TRADE UNION RESPONSES TO GLOBALIZATION

A review by the Global Union Research Network

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SUSTAINABILITY AND UNIONS: INTERNATIONAL TRADE UNION ACTION TO IMPLEMENT SUSTAINABILITY NORMS AT CORPORATE LEVEL

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Trade unions and the challenge of sustainable development

The United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro in 1992, explicitly gave unions the task of contributing to the implementation of sustainable development because of their specific role and responsibility as representatives of workers worldwide. Chapter 29 of Agenda 21 of Rio stated:

> Trade unions are vital actors in facilitating the achievement of sustainable development in view of their experience in addressing industrial change, the extremely high priority they give to protection of the working environment and the related natural environment, and their promotion of socially responsible and economic development.
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> (UNCED, 1992.)

In the meantime, the process of economic globalization has intensified and severe impacts on the social and environmental dimensions of work have become more and more visible. Transnational corporations, as the main actors of globalization, have come under pressure from NGOs and unions, who have called for standard setting to regulate global business activities. Responding to the growing pressure, the management of multinational corporations and their international associations, such as the World Business Council on Sustainable Development (WBCSD) and the International Chamber of Commerce (ICC), have promoted a new instrument – corporate social responsibility (CSR). Under the CSR banner, and with the help of the so-called codes of conduct, the

business world has tried to provide a response that ensures they retain the initiative and keep agreements voluntary.

Trade unions are sceptical as to whether codes of conduct without independent monitoring can ultimately solve the problem of improving working conditions and the environment. Most of the union movement is of the opinion that voluntary industry initiatives should only supplement, and not substitute, government-based regulations or standards. Recently, the 18th World Congress of the International Confederation of Free Trade Unions (ICFTU) in Japan (2004) adopted a very detailed resolution and an action programme entitled the "Social Responsibilities of Business in a Global Economy". Among other important points, this programme states:

> 11. Congress finds that trade unions must not take an uncritical or a dismissive approach to CSR. CSR cannot be an objective or an end in itself, as the protection and advancement of workers cannot be based on a concept that centres on the role of management. On the other hand, CSR can provide trade unions with opportunities to engage companies about the social impact of their business activities. There is a proliferation of voluntary private initiatives, public–private partnerships and statements of ethical principles in the name of CSR, and a growing industry of enterprises offering services to business and investors. CSR is increasingly being incorporated into the policy and programmes of governments and intergovernmental organisations. CSR cannot be ignored because it can lead to changes in the environment in which workers and their trade unions relate to employers, business organisations, non governmental organisations, governments and international organisations.
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> (ICFTU, 2004.)

The action programme lists, in detail, provisions for union activities concerning the international regulation of business.

In 1999, when UN Secretary-General Kofi Annan proposed the UN Global Compact – a global partnership initiative – the unions became part of it, together with other NGOs, the private sector, commercial enterprises and businesses and their associations. Its aim is to generate a "shared understanding" about how companies can help to promote UN principles within corporate domains. However, no accountability mechanisms were specified.

The World Summit on Sustainability and Development (WSSD) in Johannesburg (2002), resulting from many multi-stakeholder dialogues in the different regions of the world, demonstrated the intention of the UN to cooperate with all relevant partners in establishing global political implementation networks to boost the participation of NGOs and the private sector in international negotiations. However, to the unions, the outcome of

the WSSD in Johannesburg concerning CSR, accountability and public-private partnerships appeared ambivalent and rather weak. "Corporate social responsibility is a fine enough idea in itself, but at times it suffers a fatal flaw in that it tries to make the private sector do what the public sector should do, i.e. regulate and implement for the greater good. There has to be more clarity on the boundary conditions on these different notions," noted John Evans, General Secretary of the Trade Union Advisory Committee (TUAC) to the Organisation for Economic Co-operation and Development (OECD). He added, "The protection and enforcement of civil, human and labour rights is a domain in which governments remain the primary and most legitimate actor" (Evans, 2002). But this obviously does not mean that the unions refuse to consider new partnerships. "Crucial to the issue of corporate accountability is the effective regulation and implementation of agreements" (Evans, 2002).

So the international trade union movement has had to develop a dual strategy: influencing the relevant international institutions through diplomatic action to improve the norms and standards of CSR (the main actor here being the ITUC), and negotiating at corporate level to conclude agreements which ensure that CSR includes adequate instruments of accountability (the global unions being the principal agents in this approach).

Trade union strategies addressing norms of sustainability

The level of union diplomacy

It is evident that the new framework of global governance enables the unions to intensify their efforts in lobbying international institutions and in building alliances with NGOs, especially those who are fighting for similar political goals. On the other hand, the emerging multi-stakeholder dialogues and the new global political networks are increasingly putting the unions face-to-face with the growing influence of the private sector.

This trend is clearly reflected by the most influential initiatives on this sector:

- *ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy* (ILO, Geneva, November 1977, amended 2000);

- *OECD Guidelines for Multinational Enterprises* (OECD, Paris, revised version 2000);

- European Commission green paper, *Promoting a European framework for corporate social responsibility* (European Commission, Luxembourg, 2001);

- *UN norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights* (UN High Commission on Human Rights, Geneva, 2003–2007);

- International Organization for Standardization (ISO) Working Group on Social Responsibility final draft and publication of International Standard ISO 26000 (planned for 2008).

The ILO Tripartite Declaration invites governments, employers' and workers' organizations and MNEs to observe basic human rights, including core labour standards, especially freedom of association and the right to collective bargaining.

The *OECD Guidelines for Multinational Enterprises* present recommendations addressed by governments to MNEs, providing voluntary principles and standards for responsible business conduct. They recommend that enterprises should communicate reliable information to the public, should practise within the framework of applicable law and labour regulations, should establish an appropriate environmental management system, combat bribery and act in accordance with fair business. But the document makes no mention of a system of monitoring. The observance of the guidelines is explicitly voluntary and not legally enforceable. As this is an instrument of external verification, there is only the possibility of cases being raised with the National Contact Points (NPC). National Contact Points are established by governments in the countries that adhere to the OECD guidelines. When issues arise concerning the implementation of the guidelines in relation to specific instances of business conduct, the NCP is only expected to help resolve them, no further action is provided.

Although the European Commission green paper points in the same direction of voluntary commitment by enterprises, it makes it quite clear that companies are embedded in a process of interaction with employees, shareholders, investors, consumers, public authorities and NGOs. Trade unions are explicitly named as being party to the monitoring process. Monitoring, which should "involve stakeholders such as public authorities, trade unions and NGOs, is important to secure the credibility of codes of conduct" (EC, 2001, p. 15). With regard to internationally agreed standards like the "Social Accountability 8000" system, the document emphasizes that "the involvement of stakeholders, including trade unions and NGOs, could improve the quality of verification" (EC, 2001, p. 19).

The *UN norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights*, initially adopted by a UN panel of independent experts in August 2003, "bring together a range of obligations drawn from existing international human rights, labour and

environmental conventions and are widely regarded as a first step towards binding regulation and monitoring of TNC activities by UN bodies, backed by national enforcement" (Koenig-Archibugi, 2004, p. 26). Unlike the OECD guidelines, the ILO Tripartite Declaration and the UN Global Compact, "the UN norms are not limited by clauses emphasizing their non-regulatory nature" (Oldenziel and Bohman, 2004).

In 2005 followed a report of the UN High Commissioner for Human Rights on the responