both the difficulty for local trade unions to be recognised as intermediaries in many third world countries as well as in a number of U.S. states, and the verification of the conditions imposed by the framework agreements on local supply and subcontracting enterprises, which are often small or very small businesses. On a positive note, worthy of mention is how the central importance attributed in these International Framework Agreements to compliance with the ILO's conventions on trade union freedom and representation, as well as on collective bargaining, is an essential prerequisite for the proper functioning of monitoring and control mechanisms in the implementation of IFAs. When such prerequisites are met, they contribute significantly to an increase in unionisation in many areas of the world (see, for example, the sharp rise in trade union membership in the building sector in South America).

It is in the relationship between the global and local dimensions that the difficult challenge of these agreements plays out. **EURIDE** case studies clearly indicate the players' awareness of the importance of binding the signing

of an international agreement with a widespread dissemination of its contents to all company sectors and local workers' representatives, and with the promotion of joint training programmes at various levels. Rather than a merely reputational value, today the finalisation of an International Framework Agreement appears to provide answers to problems concerning local-level conflict prevention and management, production quality, improved global-level productivity, and the dissemination of a corporate culture. Hence the strategic importance of the local dimension for the initial reporting of, and dealing with, complaints, the settlement of disputes, and then the access to the national and international levels. Therefore there is also an interest in the recognition and involvement of trade unions as the local management's intermediary in handling the agreements. On this subject, it is significant how signatories emphasise that joint participation in assessing the implementation stages of international agreements is just as important as their signing.

While the IFA best practices are showing a greater focus on agreement assessment and monitoring processes, which are being regulated more precisely and in detail to ensure their effectiveness, the aforementioned regulatory vacuum also, and above all, concerns the national dimension as well. The indifference of national legal systems, be they state-run or autonomous in nature, towards the collective bargaining phenomenon in multinational or transnational enterprises appears to be the result of short-sightedness in a context in which company bargaining is supported everywhere by favourable legal and fiscal measures. A timid sign of a countertrend has appeared to emerge from a recent French law concerning a parent company or client's obligation to monitor human rights and environmental protection violations perpetrated by subsidiaries or supply companies even outside national borders. This mechanism, however, appears to make a legal requirement of what was up to now a moral obligation within the framework of Corporate Social Responsibility, so as to guarantee compensation to the victims, rather than acknowledge international collective agreements on this subject (although best case-law indicates that the existence of an International Framework Agreement could become a means for implementing the parent company's monitoring obligations).

The OECD guidelines for multinational enterprises appear to be more explicit, and they seem to better grasp the need to foster social dialogue at the global level and promote the implementation of International Framework Agreements through the establishment of national contact points and the redefinition of dispute and mediation procedures. Similarly, the review of the ILO's Tripartite Declaration on multinationals updates due diligence obligations for multinational enterprises, assigning to national governments the task of ensuring that human rights are protected, respected and implemented, also through the creation of national tripartite focal points entrusted with raising the awareness of trade unions and employers' organisations, facilitating social dialogue, and creating networks with the countries in which multinational enterprises operate. The ILO's technical assistance and its role in interpreting the Declaration also appear useful as voluntary confidential dispute settlement tools.

Private international law and dispute resolution¹³ by Aukje Van Hoek

Lack of a common framework for collective bargaining and collective agreements

Multinational corporations are a fact of (economic) life and so are efforts to engage these entities in transnational negotiations about working conditions and labour rights. Over the years, hundreds of documents have been signed by the management of the enterprise – often represented by headquarters – on the one hand and representatives of labour – European or global trade union federations and/or European works councils – on the other. Though collective bargaining is a basic social right, recognized as such in the Council of Europe and the EU, there is to date no transnational legal framework which lays down the conditions for entering into collective agreements nor any comprehensive framework determining the ensuing rights and obligations. Recently the ETUC has advocated the adoption of a European optional framework for transnational company agreements with a European ambit. But even this European effort may run into difficulties, because the substantial differences between the national systems of industrial relations in the EU Member States make it difficult to find common ground for a transnational framework. Which aspects of the TCA are most problematic from the point of view of national industrial relations will depend largely on the countries involved. This makes specific advice indispensable, especially when the TCA contains detailed rights and obligations for stakeholders at the local level.

Private international law – an uncertain and insufficient answer

Given the fact that there is no common legal framework on the substance, one might wonder whether at least the rules on private international law offer some certainty to the parties. It would help the parties to a TCA if they could at least determine which law applies to the issues of the binding character of the commitments, the mandate of the signatories and the effects of the agreement on individual employment contracts. Unfortunately even in Europe, where the rules of private international law have been harmonized and laid down in regulations, there is no full consensus on the treatment of TCAs under these rules.

From an private international perspective it is important to distinguish between obligations between the signatories themselves (obligatory part), rights granted to individual workers (normative part) and rights and duties resting on the national social partners (intermediary obligatory level).

Obligatory part. A first question to be answered, is whether the relationship between the signatories qualifies as a civil law contract for the purpose of private international law. There are good arguments supporting this contention as the ECJ would consider the fact that a party voluntary enters into obligations towards another party sufficient for the mutual relationship to qualify as contractual. However, in some countries this is controversial because the parties to the contract are management and labour, rather than distinct legal entities. Especially the involvement of works councils may create problems in this respect.

If the obligatory part of the TCA is considered to be a contract between the signatories, this would allow the parties to choose both the law applying to their mutual obligations and the way in which they will solve any

¹³ This contribution is based on previous publications by the author and projects in which she took part, in particular Aukje van Hoek/Frank Hendrikxs, Study on international private law aspects and dispute settlement related to transnational company agreements, VC/2009/0157, Aukje van Hoek, Finding a legal framework for transnational collective agreements through private international law, Amsterdam Law School Legal Studies research paper; No. 2016-12 https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2744595 and ETUC, Building an enabling environment for voluntary and autonomous negotiations at transnational level between trade unions and multinational companies, final report of the expert group, co-funded by the European Commission under Grant Agreement VS/2014/0371. <https://www.etuc.org/issues/transnational-company-agreements>. Detailed references may be found in those publications.

disputes arising in the interpretation and application thereof. In practice parties do include dispute resolution mechanisms in their agreement, but these are largely private in nature: a choice of forum clause giving exclusive jurisdiction to a particular national court is very rare.

Intermediary obligatory level: the issues of mandate. One of the trickier issues with regard to transnational negotiations, is the matter of mandate: to what extent are ETUFs and GUFs able to bind national trade unions, can management at headquarters legally represent all its subsidiaries? What happens if the mandate is incomplete? The question is undecided, both as to applicable law and to the substance of the matter. The relationship between the national unions in the countries covered by the TCA and the international or European federation is in itself transnational in character. The same is true of the relationship between the subsidiaries and headquarters. So, we need to find the private international law rules which determine the law applying to their relationships. And there we run into problems once again.

When TCAs in their obligatory elements are classified as contracts, they fall within the ambit of the Brussels I Regulation as to jurisdiction (Regulation 1215/2012) and the Rome I Regulation as to applicable law (Regulation 593/2008). However, Rome I explicitly exclude the issue of mandate from its scope of application – see Article 1(2)(g). This means the question whether a national union or management at local level is bound by the TCA between a European of global TUF and the management at headquarters, might be answered differently for the different local entities.

As the law doesn't provide a clear-cut answer, the problem of mandate is best kept out of the legal arena. This can be done by 1) ensuring a sufficient and clear mandate 2) creating as much ownership as possible at local level (information and involvement) and 3) arranging for private dispute resolution mechanisms in case of conflict.

Normative part. Involving local management and local unions is one thing. Another is whether a TCA can produce binding effects on the individual contract of employment (horizontal effect). If one conclusion may be drawn from an analysis of the current rules, it would be that the effect of the TCA on national industrial relations and on individual employment contracts will largely depend on the local system of industrial relations in the countries affected. It is important to realize that the industrial relations and individual employment contracts the TCA is meant to regulate are – most likely – purely domestic in character. The fact that the employer is part of a multinational enterprise doesn't in itself make the individual labour contracts transnational in any meaningful way. Hence the local legal framework is likely to impose its rules and restrictions on the implementation of the transnational agreement in the domestic context. The parties to the TCA must take the public policy limitation of these systems into account to avoid entering into invalid contracts. And even then, given the differences between those system, it will (again - most likely) not be possible to achieve a uniform result in all countries in which the MNE is active and which are covered by the transnational agreement. Normative effect is currently best attained by implementing the TCA at national level in conformity with the existing system of collective agreements.

Given the current state of the law, taking a party to court over a TCA might lead to unexpected results. Gentlemen's agreements may turn out to be held binding, clear cut obligations may turn out to be unenforceable. No wonder parties to transnational agreements generally avoid going to court. But does the lack of a clear legal status mean that TCAs are ineffective in regulating labour relationships in MNEs? Not necessarily.

An often-used method to increase the effectiveness of the TCA is the inclusion of a private dispute resolution mechanism in the agreement. These mechanisms strengthen social dialogue as such, as well as increasing both the autonomy and the effectiveness of the TCA.

Inclusion of a European or transnational ADR mechanism can have several functions. It can be a way to give individuals and collective entities access to a remedy in cases in which the legal status of the TCA is undetermined. There are several examples of TCAs that offer private individuals access to a complaint mechanism in case of violation of their rights under the TCA. In these cases, the ADR mechanism replaces or complements the existing national enforcement mechanisms and creates a normative effect outside of any national or international legal framework. We find examples of these mechanisms especially in global agreements containing fundamental rights, which are meant to apply also in countries with a less developed system of labour protection.

But ADR mechanism may also aim at creating a transnational enforcement mechanism for what is in essence a transnational phenomenon. In that case, the ADR mechanism specifically aims to address transnational conflicts – meaning those conflicts which surpass the purely national context by involving the parties at the transnational level of parties from different states. In that case the mechanism fills the present enforcement lacuna and strengthens the autonomous character of the transnational agreement. It neither replaces nor interferes with the national enforcement mechanisms. TCA practice also contains several examples of such transnational mechanisms.

Often the mechanisms have a mixed character. There may be complaint mechanisms through which individuals and stakeholders at local level may notify the parties of problems with the implementation of the TCA. If the problems are not solved at local level, it may be taken up at national level or ultimately transnational level. The transnational level may then provide for of a more binding ADR mechanism or even the possibility to go to a specifically identified court (choice of forum).

Whichever mechanism is chosen, it's important that parties to a TCA clearly establish who may address the mechanism in which circumstances and with which questions. Interference with compulsory national dispute resolution mechanisms should be avoided. Important elements to ensure compliance with the national systems of dispute resolution are 1) making the complaint mechanism at local level additional to any existing national system as well as strictly optional and 2) limiting its scope to the interpretation and implementation of the TCA as such.

CASE STUDIES
NATIONAL STUDY REPORT

Case Study Bosch¹

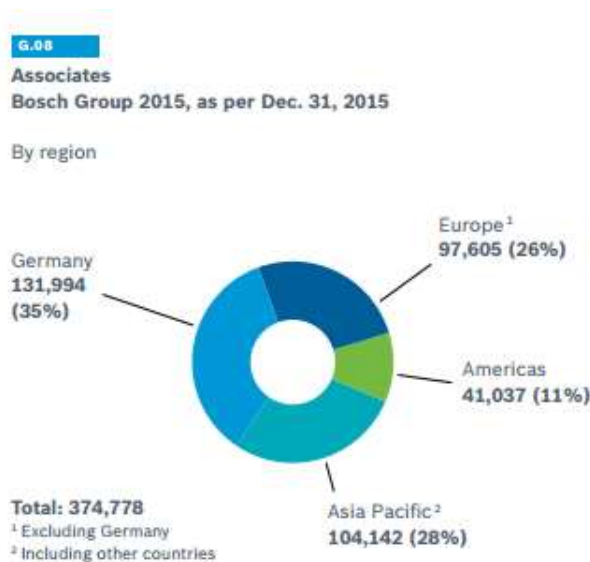
Michela Cirioni, SindNova

Name of the Company: Bosch

Industry sector: Conglomerate (Automotive parts, power tools, security systems, home appliance, engineering, electronics)

Headquarters country: Germany

Geographical perimeter: International company operating in over 150 countries, with 350 subsidiaries and regional companies. Relevant presence in: Germany, Italy, Greece, Denmark, United Kingdom, Poland, Romania, Switzerland, Slovak Republic, Turkey, Ukraine, Argentina, Chile, Colombia, Panama, Dominican Republic, U.S.A., Venezuela, Peru, Saudi Arabia, United Arab Emirates, Azerbaijan, Qatar, Tajikistan, Kazakhstan, Malesia, Ethiopia, Namibia, Nigeria, Sierra Leone, South Africa, Tunisia, Uganda, Zimbabwe, Libya, Australia



Company profile

The Bosch Group is a leading global supplier of technology and services. The company was set up in Stuttgart in 1886 as "Workshop for Precision Mechanics and Electrical Engineering." It employs roughly 375,000 associates worldwide and it covers 150 countries. Its operations are divided into four business sectors: Mobility Solutions, Industrial Technology, Consumer Goods, and Energy and Building Technology. In 2001 the Bosch Group has acquired Rexroth company, giving rise to the Bosch Rexroth AG. Simultaneously, it was established in Italy Bosch Rexroth S.p.A., that comprises the activities of the "Automation Technology Sector" by Robert Bosch S.p.A. and those of Star Micron S.p.A., based in Cernusco sul Naviglio, Milan. A year after Bosch had taken the majority of

¹ <http://www.industrialunion.org/sites/default/files/uploads/documents/GFAs/Bosch/bosch-gfa-italian.pdf>; <http://www.industrialunion.org/sites/default/files/uploads/documents/GFAs/Bosch/bosch-gfa-english.pdf>.

Buderus AG in 2003, the two heat engineering divisions were merged. In 2007, Bosch acquired the software provider Health Hero Network, a specialist in innovative telemedicine

solutions. This proclaimed the return of Bosch in the field of medical technology, developing and marketing software that are outside of the clinical environment to record and evaluate the patient's health information. In 2008, Bosch acquired Innovations Software Technology GmbH, renamed Bosch Software Innovations GmbH from 1 January 2011, with headquarters in Immenstaad am Bodensee in southern Germany. The company was founded in 1997 and develops software solutions for international clients, particularly in the financial and insurance sector

Trade union representation and industrial relations

German industrial relations are characterized by dual channels of representation. Trade unions negotiate collective agreements, while works councils have a representation role in the workplace. Although works councils are not officially trade union bodies, in practice, most works councils are dominated by trade unions: around 75% of all works council members are a trade union member, with some sectoral variation. At local/firm level, they have two functions: co-determination in electing members of company's direction, participation and consultation about specific issues and coordination between the firm and the employees.

At the European level, with the *Agreement Pertaining to Information and Hearing of the Staff and Staff Representation of the Bosch Group in Europe* - signed on 12 May 1998 and in the meaning of Act Pertaining European Works Council from 28 October 1996 (EWCA), was established the Bosch European Works Council, officially named Europe Committee. This is a permanent body with the purpose to regulate the international information and hearing of staff or their representatives in the countries of the European Union in which Bosch has a plant. Based on a strong trade union tradition and works council presence within the company, the Bosch EWC was established with the aim of strengthening a *fair interaction* among company management, Bosch staff and employees' representatives. In order to face the challenges represented internationalization process and the Single European Market, the exchange of information among the actors was considered important for reinforcing dialogue and cooperation. Taking into account the presence of different social traditions within the geographical scope of the company, the EWC Agreement establishes a European staff committee for the central level, and additional information channels for specific countries. The Agreement applies to all the Bosch Group staff falling within its scope (*"countries of the European Union which the Charter on Social Policy in the Annex of the Treaty Establishing the European Community applies to as well as in the other countries party to the Agreement Pertaining to the European Economic Zone of 2 May 1992 including Great Britain"*²). Concerning the fields addressed by the EWC, the Agreement mentions company changes, such as mergers and closures, financial issues, new working processes and additional subjects, to the extent that these matters affect at least two member states. The Europa Committee of the Bosch Group is composed by a delegate each 5,000 staff and they rest in force for four years. In addition to the EC members, representatives of the Company management take part to the meetings: they meet once a year and they will inform the staff or staff representatives about they discussed during the EC meetings. Each delegate is appointed, dismissed or substituted according to the national transposition acts entered into force in each country. The EWC forms a Business Committee (BC) composed of its chairperson and two additional members elected by the EWC itself, representing the *dialogue partner of the Company Group Management* in urgent matters that cannot be postponed until the yearly meeting of the EWC.

² Bosch, EWC Agreement, 1998

The EWCA was amended during the years by two protocols in 2002 and 2005: the first one, after the acquisition of Rexroth Company (2001) and the birth of Bosch Rexroth AG; the second modification concerned the participation of the guest countries (Switzerland and Turkey) in the annual EC meeting.

In terms of global representation, Bosch does count yet on a structured and formalized Global Works Council. However, a *Global Committee* is currently in place and holds its meetings every four years at the presence of the European Works Council. The appointment of the selected Global Committee members is carried out according to a specific threshold of minimum employees per country. However, despite the rules of appointment represents 37 countries, in which Bosch operates worldwide. No specific Agreement related to the establishment of the Global Works Council has been signed so far. According to the trade union actors interviewed, there might be a chance to sign an Agreement for the establishment of a steady GWC, but no specific date or negotiation process has been defined yet.

Title of the Agreement: Basic Principles of Social Responsibility at Bosch

Date of signature: March 2004

Signatories: Robert Bosch GmbH, Europa Committee of the Bosch Group, International Metalworkers Federation

Main contents of the Agreement: The International Framework Agreement was signed in 2004. The main topics regulated by this IFA are the following:

- 1) Respect and recognition of Human rights
- 2) Equal opportunities and no discrimination
- 3) Integration of handicapped people and cooperation
- 4) Free choice of jobs
- 5) Rights of children. Child labour is not allowed
- 6) Relations with associate representatives and their institutions. In this section it refers to representatives of employees, so-called "associates". Associates can join trade unions of their own free will and they will neither receive undue advantage nor suffer any disadvantage as a result of their membership in trade unions.
- 7) Fair working conditions, with respect to the principle of "equal remuneration for work of equal value" of ILO Convention
- 8) Occupational health and safety
- 9) Qualification, to encourage associates to train to acquire skills and knowledge and to expand and enhance their professional and specialist know-how
- 10) Occupational health and safety
- 11) Qualification, to encourage associates to train to acquire skills and knowledge and to expand and enhance their professional and specialist know-how
- 12) Environment. The Agreement states the commitment of the company to preserving and protecting the environment

13) Implementation. Regarding the implementation, the IFA as a statement of principles is integrated into the "Management System Manual for Quality, Environment, Safety, and Security in the Bosch Group". Responsibility for the application of this principles is thus clearly a prerogative of the management, with authority delegated to the "senior management" of the respective divisions, regional subsidiaries and company locations. Monitoring of the Agreement is based on subsidiarity: complaints will be discussed and implemented by the senior management and associate representatives responsible at local and national level. The Executive Committee of the Europa Committee of the Bosch Group will be informed about any complaints that cannot be dealt with satisfactorily at a national level. No expiration date of the Agreement is stated.

Previous TCAs signed by the Company: There are not previous IFAs signed by the Company

1. MONITORING AND IMPLEMENTATION³

With reference to the implementation phase, the Agreement does not mention the presence of any specific meetings or reports to document the effective implementation of the principles envisaged. Neither a specific monitoring body is set up. However, in terms of the actors in charge of the application, the Agreement clearly mentions the main role played by the "*senior management of the respective divisions, regional subsidiaries and company locations*." Company management is therefore clearly pointed out as the main responsible for the implementation of the Agreement throughout the geographical perimeter of the company. In case breaches in the implementation of the Agreement may occur, following an investigation the senior management and trade union representatives (named *Associate representatives*) will be required to take action in this regard. The Executive Committee of the European Works Council (**Europa Committee**) will be informed and the issue will be discussed by both parties during the meetings between EWC and the Board of Management.

The *monitoring* process of the agreement is not formally specified. According to the EWC chairperson interviewed the annual meeting of the Europa Committee is the proper platform where the major issues about the compliance of the agreement can be discussed. In addition to this meeting, every four year the **Global Committee** holds a meeting where grievances raised by extra European members can be discussed. In terms of *reporting*, currently the annual corporate social responsibility report, edited by the Bosch management, is the main resource.

At the time of the Agreement's signature (2004), the Bosch Global Works Council was not yet established. Therefore, no mention is provided in the text. The European Works Council on the other hand was one of the main actors involved, in its role as signatory party. Despite the fact that officially EWCs have no competence in negotiating TCAs based on the provisions expressed in the EWC Directive 45/94/EC and the recast Directive 2009/38/EC, it is a matter of fact that "*a large number of TCAs co-signed by EWCs were concluded by MNEs with German headquarters, thus mirroring the important role of works councils in the dual system of interest representation*."⁴

The dissemination of the Agreement is shared among Bosch employees, following the consultation between company management and employees' representatives. The company intranet is used to share the contents of

³ The analysis of the Bosch case was supported by the interviews carried out with some of the actors in charge of the monitoring process: Mr. Michele Ungaro (FIM CISL), Mr. Ralf Götz (Bosch EWC, IG Metall), Gianni Alioti (FIM, CISL)

⁴ International Labour Organization (ILO), *Shaping Global Industrial Relations. The Impact of International Framework Agreements*. Editors: Papadakis, K. (Ed.), 2011

the IFA among employees and suppliers. The basic principles of social responsibility mentioned in the IFA are part of the handbook that every employee is required to sign when joining the company.

Concerning the suppliers, the Agreement underlines that the lack of compliance with the principles mentioned in the IFA will impede any work relationships between Bosch and the supplier. The Bosch Code of Business Conduct defines the internal regulations of the company, by taking into account the

fundamental principles established by the IFA and adding further principles such as legality. The monitoring process of the Code of Business Conduct is ensured by *"each operating unit"*, that is *"responsible for compliance with the provisions of this Code of Business Conduct, as well as with other internal regulations within its area of responsibility."*⁵ Moreover, Corporate Internal Auditing and subunits can perform audits. The relationship with suppliers is further defined in the text, despite no specific reference is given to the compliance with the ILO core labor standards. It states that *"Suppliers shall be selected solely on competitive merit, based on a comparison of the price, quality, performance, and suitability of the products or services offered."*⁶

The Code of Ethics of Group⁷, integrating the Code of Business Conduct adopted by all companies of the Bosch Group, was signed in Italy. It mentions the principles of the Bosch IFA. The relationship to suppliers is based on the fact that they *"must ensure working conditions for their employees based on the respect for fundamental human rights, international conventions and the laws in force."*⁸ More in detail, the Code of Ethics refers to child labor, forced labor, compliance with salaries and benefits as set by national legislation, health and safety safeguard. Suppliers are also required to share the Code of Ethics with their sub-suppliers.

When conflicts occur at local level, if the dispute cannot be solved at country level or at subsidiary level, then it is managed at central level. Bosch is a centralized company and sometimes, due to the significant geographical scope of the conglomerate, it is not easy to reach every subsidiary. No specific dispute settlement tools are in place.

The IFA has not encouraged so far the implementation of specific training courses or activities aimed at reinforcing or educating on the principles envisaged by the Agreement. However, *"Bosch, international workshops for implementing their international framework agreements have been initiated and held, at which the representatives of the workforce from the various countries and continents got to know one another, exchanged their experiences and discussed how to proceed on the implementation of the framework agreement"*.⁹

In terms of participatory approach and role played by CSOs, NGOs have not been so far involved in the monitoring of the Agreement.

2. ASSESSMENT OF THE ACTORS INVOLVED

According to the German EWC representative, a positive assessment can be given to the effectiveness of the Agreement. More relevance should be put on the fact that the text is not a simple tool of Corporate Social Responsibility but refers to an Agreement among trade unions, EWC and Company management.

The Agreement represents an added value for Bosch company at global level, by disseminating the ILO core labor standards all across the company area. Even if in some geographical areas like Europe trade union activities

⁵ Bosch, Code of Business Conduct

⁶ Bosch, Code of Business Conduct

⁷ Robert Bosch S.p.A. (RBIT), Code of Ethics, approved by the Board of Directors on 25 May 2012

⁸ Robert Bosch S.p.A. (RBIT), Code of Ethics, approved by the Board of Directors on 25 May 2012

⁹ IG Metall, International /Europe Department, "Implementing and Monitoring an International Framework Agreement", July 2006

exceed these principles, it helps to raise the standards in other countries. Especially those that did not implement the labor core conventions like the United States.

According to the interviews carried out, it was pointed out that the Agreement is not extensively known within the subsidiaries abroad. However, this assumption is not exhaustive due to the focus of the research based only on the home country of the company and the subsidiaries involved in the geographical perimeter of the project partners. With specific regard to Italy, the Italian EWC member underlined the lack of in-depth knowledge of the Agreement but underlined the good relationship with the company management for gathering additional information about the IFA.

When asked whether the TCA represented a way for strengthening the information and consultation rights, it was replied positively. It helps to broad EWC competence and to enforce these rights. However, the interviewed mentioned that it is not clear whether these rights are fully enforced outside the EU. What is sure on the other side is that the IFA provides some common ground for trade unions and works councils. Starting from this base, they have a tool to use towards the company that has the obligation to enforce the Agreement.

In terms of room for improvement, the interviewed mentioned this possibility but also pointed out the **difficulties in renegotiating the Agreement**. The text was signed in 2004, and since then many developments have occurred at global level. Moreover, there is a bit of ambiguity about the actors involved in the different phases. However, the Bosch Agreement was one of the first IFAs to be signed. This explains the plain structure and short length of its text. Among the amendments that could be introduced, a **joint committee** between employee and management would be a good added value. At the time of the interviews, no renegotiation process was planned. The Agreement itself does not mention any expiration date for the renewal. In order to address the problem of renegotiation, the German representative stated that it is necessary to become more solid at international level. Currently, in addition to the main role played by the EWC and IndustriAll European Trade Union, IndustriALL Global Union is present in the global meetings.

A renegotiation able to introduce a Global Works Council Agreement would represent an important result. Currently the GWC holds its meeting every four years but it is necessary to reinforce the representation at global level, by creating a steadier global structure. Moreover, a closer attention to the production side instead of the retail side would be encouraged as well. Being Bosch a conglomerate operating in a variety of businesses, the GFA covers different sectors including the automotive, industrial, home appliances and building technologies.

Case Study ENEL¹

Michela Cirioni, SindNova

Name of the Company: ENEL

Headquarters country: Italy

Industry sector: Electricity sector

Geographical perimeter of the multinational Company: International company operating in over 30 countries across four continents. Relevant presence in: Italy, Spain, Portugal, Romania, Slovakia, Argentina, Brazil, Colombia, Perù, Chile

Employees (no.)	2015	2014 restated
Italy ⁽¹⁾	28,774	29,656
Iberian Peninsula	10,001	10,500
Latin America ⁽²⁾	12,211	12,301
Eastern Europe ⁽³⁾	10,200	10,411
Renewable Energy	4,309	3,609
Other, eliminations and adjustments	2,419	2,484
Total	67,914	68,961

Source: Enel Annual Report 2015

Company profile

Enel is a multinational energy company and one of the world's leading integrated electricity and gas operators. Enel works in more than 30 countries across 4 continents, generating energy with a net installed capacity of around 84 GW and distributing electricity and gas across a network spanning about 1.9 million km. With more than 61 million end users around the world, it has the biggest customer base among our European competitors, and it is considered one of Europe's leading energy companies by installed capacity and reported EBITDA.

The Enel Group is made up of nearly 62,500 people from around the world whose work is based on the values of Responsibility, Innovation, Trust and Proactivity, working together on the same goal of "Open Power" in order to tackle some of the world's greatest challenges.

The portfolio of power stations is highly diversified, running on hydroelectric, wind, geothermal, solar, thermoelectric, nuclear and other renewable sources of power. Almost half of the energy generated by Enel is produced with zero carbon dioxide emissions, making the group one of the leading producers of clean energy. The Company manages around 38 GW of installed capacity from water, wind, geothermal, solar, biomass and co-generation plants in Europe, the Americas, India and Africa. Enel is the most technologically diversified company operating in the global renewables sector.

¹ The analysis of the ENEL case was supported by the interviews carried out with some of the actors in charge of the monitoring process: Cristina Cofacci Industrial Relations Head Office of ENEL, Antonio Losetti, EWC and GWC Coordinator (FLAEI trade union representative). The GUFs involved in the signature of the Agreement (PSI and IndustriALL Global Union preferred to postpone their interview after the renegotiation process of the Agreement) http://www.world-psi.org/sites/default/files/documents/research/19_-_enel_global_framework_agreement_-_inglese_14_giu_2013.pdf.

Trade union representation and industrial relations

ENEL S.p.A. and Italian trade unions federations of the energy sector (FILCTEM CGIL, CISL and UIL FAEI UILCEM), have signed in Italy in 2012 a new industrial relations model to emphasize the importance of social dialogue and industrial relations aimed at implementing trade union strategies, enhancing the different roles within corporate organization. Information and Consultation rights are guaranteed to workers' representatives for strategic or general issues. According to the Agreement, consultation aims at solving issues between the Company and trade union federations of the energy sector. However, the final decision-making power remains to the Company. Information rights refer the communication of news and data concerning Company projects to the signatory parties of the agreement. Social dialogue takes places both at national and local level. At national level, the National Secretaries of trade union federations are supported by the presence of the Unitary Workplace Union Structures (namely "Rappresentanza Sindacale Unitaria", RSU), which establish a specific National Coordinating Committee of RSUs. At local level social dialogue takes place through the Regional Secretary of trade union federations of the energy sector and the Unitary Workplace Union Structure (RSU). RSUs are competent concerning each single production unit. Regarding company level, the dialogue is managed by HR and Organizational Departments.

The agreement, furthermore, provides the establishment of a so-called "control room" which meets every three months and it is composed by the General Secretaries of trade union federations of the energy sector who have signed the agreement, by Industrial Relations head office and by corporate managers. For important restructuring process, in order to guarantee human resources protection specific trade union participation measures can be envisaged. Concerning restructuring processes, in addition to the exchange of feedback at national level between the Company and trade union federations of the energy sector, the agreement foresees also the involvement of local trade unions and Unitary Workplace Union Structures (RSUs).

The European Works Council of the ENEL Group was established firstly on December 5, 2008.

According to the four-years validity of the Agreement, it was renewed in 2011 and more recently in July 2016, during the annual meeting held in Rome at ENEL headquarters. It was signed by the ENEL S.p.A. management, the ENEL European Works Councils members, EPSU and IndustriAll Europe as permanent observers. The EWC meets twice a year. EWC delegates are 20, whose nationality is based proportionally on the number of workers employed in each Member State that reaches the quota foreseen by the EU Directive (currently, 11 from Italy, 4 from Spain, 3 from Slovakia and 2 from Romania). The Select Committee is composed of one Coordinator and four other members, and it meets four times a year. EWC members are entitled to training activities agreed by the Management and the Select Committee. EWC members are also supported by the role played by the Technical Secretariat, coordinating the member with the Select Committee and appointed experts. Concerning the item of confidentiality, the renewed agreement better regulates the responsibility of both parties, by affirming that also the company is obliged to comply with the same modalities in terms information disclosure.

According to the ENEL GFA, the EWC played a "leading role" in the signature of the IFA finalized in 2013. The values upon which the EWC is based represented important elements for the drafting of the ENEL Global Framework Agreement.

Title of the Agreement: Enel Global Framework Agreement

Date of signature: June 14, 2013

Signatories: Enel S.p.A., IndustriALL Global Union, PSI, Filctem CGIL, Flaei CISL, Uiltec UIL

Main items of the Agreement

The GFA refers to the ILO core labour principles and the most relevant industrial relations standards based on social dialogue.

It sets up the Global Works Council as an information body representing all Enel Group employees and the Multilateral Committees, with the aim to contribute to achieving business objectives and to represent the interests of employees and stakeholders, through participatory processes. The main objectives to enforce the Group industrial relations are:

1. To inform trade unions when implementing Group-wide strategies, including procedures and timelines;
2. To set out guidelines for achieving greater balance between business objectives and employee expectations in terms of clarity, ease of implementation and effectiveness;
3. To prevent and manage disputes in a reasonable manner, with due respect to each party's responsibilities, customer needs and service quality.

The main goal of all industrial relations policies is to govern relationships with the labour force. The contents of such policies are negotiated between the Group and trade union representatives through the different levels of collective bargaining.

The innovativeness of the agreement consists in its geographical scope due to the worldwide expansion of the Company after the merger with the Spanish Endesa and other local companies operating in the field of electricity. The focus on the role of Enel as a "one company" was reflected by the need of sharing a common identity that takes into account the characteristics of each country and the local level. Currently, company policies have shifted to the new corporate vision of "Open Power."

In the 2004, Enel, as a member of the United Nations Global Compact, signed up to the 10 universal standards on human rights, labour, environment and anti-corruption into the framework of the Group. The further step was inserting the following:

- 1) No child labour and forced labour;
- 2) Health and safety working conditions;
- 3) All forms of discriminations are banned;
- 4) Violence and harassment are unacceptable at the workplaces;
- 5) Work times and work schedules are negotiated by national and local trade unions;
- 6) Remuneration is set in the relevant collective labour contracts and laws and regulations in force in each country;
- 7) Training and skills are crucial to improving productivity;
- 8) Recognition of employees' rights to establish or be member of trade union organisations defending their interests and the value of collective bargaining;
- 9) Environmental protection;
- 10) Zero-tolerance policy on corruption;
- 11) Recognition of the importance of permanent and secure employment;
- 12) Sharing on subsidiaries, contractors. and supply chain;

Previous TCAs signed by the Company

A Corporate Social Responsibility Protocol was signed between Enel S.p.A. and UILCEM-UIL/ FLAEI-CISL/ FILCEM/CGIL on April 27, 2009

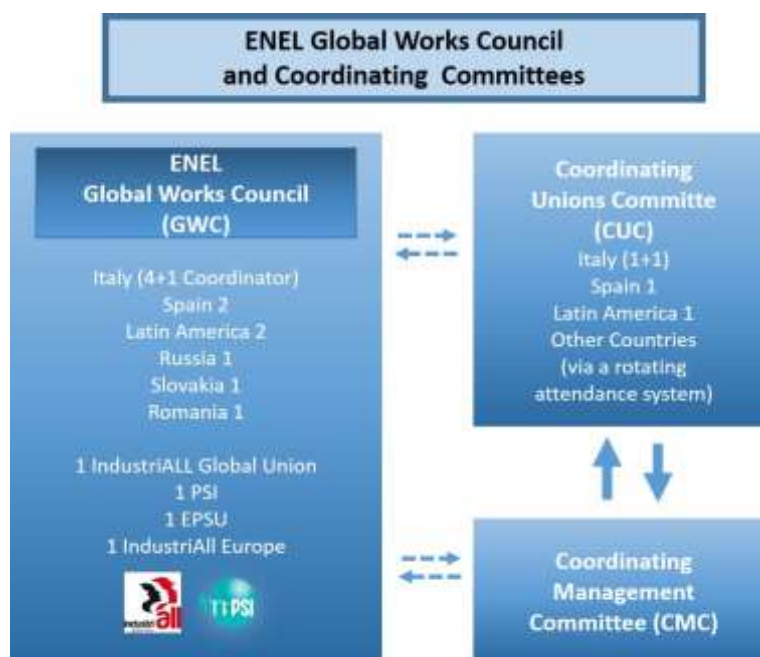
With the Protocol the parties provided a framework of principles and guidelines relating to Corporate Social Responsibility, with a view to placing greater value on them and to promoting a constructive dialogue, and to concluding agreements on specific issues.

1. The main items regulated by the Protocol are:
2. Fundamental Social Rights;
3. Industrial Relations;
4. Health and Safety;
5. Training;
6. Sustainable development;
7. Equal opportunity and non-discrimination;
8. Gender equality;

The Protocol was conceived to remain in force for three years. Six months before its expiration, the Parties were entitled to undertake a joint examination of the content, and proceed with the renegotiation of the text.

1. MONITORING AND IMPLEMENTATION²

The ENEL Global Framework Agreement entitles the Global Works Council and company management to carry out the monitoring process and to assess compliance with the core labor standards foreseen by the Agreement. The Global Works Council is an *information and consultation body* tailored on the rights entitled to the European Works Council in the respect of the rights of each national trade union industry federation. It was established by the Global Framework Agreement signed in 2013. Differently from the EWC, that is set up based on the legal requirements of the Directive 1994/45/EC and its recast Directive 2009/38/EC, the GWC is technically conceived in a legal vacuum. Differently from the parameters required to the EWC, parties agreed that, in order to be represented in the ENEL GWC, a country within the geographical perimeter of the group needed to have at least 500 employees. In case



Source: SindNova 2016

² The analysis of the ENEL case was supported by the interviews carried out with some of the actors in charge of the monitoring process: Cristina Cofacci, ENEL Industrial Relations Head Office, Antonio Losetti, EWC and GWC Coordinator (FLAEI trade union representative). The GUFs involved in the signature of the Agreement (PSI and IndustriALL Global Union) preferred to postpone their interview after the renegotiation process of the Agreement.

of countries with less than 500 employees, Global Union Federations were considered in charge of representation.

Following this rule, the composition of the GWC is distributed according to the number of Group employees in each country covered within the geographical perimeter. Composed by twelve members appointed by national trade unions, the majority of seats is assigned to Italy, followed by Spain and Latin America. Russia, Slovakia and Romania have one seat per each. In order to ensure the widest representativeness, the presence of countries with a low number of employees is guaranteed through a rotating attendance system. The charge of GWC members lasts until the duration of the Agreement (three years, followed by the renegotiation process). In addition, two representatives of the European Trade Union Federations (EPSU and IndustriAll Europe), two representatives of the Global Union Federations (IndustriALL Global Union and PSI), and the Coordinator of the EWC participate in the meeting as full members. The European Works Council played a fundamental role for the drafting of the Global Framework Agreement. The preparatory works for the definition of the GFA contents lasted one year and involved all the company local management units.

In order to ensure an effective communication flow, a Coordinating Unions Committee (CUC) was set up. It is in charge of coordinating GWC members and Multilateral Committees, and provides support in the preparation of routine meetings and communications. The coordinator of the GWC is the spokesperson of the CUC. From the management side, the establishment of a Coordinating Management Committee (CMC) guarantees a positive interface with the GWC. Both Committees meet every three months in order to evaluate the activities of the Multilateral Committees and define the annual meeting agenda and its organization.

The meetings of the GWC are usually held once a year and the cost of the meetings is covered by the company. In order to strengthen the strong link between EWC and GWC, the Agreement states that *"the involvement of a representative of the EWC in the Global Works Council, and the hoped-for annual meeting of the GWC at the same time as one of the two annual meetings of the EWC will ensure proper coordination of the two transnational levels, which may in no circumstances be the second call for issues to be dealt with on a national level"*.³

Monitoring reports are shared among the actors involved in the meetings. The reports are based on the figures and data provided by the company, drafted by ENEL company management thanks to its internal capacity in evaluating key performance indicators (KPIs). Also Social Development Goals (SDGs) are monitored and tracked in the ENEL Social Responsibility Report. Neither EWC nor GWC have currently the necessary human resources and tools for carrying out such specific evaluations. Once received the data, GWC representatives are in charge of evaluating and monitoring the data provided by the company. The GWC is a relatively new body and therefore it does not have yet a supporting structure in terms of additional human resources and technical capacity.

Concerning the **trade union monitoring process**, local trade unions, representing ENEL workers in one of the countries covered within the geographical perimeter of the company, get in touch with the GWC coordinator whenever they must report an issue. Then the GWC coordinator brings the issue to the GWC for discussing the item. Afterwards the Council refers to the ENEL company management in order to get a feedback for solving the matter.

³ ENEL Global Framework Agreement, 2013, page 26



A relevant case emerged in Peru. A worker was killed while carrying out a job assignment in a peripheral area of the capital, Lima. Despite the fatal accident occurred during working time, it was not recognized as occupational accident at the workplace. Peru lacks of a national social security system, and the private system currently in place does not include the case in this category. However, the family of the victim claimed company responsibility in this accident. The issue was discussed and addressed to the GWC. ENEL central management, after a deep analysis of the case, declared that the unresolved compensation is due to the local social security legislation and not to Company's policies. The local Enel company addressed the Insurance

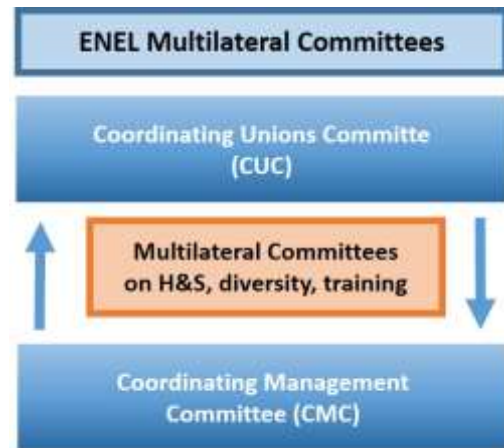
Company, asking for the inclusion of the accident in the reimbursable ones.

Company visits at local plants are not foreseen by the Agreement. The GWC usually holds its meeting in Rome (ENEL Group headquarters) or Madrid (previous ENDESA headquarters). An improvement in this regard could be represented by the organization of company visits, even if main concerns about expenses persist.

Concerning the **enforceability of Agreement contents** and the presence of provisions for dispute settlements, currently the ENEL GFA does not foresee any mechanism. An informal mechanism is represented by the reference to the Company Commission on Ethics, in case any serious problem may arise. However, such a circumstance has never occurred so far because ENEL company usually copes with issues as soon as they occur. Mechanisms of dispute resolution have not been foreseen by the agreement because the aim of the Agreement was firstly to establish a mutual trust relationship among the parties involved.

The GWC takes part in the **Multilateral Committees** established by the Global Framework Agreement, on specific topics such as equal opportunities, health and safety at the workplace, training. Multilateral Committees are *jointly bodies* that play a significant role in ensuring concrete application of the principles envisaged by the Agreement, in terms of effective company policies mutually drafted by ENEL management and workers' representatives. They are composed on an equal basis by the same number of trade union and management members (ten members per each). According to the rules established by the Agreement, Multilateral Committees should meet regularly twice a year. Multilateral Committees have achieved significant results during the first years of their establishment, but recently they have sharply slowed down their activities due to the company internal reorganization. In the Italian case, the implementation of Committees' policies has been ensured by the constant monitoring carried out by national trade union federations, in order to ensure the compliance with the Italian legislation on the topic.

Multilateral Committees have produced *joint recommendations* in the form of shared guidelines. The monitoring of the principles established in the recommendations is ensured by quantitative information gathered through Key Performance Indicators (KPIs), already monitored and reported in the framework of the Enel Social Responsibility Report. The information collected is then shared within the Multilateral Committee of competence and among GWC members. The recommendations are “*presented and discussed within the Enel Global Works Council, with the aim to share the proposal and later develop, on its basis, a joint declaration between the Company and the Parties of the GWC, representing a common view and commitment*”⁴ on the topic addressed.



Source: SindNova 2016

The joint recommendations of the Multilateral Committees have been released in 2013. They were signed by both the GWC coordinator and the head of industrial relations at company level. In particular, the Multilateral Committees on equal opportunity’s joint recommendations have been implemented in the policy on Diversity and Inclusion in 2015 and the contents envisaged by the recommendations have been directly transposed in the company policy. This strengthens the participatory approach, because workers’ representatives have a direct role in the definition of company policies. The Multilateral Committees’ joint recommendations start always with a reference to the pursuit of social dialogue at global level and the promotion of bilateralism on the most relevant issues at transnational level.

The ILO ACTRAV office has supported the work of the Committees. For example, training courses focused on the professional role of the Maintenance technician executing operative maintenance activities on the equipment in power plants. The contents of the training covered technical elements, as well as Health and Safety issues, and a focus on Company mission and its values. After the internal reorganizational process of the company in 2014, the training was not carried out anymore with a global approach but it was mainly based on each specific country.

The activities and provisions envisaged by the Multilateral Committees are thoroughly monitored. Among the initiatives that have been launched and that will be discussed during the renegotiation process, interviewed actors pointed out the establishment of a *specific multilateral committee in charge of analyzing and evaluating the social balance report of the company*. Parties recognized the importance of being able to read and understand the figures and data of the social balance in order to engage in a dialogue with the company. The social balance report should also include a document drafted by the GWC referring to the evaluation carried out by its members. In the intention of the GWC Coordinator, this would represent the opportunity to get the feedback from the local level.

Another element emerged during the three years of agreement implementation refers to the *reorganization of Multilateral Committees*. They should be structured with a less “institutionalized” approach, due to the problems incurred in organizing a meeting with full attendance. Especially after the internal reorganization of the company and the switch between group policies (from “One Company” to “Open Power”), each country management has gained more discretionary power at local level. Therefore, it becomes less feasible for the Multilateral Committees to make commitments on behalf of the whole company. According of the interviewed actors, a positive solution would be represented by the *establishment of small sub-committees at local level, gathering in one bigger committee when discussing proposals*. The work mechanism among these committees could be also further defined and detailed in the Agreement (for example through the use of videoconference tools, rooms for virtual meeting, etc.)

⁴ ENEL Global Framework Agreement, 2013

Conflicts with national trade union representatives have not been registered. On the other hand, the Agreement was used for improving the dialogue between Spanish and Latin American trade unions.

With reference to the role played by **external stakeholders**, such as CSOs, in Latin America a local NGO reported the case of a Dutch sub-contracting company in charge of coal supply that carried out unfair practices against workers. After the reporting, the ENEL company executed the contract with the subcontractor. However, from a trade union perspective, the role played by the NGO underlines a weakness in the monitoring process carried out by local trade unions.

2. ASSESSMENT OF ACTORS INVOLVED

Concerning the assessment of the ENEL Global Framework Agreement, the actors involved were able to start identifying some critical aspects and focusing on the improvements to be taken. According to the Agreement, GFA is valid for three years and it is renewable for further three years after each renegotiation. The **renegotiation process** was therefore meant to take place by the end of 2016. Several topics are intended to be included in the renegotiated Agreement, based on the experience acquired on the field, after the signature of the first text in 2013.

Among the items pointed out, the GWC will try to promote a more inclusive representativeness of trade unions operating in the countries where the company operates. The **challenge in GWC representativeness** of all ENEL Group employees across the company geographical perimeter is crucial. As underlined during the interviews, EWC and GWC representatives should be able to engage in a dialogue with the **local level**. They experienced concrete difficulties in interfacing with their trade unions and in getting a real feedback from the territory. Differently from Italian and Spanish representatives who are trade unionists strongly interrelated with national trade unions, representatives from other countries such as Eastern Europe, Russia and Latin America have different backgrounds and approaches.

The relationships with the Latin American GWC representatives are strongly supported by the role played by the Global Union Federations that signed the Agreement (**Public Services International PSI** and **IndustriALL Global Union**). However, as underlined by the GWC coordinator, this represents an issue in terms of representativeness. The Latin American trade unions formally affiliated to GUFs are just a few. This *excludes from representation some of the most representatives trade unions* in Latin America, such as Luz y Fuerza in Argentina. The feedback provided by the Latin America representatives is therefore considered not exhaustive and lacking a strong connection with the local level.

Furthermore, another issue that must be solved concerns the so-called “excluidos”, meaning those professional ranks that cannot join a trade union in Latin America. It should refer to executive managers, but the parameters are still too vague and must be discussed among trade unions and the company. The risk is to exclude also professionals that could be allowed to join a trade union.

In this regard it is useful to remind the issue underlined by the Commission Staff Working Document: “*resentment among managers and workers’ representatives at lower levels about the topdown imposition of measures agreed at an upper level, or even perceived interference with national systems of industrial relations and norms, resulting from the absence of mandating procedures and mechanisms to link the levels of dialogue and norms.*”⁵

Regardless of trade union affiliation, the aim of the Council is to be able to engage in a dialogue in a more inclusive sense. This will allow national trade unions to better understand the role played by the GWC, that represents an information and consultation body with which they can interface. The meeting held in Buenos Aires in April 2016 involved only the Latin American trade unions affiliated to PSI and IndustriALL Global Union present in Argentina, Brazil, Chile, Colombia, Panama

⁵ Commission Staff Working Document, Transnational company agreements: realising the potential of social dialogue, SWD (2012) 264 final

and Peru⁶. The meeting was useful for establishing a rotation system among Latin American members within the GWC, strengthening the communication flows among representatives and sharing the issues faced at local level in each country involved. During the meeting, the representatives of Sintraelecol from Colombia and APSEE from Argentina were appointed members of the GWC.

Many local trade unions are affiliated to UNI Global Union, representing workers operating in skills and services sectors such as commerce, electricity, IT and so on. However, due to the fact that this GUF is not among the signatories of the Agreement, many trade unions do not take part in the meetings held by PSI and IndustriALL Global Union.

The main argument expressed by GWC coordinator is that GWC members must be able to develop a real representativeness with the local level. Otherwise, the lack of representativeness challenges the GWC itself, due to the absence of trade union not affiliated with GUFs. The difficulties in enhancing the dialogue among trade unions in Latin America makes evident this contradiction.

Another critical gap in terms of monitoring at local level is given by the **lack of communication from the ENEL local management**, in terms of analysis of the ongoing situation. The new asset of the company internal reorganization has now changed the role of local management.

The role of the GWC can be improved in joint cooperation with the company, in order to choose which **technical tools** must be assigned to the GWC for strengthening its role. The company owns the technical skills and human capacity for carrying out a thorough monitoring process, while the GWC currently does not have all the tools it needs. At the moment the GWC has only the chance to have a direct relationship with local trade unions (despite also this link should further be strengthened), but the lack of logistics and personnel capacity does not support its work. A more organized and structured workplace where GWC can perform its tasks, would represent a useful stimulus for the members of the Committee and would improve the range of topics addressed. Another issue that should be better implemented refers to the company **channels of communication** aimed at disseminating the work carried out by the GWC. Dissemination through an intranet platform would ensure a better dialogue among GWC members and every worker of the company could easily access to the documentation and could post questions. It would be useful to introduce a reporting module for facilitating the role of local trade unions in submitting their grievances.

The topic of **subcontracting** will be further addressed and strengthened in the renegotiation of the agreement. Currently the GFA dedicates a paragraph on subsidiaries, contractors and supply chain. It affirms that the company will ensure full compliance of applicable laws and international standards with these external companies. However, due to the significant presence of subcontractors, the aim of GFA signatory parties is to further address the issue. The GWC must protect all the workers operating in the company, not just those employed but also those hired by sub-contracting companies.

The renegotiation will also aim at strengthening the **direct responsibility of trade union representatives** in order to ensure a proper monitoring process. An external company that carries out unfair labor practices represents a damage also for the workers employed by the company because of social dumping effects. More efforts should be done in order to share the information on the Agreement with sub-contractors. The GWC coordinator affirmed his willing to schedule local meetings with the company and the sub-contractors. One of the aims of the signatory parties is also to improve the monitoring of the supply chain.

With reference to the question whether the TCA represents an **added value compared to national standards**, in those countries where the national legislation is weak it represents for sure an important tool.

⁶ IndustriALL Global Union, ENEL Global Works Council meets to develop GFA renewal, July 2016, website (date of access July 2016) <http://www.industriall-union.org/enel-global-works-council-meets-to-negotiate-agreement-renewal>

Among the added values of the ENEL Agreement, it is also worth mentioning its positive influence on the Agreement signed by ENI S.p.A., another well-known Italian energy multinational company. ENI positively received the input given by the ENEL GFA during the renegotiation of its International Framework Agreement signed in July 2016. The comprehensive structure and principles envisaged in the ENEL GFA have provided a positive stimulus to the ENI agreement, by including provisions referring to industrial relations and favoring the establishment of the Global Works Council.

As mentioned above, the renegotiation of the Agreement was supposed to be finalized by the end of 2016⁷. In terms of operational steps, from the company side the proposal of the renewal is forwarded to each department in order to gather their feedback. After this passage, the Agreement is shared among HR offices located abroad. This approach aims at ensuring a preventive involvement of local management. In Latin America the dialogue established between workers' representatives and HR department is considered unusual. It is common to refer to a third actor, such a judge, for ruling over the collective bargaining agreement. This underlines a failure in the establishment of effective industrial relations. The right of information and consultation in the extra-European countries involved in the GWC was firstly introduced by the GFA. The renegotiation will strengthen the reference to the company values (reference to ENEL Open Power), and it will reinforce the relevance of the sustainable supply chain.

⁷ The Renegotiation was postponed

Case Study Salini-Impregilo¹

Michela Cirioni, SindNova

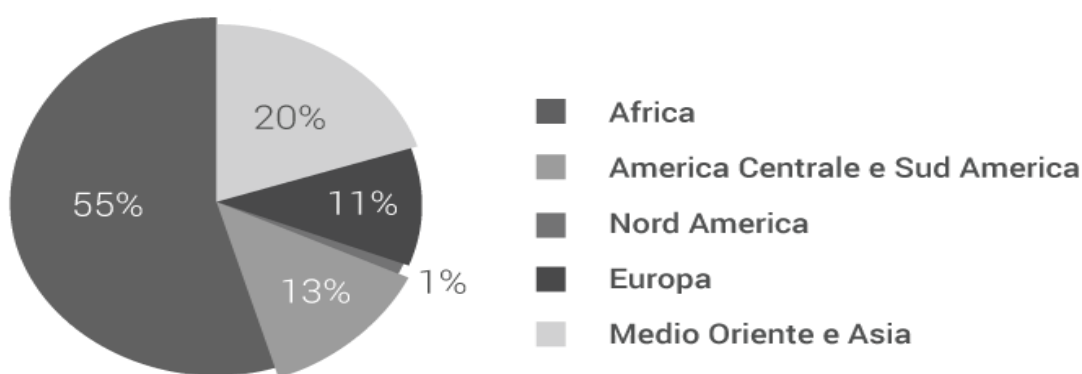
Name of the Company: Salini-Impregilo S.p.A.

Headquarters country: Italy

Industry sector: Building sector

Geographical perimeter of the multinational Company: International company operating in over 50 countries. Relevant presence in: Italy, Greece, Denmark, United Kingdom, Poland, Romania, Switzerland, Slovak Republic, Turkey, Ukraine, Argentina, Chile, Colombia, Panama, Dominican Republic, U.S.A., Venezuela, Peru, Saudi Arabia, United Arab Emirates, Azerbaijan, Qatar, Tajikistan, Kazakhstan, Malaysia, Ethiopia, Namibia, Nigeria, Sierra Leone, South Africa, Tunisia, Uganda, Zimbabwe, Libya, Australia.

PERSONALE DIRETTO PER AREA GEOGRAFICA



Source: Salini Impregilo Company Profile

Company profile

Salini-Impregilo S.p.A. is an international company based in Italy and operating in 50 countries with 35.000 employees. It was established after the merger process, carried out in 2011, which incorporated Salini into Impregilo, two major constructions companies. It operates in the large-scale infrastructures and engineering sector. The main activities of the group are the design and the construction of dams for hydroelectric plants, of highways and railways, of subways and airports, hospitals, building civil and industrial. Before the merger process between Impregilo SpA and Salini Costruttori SpA, the first relevant restructuring process in Impregilo SpA was approved in 2006 as a result of the heavy financial losses occurred the previous year (2005). In order to restore the economic and financial stability of the company, the management decided to focus the restructuring on strategic sectors as Constructions, Plants and Concessions. Distressed assets were dismissed (Impregilo Constructions and Services, Fibe e Fibe Campania, Imprepar Company).

¹ http://connect.bwint.org/pdfs/IFA_SaliniImpregilo_EN.pdf

Trade union representation and industrial relations

After the incorporation process, ended with the establishment of the new legal entity Salini-Impregilo S.p.A (with effect from 1 January 2014), the Company signed the International Framework Agreement on October 2014, based on the previous agreement signed with the Italian and international trade unions federations of constructions in 2004. The Framework Agreement signed by the company and trade union social partners commits the parties to promote and to respect, in all the sites where the Group operates, the fundamental principles of human rights, as defined by the main international declarations of the United Nations, the International Labour Organisation and the OECD.

In December 10, 2014 it was held the meeting envisaged in the article 111, paragraph 1.7 of the National Collective Bargaining Agreement signed between Salini-Impregilo S.p.A., the Trade Union Representative Structure at the Company (namely "Rappresentanza Sindacale Aziendale, RSA), national and local trade unions. The article refers to a series of information that companies are required to provide to the Trade Union Representative Structure at the Company (RSA) concerning the current production situation and related forecasts; structure and evolution of employment, by age, sex and type; position on internal and international markets; organizational and technological changes and consequences in working conditions; educational programs in relation to the needs and qualifications of human resources; action programs on safety and accident prevention. With effect from July 1, 2015, the national collective bargaining agreement for employees of construction and related companies of July 1, 2014, introduced some important changes as a remuneration increase of 25 euros gross per month with parameter 100. In addition, for all employees, with effect from January 1, 2015, payment of a monthly contribution borne by the company to PREVEDI of 8 euros with parameter 100. The renewal of the National Collective Bargaining Agreement for Senior Managers of December 30, 2014 introduced an increase, with effect from January 1, 2015, in the contribution rates due to FASI by companies and senior managers. Another important new concerning industrial relations at national level is the Unitary Workplace Union Structure (RSU) for Rome Office. By letter of 21 January 2015, the Trade Unions Confederations have initiated the procedure for the establishment of the Unitary Union Representative (namely "Rappresentanza Sindacale Unitaria", RSU) of S.p.A. Salini Impregilo, Todini Costruzioni Generali S.p.A., CO.GE.MA. S.p.A. the operational headquarters in Rome. The elections were held on February 2015.

Concerning industrial relations at European and international level, the company has not established a European Works Council despite the geographical perimeter of the company. According to the parameters established by the Directive 1994/45/EC and its recast Directive 2009/38/EC, Salini-Impregilo S.p.A. does not employ 150 employees in each of at least two Member States. This is due mainly to the fact that the company avail itself of sub-contracting workers selected by recruitment agencies at local level, in those countries where Salini-Impregilo operates. Therefore, the company does not reach the threshold envisaged by the EU legislation and the national legislative framework.

Title of the Agreement

International Framework Agreement between SALINI-IMPREGILO S.p.A. and Building and Wood. Worker's International (BWI), FENEAL UIL, FILCA CISL and FILLEA CGIL

Main contents of the Agreement

An International Framework Agreement was signed for the first time in 2004 by Impregilo SpA, before the merger with Salini Constructions SpA. After the merger, the company decided to review the previous Agreement introducing some

innovations. The main items referred to the provisions on migrant workers and the compliance with laws and regulations on workers' protection by sub-contractors. The main topics regulated by this IFA are the following:

- 1) Free choice of employment: workers are not to be required to lodge their visas or other immigration fees. Workers shall be required to surrender their passports and other travel or identity documents only if necessary to fulfill the national requirements in the country of destination and not for any other purpose.
- 2) Nondiscrimination: it prohibits discrimination based on ethnicity, color, gender, religion, political ideas, nationality, social status and other distinctive features. It provides for all workers equal paid for equal work.
- 3) Child labour: Child labour is not allowed. The minimum age for admission to any type of employment is 18 years
- 4) Freedom Association and Collective Bargaining: It is recognize the right to form and join trade unions, and to collective bargaining. Workers' representatives shall have access to all workplaces necessary to carry out their representation functions
- 5) Living Wages: Working wages shall therefore be fair and non-discriminatory, and sufficient for workers to cater for the fundamental needs of a decent life in the social context where they live and work.
- 6) Working Hours: Working hours shall comply with national regulations and collective agreements.
- 7) Working Conditions: Multinational companies shall be provided safe, healthy and sustainable working environment, according to the ILO Conventions and to the OECD Guidelines. Training on safety and risk prevention at the work place shall be provided to all workers.
- 8) Environmental Issues: The company commits itself to respecting the international Conventions on environmental impact
- 9) Specialized Vocational Training: Educational and training programmes shall be granted to all workers
- 10) Workers' Welfare: Prevention programmes are expected against the risks of endemic diseases which might originate within the workplace, in according to the ILO HIV-AIDS codes of practice.
- 11) Employment relations: he company shall pay any social security and pension contributions as required under applicable legislation in the place where the worker works.
- 12) Implementation and Assessment: The company commits itself to give information about the agreement in all sites and workplaces. At least once a year - or when the need arises - the group shall meet in order to assess and review the implementation of the Agreement.

Among the most innovative items of the Agreement, the reference to the migrant workers and their free choice of employment. Moreover, with reference to employment relations, the Agreement includes a paragraph not usually present in the TCA. The Agreements provides a significant protection to workers, by ensuring that "*the company shall pay any social security and pension contributions as required under applicable legislation in the place where the worker works, except when more favorable individual conditions apply*".

With reference to the duration of the Agreement, the text states that negotiations cannot take place before than two years after the signature. After this period, any party may request to review the Agreement. It remains in force until one of the signatory parties submits a written notice

Previous TCAs signed by the Company

The Impregilo S.p.A. company signed in November 2004 a Framework Agreement between with the Italian trade union federations of the construction sector (FILLEA CGIL, FILCA CISL and FENEAL UIL) and the Global Union Federation (IFBWW). The Agreement, after the merger between Salini and Impregilo and the establishment of the new company, was no longer valid. It represented however a significant record for the negotiation of the new IFA signed in 2014.

The parties committed themselves to work together with the aim to promote and to observe the fundamental principles of Human Rights, as defined by the "Universal Declaration of Human Rights" (1948), the "ILO Declaration on Fundamental Principles and Rights at Work" (1998) , the "ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy" (2000) and the "OECD Guidelines for Multinational Enterprises" (2000);

The main items regulated by the Agreement were the following:

- 1) Freely chosen employment;
- 2) No discrimination in employment;
- 3) No child labour;
- 4) Right to form and join trade unions and to bargain collectively;
- 5) Living wages;
- 6) Hours of work comply with appropriate national legislation and national collective agreements;
- 7) A safety and healthy working environment shall be provided;
- 8) Environment;
- 9) Workers skills training;
- 10) Welfare of workers;
- 11) Regular labour contract.

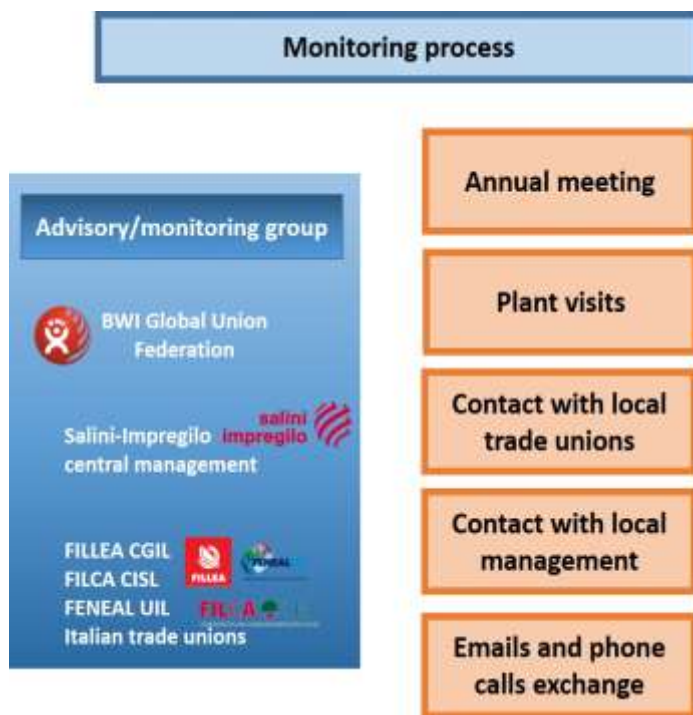
1. MONITORING AND IMPLEMENTATION²

The monitoring process plays a key role in the implementation of the Agreement. Salini-Impregilo IFA mentions the monitoring procedure adopted for ensuring the compliance with the contents envisaged by the Agreement. The text states that company management, HR representatives and the delegates of the signatory federations (both the Global Union Federation BWI and the Italian trade union federations of building and construction sector, namely FILLEA CGIL, FILCA CISL and FENEAL UIL³) are part of the **advisory/monitoring group**. The Agreement foresees **one annual meeting** in which all the parties in charge of monitoring gather together for assessing the implementation of the contents envisaged by the IFA. According to the actors interviewed, the annual monitoring meeting is usually carried out in June or July (with

² The analysis of the Salini-Impregilo case was supported by the interviews carried out with some of the actors in charge of the monitoring process: Mr. Claudio Sottile, FILCA CISL (Italian trade union federation of the construction sector), Ms. Jinsook Lee, BWI (Global Union Federation) and Mr. Maurizio D'Ippolito, HR Department (Salini-Impregilo company management).

³ The three main Italian trade union federations of the construction sector (FILLEA CGIL, FILCA CISL and FENEAL UIL) were the trade union social partners entitled to sign the agreement at national level.

some rare exceptions). The notification of the annual meeting is usually done via email by the management. In addition, the communication flow among the actors in charge of the monitoring process is carried out on a regular basis during the year, through email exchanges or phone contacts.

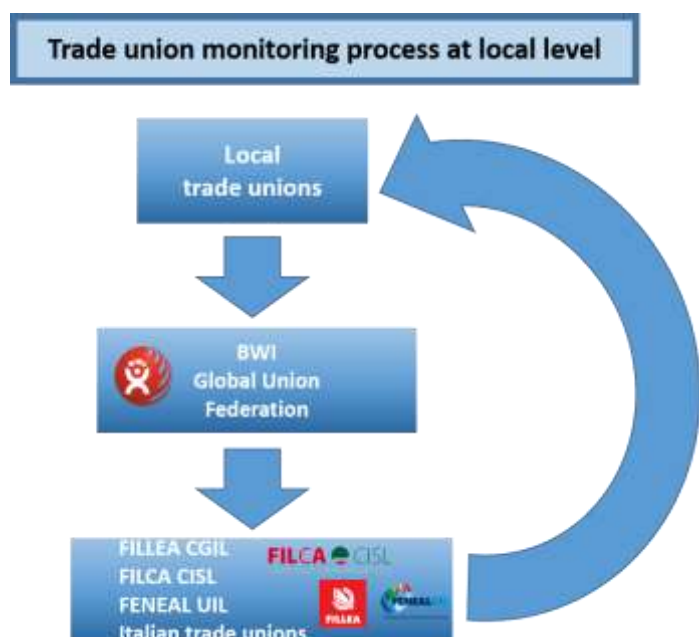


Source: SindNova 2016

In case it may be needed, the company management agrees in holding the meeting twice a year. So far, it has not been necessary, due to the lack of specific issues. The information provided by company management on an annual basis is usually considered satisfactory by trade union and GUF's representatives. According to the social partners interviewed, the company has usually showed a positive attitude in informing trade unions about changes, mergers, acquisition in the U.S., ongoing/completed contracts, and about issues occurred on the ground across the geographical perimeter of the company (such as Africa, Middle-East, etc.). Any complaints have been received by local trade unions in this regard. During the annual meeting, in order to share information on the ongoing and completed contracts, trade union representatives and BWI receive an **activity report** from the company management,

concerning all the activities carried out during the previous year. The report analyzes also the figures on labor force, by dividing the quota between Italian workforce and workers hired by temporary agencies.

Even if TCAs are voluntary agreements, the parties interviewed agreed that the monitoring process must be ensured and carefully carried out. The Agreement is sustained by a solid trade union network with the support of the Global Union Federation. **The monitoring is carried out jointly by company management, BWI and trade union representatives.** There are also unformal meetings with local trade union representatives. A significant example in this regard is represented by the Namibian case where a special meeting was held for resolving critical issues occurred at the workplace. The presence of the Italian trade union representatives and the dialogue established with the Namibian local trade unions allowed to address and solve the issue. The Namibian case started with the communication of the complaint to the Global Union Federation. BWI then got in contact with the Italian trade union representatives. Once informed of the situation, then it was the turn of the Italian trade union representatives interface



Source: SindNova 2016

with the local trade unionists. Trade unions networks at local level also play a key role in ensuring the proper monitoring of the Agreement.

Formally, the Agreement does not mention additional tools of monitoring. However, the advisory/monitoring group often organizes **company visits** within the group subsidiaries located worldwide, in order to reinforce the monitoring system on the ground. They are usually organized by a delegate on rotation. Company visits are not held every year. The monitoring visits held at local plants worldwide are organized jointly with the local management. Visits at local plants represent a significant tool for keeping the contacts with the local trade union network, with the support of the Global Union Federation acting as intermediary. So far, the trade union representative interviewed confirmed that during the visits no major problems were experienced. Concerning the documentation drafted after each monitoring visit within the local company plant, minutes of the meeting are drawn up and shared among parties. During these visits, both Salini-Impregilo employees and sub-contracted manual workers are present in the plants. One of the critical issue underlined during the interviews is the difficulty in distinguishing workers that are employed by the company and those who are sub-contractors.

With reference to the suppliers, the company is committed to contract companies that comply with local standards and ILO principles.

The communication among signatory parties is carried out on regular basis, with contacts with the management especially in case of conflict. They have regular correspondence and regular report of the incidents occurred.

The parties interviewed confirmed the intent to **solve conflicts at local level**. When this option is not feasible, then the issue is resolved at global level by BWI, Italian trade union federations and Salini-Impregilo management. Cases of dispute resolution through mediation have never occurred so far (neither any provision in this regard is mentioned in the Agreement). An example of resolution at local level was represented by the Namibian case, where the Agreement played a crucial role in helping to solve a local conflict and to put in place safety standards, wages, contract agreements and short term agreements. Therefore, the implementation of the IFA did not cause any conflict at local level. Rather, it represented the tool for resolving conflicts, like in the case of the Icelandic plant where the monitoring visit carried out by the Italian trade union representatives helped to overcome the fractures between local Icelandic trade unions and the Italian company management located in Iceland. The fracture among parties was so radical that their communications were usually managed publicly through newspaper articles. After that episode, continuing monitoring activities, also on distance, have been performed. The main problems arisen between Icelandic trade unions and company management were due to cultural differences. Salini-Impregilo manifested its interest in field visits in order to solve any potential conflict at local level, with the support of BWI in facilitating controversy resolution.

The dissemination of Agreement contents, both in written and verbal form, is ensured within all the Group construction sites and workplaces among local managers and affiliates. In addition to the official languages of the Agreement, translations in local languages are available in order to ensure the widest dissemination.

2. ASSESSMENT OF THE ACTORS INVOLVED

The terms for renewing the Agreement are not clearly specified in the text. No exact mention is given for the renewal deadline. Therefore, so far the signatory parties have not started any renegotiation procedure.

Among the topics that could be addressed in the renegotiation phase, the trade union representative underlined the need of **improving health and safety standards**. In some of the countries where the company operates, there are no laws in place for the safeguard of workers' health and safety at the workplace. Salini-Impregilo is strongly interested in ensuring

the compliance with H&S principles all across its plants. Even if health and safety measures are currently respected within the perimeter of company operations, more specific efforts could be achieved in the renegotiation of the agreement.

The actors have not registered any lack of compliance with the provisions of the Agreement. Despite the lack of binding legal effects, the parties interviewed underlined that public discrediting worldwide can be a powerful deterrent. Thanks to the dialogue among parties, it was possible to overcome problems without involving media. The Agreement does not foresee the recourse to dispute resolution bodies, due to the lack of binding legal effects.

Actors interviewed underlined that the Salini-Impregilo IFA represented an important **tool for strengthening workers' rights**. During the enlargement works of the Panama channel, Salini-Impregilo was involved in the consortium named Grupo Unidos por el Canale, GUPC that led the constructions. It was composed of large international companies, among which Spain's Sacyr, Italy's Salini Impregilo, Belgium's Jan de Nul, and Panamanian companies. The main issue concerned workers' health and safety measures at the workplace. The IFA signed by the Salini-Impregilo clearly referred to H&S measures but the consortium was not obliged to comply with such rules. The role played by the Italian, Spanish and Belgian trade union representatives and BWI was crucial in this regard. They managed to sign a **consortium framework agreement**, based on the example of the Salini-Impregilo IFA. The commitment expressed by the parties referred to the four years of construction works for the Panama channel. National trade union representatives visited the plant in Panama and put pressure on their respective companies. The presence of the IFA signed by Salini-Impregilo represented a significant stimulus for the signature of the consortium framework agreement on health and safety.

According to trade union actors, differently from Corporate Social Responsibility codes of conduct in which MNCs have often failed to comply with the principles envisaged, the active role played by trade union representatives in the monitoring and implementation of the Agreements represents a crucial element. Trade unions have the interest in ensuring that the Agreement complies with the provisions expressed, and that both parties fulfill those principles.

In some cases, civil society organizations also played an independent role as *external monitoring parties*. This is the case of Namibia where a local NGO published a newspaper article criticizing the amount of water used by the company for carrying out its activities. However, the quantity had previously been approved by the Namibian government. The company did not reply to the article. Apart from some sporadic cases involving especially environmental issues and local communities, the role usually played by local trade unions in raising red flags when necessary is considered satisfactory. When local unions are weak or inexistent as in the case of Qatar, then the Global Union Federation BWI takes responsibility.

With reference to the question whether the IFA represents an **added value compared to local and national standards**, the actors interviewed agreed in affirming that in the extra European countries covered in the geographical perimeter of the company, the principles expressed in the Agreement represent an important element of improvement. In many of these countries, the lack of safeguards constitutes a significant problem. With reference to the comparison with the local and national industrial relations, the Italian system can be considered a good practice in this regard. On the other hand, in the majority of extra European countries, industrial relations systems have different patterns. There is the interest in establishing more solid industrial relations in these new areas, like Africa and Asia. Also cultural differences are significant among countries.

MNCs are not obliged to sign a Transnational Company Agreement, but it represents an opportunity instead of a restraint. TCAs can constitute a first step for many countries and a useful support for their local trade unions.

Among the added-values of the Salini-Impregilo Agreement, a strong focus is given to **immigrant workers** and the protection of their working conditions. The presence in the Agreement of specific clauses on immigrant workers, usually hired by sub-contracting companies, represents a best practice rarely present in other TCAs. As mentioned in the

Agreement, consortia and subsidiaries are also required to avoid that workers (both immigrants or not) are classified as self-employed although they are assigned typical employee tasks (bogus self-employment).

Moreover, among the most relevant items of the Agreement, it states that *"the company shall pay any social security and pension contributions as required under applicable legislation in the place where the worker works, except when more favorable individual conditions apply."*⁴

According to the interview carried out with BWI representative, IFAs represent a **useful tool for organizing workers**. In the building sector, the focus is especially on migrant workers and the different forms of outsourcing. The current global campaign carried out by the Global Union Federation in Qatar represents a strong element of interest for what concerns the Salini-Impregilo case. *The respect of industrial relations, trade union recognition and the support in organizing strategies are key elements of IFAs*. Both BWI representative and Salini-Impregilo management expressed a positive assessment of the working relationships between the GUF and the company, concerning the contents of the IFA and the prompt feedback given in presence of local conflicts (such as in the Namibian and the Qatar cases).

As affirmed in the IFA, the signatory parties *"recognize the need for open democratic industrial relations and for fair collective bargaining procedures for union and company representatives"*⁵

The focus on collective bargaining is crucial in order to ensure workers' rights, especially when national laws are weak. The IFA in this regard may represent a support in the recognition of the right to collective bargaining, in accordance to the core labor conventions. The Agreement clearly refers to the compliance with national regulations and collective agreements.

Currently, the signatory parties have not mentioned any intention to renegotiate the contents of the Agreement. However, with reference to the **improvement of the agreement**, the trade union representative stated that, starting from the main guidelines provided by BWI, the Agreement has been enhanced and there is still room for further improvements. Among the topics that should be further addressed by the Agreement, parties stressed the working conditions of immigrant workers and equal treatment of local and foreign workers. Moreover, a focus on supply chains, sub-contractors and their role in ensuring proper working conditions, as well as health and safety, contractor liability, union recognition and neutrality agreements are considered important elements to be negotiated.

⁴ International Framework Agreement between SALINI-IMPREGILO S.p.A. and Building and Wood. Worker's International (BWI), FENEAL UIL, FILCA CISL and FILLEA CGIL, 2014

⁵ International Framework Agreement between SALINI-IMPREGILO S.p.A. and Building and Wood. Worker's International (BWI), FENEAL UIL, FILCA CISL and FILLEA CGIL, 2014

MIGRANT WORKERS IN QATAR.

THE BEST PRACTICE OF SALINI-IMPREGILO IFA.

Migrant workers in Qatar, selected by recruitment agencies and hired by sub-contractors, face many challenges in working with multinational companies due to poor working conditions and unequal treatment. In Qatar, foreign workers coming from South and Southeast countries face a severe exploitation at the workplace, and are denied their right to go back home while their passports are confiscated by the employers. Moreover, the fact that the peninsular Arab country will host the FIFA World Cup in 2022 represents an additional element of concern for workers' organizations. The presence of around 1,5 million of migrant workers involved in the construction works needed for hosting the international event raised several red flags, as expressed by Global Union Federations, ILO and trade union movement, due to the decent work deficits occurred in this country.

Multinational companies, from both Europe, Asia and Gulf Countries can play a huge role in ensuring that migrant workers hired by sub-contractors are treated equally and have access to decent working conditions. BWI has repeatedly expressed its commitment in improving working conditions of migrant workers, who are denied basic rights such as occupational health and safety, right to collective bargaining and living wages. International labor standards have been rarely put in place and BWI urged both Qatari government and construction companies to comply with better working conditions for migrant workers.

The Italian company Salini-Impregilo S.p.A. can be considered a best practice in this regard, by providing good working conditions to foreign workers located in Qatar according to international safety standards. Following the monitoring visit held in Doha, the Italian trade union representatives and BWI could positively evaluate the working conditions of Salini-Impregilo workers in Qatar. The policies put in place by Salini-Impregilo about migrant workers are in line with the principles envisaged by its International Framework Agreement. It clearly states the right to free choice of Employment: *"Workers shall not be required to lodge deposits, visas or other immigration fees, transportation costs, and recruiting or hiring fees. Workers shall be required to surrender their passports and other travel or identity documents only if necessary to fulfil the national requirements in the country of destination and not for any other purpose. The company agrees that migrant workers shall be recognized the right to legal redress in the country of work and the right to organize and join trade unions. The company also agrees that migrant workers shall be provided with detailed information about their living and working conditions in the destination country in a language they can understand before leaving their country of origin."*⁶

These principles were also monitored on the ground, thanks to the organization of plant visits. The members of the Advisory/Monitoring group during a visit in Doha were able to effectively monitor the

⁶ International Framework Agreement between SALINI-IMPREGILO S.p.A. and Building and Wood. Worker's International (BWI), FENEAL UIL, FILCA CISL and FILLEA CGIL, 2014

working conditions of migrant workers at the workplace and their accommodations. The participants stated that the recreational spaces and canteens were well equipped and that the presence of different rooms per each spoken language guaranteed a positive community environment. During a meeting held at BWI headquarters in October 2014, Salini-Impregilo confirmed its positive experience in Qatar by stating that *"by signing the agreement with BWI [...], Salini-Impregilo confirms respect for the Person as a key element to create value in all its business activities, to be pursued as usual through loyal and constructive dialogue and labor relations, in respect of each other's roles, both the company and the employees ones."*

However, even if the Agreement represents an important added-value in the framework of construction multinational companies, more specific clauses have been stated in the document signed by BWI titled *"Decent Work for Migrant Workers in Qatar. Role of Construction Companies"*⁸, issued in 2015. With this document, the Global Union Federation drafted specific guidelines aimed at regulating the conditions of workers employed in Qatar. The 11 key areas addressed by BWI focused on:

- 1) Kafala (employment sponsorship) and Exit Visa-system
- 2) Respect, dignity and quality for migrant workers
- 3) Occupational Health and Safety Measures in line with International Conventions and Standards
- 4) Workers' rights to organize and collective bargaining
- 5) Joint liability of Principal and Subcontractors and employment relationship
- 6) Regulate recruitment agencies to prevent exploitation
- 7) Conduct effective, independent and legally binding labor inspections
- 8) Ensure effective labor dispute and court system
- 9) Employment contracts
- 10) Living wage
- 11) Safe and decent accommodations

⁷ Building and Wood Worker's International BWI (BWI), Meeting on working conditions of migrant workers in Qatar hosted by ILO sets path for joint strategy, 27 October 2014, BWI website

⁸ Building and Wood Worker's International (BWI), Decent Work for Migrant Workers in Qatar. Role of Construction Companies, 2015

Case Study ENI¹

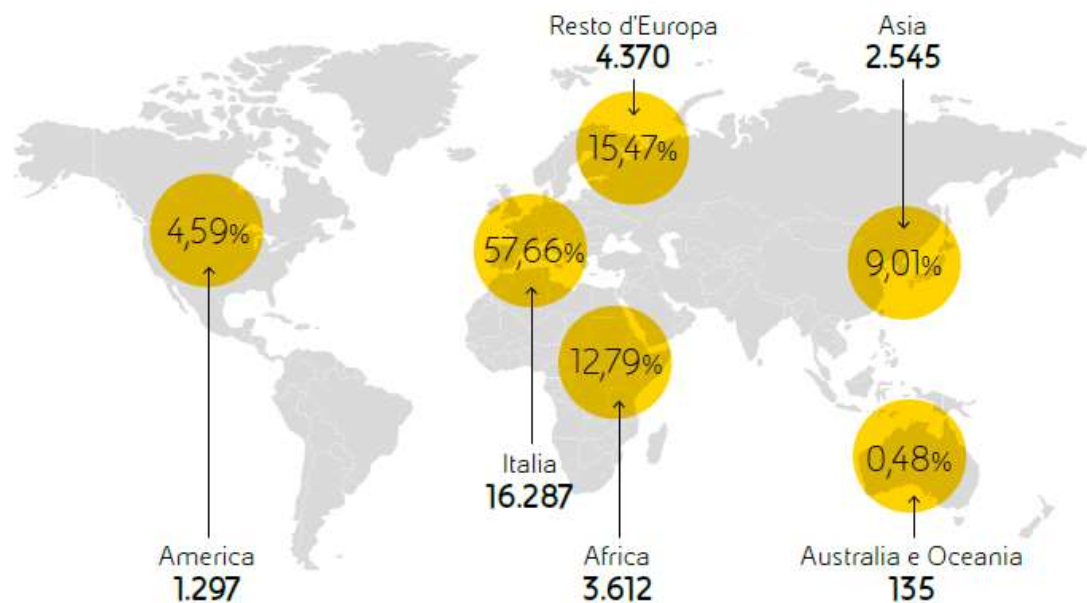
Salvo Leonardi, Fondazione Di Vittorio

Name of the company: Eni Spa

Headquarter country: Italy

Geographical perimeter of the multinational company: In 2015, Eni had over 28.000 employees in 65 countries around the world.

Dipendenti per area geografica



Company profile

Eni is a major integrated energy multinational company. According to *Fortune 500*, it was Italy's largest company in terms of turnover in 2013, 22nd in the world. It is the world's 6th largest oil company in terms of business volume.

Its activity range from oil exploration, development and extraction of oil and natural gas, in the procurement, supply, trading and transport of natural gas, electric power, fuels and chemical products. It processes crude oil and oil feedstock at its refineries and chemical plants to make fuels, lubricants and chemical products. Its long-term strategy is based on the production of hydrocarbons while minimizing its carbon footprint.

Set up by the Italian government in 1953 and named Ente Nazionale Idrocarburi, the old public company ENI played a decisive role in the country's industrialisation and economic development. ENI's privatisation process started in 1992 when it was converted into a joint-stock company. In the period between 1995 to 2001, the government sold most of its shareholding in five tranches, keeping a share that was established by law – the so-

¹ <http://www.industrialunion.org/sites/default/files/uploads/documents/GFAs/Eni/eni-gfa-english.pdf>.

called golden share of over 30% that has allowed to maintain control of the company. Eni is listed Milan and New York.

Notwithstanding its shrinking stake, the Ministry for the Economy still has the power to appoint the majority of board members. Privatisation has seen the company refocus activity on its integrated energy core business by absorbing the Agip branches and selling non-core business.

Trade union representation and industrial relations

Trade union density at Eni Group companies, in Italy, is quite high (roughly 45%), with a peak of 90% in some production sites. The workplace representation bodies (RSUs) are elected everywhere and company level bargaining widespread as well. Eni group companies in Italy apply the energy industry-wide agreement, which involves some 50,000 employees working in the exploration, refining and gas sectors (two-thirds of whom are Eni staff), and the group company contract, which involves by 30,590 people. An additional negotiating level occurs at the single plant to which the group company contracts refers to when dealing with specific contractual aspects, namely incentives, working hours and shifts, absenteeism.

Employees and trade union information and consultation rights are traditionally well-developed across the entire sector and clearly outlined in the industry-wide agreement, which transfers to company-level negotiations a wide range of issues both technical and organisational.

In consideration of the fact that the energy production cycle is particularly dangerous, extremely detailed procedures have been envisaged in case of industrial conflict. Bargaining envisages "cooling period" and plant management clauses when industrial action occurs. Each plant is called to define safety standards that cannot be violated at any time.

In the history of Italian industrial relations, Eni has stood out for its approach aimed at stimulating the involvement and participation of workers and their trade union representatives. Between 2001 and 2011 the industrial relations system at Eni was further strengthened in terms of workers' participation with the signing of a series of new deals, namely the Industrial Relations Protocol of 22 June 2001 and, ten years after, the agreement on development and competitiveness and a new industrial relations model, signed on the 26 May 2011, that focused exclusively on domestic and local issues.

The system, which appears to be comprehensive, is strongly inspired by the principles of social corporate responsibility, it is articulated at various levels and has a clear international outlook. Employees' participation is widespread and involves several functions, with a focus on strategic issues is partly the outcome of company history and partly a competitive lever.

The industrial relations system protocol of 22 June 2001 reaffirmed the need to strengthen employee participation in the changing competitive scenario, characterised by increasing globalisation and competition. The parties agreed to "adopt an innovative industrial relations model hinging on participation intended as an efficient tool of change management and to ensure, in an environment of common values and targets, choices that are as far as possible shared. An integral part of the model are the setting up of joint commissions with related operating rules; co-management procedures to deal with occupational issues; the identification of relevant issues to be discussed specifically".

Working alongside the EWC, the target is to harmonise the experiences that have emerged in other ENI companies in Europe.

The agreement 2011 updates and extends the system of the previous 2001 agreement. It is characterized by the concrete reference to the current economic crisis, and measures to be. It foresees the introduction of an annual meeting with the CEO with trade unions, setting up of an "economic scenario committee," which will be convened on a quarterly basis, meetings to discuss single issues (with the exception of working hours)

taken in Eni in order to cope with the new and challenging prospects.

As for labour organisation and productivity, a joint commission has been set up to examine the situation and monitor developments in other EU countries. The issues discussed also in terms of conflict prevention concern working hours (with a special focus on conciliation), fight against absenteeism and continuing education.

The transnational dimension of Eni's industrial relations: EWC and TCAs

The renewal of the European Works Council (EWC) and the signing of a global framework agreement, on the other hand, have paved the way for an internationalisation of industrial relations.

The European Works Council (EWC)

Set up in 1994, the EWC was renovated in 2001 and 2004, and by a further three years in the latter part of 2007. Every year Eni's strategic plan is outlined at the EWC and the issues therein contained that may impact both domestic and international business are successively disclosed and discussed. A great deal of focus has lately been given to EU policies, with a special focus on energy and employment, and to Eni projects relating to issues of integrity and non-discrimination. A working environment that does "not discriminate," in terms of gender, leaning, culture, age, is not only essential to uphold the basic rights of the human individual but also to enhance and develop individual skills. International mergers and acquisitions have also been discussed at the EWC but there has been no recourse to information and consultation rights as actually established in European legislation when such operations take place. Trade unions in Italy and abroad were unable to agree on a common approach on this issue. "It may well be that we underestimated this channel," admitted the former CGIL secretary for the energy sector who has been entrusted with the task of monitoring the Eni Group.

The Transnational Company Agreements (TCAs)

The European Framework Agreement on Health and Safety

The first TCA, at Eni, was signed in June 1996, on occupational safety and health, and had a European scope (EFA). Reviewed and integrated in 2004, it consisted in creating a European Observatory with the purpose to define methods at the European level for the prevention of occupational accidents and disease in view of studying and promoting initiatives to improve prevention at workplaces. This would include exploiting the health and safety experience accumulated in Italy and abroad. The approach adopted included all safety initiatives pursuing structural (adopting the best available technologies), procedural (continually optimizing internal regulations) and cultural/behaviour (so that the culture of safety becomes an integral part of the entire organization). Confirming the special attention devoted to protecting local communities, an internal standard has been updated for preparing the Health Impact Assessment for its industrial facilities, consistently with the guidelines issued by international standards institutions. The Observatory is composed of representatives of Eni, its subsidiaries and the Labour Organisations signing this agreement, health, safety and environment experts working in the countries and the businesses represented by the Eni EWC. The agreements of 1996 and 2004 have been amended in July 2016, by a new EFA, but not signed yet, as Indutrial Global Union was not eligible for an EFA, whose is required

the involvement of the European IndustriAll. Although a date was not scheduled, the new text should be likely signed before the end of 2016.

The activities of the Observatory may involve: data base of accidents and occupational diseases; assessment and analysis of statutory and regulatory changes and their consequent impact on the various industrial operations; study of analytical tools of workplaces featuring criticalities and research and experimentation on investigative techniques to improve knowledge about accidents and verification of the accomplished results; management tools for controlling business performance and improving workplace health and safety conditions, study of approaches; models and educational tools for employee training, study of reporting models, especially to external parties; monitoring of topics related to climate change and assessment of initiatives for mitigation and adaptation to it; study of management tools to prevent and limit potential environmental impacts, and to optimize performance, by promoting measures to improve energy efficiency and limit emissions; protect water resources, reduce waste output and maximize waste recovery; tools and methods for preventing major or serious accidents at Eni plants; classification of hazardous substances; compliance with European and international standards; reporting of information from Eni sites to outside the company.

The Observatory will meet at the same time as the annual meeting of the Eni EWC. A report on the details of the activities listed above will be carried out during the reference year will be presented and analyzed, and the plan for the next year will be illustrated during the meeting. The workers' representatives of the Observatory will present the results of the work performed and the programs prepared by the Observatory at the preliminary meeting of delegates of the Eni European Works Council.

The procedures for implementing any initiatives proposed at the meetings of the Observatory have to be defined at the annual meeting of the EWC. In particular, educational/information initiatives for the delegates of the European Works Council and members of the Observatory will be agreed at specific meetings. This will be done by, inter alia, using corporate systems for remote connection (videoconferences, etc.).

The Global Framework Agreements on Transnational Industrial Relations and Corporate Social Responsibility

The 29 November 2002, Eni Spa, with the three main Italian sectoral trade union federations (FILCEA-CGIL, FEMCA-CISL, UILCEM-UIL) and ICEM (International Federation of Chemical, Energy, Mine and General Workers' Unions), signed in Rome an *Agreement on Transnational Industrial Relations and Corporate Social Responsibility*. A few months before, ICEM had signed GFAs in Endesa, Norske Skog, AngloGold, whereas other similar texts will be subscribed after Eni².

The 2002 TCA was revised and confirmed in its main aims and contents, in 2004, 2009 and 2016, becoming in the last version a *Global Framework Agreement on International Industrial Relations and Corporate Social Responsibility*. Beside, as we've seen above, a European Transnational Agreement was signed in 2012, on the specific issue of health and safety.

Summing up, Eni has signed four International Framework Agreements (IFA), on industrial relations and CSR, and two European Framework Agreements (EFA), on health and safety and a third close to be signed; five (or six) TCAs in all. In the meanwhile, Eni has also adopted unilaterally a Code of Ethics, Guidelines for the Protection and Promotion of Human Rights and internal policies for the management system.

² Lukoil (2004), EDF (2005), Rhodia (2005), Umicore (2007), GDF-Suez (2010), Norsk Hydro (2011)

The transnational bargaining at Eni, since 2002, is one of the outcomes of the previous protocol on industrial relations subscribed by the social partners in the years before. In the already quoted Protocol on industrial relations signed in June 2001, the Italian signatory social partners had expressed their intention to conform the development of the Group's activities to fundamental ethical principles, based on respect for human and social rights as contemplated in international conventions³ In one of the annexes to that agreement, was expressly mentioned the objective of improving the functioning of the EWC and industrial relations in a global scale. The initiator of the 2002 negotiation was formally the corporate, which draw a first draft, though the issue of a transnational level of social dialogue had emerged into the discussions between the two parties, in the years before. For the global union of the energy industries, the aim is to enhance the solidarity and dialogue between unions of exporting and importing countries, expanding contracts and joint work from different countries, signing GFAs aimed at both increasing the number of agreements and ensuring they will be monitored and implemented effectively.

It's worthy to underline that the 2002 text is an "agreement", and not just a joint declaration, as in many other similar texts. It belongs to the category of the international framework agreements (IFAs), as its scope is international and global, and not European only. The negotiation process didn't see the involvement of the EWC and of other national trade unions or representatives. The signatory parties – on the union side – were the three Italian sectoral federations (FILCEA, FEMCA, UILCEM), in the persons of their general secretaries or their substitutes, and the global union federation ICEM.

Main items

Signatories pledged "to agree on the importance of sustaining a model of international growth that combines value accretion and innovation with attention to human rights, working standards, workplace safety, quality of life and sustainable development." Furthermore, the parties agreed "to implement those work practices that can stimulate economic and social progress upholding at the same time the respect of ILO conventions establishing *core labour standards*" (right of association and negotiation; prohibition of forced and child labour; non-discrimination in employment and against labour representatives, improving conditions of safety and health at the workplace. In addition, Eni is committed to uphold, in the full respect of stakeholders, business ethics and to pursue equal opportunities and to promote action and initiatives in the areas of *Corporate Social Responsibility*, with the commitment to optimise and apply the Group's principles: business ethics, respect for stakeholders, protection of workers and equal opportunities, enhancement of professional skills, respect for diversity, respect for human rights, cooperation, protection of health and safety, environmental protection.

"Affirmative actions" are foreseen in the area of information, by publicizing the existence of the agreement and its contents and, importantly, the industrial relations, whose the parties recognize "the importance of developing them at all the levels", taking into account the different socio-economic contexts in which the Group operates. The aim is "to establish a constructive relationship with union organization and workers' representatives, "appointed on a democratic basis and recognised by international trade unions". A meaningful choice, though difficult to be achieved, given the uncertain nature of unions in some of the developing countries where Eni operates.

³ To this end, we can read in that TCA: "The parties, in compliance with their signed commitment to seek adequate procedures for information exchange and periodical consultation with regard to the presence and expansion of Eni throughout the world and to develop a dialogue on the social and economic effects of these operations, have agreed to proceed with the formulation of the present agreement".

The agreement include a paragraph devoted to the implementation procedures, according to which the Group will undertake monitoring activities “by means of its own control instruments”, which include annual meetings, with the involvement of local trade unions or representative designated by trade unions signing the TCA. A complete information will be provided on economic-financial topics regarding the ongoing development of Eni at world level, current performances and future prospects

With a clause of safeguard, it’s written that the agreement does not replace or represent an obstacle to local practices.

It’s not foreseen a proper dispute resolution settlement, in the form of last resort internal mediation or arbitration. There’s a final clause, titled “management”, where it’s written that: “The management of the present agreement is the responsibility of the general secretaries of the FILCEA, FEMCA, UILCEM, as well as the general secretariat of the ICEM and the Eni personal department”.

The duration of the agreement was fixed in two years, at the end of which it would have been revised and/or confirmed for a similar period. This was in fact the case: since the first text in 2002, the original TCA was renewed three other times in 2004, 2009 and finally in July 2016. The core intention and main items were confirmed, though amended and expanded, with some slight but meaningful change

The new GFA of 2016⁴

After that last renewal of the 2002, a new TCA was signed in 2009, and then an even longer break occurred before a new one was signed in Barcelona, the 6th July 2016⁵. The text was discussed the day after the annual meeting of the EWC, and at last it was signed – again – just by the Italian sectoral federations and by IndustriALL Global Union, there’s a mention to the organisational power of this international federation, strong of 50 million workers represented in 140 countries employed in the mining, energy and manufacturing sectors. Figures which, on demand of IndustriALL, have been mentioned into the text. Its role in taking part in the negotiation of the new agreement was relevant and not formal at all, as testified by one of the Italian members of the delegation. Represented by the general secretary and his vice, the global union rose precise requests, on issues like the suppliers, interdiction from all anti-union activities, employee/union representatives access to the workplace. Italian unions jointly required and obtained a clause concerning the improvement of the industrial relations system, “aimed at the involvement and social dialogue with the workers’ representatives at global, European and national level”.

The members of the EWC, gathered the day before for the usual annual meeting, attended in large part to the discussion about the new GFA, without signing the text. The employee/union representatives from developing countries – arguably the main target of the GFA – have not been involved into the negotiation process. Their role is recognized, with a rotation, during the annual meeting assuring the information and communication on the application and concrete implementation of the agreement.

The agreement, which shall be valid for three years, covers Eni’s all subsidiaries throughout the world, as required to be clarified by the labour signatory parties.

⁴ http://www.industrialunion.org/sites/default/files/uploads/documents/2016/Ukraine/2016.07.06_gfa_international_ind._relations_and_corp._social_responsibility.pdf

⁵ Such a void was likely due to the changes occurring on the side of the global federation, engaged into the process of transition from ICEM to IndustriALL Global Union.

Compared to the previous texts, the last one is now titled "Global Framework Agreement", whereas unchanged has remained the part referring to the "international relations and corporate social responsibility".

Another striking difference is now represented by a quite long paragraph of introduction, mostly devoted to the international economic and social contexts, with an emphasis on the 2020 agenda for Sustainable Development and the issues of the climate change. According to a pretty common style in the Italian sectoral collective agreements, the parties preliminary declare their common understanding of the phase, clarifying aims and shared values for their reciprocal commitment. In this case, they consist in identifying the core priorities used to define sustainability objectives and common strategies, based on integrity and transparency principles, fight against corruption, respect for human rights and respect for the work, health and safety of people. Importantly, the parties aim to encourage the development of a constant dialogue and involvement of all local stakeholders.

The promotion and implementation of socially responsible behaviour is confirmed to be the key objective of the agreement, better articulated than in the past in terms of the single issues listed, as where it is expressed the aim to contribute to further growth of the parties' know-how and culture, greater protection for workers, equal opportunities, respect for socio-cultural differences.

Through the stratification of four TCAs, the last one looks better designed, with expanding contents and objectives. This is also what we've been said either by the management and unionists interviewed. It is still a text mostly based on principles, values and declaration of intents. The Group is in fact committed to recognizing the so called *Core Labour Standards*, as defined in the United Nation and ILO Conventions, extended now to the protection of the maternity and the professional training in the development of human resources. Yet, Eni confirms its own commitment to prioritizing and promoting a constant search for improvement in workplace safety and health conditions, gender equality and respect of local communities and stakeholders, like trade unions and workers' representatives, considered "relevant parties for the correct development of its business". The environmental protection is now mentioned, whereas it wasn't in the first agreement of 2002

A new attention is now paid to the suppliers and subcontractors, which are required to declare their own acceptance of the principles and international standards of the global compact.

A full paragraph of the agreement is now dedicated to the "Procedures for implementation of the agreement". They're firstly based on the parties commitment to spread knowledge about the agreement, with translating and publishing the text in the local languages and providing information and periodic consultation from the Group, considering the possibility of disseminating the materials illustrated during the annual meeting, which remain the principal venue where to monitor the implementation of the agreement. It's worthy to highlight the Eni's commitment to organizing proper education and training about the GFA.

"Eni – it's written – will intervene to eliminate any anomalous situations". A key role is now attributed to the "Coordinator", who's designated by the labour organizations signing the agreement. This is one of the most meaningful novelty of the 2016 agreement. The Coordinator assume relevant function in order to monitor – from the labour side – the effective respect of the agreement wherever in the world it must be applied. Included the suppliers and subcontractors. He is provided of all the names and addresses of the workers' representatives who will participate at the annual meeting. They will be five and annually rotating, to be added to the Italian national secretaries of the three signatories unions, and other five members of the Select Committee of the EWC.

The list of the matters discussed at the annual meeting is pretty exhaustive, and particularly interesting where it includes the "realizations" by Eni of CRS action and projects, positive actions and transnational training project

and, importantly, “whistleblowing, especially in regard human rights”. The analysis will concern also the evaluation of the industrial relations of Eni in the different countries and areas where it operates, highlighting any critical situations.

In the final provisions, a clause of safeguard is confirmed, where it is said that “the agreement does not supersede and does not obstruct local practices”

There’s not yet a dispute resolution mechanism, but it’s agreed by the parties the intention of studying options at regard. IndustryALL had explicitly requested the creation of a neutral body for discussing and solving disputes, but the corporate rejected the proposal, opting for monitoring and giving some prerogatives to the Coordinator. For the time being, “the parties recognise the principle that emerging problems between workers and the company have to be settled at the level closest to the workplace”. Yet, “In the event of situations that diverge from or violate what has been agreed, the Parties shall promptly notify each other. Once the facts have been ascertained, Eni will intervene to eliminate any anomalous situation and notify the Labour Organizations and the Coordinator”.

In terms of concrete implementation, we’ve to bear in mind that Eni is a MNC which often operates in very critical regions, some of which hardly touched by conflicts and wars, with very weak civil societies and internal clashes among different ethnical and religious communities. Where human rights are, in general, poorly guaranteed. Sufficient here to mention countries like Congo, Myanmar, Saudi Arabia, Libya, Nigeria, Egypt. Where the public authorities and administrations are scarcely developed and afflicted by a widespread corruption. Social dialogue and collective bargaining are very weak and entirely at company level, as weak are the trade union and workers representatives. Most of these countries have not ratified the ILO Conventions quoted into the Eni’s GFA, with a group of countries where trade unions are basically forbidden, as in the Gulf countries.

In a such challenging context, plenty of insidious traps for the safety of the company’s workforce and sites, the central management of the Groups has opted for a strategy aiming at improving autonomously the internal social climate, enhancing the corporate reputation and reciprocate trust at workplace level.

Monitoring and implementation in the he social partners comments

Since 2002, the initiative and the writing of the first draft came from the management, with the unions – according to what we’ve been said – finding no particular problems in adopting and signing them. This was the case even with the agreement subscribed in Barcelona, the 6 July 2016.

According to the signatory unions, there’s some evolution from the first text to the last. The agreement of 2002 was pretty essential and vague on some points, whereas the latest bring some remedies, with the institution of a Coordinator and the project of establishing a proper dispute resolution mechanism. Such an evaluation is common to the management, which has confirmed its appreciation for the various steps forwards done; in the parts concerning the extension of objective and with introducing the role of the Coordinator.

Strong of a robust and long lasting tradition of cooperative industrial relations, rooted on shared rules on collective bargaining and participatory rights, the central management and the Italian sectoral trade unions have decided to expand – as much as possible – that spirit to the rest of the corporate, wherever it is located in the world. In doing so, they’ve established a privileged channel of communication with their interlocutors at the level of central management. Though well functioning on its institutional prerogatives, the EWC hasn’t played a relevant role in

the negotiating the TCAs, due to the global scope and aims of the agreement, and not exclusively European, as very limited was the role of other national unions too.

Once signed and revised, the attention of the signatory unions has been quite erratic. The texts have been effectively translated in the many different languages of the countries where the corporate is present. The monitoring on the real impact of these texts all around the world has remained limited to the listening of the corporate reports, in the occasion of the annual meetings.

In between an annual meeting and the next, there wasn't a specific and jointly established moment or venue for monitoring the current situation and the effective implementation of the GFA. Things might improve now, after that a Coordinator with a specific mandate has been created at regard. The EWC appears totally external to the GFA management.

The horizontal relationships between the Italian unions and those of the most sensitive countries, we have been said, are at the moment not really structured, though the global federation tries to keep under control at least the most critical and clamorous situations at local level. According to the Italian trade unionist we interviewed, better contacts at the moment are established with the unions of Eastern Europe, Belorussia, Kazakhstan.

With rotation, representatives from different countries have been attending the annual meetings. They came from Egypt, Algeria, Nigeria, European and Latin America trade unions. Their concrete selection do not respond to any specific criteria. They normally report about the situation in their countries. The annual meeting, usually held the day after the EWC meetings, but with a different workers representation on the labour side, are normally dedicated to the corporate's situation and perspective, with the presentation of an Annual Sustainability Report (see annex). The best outcomes are reported in the field of education on the culture of integrity and environment, work life balance, equal treatment, but in particular on maternity leaves (international standards of 14 weeks and 2/3 or the full pay) and prevention on work health and safety.

A system of development and management for improving sustainability has been applied in 2014 in a few pilot countries: Mozambique, Congo, Kazakhstan, Pakistan, Angola, extended in 2015 in Nigeria, Egypt, Gabon, Ghana, Ecuador, Libya, Indonesia, Myanmar. Up to now, critical situation and eventually violations of the GFAs seem to have regarded just a limited number of individual cases. Individual cases and some wage claims, especially in Latin America, were risen by local unions and discussed some years ago, and now in Tunisia, where the GFA has played a role in giving local actors some points of reference. The situation in supplying firms is often matter of discussion. Their solution has always been searched at the local level, as foreseen by the agreement. Other discussions have concerned individual cases in Algeria, Egypt, Mozambique, whereas the dramatic crisis in Nigeria and above all in Libya have risen other priorities. As the safety of the sites and staff working there. But there's also an admission that in the last ten years, the attention for the others' problems has declined, partly because of the chaotic picture of some the countries – in the Middle-East and Africa – but also for the increasing difficulties at the domestic level, where several plants have been risking the closure.

For the central management, texts like these give local responsible for HRM common standards and criteria in all the worldwide sites of the Group. As we've been said by a manager: "The future of collective bargaining will be more and more international". TCAs have the merit to contribute in building up a corporate culture of industrial relations, which have to preserve their autonomy and volunteer character, free from any possible legal interference and/or interventionism.

TCAs are considered important also by all the Italian trade unions, according to which they must be widespread and consolidated, where existing already. They help in becoming politically aware of the new global dimension of the challenges whole unions have to be capable to cope with. Nevertheless, they've also the limit to be essentially programmatic or, as they've been called by one trade unionist, "psyco-programmatic". "There's a lot to be done yet", he carried on. They establish an important set of values and objective, but the ways to make them real and effective are basically left to the good will of the local management, hoping that local unions are strong enough to claim for their respect.







Enforceability is the "Achill's heal" of these new practices of international industrial relations. Especially when they involve emerging countries, where the social partners and dialogue are weakly developed. Which is in fact one of the purposes of these agreements.

Apparently there's not much unions can do from remote, from the "central" countries where they're signed and already largely respected. The agreements do not contemplate the access to primes from a delegation of labour representatives.

In the absence of effective tools for sanctioning eventual violations, like strikes and/or cases law, it could be more effective – we were said by a unionist – a political action in terms of pubic campaigns.

Italian unions recognize a certain "italo-centric" perspective and also to have not adequately followed real impact and implementation of these agreements. One of the explanation, as already said, is the increasing concern for the domestic affairs. But also the fact that – unlike other comparable situations – the national unions and workforces do not feel threatened by the off-shore delocalization and social dumping from the oversea workforce. For the typical features of the productive process, the corporate extraction activities all over the world do not concur with the Italian site and employment. A lack of direct competition which could reduce the push for reducing the gap with the worldwide spread workforce.

Obiettivi e risultati di sostenibilità

Temi rilevanti	Impegni	Progressi al 2015	Obiettivi di Piano 16/19
 Integrità nella gestione del business Anticorruzione, Diritti umani e Trasparenza	→ Diffusione della cultura dell'Integrità	Formati 5.000 manager in modalità webinar attraverso il progetto "Responsible Leadership"	Estensione a una popolazione più ampia del "Responsible Leadership" e progettazione di nuove attività di aggiornamento sul tema "Integrity"
	→ Audit SA8000 sui fornitori	Audit SA8000 su 16 fornitori/subfornitori di cui 8 in Vietnam, Algeria, Ghana, Ecuador e 8 follow-up in Indonesia, Mozambico, Angola, Pakistan	Piano di audit da svolgere sulla supply chain che consideri il rischio di violazione dei diritti umani a livello Paese come elemento di prioritizzazione degli interventi da svolgere
	→ Trasparenza dei pagamenti ai Governi	Pubblicazione dei pagamenti ai Governi di 28 Paesi che ne hanno dato il consenso (si veda Eni for Transparency)	Implementazione del nuovo regime di reporting obbligatorio e creazione di una community di supporto alle consociate su EITI e sui temi di trasparenza
 Sicurezza delle persone e asset integrity	→ Riduzione degli infortuni di dipendenti e contrattisti	Riduzione degli indici infortunistici per l'11° anno consecutivo (TRIR 0,40 nel 2015 vs 0,62 del 2014)	Continuare il trend di miglioramento tendendo a zero infortuni
 Pari opportunità per tutte le persone	→ Sviluppo e formazione persone locali estero	Progetto Eni Junior Professor (JP), iniziato nel 2014, per formazione di futuri docenti in Oil & Gas engineering presso l'Università di Maputo (Mozambico)	Intensificazione delle collaborazioni con le università in alcuni Paesi (Angola, Ghana) al fine di allineare i loro corsi di studio alle esigenze di local content
	→ Aumento della presenza di donne	26,86% percentuale di donne sulle nuove assunzioni	Incremento del 10% degli ingressi di personale femminile in Italia nel biennio 2016-17
 Contrasto al cambiamento climatico Riduzione degli impatti ambientali	→ Riduzione dei volumi idrocarburi inviati a flaring di processo (MSCM)	4,28 milioni di metri cubi/giorno	-25% al 2019
	→ Riduzione delle emissioni GHG upstream	0,18 tonnellate CO ₂ eq/tep	-43% al 2025
	→ Incremento della percentuale di acqua di produzione reiniettata	56%	64% al 2019
 Sviluppo locale/ Local content	→ Accesso all'energia	Concluso il Progetto integrato Hinda, realizzati studi per l'elettrificazione di due centri sanitari in Angola	Prosecuzione dell'integrazione del tema di accesso all'energia, tenendo conto dei diversi mix energetici, nei progetti di sviluppo nei Paesi
 Innovazione tecnologica	→ Impiego dell'energia solare e stoccaggio energetico in zone scarsamente rifornite	Sviluppo di tecnologie innovative sul solare a concentrazione (CSP), bio-olio avanzato e stoccaggio energetico anche con il MIT e Politecnico di Milano	Realizzazione di impianti pilota e dimostrativi delle soluzioni tecnologiche innovative sviluppate
	→ Sviluppo di tecnologie di monitoraggio, protezione e bonifica ambientale	Sviluppo e test in campo di metodologie e protocolli innovativi	Ingegnerizzazione delle tecnologie più promettenti e utilizzo in campo
	→ Riconversione siti industriali a bioraffinerie	Prodotti 180 kton di biocarburanti nella bioraffineria di Venezia	Riconversione della Raffineria di Gela e avvio di produzione di biocarburanti di seconda generazione

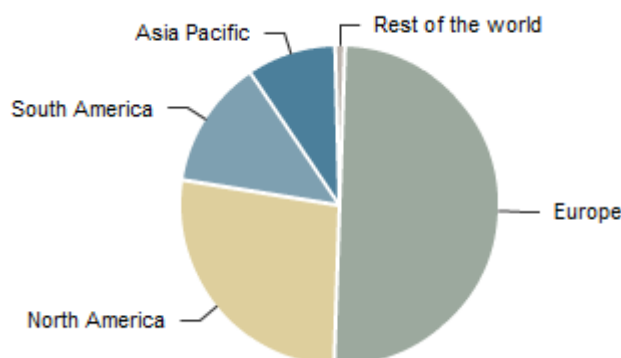
Case Study Electrolux¹

Salvo Leonardi, Fondazione Di Vittorio

Name of the company: Electrolux Spa

Headquarter country: Svezia

Geographical perimeter of the multinational company: In 2016, the average number of employees decreased to 55,400 (58,265), of whom 2,076 (2,027) were in Sweden. At year-end, the total number of employees was 53,889 (55,245).



Company profile

Electrolux is a Swedish multinational corporation² and a global leader in household appliances and appliances for professional use. Electrolux has absorbed several companies over time. In some cases they continuous production under the brand name of the companies it has acquired. Under esteemed brands – Including Electrolux, AEG, Zanussi, Frigidaire and Electrolux Grand Cuisine – the Group sells more than 60 million products to customers in more than 150 countries every year.

Today, Electrolux is one of the top five worldwide producers³. With its brands holds 25% of the world market of home appliances. Roughly 50% of sales are in the Americas, 35% in Europe (a shift from 50% five years ago) and 15% in other markets. Growth markets now represent 30% of the business and the goal is to increase this share significantly moving forward. In 2015, Electrolux had about 58,000 employees. In Europe it has 22 manufacturing facilities.

In Italy – where it took over post-war iconic brands, such as Zanussi and Zoppas⁴ - Electrolux has still its last great bastion in western Europe, with a workforce of 5,650 (2014)⁵, distributed in five differently specialized plants: Porcia-Pordenone (1,400 employees), Susegana-Treviso (1,214), Solaro-Milano (963), Forlì (968) and Valledoncello-Pordenone (888). Each one is specialized in the production of a specific domestic appliance: washing

¹ <http://www.euro-br.eu/fileadmin/downloads/agreements/electrolux-en.pdf>

² Founded in 1910 in Stockholm as Elektromekaniska AB, changed the name to Elektrolux when he joined the Lux in 1919, to finally become “Electrolux” in 1957.

³ Leading companies of this industry include the Chinese Haier Electronics Group, the U.S.-based Whirlpool, the German Bosch and Siemens Group, the Swedish company Electrolux, and the South Korean multinational giant LG Electronics.

⁴ Until not long ago, the white goods sector employed 120,000 people, mainly concentrated in Whirlpool and Electrolux as well as in two other internationally renowned Italian companies, Candy and Indesit. In the mid-80s Zanussi, before it was taken over by the Swedes, employed a staff of 31,000.

⁵ In 2004 the Group employed a staff of 11,000. Headcount decline occurred gradually, year by year, as workers were granted exit incentives. These, averaging between € 30-40,000 gross, were mostly accepted by immigrants, who formed a significant segment of the workforce in Italy.

machines, refrigerators, dishwashers, ovens, professional kitchens. The plants have generated a significant range of related industries. According to some estimates, for every worker employed directly by Electrolux, there is at least another who works in the factories that operate for Electrolux.

Competition in the domestic appliances sector has been extremely tough over the past years, as players have leveraged labour cost differentials for products that have, on an average, little added value. This approach has triggered a rapid process of international delocalization as the surviving big western players – Americans, German and Swedish – have steadily moved their low-cost manufacturing in central-eastern European countries, where internal demand is higher and where – more significantly – labour costs are lower. The Electrolux production is gradually moving east, especially to Poland, where the Swedish corporate employs some 3,500 people. In 2014, facing staff reductions and cuts in salaries, despite the increase in revenue from 2001 to 2012 was 2 billion euro and assumptions in the world increased by 6,000 units. Output in the Group's Italian plants has halved, down to 1 million pieces in 2014 from 2 million in 2005. Italy's share of the European market is 13%, down from 24% in 2008. The sharp fall was principally due to declining internal demand (-25% from 2008 to the present) and to tougher competition from countries where labour costs are sensibly lower, namely Poland and Hungary but also Turkey and Korea.

Rate of employee turnover

	2014	2013	2012	2011	2010
Total employees - Male ¹⁾	28,258	33,195	41,053	26,283	27,997
Total employees - Female ¹⁾	15,258	16,800	18,425	15,042	15,404
Employee turnover - All employees (%) ¹⁾	27%	14%	12%	20%	16%
Employee turnover - Male (%) ¹⁾	27%	16%	12%	23%	18%
Employee turnover - Female (%) ¹⁾	27%	12%	12%	15%	12%

Electrolux has various human resource-related policies in addition to Codes and standards. They include the Appointment of Senior Managers Policy, the Recruitment and Internal Transfer Policy, and the Grandparent principle—all designed to ensure fair and transparent hiring practices—as well as the Compensation Policy and Pension and Other Benefits Policy, defining a consistent approach to remuneration. The corporate is externally regulated by the Swedish Companies Act and code of Corporate Governance, whereas the major internal regulations include the Board of Directors' working procedure, the policies for information, finance, credit, accounting manual, etc., the processes for internal control and risk management and, last but not least, the Electrolux Code of Ethics, Policy on Corruption and Bribery and Workplace Code of Conduct

For what concerns collective bargaining, the coverage in the Group's plants all over the world is in average pretty high, esteemed around 63%, according to the Group's data covering 53 production facilities, 24 warehouses, and 30 offices corresponding to 43,516, employees covered.

As regulated by Swedish law, labor relations starts at the top. The Board of Directors comprises non-executive members, the President and three employee representatives together with their three deputies. Working within the guidelines of the global Industrial Relations Strategy, Labor relations are primarily managed at the national and local-site levels in accordance with the CoC and Workplace Standard.

Code of Ethics and International Framework Agreement

The Electrolux approach to labor practices is to enhance a sustainable approach starts at home, with safe workplaces, mutual respect and common values. For achievements and objectives regarding labor practices, refer to the performance reviews of People and operations (Ethical Business), performance reviews of Stakeholders and society (Responsible sourcing) and to Community for insights into shifting production to low-cost regions. Electrolux aligns its management of labor and human rights with the Foundation through Group codes and policies, both internally and along the supply chain.

Electrolux vision is to be “the best appliance company in the world as measured by our customers, employees and shareholders”. Yet, “to create customer value by developing innovative products at an increasing pace across the globe” (Electrolux Annual Report 2015).

Ethics at Electrolux is an ethics program comprising training and a whistle-blower facility – The Ethics Helpline. Educational materials use scenarios to explore ethical dilemmas employees may encounter in their work. The program is a cross-functional initiative, led by Sustainability Affairs together with Human Resources, Group Legal and the internal audit function Management Assurance and Special Assignments (MASA). The purpose is a program that encourages all employees in the company to contribute to developing smart, resource-efficient solutions, and creating value beyond market and financial objectives. It has also been a means to support integration of the sustainability strategy. In 2014, approximately 4,200 employees have been engaged in purpose workshops held across the company.

For what concerns the labor issues, the Swedish corporate has a long tradition of providing safe and healthy working conditions, and to care for the environment as well as employees and local stakeholders. An important fundament for this approach is the Electrolux Workplace Code of Conduct, adopted in 2002 and updated in 2014⁶. A new global Industrial Relations Strategy was developed in 2013 and introduced in 2014. Dialogue with international unions such as IndustriAll and IF Metall, learnings from experiences in emerging markets and engagement with investors informed the strategy process.

The Electrolux Code of Ethics and the Code of Conduct (CoC), supported by the Workplace Standard. The Standard outlines mandatory practice to ensure CoC compliance. All sustainability-related policies and procedures affirm the Group’s endorsement of the UN Global Compact principles on human rights, labor, the environment, anti-corruption and the respect and support of labor rights as set out by the ILO Declaration on Fundamental Principles and Rights at Work. The CoC and Workplace Standard apply in equal measure to Electrolux operations and along the supply chain. The revised CoC and Workplace Standard were approved and launched in 2014.

The Electrolux Code of Ethics formalizes the principles by which the Group conducts its relations with employees, shareholders, business partners and other stakeholders. The Electrolux Workplace Code of Conduct, Policy on Countering Corruption and Bribery and Tax Policy fall under the umbrella of the Code of Ethics and are more operational in nature. The Environmental Policy was first launched in 1993. They are all based on fundamental conventions of the International Labour Organization and the OECD Guidelines for Multinational Enterprises. The Code defines minimum acceptable standards for health and safety, environment, labor and human rights – in all countries, wherever we operate. It is based on internationally recognized treaties and agreements, such as the

⁶ The European appliance industry association, CECED, also has a Code of Conduct that aims to promote fair and sustainable standards for working conditions and environmental performance among its company members. Electrolux played an active role in its development and fully endorses the Code.

core conventions of the International Labor Organization, the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights and the UN Global Compact. It covers issues like child labor, forced labor, health and safety, non-discrimination, harassment and abuse, working hours, freedom of association, environmental compliance, corruption and business ethics. The Code of Conduct is applicable to all Electrolux locations and compliance is required of suppliers. The Code is further specified by the Workplace Standard, which contains detailed requirements as well as examples of best practice. To support the education in the Code as well as compliance, Electrolux have education, risk assessment and audit programs in place.

As of 2010, Electrolux has an International Framework Agreement (IFA) in place, signed together by the KFD of the AB Electrolux Board of Directors⁷ with the Swedish trade unions IF Metall, Unionen and the federation formerly known as the International Metalworkers Union (IFM), now IndustriAll): an organization which affiliate approximately 50 million members in 140 countries.

The text is composed by two pages which basically reproduce, in the form of a collective agreements, aims and scope of the former unilateral code of conduct. Through this, Electrolux and key unions underline the Group's commitment to maintain the same standards in all the countries where it operates, and specifying core ILO conventions. The company intends, in the first lines, credit as "a responsible employer and a good corporate citizen, with products and solutions that contribute to improving people's lives around the world (..) with respect and consideration for human rights, human safety and health and for the environment". This must be valid in the manufacture, distribution and sale of the products.

The agreement is based on universal standards of business practice, including those of the ILO, OECD Guidelines for Multinational Enterprises and the Electrolux Workplace code of Conduct. The compliance of whom, it's written: "is responsibility of all employees and management". The IFA of Electrolux is expressively a summary of its previous Code of Conduct, which is now said to be "applicable to all locations and units within the whole Group and – importantly – the compliance is required to all the suppliers and subcontractors. This implies that all Electrolux Group units, suppliers and subcontractors "shall operate in full compliance with relevant law and regulations".

Child labor and forced (or involuntary) labor are not tolerated in any form, with explicit references to the ILO Conventions No. 138, 182 and 105). Beside, Electrolux "doesn't accept discrimination", in the sense that "all employees shall be treated strictly according to his or her ability and qualifications in any employment decisions". Here the reference goes to the ILO Convention No. 100). Also the freedom of association and right to collective bargaining are recognized on the basis of the ILO Conventions No. 87 and 98). All employees are free to exercise their legal rights to form, join or refrain from joining organizations representing their interests as employees. No intimidation or harassment, in such a field, will be admitted, while the employer has to respect the employees' right to collectively bargain.

All forms of harassment and abuse are prohibited and earned wages "shall not be deducted as a fine or penalty under any disciplinary practice unless regulated under a collective bargaining agreement or recognized under laws".

⁷ The Board of Directors consists of nine members, without deputies, who are elected at the Annual General Meeting for a period of one year. Three members with deputies are appointed by the Swedish employee organizations, in accordance with Swedish labor laws. KFD is the employee representatives on the Board of the Electrolux Group

Environmental issues are emphasized as “a core concern for Electrolux”, through an holistic approach with the objective of minimizing the environmental impact from production, product use and disposal. Standards will be resulting from applicable legislation and the Group specific requirements. Health and safety of working conditions, but also of residential facilities will be respected with the applicable law “as a minimum”. The employer should take appropriate action to prevent workplace accidents or illness. A “healthy balance between work and free time”, in terms of working time for all employees, is part of such an attention.

Wages, including overtime and benefits, shall equal or exceed the level of required for all employees.

Monitoring and compliance. To these issues the agreement devotes its last paragraph. First of all it's said that “Management is responsible for implementing and informing employees of their rights, duties and responsibilities under this International Framework Agreement and Electrolux Workplace Code of Conduct”. Secondly, “Implementation and compliance with these provisions will be reported on and discussed once per year with the employee representatives (KFD) of the AB Electrolux Board of directors”. In such a manner, the employees' participation according to the Swedish legislation comes to play a role into the IFA's management. “One representative each from LO and PTK will participate in the committee monitoring compliance of this IFA and Code of Conduct”, Therefore, a “committee monitoring compliance” is foreseen. “The parties are always entitled to initiate discussions and reports on incidents occurred. For this purpose, both parties can involve external expertise, should this so be required”.

The agreement has an indefinite duration, but in case of “substantial changes” in the Code of Conduct, the KFD representatives “have the right to initiate negotiations regarding the agreement”.

In addition to the IFA, the parties made a separate agreement which commits the company to not organize or finance company or 'yellow' unions, to not implement or support any union busting activities and to not adopt any initiatives capable of discouraging workers from forming authentic unions.

Implementation

The IFA at Electrolux has not foreseen a dispute settlement and sanction system. In his stead, the agreement is characterized by a monitoring system. The management, which is responsible for the implementation and dissemination of the contents of the text, is committed to maintaining adequate documentation who can prove, if necessary, the compliance of its conduct, as well as that of its suppliers and contractors, to the regulatory framework provided IFA”. And she goes on: “In addition, as a condition for the establishment of relations contract with the group, the agreement provides that the company authorize suppliers to accept audits, including confidential interviews with workers, by representatives of Electrolux appointed by the head of the company.

As of 2010, Electrolux has an International Framework Agreement (IFA)] in place, Electrolux and key unions underline the Group's commitment to maintain the same standards in all the countries where it operates, and specifying core ILO conventions.

Potentially, Electrolux has a number of ways of ensuring that the Code of Conduct is fulfilled within its operations and along the value chain and these are described in Auditing and monitoring. As each unit's line management has particular responsibility for active implementation of the CoC and Workplace Standard, they play a crucial role in implementation. This includes communicating CoC requirements within their unit on a regular basis through training and annually assessing the unit's CoC performance. Responsibility also includes ensuring that practices

and processes align with the CoC. Suppliers are required to uphold the same standards, and are audited, based on risk of non-compliance, as described in the Human rights management approach section of this report.

In fulfillment of agreements, CoC compliance is reviewed and discussed with employee representatives on an ad hoc and annual basis. Dialog covers outcomes of the CoC assessments and internal audits, an overview of cases reported through the Ethics Helpline and general improvement areas.

Swedish Board union representatives visit select regions within the Electrolux sphere on a needs basis to educate local union representatives and share best practice on union work.

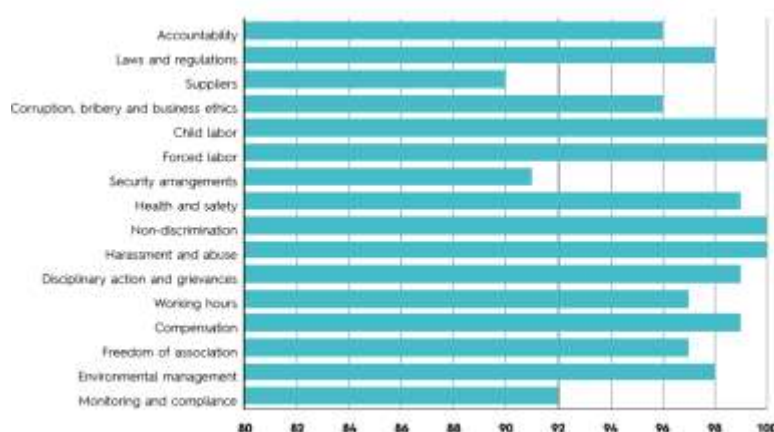
The annual ALFA (Awareness-Learning-Feedback-Assessment) and CoC audit program and their follow-up processes are described in Auditing and monitoring. They ensure management attention to the CoC and Workplace standard, and help identify improvement areas. The ALFA assessment gives a broad overview while the internal CoC audit program is designed to achieve a deeper understanding of CoC compliance. As outlined in Auditing and monitoring, the selection of facilities for auditing is based on factors such as the human rights risk level of the country, historic audit performance of the unit, Helpline calls, customer requests and the nature of activities. In 2014, 12 (22) of 24 (27) facilities in high-risk countries were audited. Aggregated audit outcomes indicate an improvement and the number of findings per audit decreased from ten in 2013 to five in 2014.

Additionally, the global ISO certification program for environment and quality encompasses annual audits of all manufacturing facilities, with recertification audits every third year. For selected sites, the audits also cover OHSAS for health and safety.

The results from the 2014 ALFA assessment indicate that there are opportunities to improve Code of Conduct compliance in the areas of supplier management, security arrangements and monitoring.

The ALFA 2014 assessment was updated to include the new requirements in the revised Code of Conduct and Workplace Standard. Strengthened and clarified requirements have led to reduced alignment with the Code in the areas of 'Supplier' and 'Freedom of association'. Alignment with the new CoC section 'Security arrangements' also indicates room for improvement. Additionally, 'Monitoring and compliance' continues to be one of the weaker areas, as a few sites report that they lack efficient processes in place to assess CoC compliance annually. The ALFA will be used to monitor progress on implementing the new CoC and Standard in the next few years. Electrolux conducted 12 (22) internal Code of Conduct audits.

Internal Code of Conduct Audit findings



In those regions where worker associations are not possible or not yet fully developed due to national praxis, each unit and supplier is expected to find appropriate and legal mechanisms through which workers can effectively express workplace concerns to management. Records are to be kept from these formalized consultations and made available upon request.

Within Major Appliances, each manufacturing facility develops a one to three year safety action plan based on minimum global standards. Each month, the management team at each facility meets with employees to review safety and environmental incidents and develop prevention actions. They identify both risks on site and mitigation plans. The Major Appliances global safety team is responsible for the development and implementation of the health and safety recording system. It collects safety statistics monthly and incident reports daily for every manufacturing facility on a monthly basis, thereby identifying commonalities between production groups, regions and by product line. Another focus is on setting minimum standards for high-risk tasks across the business.

The group-wide accident rate was reduced by 10% (10%) this year, taking the company a few steps closer to realizing its vision of accident-free facilities. This data encompasses all Group factories, warehouses and newly acquired operations. The Group's work with OHS primarily focuses on the safety of workers in production and secondly to raise awareness on health and wellbeing of office workers.

All employees in production are covered by a system for monitoring incidents and worked hours. Employees in Major Appliances are covered by the OHS Safety Management System assessment process, as described in Auditing and monitoring. Major Appliances has a goal to operate 25% of its plants at OHS best practice levels (TCIR of less than 0.25) by 2015. Three of four Small Appliance factories use the same reporting system as Major Appliances.

In of 2014, the group-wide Employee Engagement Survey (EES) measured safety awareness levels among all factory workers. Survey outcomes indicate a high degree of safety awareness among employees. Improvement areas include more active 'leadership by example' from managers and Health and Safety training.

Oversight of training programs is provided by Human Resources. Responsibility for CoC training and, awareness rests with local line management. Performance is followed up through the CoC audit program. In 2014, training on the revised Code of Conduct and the Industrial Relations Strategy was rolled out to all Sector Leadership teams apart from North America where it will be carried out early in 2015. Training is [tailored to a variety of audiences](#), targeting in particular line managers at unit level in plants and purchasing managers world-wide.

The case of Thailand

The IFA stipulates that all Electrolux employees are free to exercise their legal rights to form, join or refrain from joining organizations representing their interests as employees. In addition, Electrolux insists that all operations and those of its suppliers respect employees' right to collective bargaining. The revised CoC and Workplace Standard are further aligned with OECD Guidelines for Multinational Enterprises and ILO core conventions in these regards. Freedom of association provisions include parallel means, which are to be put in place in countries where the right to freedom of association and collective bargaining is restricted. Every unit must have mechanisms in place to ensure that workers can express their concerns to management and that records are kept from formalized consultations.

In spite of all these provisions, we're aware of a case at least, where they were not respected or even openly violated. In 2013, in Thailand. In 2010, as a concrete example of the willingness to act in a spirit of international

solidarity, Swedish IF Metall had got engaged in organizing workers in the Electrolux plants in Rayong, in Thailand, which produces washing machines and dryers. These plants employ about 700 workers and 60 per cent are male workers. The mission members met the top management of two Electrolux companies and conveyed their desire to organize these plants under TEAM. They also met several members of the company's welfare committee, and briefed them on their rights to form a union to represent workers interest. The workers representatives were receptive to the idea of forming union in these companies. Ulf Carlsson, President of the unions for Electrolux in Sweden, explained that in his country the Group is highly unionized and the relationship between management and his union is positive. He stressed that in Thailand too this could be the situation if the workers could form a union to protect themselves. Carlsson said it is the desire of his union "to ensure that all the Electrolux plants around the world be unionized and in this regard IF Metall will work with the IMF to make representation to management of companies and also engage the workers wherever possible". Erik Andersson stressed that, "IF Metall being part of the IMF family would actively engage in the question of organising Swedish companies around the world and this is definitely going to be a big challenge for IF Metall." The local management of the Electrolux plant was open to the idea of their workers forming a union and this is certainly an encouraging development. TEAM President, Chalee Loysong expressed his willingness to assist the workers to join TEAM. He hoped other unions in the developed world would emulate this good example of the Swedish union.

To contact the Swedish employee representative within the Group's Board of Director – in charge of monitoring the full respect of the IFA – was not possible. But on our request, some Swedish unionist gave us some useful information, like the important and regrettable episode of anti-union action occurred in Thailand on 11th January 2013. It was immediately denounced to the President and CEO of AB Electrolux, Keith McLoughlin, either by the Swedish unions and IndustriAll Global Union, whose General Secretary (Jyrki Raina), in January 2013, sent a letter of protest and request of explanations. In the Group's Thai factory of Rayong, more than 100 local workers and union members had suffered a lock-in, including a pregnant woman in her sixth month, forced detention for eight hours, and the mass dismissal of 127 workers, including union members and the workers' representatives. The aim of all that was to eliminate collective bargaining demands from the workers, including bonus payment, wage increase, and changing the status of agency workers to permanent workers after 6 months of services. After the lock-in, the management dismissed workers, mainly targeting the union members. The dismissed workers have been fighting against the management's unjust union busting tactics and they submitted their grievances to the Parliament's Labor Commission.

For the international and for the Swedish unions such a fact constitutes a crystal clear union-busting attempt to force upon workers an unfair collective bargaining process. "These actions – in the words of the IndustriAll Global Union – are in clear violation of the International Framework Agreement, which ensures workers' basic rights". Therefore, the request was to immediately reinstate the dismissed workers and union members and return to the collective bargaining table to achieve a fair and just resolution of this conflict as well as create a constructive relationship between labour and management.

Comments and remarks

The Electrolux IFA was basically negotiated by the Swedish unions, though signed also by the global sectoral federation. The same thing can be said about the monitoring process, a matter for the Board of Directors, so that one could say that the Electrolux IFA has been for a large part an internal, domestic affair at level of the Swedish industrial relations between the national social partners. The exclusion of all the other national employees representations and unions provoked, since the beginning, a broad discontent. Some national organizations, in

particular, individually or represented within the EWC and European sectoral federations, manifested their discontent to their Swedish colleagues about the way they had managed the negotiating process. The critics concerned to have eluded any possible involvement from other countries' representation, with ignoring certain guidance adopted by the sectoral international federations, either at the European and Global level. As we've been said by a national responsible of the international office, the Italian metal unions were very upset at regard, as their country – hosting the highest number of plants and workforce on the continent – was kept at the obscure by the negotiation which was going on. The Italian coordinator of the Electrolux EWC, at that time, protested officially with the Swedish unions for the way the agreement had been reached. Also the global union (FISM), which co-signed the IFA only at a second stage, was pretty unsatisfied, due to the fact that the negotiating process had not followed the guidelines for transnational bargaining, adopted a few years before by the federation. Some national unions, completely excluded by the process, asked for not including the Electrolux agreement from the official list of the recognized IFAs. The answer of the Swedish union was that the signatory delegation was including Stefan Löfven, the current Prime Minister, that at the time was also sitting on the board of the FISM. Things improved gradually. Especially after the subscription of the separate agreement about "yellow unions".

Speaking on behalf of IF Metall, Erik Andersson said that the union was particularly pleased with the separate agreement as an important complement to the IFA. He said, "with this IFA and the separate agreement, we will strengthen trade union organization at all Electrolux plants throughout the world. Now, with IMF assistance, we will proceed to build union networks.

According to an Italian expert who has commented the Electrolux' IFA, Paolo Tommasetti: "The IFA Electrolux is qualified by at least three key components: a) the reminder of the basic standards of the ILO work; b) the requirement of the standards' compliance by all units, sub-contracting and suppliers; c) the involvement of the national trade unions in the implementation and monitoring mechanisms. Furthermore, it represents an element of innovation where it explicitly ban any tolerance of yellow unions, absent in such an explicit way, in other transnational company agreements.

As we have seen, all units within the Electrolux Group, as well as subcontractors and suppliers, are called to act in full compliance with the laws and regulations in the countries in which they operate. The text refers more than once to the local legislation to take her as a basic threshold, that the agreement does not intend to reduce some but possibly raise, according to a typical pattern of non-regression clause.

An element of innovation that characterizes Electrolux paper, compared to similar initiatives undertaken by other transnational groups, is the introduction of an IT platform developed to disseminate the content, collect best practices and monitor the implementation of the code.

The agreement provides that, in case of not compliance, workers are encouraged and expected to report this to local internal officials, pointing out that this will not result in retaliation or other adverse consequences. Still, the company is committed to documenting and discussing the implementation and enforcement of the provisions of the text once a year with representatives of the employees within the Board of Directors.

Case Study Renault¹

Udo Rehfeldt, IRES

Name of the company: Renault S.A.S.

Industry sector: automotive

Headquarter country: France

No. of employees and countries involved: Total employment world-wide: 120.136 (2015). Main countries with production sites in Europe: France (45.597), Romania (16.732), Spain (13.052), Slovenia (2.230), Portugal (1.465), Main countries with production sites outside Europe: Morocco (8.047), Turkey (6.248), Brazil (5.170), South Korea (4.340), Russia (3.264), Argentina (2.624),

The company

Renault is the second French producer, founded in 1898. It was nationalised in 1945 and privatized in the 1990s. The State's part of the shares subsequently fell to 15%, but in 2015, the State bought new shares, in order to prevent the shareholder assembly to vote against the principle that long term shareholders should have a double vote. The French State holds currently 19,7 % of the shares (with a higher proportion of voting rights), followed by Nissan (15%), Deutsche Bank (4,4 %), Daimler (3,1 %). 2,5 % of the shares are owned by the employees.

In 1999, Renault signed a partnership agreement ("Alliance") with Nissan Motors, of which it became the largest shareholder, and whose management it also indirectly performs. In 2002, Nissan and Renault created a joint strategic command centre, Renault-Nissan B.V., set up in the Netherlands, and mutual share ownership. Renault's now owns 43 % of Nissan.

In 1999, Renault bought 51% of the shares in the Romanian Dacia manufacturer, a proportion that has now risen to 99%. In 2008 Renault signed a strategic partnership agreement with the Russian car producer AVTOVAZ of which it now owns 37 %. In 2000 Renault acquired the Korean car manufacturer Samsung Motors. In 2010, Renault enlarged its Alliance to Daimler, leading to a mutual supply of engines and a mutual financial participation.

Renault has 36 production plants worldwide, half of which are abroad. In France, the production sites are concentrated in the North and the East of the country. The main Renault factories are in the Paris area (Cl  on, Flins), in the North (Douai, Maubeuge), the North-West (Sandouville, Le Mans) and the East (Batilly). Outside France, Renault most of the production plants are in Europe, namely in Spain, Portugal, Turkey, Slovenia and Romania. Since the closure of the Vilvoorde plant, the company has had no longer any production site in Belgium.

Outside Europe, there are production plants mainly in Russia, Morocco, Algeria, Argentina, Brazil, Chile, Columbia, India and South Korea. The most recent productive investments outside France are in Tangier (Morocco) in 2010, in Oran (Algeria) in 2012 and in Wuhan (China) in 2016.

Renault and Nissan share manufacturing facilities, namely in India. Some Renault plants produce vehicles for Nissan (Brazil, France, Russia, and South Korea). The Renault plants in Maubeuge and Novo Mesto produce vehicles for Daimler. There is also cross-production of engines, e.g. the Renault plants in Cl  on, Valladolid and Pitesti produce engines for Nissan and Daimler. Renault-Nissan vehicles are produced by AVTOVAZ in Russia.

¹ http://ec.europa.eu/employment_social/empl_portal/transnational_agreements/Renault_ACI_EN.pdf

In 2015, the Renault group produced 2.8 million cars worldwide, under its different brands, half of which were produced in Europe. The Renault group's worldwide staff has fallen from 140.417 worldwide in 2001 to 117.395 in 2014, but has risen again in 2015 to 120.136. The French part is constantly declining, to 38 % (45.579) in 2015. Europe as a whole account for 57 % of world employment.

Industrial relations: the French dimension

After the Second World War, Renault served as an experimental field in industrial relations, with the aim to create a lasting compromise with the Renault hegemonic communist trade union CGT. For this purpose, a series of company and workplace agreements were systematically negotiated since 1955. After the end of the Fordist growth period, Renault has been trying to improve its competitive situation by technological modernization and workforce reduction. This company strategy was enforced against violent trade union action. In 1990, the CGT lost its previous majority in the workplace elections. Its share of the vote fell to 47%. The elections were won by a coalition of four trade unions: CFDT, FO, CFE-CGC and CFTC. In 1989, the management had already concluded a framework agreement with these four trade unions, in order to associate these trade unions to its personnel policy of modernization. It provided for qualification programs for unqualified assembly workers as well as for a more flexible working time. On the basis of this framework agreement, the gradual closure of the technically backward central production site in Billancourt (near Paris), the former "fortress" of the CGT, was settled, by agreements with the four trade unions, through voluntary redundancies, early retirements, qualification measures and transfers into other plants. This made the final closure possible in 1992 after a transitional period of three years, almost without dismissals.

Since 1990, the composition of the Renault workforce in France has undergone a profound change. The blue collar factory workers, which were the basis of the hegemony of the CGT, are no longer the majority. They now account for less than one third of the workforce, whereas more than one third is represented by technicians and another third by professional and managerial staff. As a result, the CFE-CGC, a union of professional and managerial staff, is now the first single union in the workplace elections, and the CGT occupies only the second place, followed by CFDT and FO. Here are the results of the workplace election in the group level during the last decade:

Works committee elections results (as a percentage of votes)

	CFDT	CFE-CGC	CGT	FO
2001-2002	17.0	19.9	37.1	16.3
2006	18.5	26.6	29.0	19.8
2015	20.4	32.0	24.3	12.8

The practice of negotiation of compromise agreements on employment was reactivated after the crisis of 2008. In 2009, the Renault management made commitments to the government and the unions not to close any plants and not to make collective redundancies. In exchange, an "Automotive Pact" was signed between the government and the two French car producers, granting 6.5 billions of EUR of low interest public loans during 5 years. Renault got 3 billions of EUR of these loans. Renault used various instruments to adapt employment to the crisis: partial unemployment, voluntary departures, early retirement and leave for training. In March 2009 an agreement called "social contract for crisis" was signed by Renault and the four union organizations CFDT, CFTC, CFE-CGC and FO (again not by the CGT). It aimed to maintain the workers' net pay during partial unemployment. The partial

unemployment scheme was financed by an improvement of public support, for which a special convention was signed between Renault and the Ministry of Labour. For the production workers, it was financed one third by the company, one third by the state and one third by the solidarity fund. This allowed important cost reductions for the company and helped Renault to recover after 2010.

In 2013, an agreement, called "Contract for Renault's renewed growth and employee development in France", was concluded for three years with the three unions CFE-CGC, CFDT and FO.² It created the conditions for the production of new models in the French factories and new recruitments, and but announced also 7500 job cuts without redundancies, only by "natural departures" (resignations, retirements and early retirements). In exchange for wage moderation and job mobility, it guaranteed that no production site would be closed. In December 2016, the same unions signed a new three-year agreement, which guarantees a certain level of employment and again the safeguard of all French production sites. It also foresees 3.600 new permanent recruitments and the renewal of 6.000 youth employment contracts, in exchange of greater flexibility and productivity. The agreement also contains measures to improve the working conditions via a "zero accident safety policy".

Industrial relations: the transnational dimension

In April 1993, 17 months ahead of the adoption of the EWC Directive, Renault signed a voluntary agreement on the creation of a EWC called "European Group Committee". The agreement was negotiated by a negotiating commission of seven EMF-affiliated unions: the three French unions CFDT, FO, CFTC, the Belgian unions CSC and FGTB, and the Spanish unions CCOO and UGT. The French CFE-CGC, which was not yet affiliated to the EMF at that time, signed in the name of FIEM, the metal federation of the European Confederation of Executives and Managerial Staff (CEC). The CGT, which was not yet affiliated to the EMF either, did not sign this initial agreement. A permanent seven-person select committee (*secretariat*) was set up, consisting of four French and three non-French delegates. According to an internal agreement, it was limited to unions affiliated to the EMF.³

In May 1995, after the failure of the merger with Volvo, a new EWC agreement was signed by five French unions (this time including the CGT), the two Spanish unions and the Belgian CSC (this time not the FGTB). It was identical to the initial agreement, except for the geographical composition. This agreement, based on article 13 of the EWC Directive of 1994, was renegotiated several times, by adding riders to the initial agreement.

After the courts found Renault's management guilty of not having informed or consulted its EWC before announcement of the closure of the Vilvoorde factory, Renault signed a rider to this agreement in March 1998, establishing the right to consultation over any sizeable restructuring plan. This consultation must be "timely", in order that "parts of the debate can still be incorporated into the decision-making process".

On 27 October 2000, another rider to the agreement merged Renault's EWC and its French group committee into a new "Renault Group Committee", which became de facto a world works council, because it opened the EWC to "observers" from subsidiaries outside the EU, from Turkey, Slovenia, Romania, Argentina, Brazil, and later also from South Korea.

In April 2003, a further rider to the EWC agreement contained a commitment of the Renault management to respect the ILO principles of basic labour standards. On 12 October 2004, an IFA called "declaration on basic social rights"

² In application of a 2008 law, the CFTC is no longer considered as a representative union in the Renault, because it has not reached a 10-per-cent threshold in the workplace elections, and is therefore no longer entitled to negotiate and sign company agreements.

³ This was the reason why the CGT, did not sign the initial EWC agreement.

was signed by the Renault CEO, Louis Schweitzer, the Secretary General of the International Metalworkers' Federation (IMF), Marcello Malentacchi, as well as the unions and the select committee of the Renault group committee. The status of this agreement is controversial today. For the present Renault HR management, as well as for the present secretary of the group committee, it was just a "declaration", i.e. a unilateral commitment of the Renault management. For IMF, as well as the presently by IndustriAll Global, it was considered as a genuine IFA. It was published by the Renault as a brochure which contained a photocopy of all the signatures.

In March 2015, for the last time, a rider was added to the initial EWC agreement. It was signed by the initial signatory parties i.e. the trade unions from France, Belgium and Spain, "on behalf of IndustriAll Europe", but also by union members of the select committee from Austria, Romania and Slovenia, as well as the Secretary general of IndustriAll Global, Jyrki Raina. It put the EWC agreement into conformity with the spirit of the revised EWC Directive of 2009 and announced that a new EWC agreement would be negotiated by 2016 with a special negotiating body (SNB), in order to enhance the legitimacy of the committee. For this purpose, a SNB was set up, composed with employee representatives from France, Germany, Austria, Belgium, Denmark, Spain, Italy, the Netherlands, Poland, Portugal, the Czech Republic, Romania, the UK, and Slovenia, and with the participation of representatives both from IndustriAll Europe and IndustriAll Global. This led to an agreement in March 2016, which was signed by the SNB members, by the coordinator of IndustriAll Europe, and by the Secretary General of IndustriAll Global.

The content of the 2016 agreement is basically identical with the rider signed in March 2015. There were only two additions. The mandates of the previous committee members were prolonged until 2019, when they will be renewed for another 4-years period, and a revision procedure was introduced. It gives power to the select committee to decide annually whether it considers an adaptation of the agreement as necessary. This could lead to the adoption of a rider which has to be signed by the European members of the group committee. The agreement can be denounced by both parties. On the employee side a denunciation must be mandated by at least two thirds of the European members of the group committee.

The Renault group committee: at the same time French group committee, EWC and world works council

The Renault group committee fulfils at the same time the legal obligations of information-consultation deriving both from the EWC Directive and from the French legislation on group committees.

Presently, the Renault group committee is composed of 40 members. 31 are from the European Economic Area (EEA), 17 from France, 3 respectively from Spain and Romania, one respectively from Germany, Italy, Portugal, Austria-Switzerland, Belgium-Netherlands-Luxembourg, Poland-Hungary-Slovakia-Czech Republic, UK-Ireland and Slovenia-Croatia. There are also 9 representatives from outside Europe, 2 respectively from Brazil and Morocco, one respectively from Argentina, South Korea, India, Russia, and Turkey. Within the EEA, all Renault subsidiaries with 300 or more employees have the right to be represented, outside Europe only subsidiaries with 6000 or more employees (subsidiaries with 6000 or more employees have the right to a second representative).

In France, there is one seat for each representative trade union at the French group level. They are presently four, CFE-CGC, CGT, FO, and CFDT. The rest of the French seats are distributed in proportion to the results of the 82 French works committee elections in Renault. Presently, the CFE-CGC and the CGT have both 5 seats, FO 2 seats,

and the CFDT one seat. For each full member, an alternate member is also appointed. The seats are chosen by the respective trade union amongst their elected works committee members. The term of office is four years.

In most of the European countries, the committee members are appointed by the unions or by the works councils. In the UK, where there is no production plant, but only a commercial network, the member is appointed by an elected "employee forum". Presently, most of the committee members are unionized, including those from outside Europe, specifically those from Argentina, Brazil, South Korea and Morocco.

The select committee is composed of a secretary and 10 deputy secretaries, elected by the European members of the group committee. Presently, they are five members from France, two from Spain, and one respectively from Austria, Belgium, Slovenia and Romania. The present secretary comes from the CFE-CGC. The select committee meets approximately every month.

Members of the select committee have the right to visit all Renault sites with the prior agreement of the secretary and the group management. There is an annual budget of 135 000 EUR for the operating and travel costs of the select committee.

Every year, the select committee makes a study trip, called "learning session", to a different country, in order to foster the "understanding of the socio-economic and cultural aspects" of the country and the "industrial, commercial and social issues" of the Renault sites in that country. Other members of the group committee can be invited to these sessions. The previous learning sessions have taken place in Morocco, Brazil, Romania and Argentina. The 2017 session will take place in India.

The meetings of the group committee, as well as the select committee are chaired by the CEO or his representative, assisted by four other persons. The group council meets once a year, generally in July, during a whole week for a plenary session, beginning with a one day preparatory meeting on Friday without the management, followed by a three-day bilateral session from Monday to Wednesday. Both committees must be informed in due time of exceptional decisions with transnational consequences. If necessary, extraordinary meetings of the select committee and/or the European members of the group committee must be organised. The group committee can also be assisted by an expert, for whom there is supplementary annual budget of 35 000 EUR is provided.

The meetings take place in French and are translated into each language. Language training for these two languages is provided, together with training on other topics. If the training concerns the group committee as a whole, it takes place at the time of the plenary session.

The secretary has full time off, the ten deputy secretaries have 400 hours time off each, the other full members 15 hours. The secretary can also distribute supplementary time off to individual members of the group committee out of a collective time off budget of 300 hours.

The 2013 IFA on CSR

In July 2013, Renault has signed a "global framework agreement social, societal and environmental responsibility", called "Committing together for sustainable growth and development". The agreement is signed by the Renault group HR director, Marie-Françoise Damesin, the Secretary General of IndustriAll Global, Jyrka Raina, as well as, "on behalf the Renault group committee", by the members of the select committee, its secretary and its 10 deputy secretaries from France, Spain, Italy, Portugal and Romania, who also mention their union affiliations.

This agreement “follows on” from the declaration on fundamental rights of October 2004 “which it enhances and modernizes, to adapt to new social and economic demands”. It renews the commitment to respect the fundamental social rights of the ILO declaration of 1998. It also repeats its commitments to the UN Global compact to which Renault adhered in 2001. It also adheres to the OECD guidelines for multinational enterprises in its version of 27 June 2000, updated in May 2011, as well as to ILO Convention n°158 on collective dismissals.

In addition, the IFA commits the management to “remain strictly neutral” with regard to unionization and the signatories to undertake to respect the choice of each employee on this matter. This is an anticipation of a general condition for the signing of IFAs which IndustriAll has added in 2014.

The paragraph on health and safety refers specifically on the Renault “Health & Safety and Working Environment” policy which is based on the following 9 “general principles to ensure Health & Safety at work”:

- avoid risks,
- evaluate the risks which cannot be avoided,
- combat the risks at source,
- adapt the work to the individual,
- adapt to technical progress,
- replace the dangerous by the non dangerous or the less dangerous,
- develop a coherent overall prevention,
- give collective protective measures priority over individual protective measures,
- give appropriate instructions to the workers.

This paragraph explicitly mentions musculoskeletal disorders, electromagnetic fields, HIV/AIDS and STDs.

The agreement is also more specific in the field of employment and skill. The management commits itself about “work undertaken with regard to job trends and policies”. It guarantees that all the employees can access the “training necessary for them to carry out their job properly and to enhance their professional development throughout their career”. In case of restructuring the company gives priority to redeployment and reclassification, by implementing vocational training activities “wherever necessary”. The company also guarantees that “employees and their families are afforded sufficient protection in the event of death, disability, industrial accident or occupational illness”.

Respect for fundamental rights is a “determining criterion” in the selection of suppliers and subcontractors. Renault commits itself to communicate the agreement to its suppliers and sub-contractors and to “ask them to commit to applying the fundamental social rights”. If necessary, corrective action plans may be set up. Any failure not corrected “may lead to various measures, including the Renault Group terminating its relationship with the company concerned”.

In comparison to the previous agreement, Renault has added actions of societal and environmental responsibility, to which it is already committed elsewhere, namely supporting educational programs, measures helping the integration of young people, promoting road safety and to improve the environmental footprint of its vehicles and their life cycle, including recycling, “particularly through its range of electric cars”. It identifies the sources of greenhouse gases, measures them and “progressively reduces them”.

The implementation and monitoring of the agreement

This agreement is subject to French law. The French version is binding. It is translated into the languages of the various countries in which Renault operates, presently 17, and is made available to all personnel, and “in particular the management”.

Monitoring takes place through dialogue between the group management, the group committee and IndustriAll Global. Each year, at the time of the plenary session of the Renault group committee, the management organises a review meeting with the committee and representatives of IndustriAll Global. According to the agreement, this review meeting is prepared by a commission made up of management representatives, members of the select committee and representatives of IndustriAll Global. This commission is presently composed of all the 11 members of the select committee and two representatives of IndustriAll Global, and takes place during the spring meeting of the select committee.

The members of this monitoring commission, as well as all the group committee members receive annual reports with indicators about the achievements in terms of CSR, health & safety, employment, and diversity, consisting of 60 indicators which were defined jointly. During the preliminary negotiations, the initial number of 150 indicators was reduced to 60 on which the HR group management and the committee members consider to have a real influence. These indicators were inspired by the guidelines of the Global Reporting Initiative (GRI) and ISO 26000. They are certified through external audits by Ernst & Young. This reporting tool is supplemented by annual in situ discussions during the annual study visits undertaken by the select committee.

These indicators are ranged under the five “key areas of action” enumerated in the agreement:

- the respect of fundamental social rights,
- social responsibility to employees,
- responsibility to society in the areas where the Renault Group is located,
- supplier and sub-contractor relationships,
- protection of the planet by reducing our environmental footprint.

They include the following items,

- diffusion of the Renault Ethical Charter,
- number of complaints,
- bargaining coverage, bargaining themes
- workplace elections results,
- number of workplace accidents,
- absenteeism,
- professional illness,
- health & safety measures,
- employment, recruitments, dismissals etc.
- training measures,
- remuneration,
- gender equality,
- handicap,
- seniority,

- number of first-rang subcontractors,
- reference documents for subcontractors,
- audit of subcontractor sites,
- educational initiatives,
- environmental indicators: carbon footprint, energy consumption etc.

According to the agreement, local issues “shall firstly be handled within the context of local social dialogue”. If necessary, a solution is sought at country, region, then at group level. The signatories “endeavour, as a priority, to find a solution by means of dialogue, as opposed to any other action, ensuring at all times the confidentiality of any such discussions”.

Up to now, nearly all of the problems have been resolved at the local level. Very few issues have come to the global level. If they did, the global HR management checked if the problem has been raised at the local level and could always find a negotiated solution at that level. In Morocco, for instance, a complaint concerned the redundancy of union members during the restructuring of a subcontractor. This has been resolved because the subcontractor has now recovered and proceeded to new recruitments. A recent problem concerns the accusation of trade union discrimination in a subsidiary in Turkey, where there is also a rivalry between two unions, one of which is affiliated to IndustriAll. Negotiations, which have taken place between IndustriAll and the global and local Renault management, could not resolve this problem, which is still pending in March 2017.

Conclusion

Besides the above mentioned conflict, the appraisal by IndustriAll Global of the 2013 IFA is globally positive. The Renault IFA is even considered as one of the best IFAs signed in the automobile sector. The problematic countries are the same with all car producers, namely Turkey and the South of the USA. These problems are generally linked to the local weakness of trade unions, which cannot be resolved only through the application of an IFA. What counts for the global union federation is not only the quality of the agreement, but most of all the quality of the relationship with the group management and its commitment to the agreement. In the case of Renault, the experience has been very good in the past.

Case Study Solvay¹

Udo Rehfeldt, IRES

Name of the company: Solvay S.A.

Industry sector: chemicals

Headquarter country: Belgium

Geographical perimeter: Total employment world-wide: 30.597 (2016). 4 geographical areas: Europe: 14.371 (47 %), North America: 6.644 (22 %), Asia-Pacific: 5.603 (18 %), Latin America: 3.549 (12 %). Main countries in Europe: France 5.302, Germany 2.583, Italy 2.101, Belgium 1.084. Main countries outside Europe: USA 6.144, China 2.904, Brazil 2.827.

Company profile:

The company in its present form is the result of a merger, in form a friendly takeover of Rhodia by Solvay in 2011.

Solvay was founded in 1863 by Ernest Solvay and his brother Alfred Solvay, the inventors of an industrial way to produce sodium carbonate, called the "Solvay process". Before World War I, it was the largest multinational company in the world. For a long time, it was the biggest family-owned company in Belgium, before its transformation into a public company (S.A.) in 1967. The Solvay family is still the major shareowner and owns 30 % of the shares.

Before the takeover, **Rhodia** was a French company specialized in fine chemistry, synthetic fibres and polymers. Until 1998, it was part of the biggest French chemical group Rhône-Poulenc, from which it separated when Rhône Poulenc merged with Hoechst to become Aventis (today Sanofi-Aventis). Rhone Poulenc was nationalised in 1982 and re-privatized in 1993. In 2010 Rhodia had 14.000 employees, 6.200 in Europe, 2.800 in Latin America, 1.700 in North America, and 3.400 in the Asia-Pacific zone.

Following the takeover, Solvay is now organised in five business segments: Consumer Chemicals, Advanced Materials, Performance Chemicals, Functional Polymers and Corporate & Business Services. It is now the biggest chemical company in France, where it has 15 production sites.

Paradoxically, the takeover of a French company by a Belgian company led to a "Frenchization" of the management of the new group. The former CEO of Rhodia, Jean-Pierre Clamadieu, is now CEO of Solvay. The former HR director of Rhodia, Jean-Christophe Sciberras, is now HR director of Solvay France and Head of "Group Industrial Relations and Social Innovation".² Finally, the former sustainable development director of Rhodia, Jacques Khéliff, was nominated sustainable development director of Solvay.³

Rhodia and now Solvay have a traditional commitment to corporate social responsibility and sustainable development. In 2003, Rhodia had nominated Jacques Khéliff, former secretary general of the CFDT chemical union FCE, as sustainable development director. In 2007 Khéliff has developed the "Rhodia Way" as the global reference framework

¹ http://ec.europa.eu/employment_social/empl_portal/transnational_agreements/Solvay-agreement-EN.pdf (2013); <https://www.solvay.com/en/binaries/2017%20CSR%20Agreement%20between%20Solvay%20and%20Industriall-311227.pdf> (2017).

² His former career has led Sciberras to important positions, both in the public and business sphere. Amongst others, he was advisor of the French minister of Labour, deputy director of the French Employment agency, HR director of Renault and president of the French HR management association ANDRH.

³ Khéliff has retired in 2016.

of the company. After the merger with Solvay, he has continued to develop this approach as the "Solvay way". It is characterized by a self-assessment of five commitments to be fulfilled until 2015: to reduce greenhouse gas intensity by 4 %, to reduce the number of accidents by 50 %, to double the share of sustainable solution sales from 25 % to 50 %, to increase employment engagement and to encourage employees' societal initiatives. Solvay reports to extra-financial rating agencies and is committed to several CSR codes, like the UN Global Compact and the "Responsible Care" World Charter of the chemical industry. It is a member of the "FTSE4 Good Index", which measures the performance of companies that meet globally recognised CSR standards. Solvay is also member of the "Euronext Vigeo World 120 Index", which is composed of the highest-ranking listed companies and is evaluated by the Vigeo agency in terms of their CSR performance, as well as of the "Ethibel Sustainability Index", which indicates that the company performs in this field better than the average in its sector.

Industrial relations: the French dimension

Although there are no exact figures available, one can estimate that the unionisation rate in Solvay is nearly three times higher than the national average (which is 8 to 10 %). There are three representative unions in Solvay France: The two biggest are the CGT and the CFDT, with each around one third of the votes, followed by the CFE-CGC.⁴

After the merger with Rhodia, Solvay France has reorganised its structure of employee representation, on the basis of a majority agreement, which was signed in May 2016 by the CFDT and the CFE-CGC. Solvay was the first big company in France to sign such kind of agreement which was permitted by the 2013 Rebsamen law on social dialogue.

The former two central works councils (Solvay and Rhodia) are now merged with the group committee Solvay France into a unique central work council. A new central health and safety committee was created, which formerly existed only for Rhodia. In workplaces with less than 100 employees, the former works councils, employee representatives and H&S committees are merged into a unique employee representation. In bigger workplaces, the employee representatives and the H&S committees are merged into a new committee called "H&S-environment-working conditions-sustainable development". The agreement also improves the condition for the employee representatives, specifically for union delegates. Time off, training and equipments (intranet, mobile phones) are enhanced in general above the legal requirements. The company will take into charge 30 % of the union fees and will guarantee the careers and remuneration of all union representatives. The CGT did not sign the agreement, because it considered that the enhancement of the conditions for the central representatives was realized at the expense of the local representation.

Industrial relations: the transnational dimension

Both Solvay and Rhodia had a long tradition in transnational trade union coordination as well as an open attitude of management for the creation of transnational employment representation and the negotiation of transnational company agreements.

Rhône-Poulenc, the former group structure of **Rhodia**, has set up a voluntary European Works Council (EWC) as early as 1990, three years before the adoption of the EWC Directive in 1994. The EWC was formalized in 1994 by an agreement signed by the five French representative union federations as well as the chemical federations affiliated

⁴ In order to be considered as representative at the company level and to have the legal right to participate in collective bargaining, a union has to obtain more than 10 % of the votes at the professional elections (works councils and employee representatives).

to the ETUC and the CEC. After the spin-off from Rhône-Poulenc, Rhodia negotiated a new EWC agreement in 2001, which was signed by a special negotiating body, again together with the European chemical federations affiliated to the ETUC and the CEC.

Transnational union coordination at **Solvay** goes back as early as 1968, when a first “international union coordination committee” was created at the initiative of the Belgian FGTB and French CGT. It included representatives from the Italian CGIL (later the Unitarian Chemical union FULC), the Belgian CSC and the Spanish CCOO. Under the pressure of the International Federation of Chemical and General Workers ICF⁵, some affiliates of the ICF withdraw later from this committee. In 1975, the ICF created a “world company council” for Solvay, but this had only an ephemeral existence. Both structures were not recognized by the company management.

Solvay has created an EWC on the basis of a “voluntary” (art. 13) agreement in 1995, negotiated with a special negotiating body. In 2012, after the takeover of Rhodia, the representatives from ex-Rhodia were integrated into the Solvay EWC by the way of an amendment to the original EWC agreement. A new amendment was signed in 2014 integrating the new right from the recast directive of 2009.

The Solvay EWC is structured along the French model, which means that it is chaired by the CEO of Solvay S.A. The group HR director and the industrial relations director are also member of the EWC. There are 23 employee representatives, of which 8 are from France, 4 from Germany, 3 from Italy and only one respectively from Belgium, Bulgaria, Latvia, the Netherlands, Poland, Portugal, Spain and the UK. On the employee side, there is a secretary, presently Albert Kruft from Germany, and a select committee called “secretariat”, composed of the secretary and three deputy secretaries, two from France, one from the CFDT and one from the CGT. and one Italy. Because of the shrinking part of Belgium in the employment, there is no longer a Belgian representative in the secretariat

The EWC meets once a year for 2 days plus a preparatory meeting and eventually a follow-up meeting. The secretariat meets once a month. The agreement gives it explicitly the competence to negotiate transnational “charters” with the management. It also established a “committee on sustainable development” which meets twice a year to review the group’s policies in the fields of sustainable development, H&S, and environment.

In March 2015, the company created a “**Solvay Global Forum**”, which combines the four members of the EWC secretariat with four representatives from outside Europe, one from the United States, one from Brazil, one from China and one from South Korea. These eight countries represent approximately 80 % of the Solvay workforce worldwide. The creation of this Forum was justified by the growing importance of the non-European countries in terms of turnover and employment. The appointment of the employee members of the Forum, who are all union members, is agreed between the management and IndustriAll.⁶ The EWC secretary, Albert Kruft, is the coordinator of the Forum. It meets once a year in Brussels. The meetings with the management last generally three days, plus a preparatory meeting for the employee representatives. Between the meetings, the information the Forum members take place by e-mail exchange. Three times a year, a video conference is organized. All the members receive language training in English. The functioning of the Forum is linked to the 2013 IFA on RSE (see below). For the moment, it is set up on a voluntary basis, but the new IFA, signed in February 2017, mentions its existence and announces that a specific agreement, concerning its composition and tasks, will be signed in 2017, after a two-year

⁵ The ICF was renamed as ICEF in 1976 and in 1995 with the Miners’ International Federation MIF into the International Federation of Chemical, Energy, Mine and General Workers’ Unions ICEM. In 2012 ICEM joined IndustriAll.

⁶ The union federations of the French and the Chinese members are not affiliated to IndustriAll.

period of evaluation. In its first meeting in March 2015 the Forum treated the subject of the Solvay Global Performance Sharing Plan. This discussion led to two transnational company agreements between the Forum and the company on this subject (see below).

A problem of division of the unions at the international level, a heritage of the Cold War, persists in Solvay. All the main unions are now affiliated to IndustriAll Global Union, the global union federation (GUF) resulting from the merger of chemical-energy federation ICEM with the metal federation IMF and the textile federation ITGLWF. But the chemical federation of the French CGT, FNIC, which was not affiliated to ICEM, has not joined IndustriAll, although it is affiliated to the European union federation IndustriAll Europe. The FNIC-CGT has joined, in 2016, the former communist World Federation of Trade Unions (WFTU), which the confederation CGT had left in 1995.

The transnational agreements signed by Rhodia and Solvay

Rhodia and Solvay have very different practices of negotiating and signing transnational agreements. Before the merger, both companies have signed several TCAs, Rhodia only IFAs (negotiated with a global union federation) and Solvay only EFAs (negotiated with its EWC).

In 2005 **Rhodia** and the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) signed an IFA on CSR. It was the first IFA to be signed by a transnational company in the chemical sector.⁷

The Rhodia IFA of 2005 contained a commitment to respect the ILO conventions N° 87, 98, 27, 105, 138, 100, 111 and 156, as well as the principles of the UN Global Compact that Rhodia had joined in 2003. It included a commitment for its suppliers and subcontractors and for timely information, internal mobility and training in case of restructuring. This initial agreement had a validity of three years. It was renewed and enhanced in 2008, adding further ILO conventions and a commitment of the management to remain "strictly neutral" concerning unionization. It added a reference to the "Rhodia way" principles of sustainable development adopted in 2007. In addition to the annual joint Solvay-ICEM evaluation procedure, the agreement made reference to the practice of joint evaluation missions, which were inaugurated in 2007 in China and which were to be continued annually "in a country or a zone commonly defined". The validity of the agreement was again limited to three years.

In 2009, an amendment to the IFA created a "Global Safety Panel" composed of 9 members: 3 representatives of the management, 2 representatives of ICEM and 1 representative for each continent where the group was present (Europe, Asia, Latin America and North America). Its role was to monitor the safety situation within the group. It met once a year in a site of the group, chosen by the parties, in order to assess the respect of the group's H&S policies. The IFA itself was renewed, this time for five years, in 2011, just a few weeks before the takeover by Solvay. The agreement contained some novelties: indicators to monitor the employment situation and for the review of compliance of suppliers and subcontractors.

The first transnational agreement signed by the **Solvay** EWC was an EFA on subcontracting signed in 1999. It guaranteed the respect of legal and conventional rules by the subcontractors, in particular on health and safety. In 2003 second EFA was signed by the EWC, a "Charter" on health and safety practices. It guaranteed compliance with Solvay's guiding values, in particular the "Threshold Limit Value" of the American Conference of Governmental Hygienists and the "Solvay Acceptable Exposure Limits" for chemical substances. In 2003, the EWC signed a third EFA on "guidelines of social policy in joint ventures". It guaranteed the respect of the Solvay principles in its

⁷ At that moment, ICEM had already negotiated 9 EFAs in other sectors, the first in 1998 with the Norwegian oil company Statoil.

declaration "Mission-Vision-Values" for the Solvay personnel transferred to a joint venture. If the joint venture created falls under the EWC directive, the personnel transferred will continue to be represented by the Solvay EWC during a period of 12 months. Finally in 2008 a forth EFA was signed by the EWC in form of a "Charter on sustainable development and corporate social responsibility". In this charter, the company committed itself to support a series of international social principles, in particular:

- the OECD Guidelines for multinational enterprises,
- the "Responsible Care World Charter",
- the United Nations Convention on the rights of the child,
- the Universal Declaration of Human rights,
- the ILO conventions on equal opportunities, prohibition of forced labour, ban of children's work and on the freedom of association.

The charter also guaranteed the right to collective bargaining and moreover the "durability and quality of the social dialogue" within a "right balance between the interests of the employees and the economic interests of the Group and its subsidiaries". Concerning job security, it gives priority to "anticipation, dialogue and the social accompaniment to avoid or limit as much as possible the collective redundancies" and a commitment to "facilitate internal or external reclassification, in particular by training and mobility".

After the signing on an IFA on CRS in 2013, which the central object of the next chapters, Solvay has signed several further transnational agreements. In May 2015, the Global Forum has signed an agreement with the management on a profit-sharing plan. It concerned all 22.000 employees in Solvay's 51 countries, except senior executives and French employees, who already benefit from an equivalent plan. Each employee in a given country will receive the same share. The scheme is indexed to the achievement of financial (80%) and sustainable development targets (20%). The agreement was renewed in March 2016 for one further year. A budget of 10 million EUR (in 2015) and 12 million EUR (in 2016) was allocated for that.

In September 2015, the EWC has signed a "Charter for good collaboration practices in social dialogue". Its aim is an international harmonization of certain HR procedures in coordination with the EWC. Before a definite adoption of new international HR rules or procedures, the Industrial Relations group management commits itself to communicate this project to the EWC secretariat, who in turn will communicate it to the EWC members. In parallel, the IR management will communicate the project to the members of its IR management network who will in turn communicate it to the legal national employee representatives for consultation. Their opinions are then communicated both to the IR group management and to the EWC secretariat, who will together seek to harmonize the rules in a way that is accepted by the national employee representatives and is compatible with the existing national legal rules. Projects concerning restructuring or takeovers are explicitly excluded from the obligation of the agreement. The agreement has a validity of two years and will for the first time be used for a project of annual individual evaluation of non-executive employees.

The Solvay IFA on CSR of 2013

Before the takeover of Rhodia, ICEM approached the Solvay management with the wish of negotiating an IFA, but the HR manager of Solvay at that time was not interested. Things completely changed when the former CEO of Rhodia became CEO of Solvay in 2011. The change paved the way of negotiating an IFA on CSR which took as a model the one signed by Rhodia in its final version of 2011. Even in the wording, both versions are nearly identical, with the notable exception of a paragraph on management attitude toward unionisation, which we will comment

below. The agreement was signed on 17 December 2013 by the new CEO of Solvay and the general secretary of IndustriAll, Jyrki Raina.

The agreement secures compliance of the company with the following ILO conventions:

- Conventions 87, 98 and 135 (freedom of association and right to collective bargaining),
- Conventions 29 and 105 (ban of forced labour),
- Convention 138 and 182 (ban of child labour),
- Conventions 100 and 111 (equal remuneration),
- Convention 156 (non-discrimination),

These are the conventions that are referred to by the ILO Declaration on Fundamental Principles and Rights at Work. Since the adoption of this Declaration in 1998, the explicit commitment to respect these rights by a transnational company is considered by the GUFs as a condition for the negotiation and signature of an IFA.

The agreement then enumerates the 10 principles of the UN Global Compact of 2000, which Rhodia had joined in 2003 and Solvay in 2010.⁸ Principle No. 1 and 2 contain a commitment to “respect the protection of international labour law relating to human rights” and Principles No. 3 to 6 repeat the fundamental standards of the ILO of 1989. The Compact also adds rather vague environmental principles: “a precautionary approach to environmental challenges” (No. 7), “greater environmental responsibility » (No. 8), “the development and diffusion of environmentally friendly technologies” (No. 9). Finally, principle No. 10 adds “work against corruption in all its forms, including extortion and bribery.”

In the next part of the agreement, more specific commitments are enumerated concerning health and safety, employment, the relationships with suppliers and subcontractors, environment, and social dialogue. H& S is presented as a “priority for Solvay”. Solvay agrees specifically to take into account the principles in the ILO Code of Practice on HIV/Aids. A “**Global Safety Panel**”, similar to the one created by Rhodia in 2009 is installed in order to “monitor the safety situation within the Group”. It has the same composition as the Rhodia Safety Panel:

- 3 representatives appointed by the management,
- 2 representatives from IndustriAll,
- 1 representative of each of the 4 geographical regions (North America, South America, Europe and Asia), chosen by IndustriAll among Solvay employees in each region.

The Panel meets once a year on one of the sites chosen by the parties. On this occasion, the Panel organizes a site visit to “check the safety and working conditions as well as the effective compliance with the Group’s policies in these areas”.

In the event of a restructuring the company pledges to inform employees and their representatives “as soon as possible” and to “minimize the impact on employment and working conditions”. The company “encourages internal

⁸ The Global Compact is considered as the most important international code on CSR and sustainable development. It was adopted by 9000 companies. Companies join on a voluntary basis, but have to report annually on their implementation. Solvay is the only big chemical company from Belgium to have joined the Global compact. Worldwide, there are 108 big companies to have done this in the chemical sector, amongst which 14 from Germany, 12 from Japan, 8 respectively from France and Brazil, 7 from the USA, 6 from Switzerland, 5 from India, 4 respectively from the Netherlands, Columbia and China, 3 respectively from Norway, Spain and South Korea (www.unglobalcompact.org, accessed 11.11.2016).

mobility, both geographic and for career advancement, to increase the employability of its personnel". It provides training "to prepare them for new occupations and new technologies".

Solvay "expects its suppliers and subcontractors to comply with (...) basic human rights" and to "contribute to Solvay's compliance with the provisions of this agreement". "Any serious violation of employee health and safety legislation, environmental protection or basic human rights that is not remedied despite previous warning shall lead to termination of relations with the company (...)".

Concerning the environment, Solvay undertakes to develop both a "preventive" and a "precautionary" approach.

The most important chapter of the agreement is titled "Social dialogue". In this chapter, Solvay respects the right of its employees for form or join any trade union of their choice. The Solvay management commits itself to remain "strictly neutral" in this matter. More specifically, Solvay "will refrain from any unfair communication with its employees to influence their decision on trade union representation and will ensure all communications with its employees are factual and non-hostile toward the trade union seeking organization". This paragraph is the main innovation compared to the IFA signed by Rhodia in 2011. It corresponds to a demand by IndustriAll and created some difficulties of the Solvay group HR management with part of the HR management in its subsidiaries in the USA. Differently from the American subsidiaries of Rhodia, the majority of the American subsidiaries of Solvay were not unionized before the merger. Therefore, the management in these plants feared that the unions would take advantage of the agreement and conduct aggressive unionization campaigns to which they wanted to be able oppose an appropriate communication on their side. Finally, the American management accepted the compromise formula which allowed such communication only on a strictly "factual" basis. The unionization drive that they had feared did however not occur, except in one plant recently acquired by Solvay in California.

In the final provisions of the agreement, Solvay commits itself to translate it into the different languages and to communicate it both to the management and the employees of its subsidiaries. The agreement is made available on the group's website in the "sustainable development" section.⁹ New recruits will receive a copy of the agreement.

The monitoring of the agreement

An important part of the agreement is devoted to its monitoring. It foresees formal monitoring meetings of Solvay and IndustriAll convened in the first quarter of every year. The annual joint assessment of the agreement is conducted in a "jointly defined country or zone" order to see how the agreement is implemented locally. At the end of each meeting, IndustriAll addresses a letter to the Solvay management, with proposals for things that should be enhanced.

The Global Safety Panel also meets every year in a different country to check the compliance in the field of H&S, with two assessment missions taking place at two different sites. One mission measures the results of the Solvay's safety policy. The second examines the application of the H&S aspects of the agreement, including the subcontractors. In practice, the composition of the Global Safety Panel is in part identical with that of the Global Forum created 2015. Albert Krufft was chosen as the European representative. During the visits, the Safety Panel is generally accompanied by the safety expert of IndustriAll.

⁹ It can be found on <http://www.solvay.com/en/binaries/2013-industrialall-english-159411.pdf> together with a folder which illustrates the architecture of the agreement: http://www.solvay.com/en/binaries/2014-Accord_720x180_EN_HD-192153.pdf

In 2014 the audit by the Global Safety Panel revealed a deadly accident that had occurred in a Bulgarian mine. Since then, the group management has imposed an obligation to be informed of all accidents. In severe cases, even the CEO has to be informed.

The yearly monitoring meetings are preceded by the preparation of a review document based on indicators defined in the agreement. These indicators concern three essential blocks of commitments defined in the agreement: H&S-environment, social dialogue and relations with suppliers and subcontractors.

For H&S, there are three indicators:

- the percentage of sites audited in terms of H&S-environment over the past three years,
- the accident frequency rate with lost working time (number of accidents per million hours worked),
- accident frequency rate without lost working time,

The published results show an enhancement of these indicators for 2015.¹⁰

The indicators for social dialogue are:

- number of employees (per region and per site),
- employment structure (direct employment, temporary employment),
- the group policy regarding subcontracting,
- social protection schemes and number or category of employees covered,
- mobility (number of jobs filled by internal candidates),
- training,
- existing dialogue structures.

For relations with suppliers and subcontractors, the indicators are:

- the compliance with Solvay standards and corrective measures,
- the review of complaints lodged by suppliers.

The agreement also contains a description of the permanent self-assessment process called "Solvay Way" and an enumeration of the indicators used in this process and which are considered as part of the monitoring indicators.

The H&S and social indicators seem to function quite well. The French employee representatives are less satisfied with the reporting on suppliers and subcontractors, which concern only the first rang. They did however not make this an issue in the meetings of the Global Forum, considering that the priority should be create mutual trust relations between the employee representatives in the way that they have been achieved after the merger within the EWC secretariat.

Beyond the indicators mentioned in the agreement, Solvay has also measured the unionisation rate and the coverage rate of collective agreements. In 2015 the unionisation rate was estimated as 20% in Europe, 30% in South America,

¹⁰ 2015 Complementary Annual Report on Sustainable Development Informations
(<http://www.solvay.com/en/company/sustainability/index.html>)

10% in North America and 30% in Asia. The coverage rate of collective agreements was estimated as 77 % in the whole group.¹¹

The agreement stipulates that “problems are best resolved as close as possible to the location where they have arisen”. However, “in the event of difficulties which cannot be resolved or failure to apply the terms of this agreement, the Group General Management may be asked to intervene”. Generally, these problems are resolved in an informal way, through phone calls.

The most serious problem that has reached this level as a complaint of United Steelworkers to IndustriAll that the American management did not comply with the agreement, because the negotiation for the renewal of the collective contract in some of the US plants had come to a stalemate. The management argued that the IFA only guarantees that collective bargaining takes place in good faith, but does not contain any obligation to reach an agreement. This problem is still pending and makes the negotiation for the renewal of the IFA difficult.

The IFA has expired in December 2016. A first negotiation round for the renewal has taken place in July 2016, where IndustriAll was represented by its general secretary, Jyrky Raina, and the assistant secretary Kemal Özkan. Albert Krufft was invited by IndustriAll to be also present. The negotiations were however suspended because of the preparation of the IndustriAll congress in Rio de Janeiro in October 2016, where Jyrky Raina was replaced as general secretary by Valter Salles, whereas Kemal Özkan was re-elected assistant general secretary.

A IFA was finally renewed for an extended period of five years, by an agreement which was signed on February 2017 by the Solvay CEO Jean-Pierre Clamadieu and the new IndustriAll secretary general, Valter Sanches.

Conclusion

The IFAs of CRS signed by Rhodia and Solvay between 2005 and 2017 remain an outstanding feature in the chemical sector. No other IFA has been signed in this sector since.

These IFAs symbolise a high road approach on transnational industrial relations. For the global union federation they guarantee the respect of the fundamental labour rights, in the first place the freedom of unionisation, which is still at stake in countries like the United States or China. It also guarantees a high standard of responsibility in the environmental and safety areas. The reporting and the follow up mechanisms guarantee an effective implementation of the agreement, in particular in the H&S field, thanks to the good functioning of the Global Safety Panel and the site visits. Progress is still awaited for the reporting on subcontractors and for the annual assessment, which relies mainly on the reporting by the management to the Global Forum.

The agreement and its follow-up mechanisms are also a tool for the establishment of a continuous process of transnational social dialogue between the company and the GUF, and also more generally with the union representatives of the different countries. This vision was shared by the Rhodia management and is now shared by the Solvay management, as can be seen from the regular renewals of the initial agreement and its progressive enhancement. The agreement and its monitoring procedure have created a base for further transnational institution building, like the Global Safety Panel and the Global Forum, which are both outstanding innovations in the chemical sector. They can be seen as a compromise between a more centralized approach based primarily on the relations between the group management and the IndustriAll secretariat and an approach more based on the shop floor

¹¹ Ibid.

representatives in the EWC and the Global Forum. On the employee side, the EWC secretary and Global Forum coordinator is the central link between these two approaches.

The agreement constitutes also a tool for transnational coordination of the HR management within the Solvay group. In particular it was way to accommodate a more adversarial type of management in the USA with a more dialogue oriented style predominant in Continental Europe.

This process of homogenization was successful also because it was accompanied by a process of convergence of trade union attitudes, which is however not completely achieved, as can be seen in the US case. Institutions like the EWC and later the Global Forum helped to build trust between the employee representatives and between them and the management. The presence of an actor from outside the company like the GUF was helpful when conflicts appeared and could not be resolved at the local level.

Case Study Engie (GDF Suez)¹

Udo Rehfeldt, IRES

Name of the company: Engie (GDF Suez)

Industry sector: energy

Headquarter country: France

Geographical perimeter: Total employment world-wide: 153.000 (2016). 4 geographical areas: Europe, North America, Asia, Latin America, Africa. Main countries in Europe: France, United Kingdom, Turkey, Benelux. Main countries outside Europe: USA, China, Brazil.

Company profile

Engie, as GDF Suez is called since 2015, is a French transnational utilities company and power producer, in particular in the field of gas and electricity. It was formed in 2008 by a merger of Suez with Gaz de France (GDF).

Its official headquarters is in Paris La Défense (France), but there are also offices in London and Brussels. The London office will soon be closed.

The origins of Suez go back to the 19th Century. The name Suez comes from one of its founding entities, the Compagnie Universelle du Canal Maritime de Suez, which was created in 1858 to build the Suez Canal. After the nationalisation of the canal in 1958, it became the Compagnie Financière de Suez, and finally, in 1990, the Compagnie de Suez, a holding company with important participations in Belgium and France, in particular in the finance and energy sectors. In 1997 it merged with the Lyonnaise des Eaux, a utilities company in the field of water treatment and waste management, to become simply the group Suez.

GDF was created by the French Government in 1946, along with Électricité de France (EDF), after the nationalization of the electricity and gas companies. GDF grouped all the companies that produced, transported or distributed gas in France. GDF and EDF shared a number of departments including personnel management and energy distribution. After the liberalisation of the European energy market, the French Government began to privatize GDF, but still held 80% of the shares in GDF at the moment of the merger with Suez in 2008. The French State now holds a third of Engie's shares, 2.2 % are in the hand of the employees.

In 2010, GDF Suez acquired the 70 % of the shares of International Power (IP), an electricity generation company headquartered in London. IP had been formed in 2000 by the demerger of National Power, a company formed after the privatisation of the UK electricity companies. Subsequently, Suez acquired the totality of IP's shares and merged IP into the GDF Suez Energy International business unit,

In 2016, Engie was re-organised into 24 business units and 5 "métiers". 11 business units are geographic: Africa, Latin America, Northern America, Asia Pacific, Benelux, Brazil, China, Northern, Southern and Eastern Europe, "Génération Europe", Middle East, Southern, Central Asia and Turkey, United Kingdom. 8 are set up in France, and 5 are global.

¹ http://www.epsu.org/sites/default/files/article/files/agreement_GPEC_GDF_Suez_-_EN.pdf;
http://www.epsu.org/sites/default/files/article/files/agreement_GPEC_GDF_Suez_-_IT.pdf

Since the 2008 merger, the workforce has been continuously increasing. In 2016 Engie had 153.000 employees world-wide, 87 % in Europe (47 % in France, 11 % in Belgium), 2.3 % in North America, 4.2 % in Latin America, 5.8 % in the Asia-Pacific region.

Industrial relations: the French dimension

The CGT was historically the majority union in GDF. Today, the union representativeness at the Engie group level is calculated on basis of the workplace election results in which the workers of the gas distribution company GRDF are included. On this basis, the CGT has a representativeness of 40 %, followed by CFDT (22 %), CFE-CGC and FO. The CFTC has lost its representativeness, as it did not reach the 10-percent threshold. It has however represented in the French group committee, and therefore also in the EWC select committee. Within the Engie group in a narrow sense, the CFDT is the majority union.

Industrial relations: the transnational dimension

a) The EWC

Both GDF and Suez had EWCs before the merger. In Lyonnaise des Eaux, a voluntary EWC was set up in 1995 before the EWC directive went into effect. The agreement was signed on the employee side by the European Trade Union Confederation (ETUC), the European Confederation of Executives and Managerial Staff (CEC) and five French representative trade union organisations. After the merger of Suez with Lyonnaise des Eaux in 1997, this EWC was enlarged to encompass the new Suez-Lyonnaise des Eaux Group through a rider dated November 1999. Before the the GDF-Suez merger, the Suez EWC had 46 members representing 161,000 employees from 19 countries, 20 % of whom came from France.

In GDF an EWC was established by an agreement which the was signed on in 2001 by seven national trade unions (four French, one Italian, one German and one Hungarian) and two European federations (EMCEF and EPSU). At the time of the merger, two-thirds of the almost 50,000 GDF employees worked in France. The GDF EWC had 32 members from seven countries, half of whom came from France.

During the merger process, the EWCs of GDF and Suez agreed to start negotiations with the management to conclude a new EWC agreement for GDF Suez. For this purpose, a Special Negotiation Body (SNB) was set up, including representatives from the European industry federations EPSU and EMCEF. There were big differences of industrial relation cultures between GDF and Suez, and also between the two EWCs. The Suez EWC culture in Suez was very cooperative, symbolized by the existence of permanent working groups, whereas the relationships within the GDF EWC were more conflictual and finally resulted in a court case because of a disagreement on the prior consultation of the EWC on the topic of the merger. Therefore, the negotiations with the SNB on of new EWC agreement were long, und difficult. Finally, a agreement was signed in May 2009, and a new EWC was established in October 2009. This EWC resulted in a combination of good practices from both preceding EWCs. The definition of information and consultation were similar to the new definitions in the recast EWC directive, which was adopted the same day as the signature of the EWC agreement. The EWC can make use of experts (paid for by the company). Training for its members is provided during 5 days a year. There is a budget of 80,000 EUR a year, all costs for EWC meetings being carried by the company. EWC members have the right to visit different sites with a maximum of 35 visits per year in total.

The GDF Suez EWC set up in 2009 was one of the largest existing EWCs. It was composed of 64 members plus two guests from EPSU and EMCEF. After the spin-off of Suez Environment, it was reduced to 42 members.

There is a select committee of 13 members, of which five come from France. Most of the foreign subsidiaries are unionized. A big exception are the subsidiaries in the UK. After the creation of the EWC, a Belgian member was elected EWC Secretary, but he has recently retired and is now replaced by a CGT member from France, the Deputy Secretary comes from the second French union, the CFDT.

The EWC agreement established several permanent working groups. As a heritage of the GDF EWC, they were three were 3 working groups for branches Environment, Energy and Energy Services. They will now disappear, because the branches have been replaced by the new business units. Other working groups concerned social reporting, health and safety. The working group on social reporting was set up to supervise social guarantees given to the GDF EWC by the management and at Suez through a European agreement concluded with the EWC and the French unions. These working groups met regularly twice a year. The EWC agreement foresees at least two annual plenary sessions, with the possibility of additional meeting. In the first years of its existence, there were up to eight plenary sessions. In 2016, the EWC met five times.

After the acquisition of IP, the setting up of a world works council was briefly discussed within the EWC. This project has recently re-emerged in the discussions with the global union federations. It is inspired by the Global Forum set up by Solvay. After the re-organisation of Engie, a regional social dialogue forum has already been set up at the level of the regional business unit Brazil. The idea is to create similar forums in other regions and to coordinate them ultimately at the world level.

b) The transnational agreements

GDF and Suez had signed several European framework agreement (EFAs) before the merger. In July 2008, GDF had concluded, for a duration of three years, a European agreement on corporate social responsibility (CSR), which was signed by the three European trade union federations EMCEF, EPSU and EMF, as well as 15 national unions: 5 from France (CGT, FO, CFDT, CFTC, and CFE-CGC), three from Italy, two from Hungary, and one each from United Kingdom, Romania, the Netherlands, Belgium and Germany. It is similar to an IFA on CSR and fundamental labour rights, but its scope is limited to Europe. As far as CSR is concerned, it contained a number of commitments on skill management, anticipation of change and restructuring.

Lyonnaise des Eaux and Suez had signed the following six EFAs between 1998 and 2010:

- October 1998: an "International Social Charter" fundamental labour rights and HR policy concluded between Lyonnaise des Eaux and its EWC. This was one of the first EFA ever signed.
- October 2002: a Suez Charter on health and safety, signed by the EWC.
- July 2007: three Suez EFAs signed simultaneously on equality and diversity, employee ownership and forward-looking management of employment and skills. They were all signed by the EWC select committee, the Secretary General of the EPSU, who signed "in the name of the ETUC", together with a representative of the Confederation of European executives CEC, as well as the five French representative unions at Suez, CFDT, CFE-CGC, CFTC, CGT and FO.
- June 2008: an EFA on "social guarantees for the employees of the Suez group". In the perspective of the coming merger of Suez with GDF, the agreement guaranteed that there would be no forced redundancies for a period of 18 months after the merger. The signatory parties were the same as in the previous EFA.

The choice of EPSU to sign in the name of the ETUC, and not only in its own name was apparently motivated by the composite and conglomerate structure of the Suez group. The EWC played an important role in the implementation. Its select committee, eventually expanded to include additional members, ensured generally the monitoring. So the negotiating and monitoring practices of GDF and Suez clearly differed, GDF giving preference to the French union representation, Suez to combination between union and EWC representation.

The negotiations of transnational agreements were an important issue of the SNB negotiations. In parallel to these negotiations, the EWCs of GDF and Suez continued to function and held joint meetings. In one of their last meetings, both EWCs decided to denounce the previous EFAs. The SNB negotiators finally found a compromise formula to reconcile the models. Article 3 of the new EWC agreement stipulates that the EWC must be informed of European agreements or Charters signed within GDF Suez by the trade union organisations and management. The EWC may participate in the implementation and monitoring of these agreements, but only if “the signatories of these Charters and European agreements have specifically provided for it”.

Since the merger, GDF Suez has signed five EFAs. Some of them were renegotiations of the earlier Suez EFAs.

- February 2010: EFA on forward looking management of employment and skills (“GPEC” in French) signed by an “SNB” composed of EPSU, EMCEF and the national unions. The monitoring is entrusted a specific European GPEC Committee and to national GPEC committees,
- February 2012: EFA on health and safety, signed by an SNB composed of EPSU, EMCEF and the national unions. The agreement applies also to subsidiaries outside Europe. The monitoring is entrusted to a specific “Health and Safety Management Committee”, composed of ten EWC members which are joined once a year by five representatives of subsidiaries outside Europe. Once a year the EWC receives a report from this committee.
- June 2012: EFA on gender equality, signed by EPSU, EMCEF and CEC and an SNB. Monitoring is entrusted to a joint European-level review commission whose employee representatives are nominated by the EFUFs and the national unions.
- November 2014: EFA on “improving quality of life at work”, signed by EPSU and IndustriAll Europe. Monitoring by a specific commission of 15 members nominated by the ETUFs on the basis of proposals by the national unions.
- April 2016: Engie “European Labour Relations Agreement”, signed by EPSU, IndustriAll Europe and EFBWW. Monitoring is entrusted to a “monitoring committee” composed of the EWC secretary and whose 17 members nominated by the ETUFs.

In November 2010, GDF Suez has also concluded an IFA on fundamental rights and sustainable development (see below), and in May 2014 a second IFA on health and safety.

One can notice a certain evolution of the negotiation and monitoring modes. The first three GDF Suez EFAs were signed by an SNB, which had a composition similar to the one that had negotiated the GDF Suez EFA. Most of them were members of the EWC.² But from 2014 onwards, the EFAs were only signed by ETUFs. This evolution

² The difficulties of the negotiation of the EFA on health and safety have been analysed by Giulia Frosecchi (“GDF Suez Transnational Collective Agreement on Health and Safety: EWC as negotiating agent and the relevance of the ETUF leading role”, Working Paper CSDLE “Massimo D’Antona”, University of Catania, INT-119/2015). She shows that for various reasons, the Italian metalworker unions, which were affiliated to the EMF, did not sign the agreement. One of them was that the management did not involve the EMF into the negotiations. This problem was overcome later, because the EMF is now represented inside IndustriAll Europe, which has co-signed all of the following GDF Suez EFAs.

was in conformity with the internal negotiation rules that most of the ETUFs had adopted since 2006, and which are based on a union mandating procedure. The EWC did no longer sign any of these EFAs. Except in one EFA, it was also no longer included in the monitoring process. The IFAs signed in 2010 and to 2014 followed similar procedures.

The 2010 IFA on fundamental rights and sustainable development

On 16 November 2010 GDF Suez signed a global agreement on “fundamental rights, social dialogue and sustainable development”. This IFA was signed” for the company and its subsidiaries specified in the preamble” by the CEO Gérard Malestrat and by the general secretaries of the three global union federations Building and Wood Workers' International (BWI), International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM)³, and the Public Services International (PSI). The agreement applies to employees, subcontractors and suppliers of all present and future GDF Suez companies of the branches Energy France, Energy Europe and International, Global Gas & LNG, Infrastructures, Energy Services and Environment. It also announces that the parties intend to reach additional, more specific agreements “in such areas as training, occupational health and safety, restructuring, and sustainable development/climate change”. Up to now, this has been achieved in the field of health and safety by an IFA signed in 2014.

The 2010 IFA was signed for a period of three years and remained valid for another three-years-period. Currently, the parties are negotiating in order to replace this agreement by an amended version.

By signing the 2010 IFA GDF Suez recognizes the international labour standards in the Universal Declaration of Human Rights, in the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and the UN Global Compact. More specifically, the management commits itself to respect the following fundamental labour rights elaborated in the ILO Declaration on Fundamental Rights at Work:

- Freedom of association and collective bargaining (ILO conventions 87 and 98),
- Discrimination (conventions 100 and 11),
- Forced labour (conventions 29 and 105),
- Child labour (conventions 138 and 182),
- convention 94 concerning labour clauses in public contracts.

Furthermore, GDF Suez and the signatory global union federations commit themselves to “co-operate to promote and encourage positive and constructive industrial relations” inside all GDF Suez companies and their business partners.

Concerning sustainable development, the parties will cooperate to reduce carbon emissions “in a way that protects the rights and interests of workers” and implement the measure of adaptation “in an agreed, fair manner”.

The English text of this agreement is authoritative. It was filed with the French Ministry of Labour and the registry of the Paris Labour Court.

³ In 2012, ICEM was merged into IndustriAll Global Union.

Implementation and monitoring

For the monitoring, a reference group was set up. It met every a year to review the agreement. In 2015 it met in Chile, in July 2016 in Paris. This group is composed of the Engie HR director, one officer of each GUFs BWI, IndustriAll and PSI, plus representatives of different continents. In the 2016 meeting, there was one PSI affiliate from Australia, one BWI affiliate from Brazil, one IndustriAll affiliate from the USA (Utility Workers Union of America, UWUA), the EWC secretary (from Belgium), a CFDT unionist from France and a guest from Romania.

For complaints, a three-step procedure was agreed. In the first step, the complaint must be raised with the local site management, where the workers may seek trade union representation. If the complaint is not resolved with local management, it is referred to the appropriate national union who will raise the issue with the company. Any infractions which could not be resolved through discussion at the workplace or national level are addressed by the GUF concerned, in cooperation with its national affiliates, and reported to the responsible manager. This process “may include, but does not require a meeting of the reference group”.

Up to now, no complaints have reached the last step. But several problems were discussed during the meeting of the reference group. The concerned mainly Chile, the USA and Australia. The problem in Chile was an anti-union legislation of the Pinochet regime which has not yet been abolished, but will be soon. The problem raised by the UWUA was a case of discrimination between two groups of workers for their retirement. It has been resolved by the intermediation of the CFDT, which had invited a representative of that union to a meeting of the EWC select committee in Paris, where the problem could be communicated to the group management and be resolved. The problem raised by the Australian union was a case ignorance of the content of the IFA. It will be raised again by the GUF for the renegotiation of the IFA, which is currently under way.

Conclusion

The evaluation of the 2010 IFA is globally positive by all signatory parties. The management regrets however that the monitoring is a rather formal procedure in, which seems not a priority for most of the actors in the GUFs. One may also ask if the GUFs have enough manpower capacity to fulfil a more intense monitoring procedure. This immediately puts forward the question why the employee representatives from inside the Suez group are not more involved in this procedure. Generally, only the EWC secretary and eventually another EWC member are present in the monitoring session.

The monitoring procedure can however be considered as an intermediate step on the way to a more organic representation and to new forms of social dialogue at the global level. This seems to be the subject of the on-going discussions about the renewal of the agreement.

Case Study Endesa¹

Jesús Cruces Aguilera, Fundación 1º de Mayo

Introduction

This chapter addresses the application of IFA in *Endesa*, a group company with an important weight in the Spanish electricity sector. In this case, many remarkable elements are exposed for the analysis of the implementation and monitoring of international agreements. With a strong international presence, the company has passed through significant restructuring processes in the last decade, culminating with a modification of the capital structure and changes on the business organization.

With a large period of enforcement, the analyzed international agreement (2002-2012) has being preceded by a relevant trade union initiative at the international level, crystallized in a trade union network. Participatory and communication structures were created from the bottom, having a relevant impact on the agreement application and its results. The outcomes of this case show us the importance of trade union initiatives (at the sector level), reinforcing international agreements, giving structures and facing conflicts and contents, arising from concrete experience.

Company profile, restructuring processes and industrial relations at the group company

Endesa is one of the main companies in the electric and gas sectors in Spain, developing activities of generation, distribution and sales of electricity. It is currently owned by 70% of the Italian *Enel* group, which has presence in more than 30 countries (Europe, North America, Latin America, Africa and Asia). The group generates energy with a net installed capacity of around 90 GW and distributes electricity and gas across a network of 1.9 million km, for around 61 millions of end users². With the highest number of shareholders of all Italian companies, the *Enel*'s largest shareholder is the Italian Ministry for Economy and Finance.

In first 80's, *Endesa* emerged as a company group as a result of the acquisition of public shares of the "*National Institute of Industry*" in various companies in the energy sector., The path of the group was marked by different processes during the 90's. Firstly, *Endesa* carried out an intensive process of internalization, increasing its presence in Latin America, and becoming the largest private electricity multinational in this region. Secondly, the group was diversifying and extending its activities to other sectors, for example, to the telecommunications sector. Finally, it experienced a continuous process of privatization, through which public shares were being reduced³. In 1988, the first public offering of shares of *Endesa* occurred, through which the state reduced its stake in the company to 75.6 percent. In 1998, the process concluded with the selling of the 33 percent of the public shares, with what *Endesa* became a private company.

Concerning the period when the IFA was in power (2002-2012), *Endesa* was the main electric company in Spain and Portugal, with presence in Europe (Italy, France Poland, Turkey), Africa (Morocco), having predominant position in Latin American countries (Brazil, Colombia, Peru, Chile, Argentina, and other centre American countries)⁴. In terms of activities, a diversified model of business was developed during this period,

¹ According to the methodology of the project, this case study has been elaborate from data an public information of the company. Semi-structured interviews have been made to trade union's representatives and managing directors. Specifically, trade union representative of the Federation of Industry of CCOO (who was in *Endesa* during the IFA application) and the General Secretary of the Trade Union Section of CCOO at *Endesa*.

² Data taken from www.enel.com, consulted in October, 2016.

³ Relevant public offerings of sales were registered in 1988, 1994, 1997 and 1998.

⁴ *Endesa* Suitability Report, 2005.

incorporating electricity (generation, sales and distribution), gas, renewable energy and telecommunications activities.

From 2005 onwards, the *Endesa* group began to experience several restructuration processes, derived from the retreating of its non-core activities and changes on the company property, with different attempts of takeover bid. Thereby, the group ended its activity in the telecommunications sector in 2005, selling its Latino-American companies and the most of its stake in Spanish companies. At the same time, a hostile takeover bid was made by *Gas Natural* in 2005, with important economic and political debate. This bid was succeeded by another bid of *E.ON* in the same year, and cascade of movements in business (not far from the political debate), seeking the control of the company⁵. In 2007, *E.ON* left the bid, with an agreement signed by *Enel*, *Acciona* and *E.ON*, whereby it is removed in exchange of *Endesa* assets in France, Italy, Poland, Turkey, as well as, other assets in Spain. The entire process concluded in 2009 with the *Enel* acquisition of the 25% *Endesa* shares (in hands of *Acciona*) by 11,107 millions of Euros, controlling –direct or indirectly- at the end the 92.06% of the group⁶.

As a result of the new ownership, substantial changes were developed within *Endesa*. In 2014, another restructuration process was executed: the selling of the assets of the Latin-American companies owned by *Endesa*, which were transferred to *Enel* group. Thus, *Energis*, the company through which controlled its assets in Latin America was sold to *Enel*. In 2015 *Endesa* stopped having presence in Latin America, focusing its business exclusively in Spain and Portugal. These operations meant a distribution of two historical dividends worth of 14,606 millions of Euros in 2014.

Nowadays, *Endesa* is company controlled by the *Enel* group, through *Enel SPA*, who has the 70% of company shares in 2015. The activity is focused mainly in the electricity and gas sectors, restringing its previous territorial scope of action: electricity generation (Spain, Portugal and Morocco); electricity distribution, renewable energy and gas (Spain); electricity sales (Spain and Portugal). Regarding its results, the company has generated 73.061 GWH in 2015, with a 92.899 GWH of electricity sales in 2015⁷. It has registered also a net installed capacity of 21.207 MW, with a distribution and transport net of 317.675 km. In the gas activity, the company has sold 71.587 GWH, having 1.461 clients. In 2015, the gross operating profit was 3.039 millions of Euros, with net benefits 1.086 millions of Euros⁸.

The workforce of the company is formed by 10.000 workers in 2015, located Spain and Portugal. Over the past years, the number of workers has been reducing dramatically (in 2012, there were 11.504 workers)⁹. In this line, it has also to be noted that compared with the time in which the IFA was being applied, the reduction of the number of workers was even higher. In 2004, there were 13.659 workers in Spain and Portugal¹⁰, who represented the 50% of the staff of the *Endesa* group. The rest was concentrated mainly in Latin American

⁵ On the 21st of February of 2006, a friendly counter-bid was made by *E.ON*; in the 22nd, an offer was made by *Enel* to *Gas Natural* for relaunching its bid. In September (26th) *Acciona* acquires 10% stake in *Endesa*. On November (16th), *E.ON*'s takeover bid is authorized for 100% of *Endesa*. On the 1st of February of 2007, *Gas Natural* withdraws its takeover bid and *Enel* acquires 10% of the share capital. On April (10th), *E.ON*'s takeover bid closes and the October 18 agreements culminating in the success of the tender offer by *Acciona* and *Enel* adopted. In 2008, *Enel* and *Acciona* reach an agreement with *E.ON* on asset values as a result of the agreement of 2007. Finally, in 2009 (21st of February), *Enel* acquired the 25% of *Endesa* shares by 11.107 millions Euros (which where in *Acciona* hands), controlling at the end 92.06% of the company.

⁶ Under the agreement, *Endesa* sold its assets on wind and hydro generation to *Acciona*.

⁷ Data registered at 31st December of 2015 (www.endesa.es).

⁸ *Endesa Annual Sustainability Report*, 2015.

⁹ The number has been reducing dramatically. In, 2012 there were 11.504 workers; in 2013, 11.142 workers; in 2014, 10.500 workers. The most updated data (June of 2016, consulted in September) reveals a workforce of 9.703 workers. *Endesa Annual Sustainability Report*, 2015.

¹⁰ Average workforce, *Endesa Sustainability Report*, 2005.

countries (11.703 workers) and Europe (1.523 workers)¹¹. Regarding gender distribution, women were representing the 21.5% of the workforce in 2015, which was higher compared with the period of the IFA (with a 16% in Spain in 2004). They also represented the 16% of the directive position in 2004 (Spain) and the 14% in 2015 (Spain and Portugal).

Concerning the employee representation, in Spain there are two types of unitary bodies of employee representation (*employee delegates* and *works councils*)¹². *Separate union delegates* of the different unions can be also found in the companies of the group (UGT, CCOO and SIE). The last representative employee elections (2015) have led the first position to UGT trade union, with 56% of the votes, followed by CCOO trade union (34%) and SIE (10%). The rest is represented by other trade unions (nationalist, professional or class trade union).

At the European level, trade union representatives of Endesa participate at European Works Council (EWC) of *Enef*, in two meetings that are held per year. In terms of information and consultation, the EWC have addressed issues about business strategy and not specific labour topics and conflicts of the group or company of it, as the trade union representative has expressed. Trade union representatives from Latin America companies have been also invited to participate in the EWC.

Labor relations are articulated under through a framework agreement, which regulates the labor conditions in Spain for the entire group (*IV Convenio Colectivo Marco de Endesa*). It has to be noted that no collective agreement is negotiated in the electric sector in Spain. Signed in 2014, the 4th group agreement has followed the line marked by the first agreement (signed in 2000), emerged from the need of unify labor conditions at company level. Nowadays, there are 16 collective agreements of the companies of the group, and several territorial and specific company agreements. At the group level, other relevant agreements were signed in 2015 on different areas, for example, regarding the transfer of workers between different societies, the reorganization of the distribution control centers or the geographical mobility¹³. When the IFA was signed, a similar regulation of the labor relations can be found: there were also a framework agreement, specifics agreements on different issues (to regulate corporate reorganization processes, working time, etc.)¹⁴, and collective agreements at company level (3 collective agreements in 2005 in Spain, 44 worldwide)¹⁵.

In terms of contents, the modification of the company property has produced changes of the labor relations, not in normative terms (the negotiation process continues being articulated through the group collective agreement, the 3th and 4th Agreement was signed in the new period). Trade unions have to face now with the reduction of the workforce, the outsourcing activities and declining wages. In this line, they presume that the company wants to make more steps on the modification of the framework agreement of the group. Company agreements (previous to the group framework), which regulates conditions of older workers are seen expensive for the company in terms of labor costs. Reduction of employment and outsourcing activities were the main measures adopted to face it, as other big companies of the sector. From trade union perspective, the transition

¹¹ *Endesa Sustainability Report*, 2005.

¹² Employee representation at the workplace in Spain has a clear legal framework, provided in the main by the 1980 *Workers Statute* and the 1985 *Law on Trade Union Freedom*. The law provides for elected representatives of the whole workforce in all but the smallest companies. Thus there are two types of unitary bodies of employee representation: *employee delegates*, elected in companies from 11 to 49 employees, and *works councils*, elected in companies with 50 or more employees. There are also *separate union delegates* in bigger companies.

¹³ *Endesa Annual Sustainability Report*, 2015.

¹⁴ It can be highlighted, for example, the following agreements: Second complementary agreement on corporate reorganization processes (2002); Agreement on time management applicable at the new head office of Madrid (2003); Agreement working regulation for personal in "work brigades" in network in Andalucía and Extremadura (2003), etc.

¹⁵ *Endesa Sustainability Report*, 2005.

from being a business group to a company of other group has meant a radical change on the company strategy, being more “neoliberal” and only focused on benefits.

Labour relations have been affected with an absence of empathy, as trade union representative has pointed out. Labour relations are understood in a different way by the new management. Difficulties have been registered about the framework (the group framework was new for them; they were used to negotiate at the sector level). Previous warranty agreements -ensuring labour conditions in case of reorganization processes- were also a novelty. The new management strategy is confined to the current labour laws and collective agreements (for example, health and safety at work), and less over supplementary normative. In this sense, previous experiences at global level (for example, the work done through the IFA in Latin America) were left out, as trade union representative has remarked.

Finally, different references can be found in relation to the industrial relations and labor rights in *Endesa*, when the group had presence in Latin-America. Analyses have been done over the company policies from the local perspective on different issues (like employment, training, wages, trade union freedom and collective bargaining, occupational health, non-discrimination and social corporate responsibility)¹⁶. In connection to the application of the IFA, an international project of trade union cooperation was developed in *Endesa* (and other energy Spanish companies) by the industry sector federation of CCOO. This project had a central role in the implementation of the IFA, strengthening the relationship between trade unions (see above).

The international framework agreement: origin, negotiation and main contents

The international framework agreement (IFA)¹⁷ was signed in 2002 by the President of the Chairman of the Management Board and the Executive Director of ENDESA (from the company), and the Mining and Metallurgical Federation of CCOO, the Industry Federation of UGT and the International Federation of Chemical, Energy, Mine and General Workers’ Union (ICEM). The IFA was signed in line with the international federation criteria, as long as, ICEM was one its parties.

Regarding the content, the IFA expressed that both parties adopted, “as fundamental principles” the following commitments: “the compliance with international labour standards and in particular the ILO convention on trade union freedom and the right to organized and international standards on the respect of human rights; the strictest respect of standards and required behavior in the area of Safety, Health and Prevention of Occupational Hazards; viewing the vocational training of workers as qualification instrument that is mutually beneficial to the two parties; the commitment to provide a service of the highest quality; and supporting and upholding the *Endesa* expansion plans which enable its activities and employment to grow”.

At the same time, the IFA had also opened the door to reach new agreements. Thus, it remarked that “additionally the two parties may agree on and adopt initiatives to achieve the basic objectives and principles that inspire the present agreement, including participation in international programmes that are consistent with the jointly adopted principles. In keeping with this, both parties consider it a matter of priority to work to draw up a code of conduct which is consistent with said principles”.

¹⁶ For example, Silverman, J. (2005): *Estudio sobre los derechos laborales fundamentales en las empresas transnacionales españolas con presencia en Colombia*. Escuela Nacional Sindical. Colombia

¹⁷ It was called as “Protocol of institutionalising dialogue at the international level between the General Management of Endesa and Trade Union representatives”.

Regarding the coverage, no direct reference was made in terms of application, although it is recognized that “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”.

Finally, concerning its validity, the IFA had a concrete end (31 December of 2004), but was extended until 2012. After that, a new IFA came to light with the new management in 2014, being signed by Enel, IndustriALL Global, PSI, Filctem CGIL, Flaie CGIL, Uiltec UIL.

It has to be noted that (at November of 2016), this agreement has not been put on the attention to trade union representatives at the local level (at least in the case of *Endesa*, they do not know about its existence).

Implementation, monitoring and assessment

The agreement had a long period of enforcement within the group company, having relevant results in terms of conflicts solved and social dialogue. Evaluation structures and mechanism were developed under its application, derived from trade union initiatives at international sector level. The agreement at *Endesa* that was positive evaluated by the signatory parties, was followed by new international agreement at *Enel* group, emerging new structures and mechanisms of evaluation.

Implementation and monitoring

Regarding the **implementation** of the IFA, the parties agreed to establish “a channel of dialogue and international trade union consultation within *Endesa* at the highest organizational level, as an effective tool for achieving an adequate exchange of relevant information between the two parties”. This channel, named as “forum/committee”, was formed by the trade union representatives of the different countries (1 per country in which the group had presence), and was conceived as instrument of interlocution, to promote social dialogue and conflict resolution.

One trade union representative from each country was included in the committee in order to ensure representativeness and to address different socioeconomic realities. Many times –as the sector trade union representative pointed out- difficulties can arise in the process of identification of trade unions representatives at the local level. For them, the IFA was a fruitful initiative in terms of advisement, organizing structures and sharing the knowledge, culture and practices within the group company.

Nevertheless, the implementation of the agreement at *Endesa* was boosted by the project “*Electric Trade Union Net*”, developed by the Federation of Industry of CCOO and Latin American trade unions with representation in the subsidiaries companies of *Endesa*, *Iberdrola* and *Gas Natural*. Companies that were direct or indirect established in countries like Argentina, Brazil, Bolivia, Chile, Colombia, Guatemala, Nicaragua, Panama and Peru.

It has to be noted that the project emerged in the framework of the action “*Development international collective bargaining's spaces in electricity companies with presence in Latin America*”, developed by the *Fundación Paz y Solidaridad Serafín Aliaga*, the organization of CCOO trade union dedicated to the international cooperation. This initiative was executed during 2009-2012.

Unlike those structures created from above¹⁸, the “*Electric Trade Union Net*” was built “step by step”, linking existing ties and trade union networks (at national level), resulting a international “network of networks” with a sector perspective in the region (inasmuch as was expanded to almost the entire production and distribution Spanish electricity sector). Its main objective was to identify trade union representatives at the local level, creating trade union networks, through which monitoring of the supply chain could be implemented. Meetings were held, with the participation of trade union representatives of the different countries represented. Two main issues were addressed: the information about the company situation (data and management strategy) and collective bargaining in each country, with special reference to conflicts and agreements.

Box 1. The “Electric Trade Union Net” in Latin America: cooperation and participation

The project “Electrical Union Networks” was created within the framework program for international trade union cooperation in the LIS Project II * and was developed by the Federation of Industry of CCOO during the period 2009-2012. The project sought to enhance the international trade union cooperation as well as strengthening solidarity among unions. It counted with the participation of the trade unions where electric Spanish companies had presence (Argentina, Brazil, Bolivia, Chile, Colombia, Guatemala, Nicaragua, Panama and Peru).

Based on the existing literature on monitoring of the transitional companies¹, the project was articulated in three phases. Firstly, the *prospecting and contact*, establishing contact with trade union representatives at the subsidiaries of transnational companies¹. To do this, any source was used, both from the national organization (local union/federation/confederation) and any of the trade unions’ organizations.

Secondly, the *constitution of the network*, which consisted on collective debates, of which the union network was identified as an organized space –in a collective construction process- of stable relations between unions (exchange of experiences, ideas and practices), in order to identify and achieve shared goals.

Finally, the *development and consolidation of networks*, in which, different work lines were launched: the mapping of the transnational companies, specifics demands and bilateral contacts between trade unions at international and national level.

Source: Gil et al (2012): *Guía para la formación Sindical. Globalización, negociación colectiva y acción sindical en la empresa transnacional*. Federación de Industria de CCOO.

* The Project “Electric Networks” is on Action No. 10 (“Development of spaces for international collective bargaining in Spanish electricity companies with presence in Latin America) of the Agreement signed by *Fundación Paz y Solidaridad* of CCOO and AECID.

Concerning its specific results, different initiatives were addressed. First, a *map* of the labour, trade union and business was constructed, generating information and data for the monitoring of the transnational companies. Thus, an information collection was launched (through a questionnaire) to know the reality of each country and company. At the same time, *bilateral contacts* took place between members of the network. Trade unionists *requests* from local level were done to the network coordinators. Three types of the main demands were registered: 1) informative demands, about business decisions on production and organizational aspects of the

¹⁸ As Gil et al (2012) have pointed out, unlike the initiatives arising at the behest of the international federation or the EWC, the project emerged on the initiative of a sector trade union at national level: the Federation of Industry of CCOO. This implies certain openness, in promoting a global union perspective on transnational corporations and consideration of the involvement of national federations in the formation of international union networks, what can be crucial to help strengthen their unionization, improving coordination channels and trade union leadership.

subsidiaries, as well as about the working conditions; 2) demands for supporting own national demands, such as the unlocking or opening of negotiations or agreements; and finally, 3) demands for help with direct intervention, against unfair or discretionary measures adopted by local management. In this line, training courses were also developed, and a Webpage and an electronic magazine were also launched, with the aim to exchange information and to register the activities of the trade union nets¹⁹.

Among difficulties, the coverage of the chain of subcontractor and the needs of training for trade union representatives were two of the main factors to the extension of these experiences, as the Federation Industry of CCOO has expressed. About this experience they conclude that "the true consolidation of networks will occur when social dialogue in transnational companies is deeper, with which is possible to agree IFAs and to convert global union networks in committees". Here, it is the point where the *Endesa* case raised. The articulation of trade union cooperation and trade union action at the local level, but also with the trade union at national level have had a tremendous impact on the application of the IFA. The existence of these previous trade union networks enabled to identify legitimate representatives of the subsidiaries, knowing the market and labor relations of the group.

Finally, within formal procedures and meetings, it has to be noted that the IFA also recognized the participation of the international federation in other previous agreements. So, for example, it determined that "at least once a year, or whenever required by the relevant nature of the topics to be discussed, an ICEM representative will take part in one of the meetings established in the 'Agreement dated 25/10/2000 between the general management of *Endesa* and the trade union representation', in which the questions provided for in said agreement shall be addressed in an international perspective²⁰".

Different **activities** were developed under the IFA application. Most of them were focused on advising and reinforcing trade union representatives and structures, promoting social dialogue at local level. Several meetings were held in Spain and abroad, with the local and headquarters managements. Latin American trade union representatives exposed their conflicts, giving a more adjusted view of the group in their countries. For national unionist, they achieved to know the industrial group, the union's work at headquarters and their union knowledge. These meetings allowed also evaluating previous experiences, establishing that the duties of the "committee" would be focused on human and labor rights (employment, health and safety, etc.) and not on collective bargaining issues, which remain reserved to the national level and their trade union representatives. Among all of them, employment and collective redundancies, the relationship with public sector or the impact of the clientelist networks, were some of the issues frequently raised. These meetings also allowed valuing the previous work done within the trade union network.

In order to solve **conflicts**, several meetings were also held in Spain (with the participation of the trade union from Latin America). It has to be stressed that in case of non-compliance, under the duties of the "committee", trade unions –both national and local- had the capacity to expose the case to the management at the central headquarters, in order to solve it. Two big conflicts can be remarked. In Colombia, the conflict was generated about social benefits and health care assistance. Other conflict was registered in Brazil, where collective redundancies were planned.

¹⁹ Gil et al (2012): *Globalización, negociación colectiva y acción sindical. Guía para la formación sindical internacional*. Federación de Industria de Comisiones Obreras.

²⁰ Agreement on corporate restructuring and reorganization, resulting the Endesa group. The agreement included a social plan with voluntary leaves.

Looking at the **local level**, the IFA only mention that “the contacts and the information exchanged between the parties under the protection of the present agreement shall not replace or interfere with labour relations at the local level”. Besides the content of the IFA, its application has revealed significant results. From trade union perspective, after the application and having resolved some conflicts, a more dynamic social dialogue was established between parties at the local level, in which functioning of the trade union network had also a relevant impact: it facilitated the communication between the different levels. Before this period, a “wall of difficulties” was a common strategy by the local management, blocking the social dialogue, sometimes reinforced by the central management. As they express, the agreement supposed to jump over it, changing the initial positions of the local managements.

In terms of **information**, the IFA recognized that *Endesa* and the trade unions had to disseminate its content to all companies, in the countries over which *Endesa* exercised control. It is also determined that any information published externally about the present agreement have to be mutually agreed by the parties.

Regarding the **monitoring** process, the IFA established that “at least once every six months, *Endesa's* Corporate Human Resources Management will meet with the highest officials of the signatory trade unions”, and that this meeting was attended by one representative of the international federation for each country (other than Spain) in which *Endesa* had companies under its control.

According to the IFA, theses meetings had to be focused on “the analysis and mutual exchange of information concerning the most relevant happenings in the labour area, as well as the short and medium-term outlook, and specifically as regards the evolution of employment”. In any case, it may be agreed that meetings could address other topics that are considered relevant, by either party with sufficient notice. The agendas of the meetings, as is expressed in the agreement, should be distributed in advance by the company management to those attending.

Moreover, the IFA established that the trade union representation could attend these meetings accompanied by “officials who can guarantee that the topics are addressed in an adequate fashion”, in order “to render the objective of dialogue and consultation compatible with the good functioning of the meetings”. It was as well recognized that the company should provide “the communication systems” for those attending these meetings, “enabling them to maintain contact among themselves and with the trade union organizations”. In this line, the company should bear the costs of “organizing and attending” of the meetings, setting the venue of the meetings in agreement with the signatories.

Confidentiality is also recognized in the IFA, which determined that “the information provided by Management at these meetings may be declared by the latter to be restricted and confidential, whenever its dissemination to competitors or to the general public could be detrimental to the economic interests of the enterprise or to the proper execution of the business plans”. It was specified that for these cases, “those attending commit to maintaining confidentiality and professional secrecy on the topics discussed and on the information and documentation provided by the enterprise in such meetings”.

In terms of practices, monitoring activities had little development during analyzed period. Having into account the difficulties of launching interlocution activities at international level, the “committee” started to implement evaluation mechanisms just when the company strategy changed. From trade union perspective, monitoring initiatives are tougher to implement and consolidate than the interlocution and social dialogue initiatives.

Assessment

After almost one decade of application, the IFA at *Endesa* has been positively evaluated, both by trade unions and management representatives. From trade union perspective, the model of labor relations within the group changed substantially, with a significant increase of social dialogue.

The enforcement of the IFA made possible to resolve different conflicts, addressing several social and labor issues. It was established as a “bridge of dialogue”, through with a more constant and fluid social dialogue was reached between parties, at the international and local level. Trade union representative has expressed that the IFA was positively assumed by the company, both at headquarters and local levels. The relevance of having a open way of interlocution with trade union representatives of other countries was a central element to the company.

Difficulties raised during the application of the IFA were related to different elements. From trade union perspective, factors like having different labor relations, forms of representation and culture of work at local level were crucial at this respect. It has been remarked that labor relations are very different between countries. At this respect, the implementation of the agreement had to deal with labor relations and union cultures very different from the European ones. Some analyses has pointed out this situation at the local level (Colombia)²¹, reflecting difficulties at the beginning of the implementation²².

Different evaluation is made by the trade union if they are asked about the new period. From their point of view, the work done with the IFA was paralyzed. In 2013, trade union representatives of *Endesa* proposed the establishment of a similar “committee” and instruments of previous agreement, taking advantage of the previous experience. Instead of this, a “forum” was created, with a different composition (representation of Latin America countries) and duties (see *Enel* case). In this sense, they perceived that previous experiences were put aside.

From trade union perspective, the current evaluation of the new agreement is that there is not a global policy about this issue. As an example, they mention that they were not aware of the new agreement so far²³, not registering any activity in this regard in Spain. At the same time, they mention that no space of participation have been rejected by them during this period. In fact, the experience at the EWC (with the participation of representatives of Latin America countries) was developed because it was the only way to maintain participation and existing ties with these countries. In this regard, they also perceive a different functioning of the EWC.

According their evaluation, the new strategy has been defined by the sector unionist like a “neocolonial” proposal, without knowing the reality of the company at the local level, what is generating problems in a strategic sector. As an example, it is mentioned the recent case of *Elcogas*, a company with collective redundancy process and strikes, and which has not been addressed either social corporate responsibility or the forum of the IFA²⁴. At this respect, the world forum has not been useful for them.

²¹ Silverman, J. (2005) have pointed out that “since the signing of the agreement, the company has not made many efforts to implement it”.

²² Most severe violations of freedom of association were occurred with subcontractors workers (outsourced *Codensa*), and not directly employed in the *Endesa* group. Silverman, J. (2005), (p. 3.).

²³ The trade union representative has not had any notice about the agreement (on date of 7th of November, 2016).

²⁴ The only way that the Spanish trade unions have found to present this case was the European Parliament, through GUE-NGL. The reply was made in the 23 of October of 2015 by Sr. Arias Cañete, who in name of the Commission answered that “the question of whether the plant is closed or continues operation is not within the Commission's remit. This is rather a decision for the owners of the plant and, if applicable, a matter for the national authorities concerned (respecting any applicable EU rules).

In terms of application, they consider that strong differences can be appreciated between structures and mechanisms created from below to another created from above. Under their perspective, one promotes the participation and social dialogue and the other undermines it. They consider that the “world forum” has not been positioned as a real channel of dialogue, but as an element added to the company marketing policy, representing the substantial change has been registered with the application of the new IFA in *Endesa* (as a part of the *Enel* group). They do not expect to have an initiative like the previous one, because –as they point out–, any initiative on labor relations with economic cost will not be afforded; in contrast, they recognize that marketing ones could have space.

Conclusion

According the objectives of the study, some relevant elements can be pointed out from the analysis of this case, where the agreement has had a long period of application. Firstly, in terms of implementation, the trade union action and the company involvement are crucial to develop it. In this case, the sector trade union action at the international level, -electric trade union networks- had a tremendous impact on this process (representatives were identified before the application), establishing a fruitful relationship between trade unions at local and international level.

Created from the bottom, these kinds of initiatives enable to know the economic and social reality of countries where the group had presence. Different instruments and actions were used to provide information and to build relationships between members of the network. This knowledge was essentials during the application of the agreement. It had impact on the building structures (a committee composed of trade unions’ representatives of each country), ensuring representativeness and participation at the local level. Conflict resolution at the local level was also reinforced by these experiences.

Finally, other relevant factors in the application and evaluation processes can be identified from this case. Thus, business changes have had a decisive impact on the path developed on international agreements. The group went from being company to be an enterprise of a new business group, losing all previous initiatives. Here, a second factor arises: the importance of the headquarters (and unions thereof) in the process of the implementation of the agreement. A greatest capacity for trade union action at headquarters is revealed, as well as, the needs of strengthening of the participation of trade unions of other countries.

Case Study OHL¹

Jesús Cruces Aguilera, Fundación 1º de Mayo

Introduction

In many European countries, the economic crisis and the burst of the real-estate bubble have had a negative impact on the construction sector. The appearance of International Frameworks Agreements [IFA] represents in this sense a challenge in this sector, which has specific characteristics. In terms of activity it is linked to public funding and projects limited to a period of time, among others. Concerning organization of labour, it has with a high level of subcontracting, temporary employment etc. This chapter analyses the IFA at *Obrascón Huarte Lain* [OHL], a Spanish construction group with a high level of internationalization.

According to the impulse given by the international federation of construction in favour of international agreements, the IFA at OHL was signed in 2012, counting with its participation and signature. The content includes basic principles on fundamental and labour rights. A certain underdevelopment of a monitoring process has been registered, but significant results can be related to the application of the IFA. The outcomes of the case study point us that international agreements can have a relevant impact on conflict resolution and trade union action, strengthening trade unions in the national and international levels.

Company profile, restructuring processes and industrial relations at the group company

Founded as a result of a merging construction companies process in late 90's, OHL is a Spanish company group dedicated to construction, civil engineering and concessions activities, being involved as well in infrastructure and construction, homebuilding and the operation of toll road and other transport concessions². With a highly level of internationalization, the group has presence in more than 30 countries around the world³.

The activity of the group is structured in three activities areas: *OHL Concessions* is dedicated to the infrastructure and transport activities, in highways, ports, railways and airports, as well as financial investments in other companies' concessions; *OHL engineering and construction*, includes *OHL Construction* (focused on railways, hospitals, roads and ports construction), *OHL Industrial* (engineering and construction of large industrial installations) and *OHL Services* (services linked to infrastructure such as maintenance, cleaning, energy efficiency, urban services, but also services linked to the health care sector); and finally *OHL Developments*, specialized in project management for tourism and hotel sectors.

Regarding sales, the group's turnover reached 4.368,9 million of Euros in 2015. As expression of its internationalization, the 82.6% of the turnover was generated abroad. Specifically, sales were registered in USA (1.014 millions), Mexico (738 millions), Czech Republic (410 millions) and Arabia Saudi (262 millions), with 73.4% of total turnover. By contrast in Spain the turnover of the group was 759 million of Euros. Regarding different areas, sales were mainly concentrated in construction (74.3%), followed at a large distance by the

¹ According to the methodology of the project, this case has been elaborated from data and public information of the group, as well as from semi-structured interviews made to trade union's representatives and management directors. Specifically, three interviews were done: to the Secretary-General of the Building and Wood Worker's International Federation (BWI) and the Director of the Occupational Safety and Health in BWI; to the Secretary-General of the Federation of the Construction and Services sector of Comisiones Obreras (CCOO); and to the Director of Human Resources of the OHL Construction.

² All data included in this chapter is taken from OHL (2016): *Informe de Sostenibilidad del Grupo OHL 2015* and the webpage of the group (<http://www.ohl.es>), consulted in June, 2016.

³ It can be highlighted its presence in America (manly in Mexico, EEUU, Peru and Chile), Europe (in Czech Republic, Slovakia, Poland, Turkey), Asia (Arabia Saudi, Qatar, among others), Africa (Algeria) and Oceania (Australia).

rest of the areas⁴. From the financial point of view, in 2015 the group has carried out a capital increase⁵, with the aim of reducing the debt level⁶ and looking funds to face capital commitments derived from new concessions (Peru, Chile and Colombia)⁷.

The workforce was formed by 25.978 workers in 2015, of which the 65% were working in abroad companies. By countries, they were located mainly in Spain (9.098), Mexico (4.147), Chile (2.897), Peru (2.615), Czech Republic (2.481) and USA (1.716). In these five countries was concentrated the 53.4% of the total workforce of the group. By areas of activity, most of workers were employed in the construction area (54.6%), followed by services (23.1%) and concessions (8.9%), respectively⁸. Women were representing the 31.6% of the total workforce and the 8.8% of the managing positions (director).

The international presence of the group has been a key element of its activity along past decades and has been boosted during the economic crisis. It is worth stressing that the Spanish construction sector has been developed traditionally at the national level. Companies' activity (and trade union action, therefore) was focused on an expansive internal sector; which employed around 2.7 million of workers in 2008. Despite of this, the group had a high level of activity abroad. The consequences of the economic crisis and the real-estate bubble in Spain (with an important drop of public investment on infrastructures) have impacted on the group strategy, with a major driver of its internationalization process. Nonetheless, as other companies of the sector, this process was previously initiated⁹. During the last twenty years, the group has been increasing its business volume abroad (especially in Latin-American countries), developing its construction field, but also the managing infrastructures and related activities.

In terms of restructuring, the group has recently carried out an internal reorganization of its Human Resources [HR] department. The group had a central HR department, which was in charge the human resources and labor relations competences. The process consisted on the transference of these competences to the different branches of activities of the group. So, strategic issues are adopted at the group level (as payroll, job training and knowledge management, etc.) but decisions on human resources and labor relations are taken at the branch level, with a certain level of autonomy. As a result, this has produced a greater presence of the labor issues at the level branch, leading to a more decentralized internal organization of the group for HR policies¹⁰.

In regards of the employee representation, the two types of unitary bodies of employee representation can be found in the companies of the group in Spain (*employee delegates* and *works councils*)¹¹. In *OHL Construcción*, the last representative employee elections have led the first position to *Comisiones Obreras* (CCOO) trade union, with 55.6% of the delegates, followed by *Unión General de Trabajadores* (UGT) trade union (40.7%). The rest is represented by other trade unions (nationalist, professional or class trade union).

⁴ The rest of the sales were registered in Concessions (10.2%), Industrial (8.1%), Services (4.6%) and Developments (2.9%), respectively.

⁵ An increase of 999.1 millions of Euros.

⁶ With an approximated amount of 632 million Euros.

⁷ With an approximated amount of 340 million Euros.

⁸ With less weight in the overall workforce, it can be mentioned the areas of Developments (7.6%), Industrial (5.1%) and Corporative area (0.8%).

⁹ As the representative company have expressed, in this time, the company stooped to develop the business residential activity, in foresight of future sector evolution.

¹⁰ As the company representative have expressed it has been registered a "decentralization" process in the HR policies, without "loosing the corporate figure", being reinforced "the business divisions with HR's directives in each one".

¹¹ Employee representation at the workplace in Spain has a clear legal framework, provided in the main by the 1980 *Workers Statute* and the 1985 *Law on Trade Union Freedom*. The law provides for elected representatives of the whole workforce in all but the smallest companies. Thus there are two types of unitary bodies of employee representation: *employee delegates*, elected in companies from 11 to 49 employees, and *works councils*, elected in companies with 50 or more employees. There are also *separate union delegates* in bigger companies.

Labor relations in this company are articulated under the sector collective agreement (*V Convenio Colectivo del Sector de la Construcción*), which is the reference at the national level along 2012-2016. The sector collective agreement is always the minimum reference for conditions to be regulated. It regulates the main labor issues of the sector, which is characterized by a high degree of business fragmentation. Collective bargaining is articulated basically in two levels: from the national level to the provincial one, where particular issues like the working calendar are negotiated. In most of the companies of the sector, even the big ones, the national collective agreement represents the framework of regulation. Despite of this, specific agreements can also be negotiated at company level (plans on equality plans or training, agreements on health and safety, wages etc.). In this sense, *OHL Construction* has negotiated and implanted an equity plan (*Plan de Igualdad 2016-2019*), with strong trade union participation.

The international framework agreement: origin, negotiation and main contents

The international framework agreement (IFA) was signed in 2012 by the HR Director of OHL, the international federation (Building and Wood Workers' International, BWI) and the sector national federations of the main two trade unions (FECOMA-CCOO and MCA-UGT)¹².

The negotiation process was initiated by the sector federation of Comisiones Obreras (CCOO) [hereafter, trade union] and lasted one year. This impulse was taken according with the previous call done by the international federation of construction [hereafter BWI] to their affiliates for promoting international agreements with multinationals companies¹³. The negotiation process began with a sector federation proposal that was in compliance with the BWI contents and procedures established for this kind of agreements. At the same time, BWI developed its own process, contacting their affiliates that an IFA was to be discussed and negotiations were going to start. There was sharing information between affiliates in coordination with the BWI.

From trade union perspective, it had good initial reception by the company, understanding the willing of knowledge. Companies have to face with a different culture and trade unions, which in terms of concepts and practices, are sometimes very different of the European labour relations¹⁴. From company position, motivations for having an IFA were linked to establish social dialogue at international level as it has at the national level. Similar motivations are registered from BWI in other companies of the sector, which are interested on going to new markets and building relationships with local trade unions rather than having future conflicts. In our case, the company also has considered the importance that the IFA represents a "guarantee" of a dialogue framework with trade unions.

The negotiation process was not focused as much on the content but on other aspects, like the recognition of the parties and the possibilities that the IFA would open after its signature. In support of its argument, trade union agreed the opportunity to sign an agreement with the international federation, explaining what is BWI and why they/us are promoting international agreements around the world (looking for minimum protection for workers and more democratic labour relations). In that sense, they pointed out the group's capacity with the IFA to have a direct interlocution with the affiliates of the BWI around the world. For the company, the most

¹² The agreement is named as *Framework Agreement between Obrascon, Huarte Lain S.A., the International Federation of Wood and Construction, FECOMA and MCA*.

¹³ In Spain, the six big companies of the construction sector have signed an international agreement. OHL was one of the first to do it. In terms of content, they are very similar.

¹⁴ Here, the trade union representative highlights the debate about the presence of trade unions in different regions of the world and differences between trade unions. A similar trade union perspective as Europeans in terms of organization, labour relations and culture can be found for example in Latin-American countries (like in Brazil, Argentina or Chile), while in Mexico or USA trade union movement has other characteristics (more fragmented). In Mexico, for example the international federation ICM has not any affiliated members.

relevant issue was the nature of trade unions. Recognizing the role played by the BWI and Spanish trade unions, from its point of view, the utility of the IFA is linked to have similar relations and trade unions as they have in the European level¹⁵.

The IFA was not preceded by any previous international agreement. The key factor was the international federation and trade union interests on starting the process. For the company, the crisis and bubble burst (and the internationalization) were factors, but not the decisive ones. From its point of view, an IFA would have been signed in any context if brings the opportunity to establish a social dialogue in other countries.

In terms of content, the IFA express “the joint commitment of the signatories to respect and promote the principles defined in the Universal Declaration of Human Rights, the ILO Tripartite Declaration, the Guidelines for Multinational Enterprises of the OECD and the United Nations Global Compact”. Company and workers recognize their interest in having sustainable development of the construction industry and the importance of establish democratic and open labour relations, as well as, collective bargaining procedures between workers' representatives and the company¹⁶.

The principles addressed in the IFA are related to the following areas: freedom of association and right to collective bargaining (ILO Conventions 87, 98); freely chosen employment (not forced labor or forced servitude), (ILO Conventions 29, 105); non-discrimination and equal opportunities; protection of migrant entry workers; no use of child labor (ILO Convention 138, 182); wages enough to live (living wage); no excessive working hours; safety and health at work (ILO Conventions 155, 167); welfare of workers; professional training; working relationship and compliance with social security regulations (see IFA in the annex).

Beyond the content¹⁷, the IFA represents –as interviewed have expressed- a framework in which international labour relations can be placed. In that sense, it is understood as a process or instrument through which conflicts can be solved. This model is based on having a network in which when a conflict arises, trade unions, international federation and company can address it, being priority at the local level (see below).

It is worth stressing that in terms of coverage the application of the IFA is limited for certain parts of the group. So, the IFA recognizes that the parties will work together for verifying the effective application in OHL SA in the exclusive domain of its construction activity. In spite of this, the IFA includes the promotion and encouragement of its principles among contractors and subcontractors and suppliers.

Finally, regarding its validity, this IFA has not a specific deadline, being in force until one of the signature parties want to modify it¹⁸.

Implementation, monitoring and assessment

Despite of its date of signature, the application of the IFA is still incipient in terms of monitoring, with a long way to do in this field. From 2012, the IFA has been used in different countries around the world, but without any specific structure to evaluate its developments at the group level. The IFA has been put in practice as an instrument to face conflicts and to open the dialogue between the company and trade unions, where has been

¹⁵ The IFA is positively valued by the company inasmuch as similar relations with trade unions can be established. It appreciates trade unions with “dialogue”, with “the same characteristics” and “committed with agreements and collective bargaining”, as they do the Spanish ones.

¹⁶ Specifically, the company expresses its interest of ensuring compliance of the ILO provisions related to child labour, assuming the commitment of “developing business and professional activities according to the legislation of each of the places where operates, promoting and encouraging activities with same recognition and respect among contractors and subcontractors and suppliers”. It also recognises the prohibition of abuse of authority and any form of harassment, the corruption and bribery as obstacles for economic social and democratic development and the importance of not reducing or undermining trade union rights of any member of the ICM or any other union within the group.

¹⁷ The representative of the company interviewed ensures that these principles -for example child labour- are entirely assumed within its human resources policies, extending through all its sections and activities.

¹⁸ It has a three months' notice.

needed. Signatories' parties have positively evaluated the application of the agreement¹⁹ and are opened to develop it further in terms of monitoring.

At this point, it is important to be noted the efforts done by the BWI at the international level, which have concentrated in reviewing and mapping the situation of signatory multinational companies with an IFA. Here, it can be mentioned a specific survey (2015)²⁰ focused on knowing what kind of activity, workforce, locations and public information have the companies with an IFA. The analysis is based on the information produce by companies and the trade union information sources (as the ITUC Global Rights Index). Financial and economic data, social indicators, employment and health and safety indicators are combined with the compliance of labor rights (for example, index risk for of labor abuses). The aim of this is sharing information between its affiliates about the presence of companies in different countries. After this, a more specific evaluation could be developed in each case.

At national level, a remarkable initiative of workers' information has been developed in Spain by the Federation of Construction and Services of CCOO, the *Observatory of International Labour Relations*. Jointly with other organizations, the observatory was created in 2014 with the objective of giving information and resources about labour law and labour relations in different countries and regions. Designed as information tool, it has been targeted to working people abroad, and also for those who want to know the labour and social reality of other countries.

Box 1. The Observatory of International Labour Relations: an instrument for workers' information

The *Observatory of International Labour Relations* is formed by a research group of the *School of Employment Relations (Escuela de Relaciones Laborales)* at the *Complutense University of Madrid*. Created in 2014, the Observatory has been developed in collaboration with the *Habitat Foundation* and the *Federation of Construction and Services of CCOO*.

The work of the observatory is focused on a Web-page (<http://www.observatoriorli.org/>) with reliable information about the insertion into the labour market, the potential for business expansion, and knowledge about international labour relations. The provided information is available to all employers, small, medium and large businesses, young graduates and workers in general.

Different kind of information can be found in this tool: labour information of several countries and regions; information and links to official sources on key aspects for working abroad; and economic and social information concerning labour standards, labour relations, as well as organizations or political institutions, like trade unions.

Source: *Own elaboration*.

In the specific case of OHL some results can be mentioned. For example, the mapping of employment in 2015 shows the group's presence in Europe, South America, North America and Africa²¹, marking those countries where violations of rights are registered according to the ITUC index. Regarding IFA indicators, OHL information can be found, for example, on employment (permanent and temporary workers, with regional and

¹⁹ For example, the IFA is positively evaluated by company and trade union, but it recognizes that its practical effect has been limited to certain cases.

²⁰ BWI (2015): *BWI Review of Signatory Multinational Companies of an International Framework Agreement*. IFA Working Group Meeting. Geneva, 18th November 2015, ILO.

²¹ Data for Europe (45% of which 35% in Spain), South America (26%), North America (20%) and Africa (9%).

country views), while about subcontractors is still partial. In this line, information about labor relations and collective bargaining can be also reinforced²².

Taking into account that having information about companies is essential, it has to be mentioned also that public information, only partially fits with the IFA requirements²³. As BWI representatives have expressed there is a continuous work that has to be done, sharing information between trade unions and coordinating activities, especially on this sector where big projects are developed. At the present time, in line with these research and mapping activities, a global staff for training has been created by BWI for supporting unions in the compliance of agreements.

Implementation and monitoring

As it expressed in the IFA, the agreement represent a “voluntary commitment”, declaring at the same time their interest on the active cooperation for removing any existing violations and avoiding future infractions.

Nonetheless, in terms of **implementation** the IFA does not determine how it has to be adopted within the company and who is in charge of it. A “reference group” is established to monitor its application (see below), but there are no concrete guidelines. In a general sense, it determines that the application should be in line with current national legal frameworks, practices and customs, while these do not entail any prejudice or contradiction.

For conflict resolution, the IFA establish that any disagreement over the interpretation or performance of this agreement will be examined jointly, with the aim of making recommendations to the parties involved. In case of any claim or infringement is applied a concrete procedure: firstly, the claim should be addressed with the local management at the workplace; secondly, any infraction that can not be solved in that level should be addressed with the coordinator of BWI in close collaboration with the BWI affiliates in country of origin and the responsible of the company; finally, if the conflict still persists, the “group of reference” will take the matter up with the objective of giving recommendations to the concerned parties in order to solve the controversy.

In regards of the activities and conflicts, the IFA has been used when a **conflict** has emerged. Two labour conflicts have registered: Turkey and Chile. In Turkey, it was related to the rights of trade unions. A trade union (YO-LIS) that is affiliated to BWI could not access to the workplace for developing its duties and activities, as the IFA and ILO Conventions have recognized. Meetings were held in Spain and Turkey between the parties. The process was initiated by YO-LIS, who call BWI that put them in contact with CCOO. The Spanish trade union transmitted the case to the central management, who talked to the local management²⁴. As a result, recognition between parties was generated, which facilitated the redirecting and the resolution of the conflict. In Chile, economic issues were on the basis of the conflict. In that case, the conflict was not related to the content or the application of the IFA²⁵. Nonetheless, the IFA was a relevant instrument to face it. Meetings were held between the corporate directive and local management of HR and trade unions at local level. The resolution of conflict and final agreement was boosted by the participation of a trade union that was

²² Percentage of workers covered by collective agreement is the information usually included.

²³ Little information on employment evolution, partial view on local employment, scarce information on subcontracting, poor information on industrial relations and collective bargaining are some of the results of the BWI review.

²⁴ Here, they have to be noted also the usual meetings that are held between trade unions. In this case, YO-LIS was invited by the sector federation of Construction and Services of CCOO to its Congress in 2009; an invitation that was later repeated in Turkey by the Spanish trade union.

²⁵ In words of the company, the conflict “has not had a direct relationship with the IFA”.

linked to the IFA and associated to the ICM. The company has expressed that supported by the IFA, a new labour relations policy has been developed, based on dialogue and negotiation process.

In both cases, the application of the IFA allowed to open channels of dialogue between the company and trade unions, resolving conflicts. At the same time, it has empowered trade union at the local level, boosting the international trade union relationship.

In that sense, it worth stressing that no specific **activities** have developed under the IFA as such. Company has point out that activities have been done according to the IFA, but not directly developed from it. However, as a consequence of the IFA, relations between trade unions have been established since then. As an example, a meeting was prepared by the sector federation of CCOO with the presence of the Construction, Forestry, Mining and Energy Union (CFMEU) of Australia and the four big Spanish multinationals. In one side, companies wanted to know the economic and social Australian situation and, in other side, the trade union was interested on the projects and future companies' intentions in the country. After that, both trade unions have continuing maintaining the contact²⁶. Similar experiences have been registered with other trade unions from Chile, Turkey or England. These kinds of meetings have enable to signatures parties to give the IFA a specific content and practices with continuity, beyond the conflict resolution.

At the **local level**, the IFA recognizes that conflict has to be addressed firstly with the local management at the workplace. If it has not been resolved, then the participation of the international federation and the rest of signatories' parties have to enter in the process. As trade union and BWI have expressed this delocalized model of facing conflicts is based on local trade unions participation. They are in charge of indicating possible or existing conflicts, sharing information about the company with trade unions at origin level in coordination with the international federation²⁷. Thus, it is a model that needs the knowledge of IFA by all parties and the active participation of the international federation. From company perspective, labour relations might be developed at the local level, understanding that IFA includes general principles of application²⁸.

Regarding **employees' representative structures**, no significant conflicts have been produced after the IFA application. In the trade union field, the main issue was finding reference's trade union in countries where the IFA is applied. In many cases, there is a very different trade union reality to the country of origin (for example USA), what results on a lack of interlocution at local level. In some countries, trade union action linked to the IFA at the local level has not been articulated yet (for example Mexico). Trade union action tries to boost international agreements, but also to empower trade unions at local level. A dialogue process could be opened with those affiliates to the BWI, in order to have reference's trade unions to enter in the IFA application. In this line, BWI aim to encourage the use of IFA to organize labour, to reinforce trade unions and to promote social dialogue.

On the other hand, tensions with **local management** level can also be analyzed. In this specific sector, trade union points out that tensions could be addressed in this level from differences between construction management (whose objective deals with the company activity) and human resource management (who has to be concerned about the compliance of labour norms of each country). At the same time, these tensions could

²⁶ The sector federation of Construction and Services of CCOO attended to the Congress of the CFMEU in 2015.

²⁷ As BWI has pointed out, cases are identified "in that country, they report to us, they inform the company and they normally try to fix it. If is not fixed, the logical is... you both go there and fix it. This is really important because many of cases it is misunderstanding in the local level" (REVISAR).

²⁸ From its point of view, the content of the IFA has be defined by general principles and not by the local levels/demands; in this sense, they express that labour relations at local level have their own space of development.

be registered also at the level group. Nonetheless, the company has remarked that no significant conflict has been registered with local management in connection with the IFA application. With last organizational changes, the HR corporate HR department has reached a significant weight within the group. In this sense, it is considered that IFA application has reinforced the HR action, with a greater involvement in the construction activity.

In terms of **information**, the IFA establish that the company will provide verbal or written information with reference to the agreement for the entire organization. For this task, both parties recognize that effective local knowledge has to include the local management, workers and their legal representatives (as well as health and safety representatives and local trade unions). As the trade union and company has expressed, information and participation is important for the IFA, but no specific action has been develop yet. Both recognize that there is a lack of publicity and information of the IFA. In the case of BWI, information is given to its affiliates when the IFA was signed.

For the **monitoring** process, the IFA establish the constitution of a “reference group”, which is composed by members of members of the OHL SA management and of the BWI, FECOMA-CCOO and MCA-UGT, respectively. It required to be meeting once per year for monitoring the implementation. For this, the company will offers the necessary support for the meeting. Trade union organizations (BWI, MCA-UGT y FECOMA-CCOO) will participate in the meetings at their own expense, except those amounts that are made at the request of the company (in which case are assumed by it). In order to guarantee the role of the local and national trade unions affiliated to BWI in the monitor process, the company will ensure their access to workers, as well as to the necessary rights of information. In this scheme, visits to workplaces and other mechanisms are also considered, as BWI have expressed. Regarding coverage, all subsidiaries might be included in the monitoring and suppliers are stimulated to do so.

In terms of results, an annual report it is considered in the IFA, which should be included in the corporate memory after the approval of both parties. Up to now, no annual report has been elaborated for evaluating the IFA development. In the last corporate memory (2015), only two mentions have been done to the IFA and none of them in terms of monitoring. As is expressed by parties, no evaluation process has been set to monitor its application, because is has been used as “intermediation service” to resolve concrete conflicts, but without any monitoring as recognized in the IFA.

Despite of this, they have positively valued the possibility to go further in the monitoring process. Diverse factors can be addressed to this lack of development. From the company perspective, there has been a need of resources aimed to the evaluation process. It has expressed that during last years of crisis, it has not been possible address means to support this duty.

From trade union point of view, other elements can be identified: the traditional activity and trade union action at national level; low trade union culture on transnational agreements; difficulties to follow the application of agreements in the supply chain (and their needs of means and training in this issue).

Beyond these factors, it is also mentioned difficulties of the construction sector for being an activity which is developed in a limited period of time (projects abroad could have an extension of one year or two, for example). As the company has expressed, beyond its permanent structures, construction is a temporary and itinerant activity. Thus, a centralized structure of monitoring –as in other sectors- could not be able to face conflicts because when it could start the work will be finished. The BWI has point out the relevance of having

this model in the construction sector, where company's projects are developed in a certain time. Monitoring has primarily to be done by local trade unions in coordination with trade unions at origin and the international federation²⁹, what also empowers them in their labour relations.

In the debate of monitoring, trade union and BWI also mention the need to visualize conflicts and share information, especially in a decentralizing model. Here a question arises, does the agreement works because there are not conflicts from local level or because they are solved and not transmitted to the national level? Against this, they point out the importance of having a coordinated action, with the participation of the international federation and local trade unions. It has to be shared and registered that the agreement has been relevant to establish dialogue, to reach agreements and to empower local trade union actions.

Assessment

In general terms, the IFA has been positively valuated by the signatory parties, although there are still pending issues to cover in the way of its application and monitoring. All parties of the IFA have expressed the utility of the IFA as a framework/instrument of recognition.

The IFA is identified as a useful instrument during economic crisis, but no only. The company has been positively valuated the agreement. From its point of view, the contained principles have been easily exceeded, without any non-compliance and when a conflict has been raised, it was due to reasons beyond it. For the company, the IFA has make possible to generate a more reliable labor relations abroad, based on dialogue between parties. Under its perspective, the most important thing of the IFA is that it represents a "guarantee" of recognition and dialogue. It seen as an "audit mechanism of parties", in which signatory trade unions have to follow the principles and dialogue, in line with European syndicalism. Under the company perspective, the IFA is an useful tool for economic crisis, but a tool. It does not resolve conflicts by itself (it is not a "magic wand". The parties are those who have to solve conflicts. The IFA represents a "guarantee" of interlocution and dialogue between them.

For trade union, in a context of economic and social changes, the international recognition of labor across countries is one of its most relevant aspects, especially in a scheme where national institutions have less capacity of intervention and international institutions are not able to cover this field.

From their point of view, having an IFA should be evaluated by three relevant elements. Firstly, they point out that with the IFA acceptance the company recognizes the existence of sort of "world trade union governance", which overflows the national borders and where international trade unions organizations are the legitimated subjects to negotiate. Secondly, dialogue between parties is also a central element. In that sense, they remark that labor norms could be different but with the agreement local trade union have the possibility to develop similar negotiation procedures as they do in their origin countries. And thirdly, they highlight the impact for trade unions at the local level. Here, it is mentioned the capacity of the IFA to empowers local trade unions that make possible a dialogue framework in their countries. They have perceived that with the IFA a great knowledge and direct relation between trade unions have been reached.

In this line, BWI considers that the results of the international agreements have to be seen in terms of building organizations and trade union action. First, they value their application on conflict resolution, watching if there

²⁹ The expressed that if a centralized model would be established, when the time you tried to evaluate the project is done. Our intention is to place the mechanism to solve problems by themselves (local trade unions). This is how we see it; otherwise you miss time to solve problems.

have been cases that have been solved³⁰. At the same time, they point out their impact on the empowerment of the trade union at the local level³¹. The BWI recognizes the IFA as an open door for trade union action and not a substitute of unions and collective bargaining at national level³². Thus, the evaluation and results are linked to trade union membership and collective bargaining, which have been reinforced with theses agreements³³.

The empowerment of unions through the IFA is seen as a continuing process, in which unions (at origin and local level) have their own role, in coordination with the international federation³⁴. According with its experience, BWI has seen how companies used to see right to have an organize labour and to deal with it, if they want to have a reliable workforce and to reduce risks³⁵. A diagnosis shared with the company, who considers that IFA represents a “guarantee” of dialogue.

Nevertheless, trade union and company also consider that the IFA has not been boosted enough. It has been used as instrument in conflicts resolution but has not been develop to its full extend. They consider that steps have to be done in this sense. Thus, company expresses the needs in terms of publicity and training. In this line, trade union also mention the lack of information (IFA has to be disseminated to all local trade unions, about its content and possibilities), activities (developing regular meetings on different issues –health and safety, training, etc.-) and international interlocution (there are countries without trade union representatives).

The monitoring process is seen also as a common duty that is still pending to be developed. Here, specific assessments and proposals are mentioned. From company point of view evaluation is seen very positive. For the future, company has expressed its interest on having regular meetings about the IFA (as is recognised on it), but with a “practical sense” and working scheme. Additionally, trade union also mentions the possibility of having meetings on different issues (health and safety at work, training, etc.) with an international perspective.

For the evaluation, trade union considers that it would be very useful to know the group’s projects on different countries before they begin. With this, trade unions (especially local trade unions) and international federation would have enough time to monitor the activity. Before works begins, they would know what the project is about, workers employed and its duration. This previous step –as the BWI also remarks- would be very important to open the dialogue, to coordinate activities and to evaluate the application of the agreement. For providers, they also consider that it would be desirable to extend the monitoring process

However, needs of means and structure are also mentioned as relevant obstacles. Company and trade union have expressed a lack of resources for this duty, what is not fully carried out by the signatory’s parties. In this line, trade union has point out that –at this time- they do not have the capacity of doing this work for all companies (local trade unions sometimes do not know that there is an agreement). International federation is carrying out part of these duties, as has been expressed before. The existing tasks and results attributed to the “group reference” in the IFA are seen positively by parties, but they agree that they have not been enough developed.

³⁰ In the debate on content, they remarks that agreements have benefits beyond specific compliance of the IFA (instrument to be used by local trade unions to resolve conflicts and improve labour relations).

³¹ From their point of view, in a sector with infrastructure projects, theses agreements have made possible to open doors to the trade unions, to have recognition, to have collective agreement and to organize labour.

³² From BWI perspective, “we can not replace, the global union do not want to replace local unions (...) we want them to be empower to fight for their rights”.

³³ In terms of results, they mention that “half of the new membership growth of last year (and part of this one) have been registered in multinational companies”.

³⁴ In words of the BWI “we bring the table to get there, but is the union who has to organise (...) we support them to do doing it”.

³⁵ As they point out, “if you treat people with poor conditions, poor remuneration, you can not expect to have them for work the next day”.

At the same time, trade union has also mentioned a change on existing culture and practices. Within the trade union action, a step forward is demanded on the international culture of trade unions, passing from an international labour relations conception to international practices, where current international federation has to play a central role. Having the organizational capacity and legitimacy, sharing information and knowing the reality and conflicts of other countries, are elements to be considered for boosting these international practices, especially within international agreements. In this line, specific training activities on IFAs are demanded. Finally, they also express the necessity of improving trade union coordination, pointing out that the agreement will be a dead letter if not is followed by trade union action.

In terms of proposals, the BWI's world board on international agreements has exposed recommendations to their affiliates. BWI have remarked that is central to have strong unions in the application and monitoring processes.

For extending the IFA application, they propose to make the companies inform about IFA, ensuring that it is understood by their task forces in all their operations; to interchange information of the company, mapping of company's activities and projects; to do mapping of the trade union situation in each country where the company operates; to organize meetings between management and local trade unions; to inform, to do training and to support trade unions for obtaining the trade union recognition, the recruitment of members, union representatives and prevention delegates and the collective bargaining. In this line, other proposals are suggested in terms of specific mechanisms³⁶.

Regarding constraints and opportunities, the BWI remark the handicap of not having affiliates in some countries what makes difficult the application of the international agreements. In addition to this, other factors can be mentioned in terms of capacity. There are countries where trade union movement and sectors are weak, being highly fragmented. In big projects other agents beyond companies (governments, different ministries, development banks, etc.) have to be taken into account. For them, difficulties of appeared in the coverage to the supply chain and the risk of creating different types of workers.

On the other hand, international agreements are seen as challenges, where it can be identified its potential for trade union movement. Here, its results in terms of resolving conflicts, organizing labour and increasing trade union membership are positive valued. A more systematic way of monitoring is desirable, having the capacity of inspecting all sites. From its point of view, if the BWI could extend that role (in coordination with national trade union) then more workers will benefit from it. For this, training activities have been done (especially on health and safety). Activities about IFAs of monitoring process are demanded. They see their witness as their capacity to help union at national level.

Conclusion

In accordance to the objectives of the study, some relevant aspects can be highlighted from the analysis of this case. First, it should be noted that –despite being recent– the agreement has involved an impulse of the social dialogue and the strengthening trade union action, at the national and international level. Positively valued by the signatory parties, the agreement has enabled to face and to resolve conflicts in different countries.

³⁶ In terms of mechanisms, meetings of the EWCs and the reference's groups have to be held in mutual coordination in order to guarantee political coherence; the EWC information's rights should be used for helping in the IFA implementation, promoting the monitoring process; global trade union networks should be established on each case; and to visits to workplaces have to be done by the reference' group, including visits with both local and union at the home country.

It is worth stressing the role played by the international federation, who has had a presence in the different phases of the agreement (from its signature to the monitoring process). Jointly with the national trade union, their active participation has been revealed decisive in this process.

The development of the agreement is articulated through a decentralized model, where the local trade union and management have a relevant role. As it has been mention before, this kind of implementation is designed according to the specificity of construction activity abroad and the understanding of the agreement as “instrument of intervention” or “guarantee” for social dialogue. International federation, trade union and company have valued the importance of the agreement in this sense.

However, the application of the agreement has not exploited all its potentials. No significant activities have been directly developed as a result of the agreement. There are important areas to be covered, manly information and monitoring. In terms of information, the agreement has to be extended to the supply chain, to workers, trade unions and local managements. Regarding the monitoring process, there are still pending issues to do (meetings and annual reports, for example), but they are positively evaluated by the parties for being developed in the near future.

Finally, the analysis of this case allows us to highlight the importance of the agreement for the trade union movement. At this respect, the trade union action at national level has been boosted in some countries, with relevant results. At the same time, interrelation between trade unions (of the origin country and abroad) has been launched as a result of the agreement and conflict resolution. As a consequence, the articulation of trade union action at the international level has been reinforced with these processes.

Case Study ThyssenKrupp¹

Jesús Cruces Aguilera, Fundación 1º de Mayo

Introduction

Over the past decades, corporate restructuring processes have been a widespread phenomenon in the European Union. International Framework Agreements (IFA) are starting to have an important role on them. This chapter addresses the implementation and evaluation of the IFA at *ThyssenKrupp*, a company that has been involved in several organizational changes and restructuring process all over the world during last years, having particularly relevant cases in Spain.

With previous transnational experiences, the IFA at *ThyssenKrupp* came to light in 2015, after an intense process of negotiations. Its content, which includes the recognition of fundamental and labor rights, has to be applied worldwide for all subsidiaries. Despite its recent application, relevant progresses have been made in the monitoring and evaluation process. The findings of this case study allow highlighting the importance of the necessary workers' participation and trade union action during the whole process, from negotiation to application and evaluation.

Company profile, restructuring processes and industrial relations at the group company

ThyssenKrupp is a multinational conglomerate corporation dedicated to the steel production and the provision of components and systems for the automotive industry, elevators, escalators, material trading and industrial services². It has presence in 77 countries (with 497 subsidiaries and 23 investments accounted), operating in North and South America, China, India and the Asia-Pacific and Middle-East regions. In Spain, the group has 17 companies in different productive activities and locations: Components Technology (Zaragoza and Navarra), Elevator Technology (four companies in Asturias and four in Madrid), Industrial Solutions (Barcelona and Madrid), Material Services (Barcelona, Valencia and Vizcaya) and Steel Production (with two plants in Valencia)³.

The global workforce was formed by 154.906⁴ employees in 2015, distributed mainly in Germany (39%), but has presence in the rest of Europe (20%), North and Central America (14%), South America (8%), Asia-Pacific (18%) and Africa (1%). Women represent the 14.9% of the total workforce and the 10.2% of the managing positions. In Spain, the workforce is formed by 5.112 workers. The general group's turnover reached 42.778 millions of Euros in 2015, of which around 1.400 of millions are generated specifically in Spain.

Along past decades, the group has experienced both investment and restructuring processes, reconfiguring its production chain all over the world. In recent years, several changes have been registered. In the steel section,

¹ According to the methodology of the project, this case has been elaborated from data and public information of the group, as well as from semi-structured interviews made to trade union's representatives and management directors. Specifically, it has been interviewed the vice-president of the European Work Council of ThyssenKrupp (Secretary of the inter-union section of the group of CCOO) and the President of the European Work Council, member of the World Work Council and the Supervisory Board of ThyssenKrupp AG.

² All data included in this chapter is taken from ThyssenKrupp (2015): *Annual Report 2014/2015* and the webpage of the group (<https://www.thyssenkrupp.com>), consulted in April, 2016.

³ Specifically, they are located as follows: *Components Technology* (Rothe Erde Iberica SA, Zaragoza, Defontaine Iberica SA, Viana-Navarra), *Elevator Technology* (TK Elevadores SL, Madrid, TK Elevator Manufacturing Spain, Móstoles-Madrid, TK Norte SA, Mieres-Asturias, TK Airport Services SA, Mieres-Asturias, TK Airport Systems, Mieres-Asturias, TK Encasa, Madrid, TK Elevator Innovation Center, Gijón-Asturias, Asel Ascensores, Madrid), *Industrial Solutions* (TK System Engineering SA, Rubí-Barcelona, TK Industrial Solutions SA, Madrid), *Material Services* (TK Materials Ibérica SA, Martorelles-Barcelona, TK Plastic Ibérica, SL, Massalfassar-Valencia, Laminacer SA, Munguía-Vizcaya) Steel Production (TK Galmed SA, Puerto de Sagunto-Valencia, TK Ros Casares, El Puig-Valencia).

⁴ Data registered at 30 September, 2015. In December of 2015, the workforce increased until 155.387 employees. See, *Current key. First quarter 2015/2016*, in <https://www.thyssenkrupp.com>.

the group built a large steel plant in Brazil in 2010⁵, with an investment that was finally quadruplicated⁶. As a result of this operation, as well as others made in other countries (Alabama/USA)⁷, the group sought liquidity, selling several non-core companies and high valued assets, and at the same time relocating other activities. This strategy has had impact on the different segments of the group (from steel to the industrial services)⁸. On the whole, it is seen as a continuous process of change and restructuring of the group worldwide. Recently, in 2017, 300 of dismissals in the steel section have been announced by the company, opening a new era of restructurings in Europe.

In Spain, the group has registered also significant restructuring processes during recent decades. It could be mentioned the cases of *Blistein Ibérica* that was closed in 2006 and the *TK Elevator Manufacturing* (Valencia) 2009 that was also closed, relocating its production in Germany and other locations in Spain (Madrid). In 2006, the production of *TK Electronic- Engineering and Systems* located in Madrid, was transferred to a new plant in a new location in Andoain (Guipúzcoa). At the same time, attempts of relocations trying to translate its production to China, but it was finally declined; and in *TK Airport Services*, was the first attempt of selling of the whole airport business worldwide, with a plant in Asturias and a network of services in different European airports. In both cases, the pressure of trade unions played a decisive role, avoiding the sale and reaching the commitment, not only in the maintenance of the business within the group but also investments and growing of the business.

In 2017, the new era of restructurings is also affecting Spain, especially in the elevators section (with 5 dismissals). To this respect, two actions have been done: a strike was called in ThyssenKrupp Elevators during 8th and 9th of May of 2017; and concentrations at the entrance of the plant of *Villaverde* were developed (4th and 8th of May) by CCOO at ThyssenKrupp demanding the end of dismissals, collective bargaining and employment⁹.

Nonetheless, one of the most known restructuring processes in Spain was placed in *TK Galmed*, a company dedicated to the galvanization of steel coils. In 2013, even with benefits, the management made the decision to close the plant and to translate the production. The negotiated social plan included the relocation of 66 workers/families from Spain to Germany (36 are still there). In 2016, according to the demands of steel in the automotive sector, the group has decided to invest and to reopen the plant and now is currently incorporating former employees (with a reopening in May of 2016, the production officially started in December of 2016 with a workforce of 90 persons). It should be noted that both processes -the relocation in Germany and the reopening in Spain- have been articulated within the international framework agreement/principles of the group¹⁰. Specifically, as trade union representative has expressed, these agreements were used to give more weight to their initiatives. Thus, agreements and trade union action were key elements for ensuring employment and recovering previous lost jobs.

⁵ Initiated in 2005 and finished in 2010.

⁶ The final investment increased from 1.3 to 5.3 Billions of Euros. Data from Morschett, D. et al (2015): *Strategic International Management*. Springer Gabler (p. 423).

⁷ For example, the building of a carbon steel and stainless steel plant in Alabama, USA.

⁸ It can be mentioned, for example, the impact on the stainless steel section located in Finland and USA (Inoxum was sold to Outokumpu in 2012 and to ArcelorMittal and Nippon Steel in 2013), on the shipbuilding section in Sweden (that was sold to Saab in 2014), on the material services in Italy (intentions to sell Berco in 2012), on the technologies section, being affected the automotive components in USA and Germany (TK-Waupaca was sold to KPS Capital Partners, in 2012) and part of the production of Germany was relocated in Lichtenstein). Relocations were also registered in the elevators section of the group (from Angers-Frances to New Hampshire-United Kingdom and Madrid-Spain 2015).

⁹ Videos of the concentrations: https://www.youtube.com/watch?v=n_PkhVXVTac

<https://www.facebook.com/FederacionIndustriaCCOO/videos/1770738536274936/>

¹⁰ *Principles of Social Responsibility in Labour Relations*, 2007; *International Framework Agreement*, 2015.

Box 1. Restructuring processes and employment commitments: the *Galmed* case

80's - 90's and 2000's

During 80's, a big industrial restructuring process was developed in Altos Hornos del Mediterráneo, a steel industry located in Sagunto (Valencia). Strikes and high social response were registered in response, both locally and nationally. Thousands of jobs were lost as well as a big reduction of the industrial activity of the region. With this previous context, Galvanizaciones del Mediterráneo (Galmed) was constituted in 1992 with the participation of Ensidesa, Sollac and ThyssenKrupp. A volume of production of 250 thousands of tons of galvanized steel was produced per year, destined mainly for the automotive industry. In 2003, ThyssenKrupp controlled the 100% of the company shares by buying the part of Arcerlor group.

2013. Closing and Social Plan

Despite of having benefits, in 2013 the management of *ThyssenKrupp* group decided to close *Galmed* plant, with the aim of relocating its steel production. Work stoppages and different protest's initiatives were developed by workers and trade unions. The negotiated social plan included early retirements and relocations. 65 of the 165 workers of the company accepted to be transferred to Germany (Duisburg). In 2016, 36 workers are still there.

2016. Reopening Plan

Due to the increasing demand of steel of the automotive sector, in 2016 the group has decided to open the *Galmed* plant. Nowadays (Nov. 2016), the company has incorporated part of the former employees (administrative staff), for the launch process. In next months, it will count with other former workers, according to the previous negotiated plan. It has been planned that the plant will produce galvanized steel at the end of 2016. A fully operational scheme will be adopted for 2017.

Source: *Own elaboration.*

Regarding employee representation, at the national level, two types of unitary bodies of employee representation can be found in the companies of the group in Spain, as recognised in the legal framework: *employee delegates* and *works councils*¹¹. There are also *separate union delegates* of the different unions, organized in union sections other bodies of representation (inter-union section). According with last available data, Comisiones Obreras (CCOO) has reached the 56% of the legal representation of workers in the group. The second position is held by UGT, with a 30% of the representation. The rest is held by other trade unions (ELA, LAB, USO, CIG, CSI and SITA). In terms of affiliation, the 26% of the workers of the group are membership of CCOO, and the 10% to other trade unions, with makes a total of 36% of workers affiliated.

At the European level, there is a *European Works Council* (EWC), created in 1995. It is articulated through a "Buró" (1 president, 1 vice-president, and 2 more vice-presidents) which has a direct relationship with ThyssenKruppAG. This is a reduced body of the Presidency of the EWC that is formed by representatives of each section of the group (elevators technologies, steel, material services, technologies components and corporation), being 14 representatives in total. The "Buró" has to deal with the day to day issues and to prepare the Presidency of the EWC meetings, two each year (March and October). At the global level, there is an *International Committee* (IC) integrated by the chairperson of the Group Works Council (GWC) and two deputies of the chairman of the GWC, the chairperson of the EWC, the IGMetall officer for ThyssenKrupp and a representative of the IndustriALL Global Union.

¹¹ Employee representation at the workplace in Spain has a clear legal framework, provided in the main by the 1980 *Workers Statute* and the 1985 *Law on Trade Union Freedom*. The law provides for elected representatives of the whole workforce in all but the smallest companies. Thus there are two types of unitary bodies of employee representation: *employee delegates*, elected in companies from 11 to 49 employees, and *works councils*, elected in companies with 50 or more employees. There are also *separate union delegates* in bigger companies.

Graph 1. European Works Council of ThyssenKrupp



Source: *Own elaboration.*

In these transnational bodies of representation, there were two members of the Spanish union CCOO (as vice-president of the EWC and representative of the elevator division at the EWC). But relevant changes have been happened on the election of the EWC during 2017. A significant breach of the IFA has registered. The case is now in the judicial area, and the CCOO representatives are out of the EWC (see below).

Concerning the industrial relations, it worth stressing that collective bargaining in the metal sector in Spain takes place at the company level, due to the historical refusal of the employer to reach a sector-level agreement. In the field of social dialogue, different bodies have been set: a national commission on social dialogue (CNDS) in the sections of elevators (*TKE*) and elevators manufacturing (*TKEMS*) -with capacity of negotiation between group companies- and a health and safety intercentres committee (CISS) at national level for the elevators section (*TKE*).

The negotiation process in the group has been crystallized along past decades in company agreements. Wider negotiation frames can also be located within the structure of the industrial relations. At present, for example, a negotiation process is opened to reach a framework agreement covering two companies of the group with related activities (*TKE* and *TKEMS*)¹². In 2016, there are registered 49 collective agreements in the companies of the group, covering each section of activity (40-TKE, 2-TKEMS, 3-TKASV, 1-TKASY, 1-TKN, 1-TKEN and 1-REI). It can be found also agreements on specific issues, as the equality and labour conciliation¹³ or the maintenance of employment¹⁴.

In terms of results, many restructuring processes have been negotiated resulting agreements and social plans, in which outplacements, early retirement programs and voluntary leaves are included. Here it should be

¹² At ThyssenKrupp Elevator and ThyssenKrupp Elevator Manufacturing.

¹³ There is an Equality Agreement in TKE and TKEMS that improves the Equality Law conditions.

¹⁴ The MIDDLE Agreement supposed the preservation of the employment after measures adopted in the lift maintenance section.

mentioned the cases of *TK Galmed*¹⁵, *TKE Madrid*¹⁶ and *TKEMS*¹⁷. In other conflicts, the pressure of trade unions at the European and national level has avoided divestment and delocalization process (*TK Airport System and TK Airport Services*¹⁸, *TK Encasa*¹⁹ and *TK Ros/Casares*²⁰).

From the trade union perspective, in the near future, the following issues will have to be addressed: collective bargaining and wage recovery, the reopen processes of plants, employment and precariousness, professional promotion and equality and the labour and personal conciliation.

Finally, in reference to the labour relations, it should be pointed out also the influence of the model of co-management that it is implanted in the Germany companies of the group. All decisions made are subject to co-decision, where unionists are involved in all business decisions because the law mandates that are part of the Steering Committee. This is a central element of the labour relations model of the group that has been influencing on the ways of facing social conflict at the national and international level.

The international framework agreement: origin, negotiation and main contents

The *International Framework Agreement* (IFA) was signed in 2015 by the CEO, the HRD; the Group Works Council and both national and global trade union federations (IGMetall and IndustriALL) in the 16th of March of 2015²¹.

The process of negotiation lasted four years. The initial proposal was raised by the Group Work Council (GWC) with a European agreement. After several meetings and proposals, the negotiation was stopped. Trade unions considered that the transnational agreement should have included all regions in which the group had presence. Then, a new proposal came from the new HR responsible, focused on a more wide perspective, an international agreement. A discussion based on amendments was initiated between the various unions and the HR responsible.

Having the final content, the agreement was almost not signed. The composition of the monitoring committee was a central issue of the debate. The management proposed a committee composed by 3 members of the GWC and 3 members of the management ThyssenKrupp AG. This was seen as a lack of participation and representativeness of the rest of the regions. The company argued the impossibility to have one representative per country, while unions considered that there were regions with important trade union presence (America, Asia Africa), proposing at least one representative per continent. Given the refusal to this proposal, trade unions argued that at least the presence of the EWC was guaranteed. The final composition (see below) was a result of a negotiation where trade unions tried to increase participation in its origins, understanding that it has effects in its implementation and further evaluation. The delay of the process was not related to the content of the agreement if not for the composition of the committee.

¹⁵ In *TK Galmed*, plant was closed with 164 jobs; the social plan had relocations in companies in Spain, early retirements, retirements and redeployment of 66 workers in Germany and voluntary leaves above the legal dismissal conditions. Currently it is negotiated the reopening of the factory by the end of the year, with a possible recovery of 85% employment.

¹⁶ In *TKE Madrid*, the social plan includes early retirement from 52 years old, relocations and voluntary severance above the legal dismissal.

¹⁷ In *TKEMS*, a social plan is negotiated without collective dismissals with early retirements and voluntary redundancies from 52 years old and voluntary compensations upper to legal dismissal.

¹⁸ The sale of the plant and maintenance services of airports in Europe is avoided, getting investments and maintaining employment.

¹⁹ A collective dismissals is avoided and also a wage reduction of 15%, maintaining economic conditions, voluntary leaves and the commitment to negotiate a collective agreement that would regulate all labour conditions, consolidating salary and benefits paid. Leaves are voluntary and affected 5% of the workforce.

²⁰ In this company (50% between Ros and ThyssenKrupp), in the court has been demonstrated its viability and the need of maintaining employment.

²¹ *International Framework Agreement between ThyssenKrupp AG, the Group Works Council of ThyssenKrupp AG, IG Metall and IndustriALL Global Union* (2015).

From the origin, the active participation of the EWC in this process has been evaluated by trade unions as a key factor, being also remarkable the support of the German trade union federation (IGMetall). In this line, is noteworthy the international articulation of conflicts. As an example, a labour conflict in Spain (Asturias) was actively supported by the president of the EWC and the president of one section and the secretary of the GWC, a situation that rarely happened before and was replicated in other cases (Madrid, Spain and Italy). So it is not surprising that the negotiation process and the content of the agreement have followed the guidelines of the union federations (national, European and international)²². This compliance is seen also, for example, in the *Galmed* restructuring process, where workers have maintained their seniority and affiliation in Spain and Germany, according to the ETUC principles.

The IFA was preceded by a social responsibility agreement named *Principles of Social Responsibility in Labor Relations in the ThyssenKrupp Group* (2007), signed by the Executive Board of ThyssenKrupp, the group Work Council and the European Work Council. Based on conventions of the International Labor Organization (ILO)²³, the agreement addressed different labor issues²⁴. In terms of implementation, these principles were valid worldwide for all subsidiaries. The group had to ensure that the agreement is brought to the knowledge of the employees, customers and suppliers. The signatory parties had to monitor its compliance and the responsibility for its implementation was carried on the management boards and directors of the subsidiaries. The violations were reported to the ThyssenKrupp and the GWC. In this regard, the EWC was informed at least once per year of them.

According to the trade union perspective, this instrument had an important relevance in the origin of the IFA, in terms of experiences and practices, because it was used in many social conflicts. The value arise on the group's expressed commitment for its responsibility for/with workers in any restructuring process, what has been defended by trade unions as a central issue and has been used in different cases (for example, in the *Galmed* process of workers' relocation in Germany).

The IFA is based "on the general obligation of all actors involved in business to recognize and respect the fundamental rights that are established in the Declaration of Human Rights of the UN and ILO Declaration on Fundamental Principles and Rights at Work". Specifically, the agreement points towards the so-called "core-labor standards", which are compiled at the ILO Conventions nos. 29, 87, 98, 100, 105, 111, 138, 182. Most of them were included in the previous social responsibility agreement²⁵. The principles addressed the following areas: no discrimination or intimidation in employment, working time, remunerations, health, safety and working conditions, the promotion of vocational training, the freedom of association and right to collective bargaining and negotiations, the free choice of employment and the prohibition against child labor (see IFA in the annex).

In this regard, the content of the IFA could be seen as an important regulation in labour rights in certain countries where there is a permissive regulation (for example, in terms of child labour), and not in those with – in theory- a higher regulation. However, under a critical perspective, trade unions have pointed out that many European countries are affected by this agreement, because there are many rights that are still being eroded (in terms of free association, employment, freedom of the extending working hours, etc.). So it remains in effect. Some conflicts were channeled through the IFA (see below). In Spain, under the IFA there have been

²² Before the signature of the agreement, consultations were made with the national trade union federation, the international trade union federation as well as with the different trade unions of the group in other countries (proposals were discussed with CGIL and CGT)

²³ ILO Conventions n° 87, 98, 100, 105, 111, 138 and 182 (included in the German version of the IFA).

²⁴ Equal opportunity, working time and vacations, remunerations, health, safety and working conditions, the promotion of vocational training, the right of association and the rejection of forced and child labor.

²⁵ Unlike the previous one, this agreement includes the convention no. 29, regulating forced labour.

registered conflicts in the field of labour conditions ²⁶ and the restructuring processes²⁷. No relationship has been established between collective agreements in force and the agreement. Until now, no specific implementation of the IFA has been included in the renewed national collective agreements.

Regarding coverage, the IFA establishes that its content has to be valid worldwide for all subsidiaries, but not supplies, which have to be informed about its content, encouraging them to consider the principles contained in the IFA in their own company policy. The group has signed some compliance agreements with different suppliers, which are ethic codes or codes of conduct (Supplier Code of Conduct), which however were not negotiated with the social part.

Finally, in terms of validity, it worth stressing that the IFA has not a specific deadline, being in force until one of the signature parties want to modify it. Nevertheless, the two parties may terminate the Agreement within three months period. Moreover, no individual legal rights can be extracted from the Agreement, having no legal effects between the contracting parties²⁸.

Implementation, monitoring and assessment

In spite of its recent implementation, different mechanisms and procedures have been set in to monitor the development of the IFA within the group. The results of these procedures linked to the practical knowledge generated by the trade union and corporate management have produced a valuable assessment about the initial IFA effects.

Implementation and monitoring

According to the IFA content, the responsibility for the **implementation** rests on the management boards and directors of subsidiaries, although it also recognizes that responsible persons and employees can be also involved in this process. In this regard, different mechanisms have been established. To identify conflicts and possible violations, it is determined that the persons concerned can use two mechanisms: to address the responsible person on the site (especially supervisor, responsible employees' representative, possible compliance manager); and to send information about possible violations via e-mail, through internal company communications channels to a central e-mail address. Both mechanisms can be used in parallel and persons who report violations must not be subject to any disadvantages.

Specifically, the IFA regulates that justified complaints must be assumed by the responsible directors or management boards (and responsible person in regional headquarters, if necessary), taking necessary steps to remedy them. At this point, they and employees and their representatives have the autonomy to resolve the conflict locally. In case of complaints or information with essential significance that can not be solved through the local mediation, the headquarters of the group are in charge of investigating the information with involvement of the board member for human resources in a dialogue with the International Committee (IC), the body in charge of tracking the IFA. When a complaint or violation is detected, this is canalised through the IC, who receives the information and visit the local plant (talking with person/s involved), with the objective of evaluating and resolving the conflict.

²⁶ A labour conflict was emerged in the companies of the group with the precariousness of the employment (at one point, there were more scholars/temporary workers than permanent). Trade unions could face this strategy with the agreement.

²⁷ Here, it can be remarked the re-opening process of *Galmed* in 2016.

²⁸ The validity of the Agreement is extended until it is considered terminated by one of the parties, by notifying in writing, in a three calendar month period of notice prior to the end of a month. Moreover, it is established that no individual or third party claims may be based on the Agreement, including the undersigned parties (the agreement has no legal effects between the parties).

In this sense, as the President of the EWC has mentioned, “notifications are discussed in each specific case. If a notification does not comply with the contents of the Agreement, it has to be dealt in the framework of the International Commission, advising to which body within the Group can send the notification with the consent of the informant. An attempt is made to ensure compliance with the Agreement by communicating it to the Group through different channels. Also on the part of the employer, the Agreement has been distributed through the management structures in all the countries of the world”. In case of a conflict between the employees and employer within the IC, the Agreement has drafted a section on joint compulsory examination and joint search for solutions.

Regarding **activities and conflicts**, no specific measure has been derived from the content of the agreement. Only through individual solutions can emerge general improvement measures (i.e. services instructions or local agreements on-site).

Nevertheless, it can be mentioned that the IFA development has been used as an argument to ensure employment within restructuring processes, being evaluated as a key factor for trade unions. Due to its recent implementation, they point out that many issues have been not launched yet. This is explained by the short period of application but also by other factors. It has to be mentioned that specific agreements were agreed and applied in parallel with the IFA, as a global agreement on health & safety at work, with a tighter regulation. So, efforts of the IFA application made by the EWC and trade unions were concentrated on conducting the employment commitments of the restructuring processes.

Nonetheless, conflicts have been addressed in different countries. In Portugal, the content of the IFA was used to protect the health's rights of a worker; in Chile, to solve a conflict related to the right to strike; and in the case of USA (Alabama), to enforce the creation of local trade unions. In Spain, some complaints have been registered with reference to work permits and suitable working conditions of the posted workers.

However, the most important case has been emerged from the breach of the **article 7 of the agreement**, concerning the freedom of association, the right to collective bargaining and negotiations. Ten complaints have been registered (via web system) on this breaching of the IFA. The case is still open at the time of the research, being developed in judicial area, and with the result of the no participation of the CCOO representatives on the EWC.

There has been a breach of the IFA (article 7) about the neutrality of the company in the elections processes. The origin of the case was focused on the last EWC election, in which there was a tie in the voting (number of delegates), but where CCOO resulted as majority (in terms of votes and workplaces representation)²⁹. A statement was presented by the HR responsible at TK Elevator Manufacturing Spain, indicating the validation of the other candidature (UGT), breaking the neutral position of the company in the process as is recognised in the IFA³⁰. It was a discrimination and a break of protection of trade union right within the Spanish legal system, but also a conscious choice and breach of the 7th article of the IFA. The aim was to put the process in the judicial area, in order to force the president to not inviting any of the two possible nominees, until the conflict was resolved. Thus, the current vice-president could not be submitted to re-election. Two mediation attempts were developed to clarify the situation, but the company did not appear and there was no mediation. According to the workers' representatives of CCOO, the company did not have interest for its clarification. However, an external evaluation of the situation has been done in March by the request of headquarters (Germany),

²⁹ CCOO is the trade union with more votes in TKEMS and the only one that has representation in both workplaces (Andoain and Móstoles).

³⁰ Specifically the IFA recognizes that “the company and management shall remain neutral and will not interfere with the employees’ free choice exerting pressure and intervening in any impermissible way” (art. 7).

confirming the position of CCOO representatives³¹. A delegation of Inter-Company Trade Union Section of CCOO went to Essen to the plenary of the EWC to inform about the interference of the company (16th of April). In May of 2017, a sentence of the National Court came out to light (22nd of May), but without a clear position on the dispute, according the workers' representatives of CCOO, who have appealed to high judicial bodies. From their point of view, the company has carried out a clear alteration of the election process of the EWC, with certain level of ambivalence of headquarters (Germany). As a result of this, the vice-president of the EWC and the vice-president of the elevator section can not stand for re-election, until the process would be solved with a final judgement³². As they have expressed, this process and the company response on it have been produced because of the more combative position of CCOO in facing dismissals and restructuring processes of the company.

In terms of performing at the **local level**, the IFA recognized that the local or national level actors have capacity to propose preventive measures in order to solve conflicts, but the IC can take action if they have not been remediated. In this case, the responsible of HR at the local level have to be consulted before having any final decision. However, trade union representative points out that -in the practical implementation- most of the times are involved the social part (European and Global) and the headquarters of group (*ThyssenKrupp AG*). In a centralised way, the final results at the local level depend on the implication of the headquarters.

The application of the IFA has not generated conflicts within the **employees' representative structures**, registering high level of collaboration with the local trade unions. The IC does not replace the local bodies of representation of interests. Incidents are addressed jointly by the IC and the local body of representation (or are transferred to this body for its management).

Nevertheless, some tensions can be addressed at the local level in Spain. As an example, it has to be mentioned that the vice-president EWC, who participates in the IC is a member of CCOO, one of main trade unions of the group in Spain. From its point of view, the position for negotiating and the information about the group have being questioned, generating tensions with other trade unions. Somehow, its participation in the European and Global structures has being seen as an obstacle for their interests: the level of participation and results of dealing problems have affected the relationship with other trade unions at the local level.

The function and capacity of German trade unions to monopolize the representation can not be omitted in this analysis. Derived from the German co-determination tradition, the role of the German trade unions is crucial from the local trade union perspective because their decisions are taken for Europe and world as a whole. In this context, existing employee representative and participatory structures are valued by local trade unions, reinforcing the representativeness of the local trade unions at the European and global bodies (EWC and GWC). On the other side, tensions have been also registered also with the **local management**. Cases in which agreement cannot be reached on the site level, can generated some degree of tensions. Nevertheless, the case is addressed in the IC, giving the procedures of implementation to the local employer, so that in only in few occasions a direct contact is established between the IC and the local management.

On the other hand, the level of access and information to any plant of the group reached, for example the EWC, could be perceived as an obstacle for the local management. However, the last big restructuring process of the group (changing from a business country-area to business section model), which has been produced in parallel to the IFA application, has reduced differences between the headquarters and local management.

³¹ The report was done by Sargadoy Abogados. It confirms the tie situation between CCOO and UGT in the number of delegates (7), but at the same time shows that CCOO is the union with more votes in TKEMS and the only one that has representation in both centres (Andoain and Móstoles). For that reason and the legal definition on the elections (and also an agreement between CCOO and UGT on CEE), the report defines CCOO as the majority union.

³² The judicial process is still open at June Of 2017 and it is expected to be lasting one more year.

Regarding industrial relations at group level, the German model of facing problems could be seen as a lack of conflicts with a wide range of consensus (with a similar diagnosis and proposal from social and management parts). From trade union perspective, this is possible because there has been a previous debate between parties, expressing different interests. This way has had a relevant impact on dealing conflicts at group level, influencing at the end at the local level.

In general terms, the IFA has promoted participatory approaches, inasmuch as the interest's representation structures at local level are taken into account for the case solution. At the same time, it provides to the employees a notification channel for possible infringement of the agreement.

In respect of **information**, the IC only has the rights formulated in the agreement, not being classified as association in the German Business Law or the European Directives on information and consultancy. The IFA has been translated into the eight most spoken languages, being available to all employees and their representatives. Within the Intranet' group, an "employee area" has been set with the information about agreements signed and commitments reached. Despite of this, trade unions have pointed out that this not covers all staff, understanding that there are lines of production and employees with no computer access. Nonetheless, information activities in companies of the group are being carried out by the EWC and national trade unions to disseminate the content of the IFA.

For the **monitoring** process, the IC is established "with the purpose of additional control and for regular exchange on adherence to and implementation" of the Agreement. The monitoring process is done applying a double control, between employer and employees. The IC composed by "the chairperson of the Group Council, and two deputies of the chairman of the Group Works Council, the chairperson of the European Works Council, IGMetall officer responsible for ThyssenKrupp and a representative of the IndustriALL Global Union". Thus, the IFA is monitored by the same actors involved in its signature, although –as the IFA recognised- it can be called further participants if it is required.

Four meetings are set in order to monitor the IFA, and one of them with a supervision trip (a specific issue or incident is analyzed on-site, in the workplace and country) . At the end of the year, a report should be published about the group's situation. Suitable documents are reported by the HR responsible to the IC about the implementation and adherence to the IFA, reporting registered violations and obtained results. The IC holds several meetings during the year, but with a reduced structure (two members of the company and two of the social part). Based on documents and visits to work centers, the report of the IC tries to give a worldwide social map of the group.

The results of the researches treated in the IC and modifications adopted, are also sent to the one who notified the incident, receiving a written answer and information about the current situation of the case. The monitoring process is defined by the process of the IC. Depending on the level in which the case is placed and the specific characteristics of it (persons involved, anonymous notification or not, etc.), responsible unities are consulted, requesting proposals of solutions.

The trade union representatives in the IC have the capacity of visiting production sites of the companies of the group in a region/country of their choosing, in consultation with the member of the HR responsible. They receive all the information and documents they require to perform their task. Meanwhile, the group has to grant the access to these production sites and to cover costs related to this task.

From trade union perspective, one of the most relevant element contributing to the effectiveness in monitoring the IFA is its level of participation. It is necessary to ensure a strong presence of the employees' representatives in the process, understanding that their action should be linked to the workforce and workers'

demands. Having presence and the capacity of influence in the decision-making and monitoring processes are necessary conditions to reach results under a transnational agreement. But these elements have to be connected with conflicts at the workplace, in all of the countries. As stated above, many visits have been done in Spain (Asturias, Madrid,...), with the active participation of EWC, in order to identify conflicts, but also to follow-up their developments. Trade union participation in the monitoring process has to be linked to their action at the workplace.

Finally, regarding monitoring process, all subsidiaries might be covered and suppliers are motivated to do that in their own activity.

Assessment

The agreement has not been in power enough time to evaluate its efficiency in the long-term. In spite of its recent application, the impact of the IFA is positively evaluated. Nevertheless, the frequency of notifications and cases addressed, and their origin from all over the world show that the IFA is being used, reaching many employees at the international level.

From the trade union point of view, it is still too early to make a supported evaluation of its impact. According to the publication of the IC report, it will be possible to measure the extension of the IFA and the results derived from the commitments assumed. In this moment, from their perspective, it will be revealed the real interest of the company with the IFA. But, for the moment, as is expressed by them, the IFA is well valued.

Specifically, in terms of its content, it can be difficult to measure the accordance with the local situations, where there are different national labour relations. For the President of the EWC "the agreement should not be considered as an enlargement or improvement of the national norms, but a complementary agreement with trade unions at international level". In other hand, it has been highlighted the relevance of its application to certain regions or countries where there is identify a substantial gap between ILO conventions and national laws (especially, out of the European framework). However, as it has been expressed, if one makes a detail review of the content in the European countries, then many issues could be addressed to the IFA, as the trade union freedom, working time, holiday leaves or labour safety. Most of them are not complied totally. Out of the European framework, there are countries where there is an enormous distance with the ILO conventions (for example, USA and the trade union freedom).

The IFA is identified as an useful instrument to face the economic crisis and restructuring processes, but having into account that it is not a "magic wand" to resolve problems by itself. The President of EWC points out that the IFA is agreement signed with trade unions, and so only can be used in a limited way as a direct instrument for facing economic crisis. Nevertheless, he also mention that the increasingly imposition of ILO labour basic norms in all the world through IFAs certainly are contributing to the improvement of working conditions, and so indirectly to the stabilization of the economies.

In the local level, the IFA has been used in their social conflict to confront the management decisions. In this line, the launch of the IFA has involved a significant reduction of the collateral damages produced by the management decisions, as pointed out trade union representative.

All levels (company, sector) are important to implement international agreements, as the President of the EWC has expressed. It depends on the contents (if they are viable) and their application. The agreement determines that it is not a substitute for the interest representation of trade unions at sector and transnational level. Each level of negotiation has its importance.

Highlighting relevant elements of the IFA, it has been emphasised the importance of bringing into forefront the employment and workers rights, remarking that in any company agreement/decision should prevail the interest

of workers rather economic benefits. This is the pillar of the IFA, or at least, the value granted by them. In terms of application they remark the possibility of finding a distance between “content” and “practices” of the IFA. The content has to be put in practice and this depends on the actors. In this regard, it has been expressed that two company’s “souls” over the IFA would have been recognized: one, in which the IFA and their results are seen in marketing terms, and other, supported by HR managers (with a unionist background), who have a more social perspective. In any case, it is manifested that “content” and “practices” have contact when trade union actions and workers demands are present.

The IFA also recognizes that differences emanating from the interpretation and implementation of it can be reviewed by the signatories’ parties. In a future scenerio, some elements could be improved, but no further renovation will be done in a recent time. The IFA was signed in 2015 and now has to take effect within the group, as the President of the EWC has expressed. In the long run, some issues of the IFA could require a specific regulation (with a more centralized regulation), which would be addressed by the IC.

A more inclusive an participatory agreement has to be developed. For the Spanish unionist, the experience in the constitution of the IC, with the initial proposal of the body and the final inclusion of the EWC has stressed the importance of participation and the transnational perspective. In this regard, union representatives should be included from other regions of the world. This has not been possible at the beginning and could be addressed in the next future. At the same time, this participatory scheme of the IFA is seen also an opportunity of strengthening the relations between the trade unions of the group (manly, with those from South America, Japan or Russia).

In terms of monitoring, to be able to handle cases faster, the IC should have meetings with more frequency. Nevertheless, this sometimes it is not possible because of time and economic reasons.

Finally, in terms the dissemination, the content of the IFA and its implications has to be extended to all parts of the group. Beyond the European region, trade union representative has noted the need of expanding the knowledge of the agreement other regions, as South America or Asia.

Conclusion

According to study objectives, relevant lessons can be learnt from the analysis of this specific case. It worth stressing that the application of the agreement has been a useful instrument in different restructuring processes registered in the recent times. Based on the human and labour international rights, the agreement has been positive valued by trade union representatives and managers.

The results of restructuring processes and social plans agreed (relevant in terms of maintaining employment and early retirements) and the reopening plant process (with former workers) should be understood under the application of the agreement and the willing of both parts to give it a central role in theses processes. The trade union initiative (developed through EWC) has been essential on linking the application with results, giving it direction and content along the group labour relations.

Nevertheless, the application of the agreement has still a long way to go. The breach of the IFA in relation with the election process of EWC is a clearly example of how the content of the IFA should be still adopted within the group. This kind of company practices, breaking its neutral position, are running against the content of the agreement, but also against the rights of freedom of association and collective bargaining, which are recognised in the national and international laws.

In terms of information, the knowledge of the agreement should be extended to the whole value chain. In this sense, for example, many suppliers should be informed about the agreement and its implications at the national level.

With a centralized model of implementation, different mechanisms have been launched in order to monitor its impact. The analysis have pointed out that the participation of workers is a key factor not only to reach the signature of the agreement but also to perform the evaluation process. Workers participation and trade union action help to reduce the distance between the agreement and the final practices, bringing the content to the application and evaluation of results.

CONCRETE EXPERIENCES

IFAs and BWI. Principles and objectives by *Vicente Sánchez Jiménez*

International framework agreements (IFAs) drawn up between multinationals and trade unions, in this case Building and Wood Workers International (BWI), can be seen as a conflict resolution protocol in that they are negotiated codes of conduct. However, this is not the right way to understand them. Such agreements differ qualitatively from mere codes of conduct because they constitute intrinsic recognition of the purest form of global solidarity by setting down mechanisms to protect trade union rights while fostering dialogue between the parties and collective bargaining as a means of collectively constructing globalisation. Indeed, they are an important complement to existing agreements at local and national level.

These agreements seek to push forward five dimensions with a view to covering all variables of economic globalisation in labour relations, namely:

1. Working conditions
2. Trade union relations
3. Political affairs
4. Ideology
5. The pedagogical dimension

The BWI is a global organisation comprising 328 trade unions that represent 12 million members in 130 countries. This is why coverage is so important when it comes to agreements in these sectors.

With regard to the first area, working conditions, the common denominator here are the International Labour Organization (ILO) conventions, in particular:

No. 87 Freedom of Association and Protection of the Right to Organize.

No. 98 The Right to Organize and Collective Bargaining.

Nos. 29 and 105 Abolition of Forced Labour.

No. 111 Discrimination (Employment and Occupation).

No. 100 Equal Remuneration.

No. 138 Minimum Age.

No. 182 Worst Forms of Child Labour.

In addition to other core conventions:

No. 94 Labour Clauses (Public Contracts).

No. 155 Occupational Safety and Health.

No. 167 Safety and Health in Construction.

No. 143 Migrant Workers.

On the second dimension, trade union relations, it is vital to talk about empowering trade unions to deal with companies and governments. Workers have no contractual capacity if they have no capacity to organise work or legitimacy in view of third parties. This is particularly true in countries where development or democracy is less advanced. The conventions enable labour relations to be improved with the presence of local unions affiliated to the BWI that operate in both the multinational's country of origin and destination.

With regard to the political situation, the aim here is to show that the trade union dimension is subsidiary to decisions regarding policies and the economy. The trade union movement is one step behind today's governance of globalisation because unionism still tends to be more national than international. We must now broaden our vision to encompass national trade unionism as unequivocally interconnected to international matters and issues, taking decisions and action from the local to the global sphere.

In turn, this is why the ideological nature of framework agreements must be underscored as a way to contrast the ideas and ideals of worldwide unionism with organisations. It is neither exaggerated nor mistaken to argue that we are currently seeing an upsurge in the values that prevailed at the time of the First World War, underpinned by nationalism and the rise of the extreme right. In view of this, we must go back to the principles that give meaning to international solidarity. All workers are equal. Therefore, agreements are essential to re-create the collective consciousness.

Lastly, the pedagogical side of the agreements, which is also closely linked to the previous two areas, must be incorporated so that our knowledge is not confined to our local sphere of action, in this case Europe. Forging greater and closer ties between unions around the world is fundamental to understand the various ways in which workers can organise themselves and how to take the most positive practices from one country to another, such as collective bargaining and other aspects of union life.

However, the BWI finds that when it comes to the agreements there is still a long way to go before we can talk about real international trade union empowerment. In addition, if we look at the results of the agreements, we see that although over twenty have been signed, their outcomes are partial.

Without adequate information about existence and therefore enforcement of agreements, expected outcomes are not fully achieved, in areas such as:

- ☐ Infringement of trade union rights.
- ☐ Non-compliance in health and safety at work.
- ☐ Gender discrimination.
- ☐ Abuse of working hours.
- ☐ Poor control of subcontractors.

Guidance given by the IFA Working Group:

- ☐ Urge companies to raise awareness of the IFAs, ensuring that work management teams in all operations understand the agreements.
- ☐ Exchange company information, carry out a mapping of company operations with information on projects that are underway.

- We should have an 'x-ray' of the trade union situation in each country where the multinational operates.
- Hold meetings with company management and local unions
- It is also our job to train and inform local unions about the IFA to have the union recognised, recruit members, appoint union delegates and prevention delegates, and carry out collective bargaining.
- Ensure the IFA reference group visits work each year, including meetings and field visits with the national union in the company's country of origin and the country where it is operating.
- Create global trade union networks for every company that signs an IFA.

As noted above, there is much yet to be achieved. Future challenges certainly include:

1. Update - discussion about new IFAs.
2. Update on the implementation of existing IFAs with actual, effective monitoring.
3. How can we build more effective trade union networks in companies with IFAs?
4. How can we improve the role that unions in the country of origin play in building networks?
5. How can European Works Councils help to improve company policies and practices in all countries where they operate?

Nevertheless, the truly effective approach that would allow us not merely to solve problems when they arise but to avert them, is to promote the agreements as conflict prevention rather than simply as resolution mechanisms.

IFAs and sub-contracting: the best practice of Salini Impregilo IFA in constructions' sector by *Claudio Sottile*

The construction industry has always been considered a leading sector in the economy of each country, by contributing very substantially to their GDP. But if from one hand it has contributed in a very positive way, on the other hand it is also the sector, maybe due to its specificities, with some negative aspects, with long chains of subcontracting where many irregularities of the work hide: illegal employment, exploitation by gangmasters, illegal hiring (sometimes also through temporary work agencies), bogus self-employment, posting of workers, both inside and outside EU when does not comply with the specific Directives or the rules. Migrant workers are very often those who pay the highest price of these irregularities, both for lack of knowledge and for their desperate need to work for surviving. They are employed in jobs that are underpaid by unfair employers who violate collective agreements and do not respect health and safety standards as well, this mostly happen in the small companies in the chain of subcontractors.

This sector, in addition to having good performance in the economic field, also boasts the highest number of accidents, often fatal. Many multinational companies, mostly with their headquarters in the European Union operate at global level and very often in countries where human rights and workers' protections are very weak or don't exist. For this reason, together with our International Federation of the sector (BWI) since the beginning of the 2000's started to find a way to protect all the workers employed in these multinational companies especially in those particular areas of the world. The idea was to find a way where insert the *Fundamental Principles of Human Rights*, the *ILO Declaration on Fundamental Principles and Rights at Work*, the *ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* and the *OECD Guidelines for Multinational Enterprises*.

An International Framework Agreement (IFA) came out: it was signed on voluntary basis between the Multinational Company and Trade Unions (usually the International one and those of the country where the Multinational has its own Headquarters). A "shared" Corporate Social Responsibility between the actors involved in order to achieve social justice and a sustainable development. With the experience gathered during the first years of these IFAs it was noticed that something more should be inserted for the building sector, in order to fight the negative aspects, above mentioned, that threaten this sector. At this regard, it was decided to integrate the already existent IFAs with more specific issues, highlighting the most critical factors and the weakest workers identified.

In the International Agreement of Salini Impregilo company, renewed/signed in 2014, the following items were introduced, committing to apply these rules *"within the activities and companies/consortia of Salini Impregilo, and with its contractors, subcontractors and suppliers. In this spirit, Salini Impregilo S.p.A. and BWI are going to work together"*. It is very important that the Multinational makes use only of those contractors, subcontractors and suppliers that respect the same principles the Multinational committed itself to respect. And it is also crucial the involvement of possible Consortia, as we experienced some years ago. Impregilo (the merger with Salini occurred later) had already an IFA and was engaged, at that time, together with a Spanish, a Belgian and a Panamanian company in the extension work of the Panama Canal.

Impregilo was part of a Consortium where the leader of the file was the Spanish Company. Impregilo was the only multinational to have signed an IFA among the four companies of the Consortium. When Impregilo was requested to verify the application of its IFA in this building site, the Italian multinational had some problems with the other 3 companies of the Consortium that had no such agreement. By Impregilo IFA, it was achieved, after some discussions and negotiations, an “ad-hoc IFA” for this specific building site, valid for all the companies of the Consortium, and expiring at the end of Panama Canal works. It states that *“the company agrees that migrant workers (also employed through temporary work agencies) shall be recognized the right to legal redress in the country of work and the right to organize and join trade unions. The company also agrees that migrant workers shall be provided with detailed information about their living and working conditions in the destination country in a Language they can understand before leaving their country of origin.* This helps the migrant workers to get acquainted about their rights and their duties in the country where they are going to operate. For this pattern *“migrants and posted workers shall enjoy at least the conditions applicable to the local national workers [...] The company shall seek to enhance the minimum conditions prescribed by law for the members of the most disadvantaged groups, including through collective bargaining [...]. All workers shall be provided with both written and verbal information on wage conditions”.* This means that there is no discrimination between a local worker and a migrant or a posted one: same working conditions and same pay for same job, avoiding social and wage dumping and getting them acquainted in advance about their wage conditions.

On the side of the implementation process, the agreement stipulates: *“subject to the prior onsite consent of the contractor/company/consortium, the company shall grant union representatives access to the building site [...] Salini Impregilo S.p.A. shall also allow its employees to join trade unions and ensure that workers' representatives shall not be discriminated against and shall have access to all workplaces necessary to carry out their representation functions”*; this allows a better monitoring of the IFA application, beyond having a direct contact with workers employed in the building site.

Health and Safety issue is very crucial for the building sector that is “famous” for its very high index of injuries and fatal accidents. For Salini Impregilo IFA It's very important to train all workers, including those belonging to contractors and subcontractors in order to avoid future injuries. It foreseen that *“the best health and safety practices will be promoted and shall comply with the ILO Guidelines for Occupational Health Management Systems, in coordination with contracting and subcontracting companies within the same construction site. Training on safety and risk prevention at the work place shall be provided to all workers on a regular basis”.*

An important integration expected in the agreement regards the bogus self-employed: *“Salini Impregilo S.p.A. considers the respect of workers' rights to be a fundamental component of sustainable development and its subcontractors and suppliers shall also recognize and meet the abovementioned criteria. The company shall pay any social security and pension contributions as required under applicable legislation in the place where the worker works, except when more favorable individual conditions apply. The company shall raise the awareness of its consortia and subsidiaries in order to avoid that workers are classified as self-employed although they are assigned typical employee tasks (bogus self-employment)”.* This means that, in addition to respect for workers' rights also by the subcontractors and suppliers, it helps to fight the fake self-employment present mostly in small enterprises. Indeed, it sometimes happens that some unfair employers oblige their workers to turn into a “self-employed worker” (avoiding some labour costs for the employer) even if they continue to work, like an employee, with the same employer.

Bangladesh: a successful case on TCAs effectiveness by *Gianni Alioti*

When discussing the effectiveness of transnational collective bargaining, there are often questions about whether it effectively promotes basic trade union rights in countries where subsidiaries of multinationals are operating, or where they are supplied with parts or products from a supply chain network.

One relatively recent success story can be found in the coherent application of a Global Framework Agreement signed by international trade unions and multinational companies in the textiles, clothing and retail sector. The agreement in question forced the Bangladesh government to put a stop to their harsh repression of trade unions in Dhaka's industrial district and recognise the unions as partners in the negotiations with the government and BGMEA, the employers' association.

Here, the Global Framework Agreement was effective in mobilising international trade unions and civil society to show solidarity with workers and trade unions in Bangladesh. Many people were already aware of these kinds of problems in Bangladesh, so a series of coordinated, direct actions could be rapidly rolled out.

Background

Just a few months after the tragic collapse of the Rana Plaza in Dhaka which claimed 1,134 lives, and the signature of a historic safety agreement by companies and international trade unions UNI and IndustriALL Global Union, over 200,000 workers (mostly women) went on strike. This was in October 2013, in the industrial zones of Gazipur and Savar on the outskirts of Dhaka. There were clashes with police, arrests and injuries, and factories were shut or set on fire. At least 300 factories in the area were blockaded. The trade union battle began after negotiations with the government and employers to increase the minimum wage failed to produce results. The trade unions were calling for the minimum wage (just \$38 per month at the time) to be increased to \$100. The industrials and government had arrogantly come back with an offer of a mere \$7.60 pay rise.

The United Garments Workers' Federation, which brings together over 50 company level workers' associations, deemed this offer derisory and embarrassing; a pittance considering the Bangladesh textiles industry's annual turnover of over \$20 billion dollars (2012 data), accounting for 80% of the country's exports. The return seen by the industry's over 4 million employees in some 4,000 factories is just a tiny portion of the wealth it generates: instead, profits end up in the hands of traders, logistics suppliers, clothing and retail brands such as Benetton, Carrefour, Zara, H&M, Walmart, Auchan etc.

Low trade union density (percentage of members) and a fragmented organisational structure with many small unions are the main causes of the workers' collective weakness. Furthermore, barriers to unionisation remain. Despite the commitments it made at international level, the government of Bangladesh has in fact intensified repression, enforcing a state of emergency originally intended to be used in wartime.

The facts

In December 2016, in the Ashulia industrial district near Dhaka, another major strike occurred over the minimum monthly wage, which had been set at \$67 in 2015 (one of the lowest monthly wages in the world). The employers' association for the textiles and clothing sector reacted harshly, closing 59 factories and arbitrarily firing 1600 workers. The police supported the employers, accusing around 600 activists and trade union leaders of criminal offences. 26 were imprisoned, including leaders of some of the trade unions affiliated with IndustriALL Global Union. Charges were brought against 239 workers at Windy Apparels Ltd and Fountain Garments Ltd, along with

another 1,000 at the Hemeem Group. Most of the local offices of the trade unions affiliated with IndustriALL were destroyed or closed.

26 unionists and textiles sector workers were wrongly imprisoned on 20 December 2016 and a further nine on 10 February 2017. In total, 35 trade unionists ended up in jail. Fear of being arrested forced many other union leaders to operate in secrecy and numerous union offices closed, their only crime being that they had fought this vital battle, while governing bodies and the Bangladeshi military looked favourably upon ISIS.

Before Christmas 2016, IndustriALL Global Union, UNI (the global trade union for trade and private services) and the ITUC (the International Trade Union Confederation) launched a campaign for the immediate release of the prisoners and an end to trade union repression, entitled *#EveryDayCounts - free jailed union leaders and garment workers in Bangladesh now!*

On 1 March this year, the campaign proved victorious: the last trade unionist behind bars was freed and the trade unions affiliated with IndustriALL in Bangladesh were recognised as partners in the negotiations with the government and BGMEA, the employers' association.

What was the international campaign like, and what were the results?

1. We already had a history of working in Bangladesh

International trade union organisations and several NGOs had already spent the previous few years raising awareness of conditions in Bangladesh, forging strong relationships with the country's workers and with Western consumers in order to improve the situation. The international campaign could therefore be launched swiftly and with a simple message.

2. We mobilised our support base

We contacted our affiliates around the world, asking them to send protest letters to the Bangladeshi government. We planned a coordinated day of action, with protests organised by trade unions in front of the Bangladeshi embassies in Berlin, Geneva, London, Brussels, The Hague, Washington D.C., New York, Ottawa, Kathmandu and Seoul.

3. LabourStart campaign

We launched a campaign on LabourStart, the online petitions site for the workers' movement. Over 10,000 trade union activists worldwide used this tool to send protest messages to the Bangladeshi government.

4. We activated our network

We established strong relationships with some NGOs. We involved organisations such as the *Clean Clothes Campaign* and *Rivoluzione della Moda*, which supported our campaign and shared it among their networks.

By doing this, we acted not only as members of trade unions but also as critical and responsible consumers. In these cases, it is just as important to put pressure on the major clothing and retail brands as to lobby governments.

The people who produce our T-shirts only receive a paltry 0.6 per cent of the price paid by Italian consumers. Once overheads, the cost of the materials, energy etc. (13%) have been deducted, a mere 4% goes to the

factories in Bangladesh. The largest amounts in the global supply chain fall to traders (4%), logistics companies (8%), and brand owners (12%), with the remaining almost 60% going to retail, the final link in the chain and interface with the end buyer.

Three quarters of what we pay therefore ends up in the hands of major American and European multinational companies, which dominate the clothing and/or retail sectors. This means that what happens in Bangladesh, whether we like it or not, is something we should be concerned about.

5. We showed people what to do

We reached out to the wider public via social media, telling them the story of the workers who make the clothes we wear in simple and engaging terms. We used content which could easily be combined with a large number of images, such as in the video entitled "The people who make your clothes need your support", which describes how workers in Bangladesh (mostly women) work for extremely low salaries and often in very precarious conditions.

We produced a simple poster calling for the freedom of the trade unionists in an easily-downloadable format. We asked people to take a photo of themselves holding the poster and shared all of this via the social networks using our campaign [#EveryDayCounts](#). Hundreds of people sent in their pictures, helping to spread our message even further.

6. We used positive alternatives

Our opponents deemed these trade union protests criminal and violent actions, but we came back with a positive reaction: during the period of repression, two of our affiliated trade unions signed collective agreements with employers in the textiles and clothing sector in Bangladesh, demonstrating that it is possible to have good trade union relations.

7. We used the Global Framework Agreements

We have spent years building relationships with the biggest fashion brands which have factories in Bangladesh. Global Framework Agreements were signed with H&M, Inditex (Zara, Massimo Dutti etc.), Tschibo and Mizuno setting out specific commitments to ensure that brands take responsibility for their supply chains. A commitment to support collective bargaining was also part of the agreements.

Consumer activism led to greater awareness and more people learning and becoming concerned about how their clothes are made. To stay competitive, brands increasingly have to prove that they are concerned with this as well. In this specific case, the big brands were worried that they could be associated with worker and trade union repression in Bangladesh which we exposed as part of our international campaign. That is why the multinational companies H&M, Inditex and Tschibo, who had signed Global Framework Agreements, and C&A, announced that they would not be attending the [Dhaka Apparel Summit 2017](#), an important international clothing sector gathering. This trade fair, whose inauguration on 25 February 2017 was set to be attended by Bangladeshi Prime Minister Sheikh Hasina, is the number one economic event in the country.

The fact that such big clothing brands decided not to participate, claiming in a letter to the Prime Minister that the climate of trade union repression in Bangladesh was incompatible with their industrial promotion activities, is

a clear message of social responsibility. This was a result of both the commitments in the Global Framework Agreements with the Global Unions and the pressure exercised by consumers.

For the Bangladeshi factory-owners, sub-contractors connected to these brands and the government, this was the straw that broke the camel's back.

8. We operated as partners

Trade unions negotiate and make agreements. We need to work with the government and the employers' association in future to create a successful clothing industry which offers quality jobs. We reached a point where it would have been extremely costly for the government and employers to continue their policy of repression. It was clear that we were capable of taking the campaign further, but we also offered them an exit route.

The local trade union representatives, i.e. the IndustriALL Board in Bangladesh (CBI), negotiated an agreement for the release of the jailed trade unionists. A commitment was made to give fired workers their jobs back, and we set a precedent in that the CBI was recognised as a partner in bargaining negotiations.

Conclusion

The two most important factors for our success were:

1. Time spent beforehand building relationships and trust, so as to be able to rapidly mobilise a large number of people.
2. Tackling the issue from a variety of angles. With the sending of emails and letters to the Bangladeshi government, protests in front of embassies, and the decision made by some of the big brands not to take part in the Dhaka Apparel Summit, pressure was being applied from all sides.

The campaign was largely based on relationships and networks. We exploited our strong points (our networks) and revealed the weak points of the employers (damage to their reputation and the threat of loss of business).

One of the biggest and most pressing challenges for trade unions in the 20th century is transforming their millions of working members into ethical and responsible consumers (and savers), with the capacity to adapt to deep changes to production and global consumption. This means repositioning the way in which trade unions are organised and how trade union battles are promoted, being effective in areas with greater resources, power and interests, showing solidarity and promoting justice. The meaning of trade unionism and the reasons for its birth two centuries ago at the dawn of the industrial society continue to exist. For millions of people, the union (together with science and technological innovation) remains the only true tool for social redemption and eco.

CONCLUSIONS by *Claudio Stanzani*

When analysing the measures implemented by multinational groups to increase their competitiveness and become more globalised, it is important to consider the impact of these processes on local production, on workers' rights and freedom and on safety conditions in the workplaces. These trends affect numerous countries, including beyond the European Union's borders. Workers' representatives and trade unions therefore need to strengthen their industrial relations culture, whilst also increasing their overall understanding of the transnational impact of the decision-making processes used by the central management of multinationals.

Nowadays, multinationals are tending towards greater centralisation, with the group management playing a key role. Key words are: standardisation, harmonisation and strategic restructuring procedure.

Through centralisation, the company management chain is shortened and a direct link can be established between central headquarters and company management. The intermediate links in this chain are therefore much less significant than in the past, and this has a significant impact. This lack of decision-making powers can be felt in many areas including: contact with suppliers, market strategies, productivity policies, employment policies, flexibility of labour etc.

Traditional trade union relations between workers' and trade union representatives and local sites become more complicated and often unproductive for both parties, because local plant managers are no longer involved in the decision-making processes.

Credibility of representation, action taken to protect workers and trade union bargaining activity are *local*, whereas the Groups are and act *global*. The process of building credible transnational trade union representation (both European and international) therefore remains lopsided when compared with the actions and roles of multinationals.

Future decisions on productivity, structural changes, employment and working conditions are taken to in a place where local and national representatives have no (stable) relationships and which would require more organization of transnational representation, more exchanges and solidarity between workers' representatives in the same multinational group in the world, more legal bases.

The ability to build and legitimize the European and international trade union is still asymmetrical and late than multinationals dynamics and mobility. *Vicente Sánchez Jiménez* - Chair of the BWI International Framework Agreements Group – underlines that *[...] unionism still tends to be more national than international. We must now broaden our vision to encompass national trade unionism as unequivocally interconnected to international matters and issues, taking decisions and action from the local to the global sphere*".

Many multinational groups have now moved their headquarters to countries which offer fiscal advantages or more favourable legislation (including in the field of trade union relations and rights). Vital decisions are taken at these new headquarters, and workers' representatives should be well aware of this.

In this context, the transnational company agreements or TCA are a tool which can help ensure that multinationals are upholding international labour standards wherever the company is operating, including among its subcontractors. Although they are not legally binding, TCAs (which can either be European or international) are an important step towards ensuring respect for labour standards and fair working conditions.

Fausta Guarriello highlights *"although such agreements operate within a normative vacuum, they are endowed only with the legal power acknowledged by the negotiating parties"*. She points out that *"this situation of legal uncertainty should not, however, be overestimated: these agreements are endowed with the legal validity attributable to a contract which, in both common law and civil law traditions, has the power of law between the parties. The parties themselves establish the scope, mutual rights and obligations, duration of the contract, conditions for its renewal, and forms of monitoring and control over its implementation"*.

Aukje van Hoek points out that, regarding the enforceability of the mandatory parties of TCAs, *"about the a choice of forum clause giving exclusive jurisdiction to a particular national court is very rare"*. A second feature highlighted by Aukje van Hoek regards the issue of the mandate: *"to what extent are ETUFs and GUFs able to bind national trade unions, can management at headquarters legally represent all its subsidiaries?"*

If European and international law does not help on one hand, on the other hand *"involving local management and local unions is one thing; another is whether a TCA can produce binding effects on the individual contract of employment (horizontal effect)"*. *"It needs"*, Aukje van Hoek suggests, *"... a sufficient and clear mandate; creating as much ownership as possible at local level (information and involvement) and arranging for private dispute resolution mechanisms in case of conflict"*.

"It is in the relationship between the global and local dimensions", Fausta Guarriello again, *"that the difficult challenge of these agreements plays out. EURIDE case studies clearly indicate the players' awareness of the importance of binding the signing of an international agreement with a widespread dissemination of its contents to all company sectors and local workers' representatives, and with the promotion of joint training programmes at various levels"*.

European Works Councils (EWCs) and Global Works Councils (GWCs) – as Udo Rehfeldt observed and Mariangela Zito deepened – are the tools which can give strategic response to the questions of TCAs' implementation.

As information and consultation bodies representing employees of a company in Europe and beyond, EWCs and GWCs are an important tool to address social dialogue and negotiations with Multinational Companies and strengthen the global perspective of workers' representatives. Two success stories are usefully described by Claudio Sottile and Gianni Alioti: they show how these agreements can already produce positive effects of sustainability and solidarity in respect of the fundamental rights of workers.

All the case studies, attached to the report, describe the wealth of experience gained and the social partners' ability to produce effective and monitorable agreements.

I thank Giuseppe Di Vittorio Foundation, IRES France and Fundaciòn 1º de Mayo for the positive partnership that has determined the success of the EURIDE project.

I thank the CISL, FIM and FILCA Federations for their support.

I thank Fausta Guarriello for scientific coordination and Udo Rehfeldt, Salvo Leonardi, Jesús Cruces Aguilera, Michela Cirioni and Mariangela Zito for their valuable research work on study cases and coordination of national workshops.



Via Tagliamento, 9
00198 Roma

info@sindnova.eu
www.sindnova.eu

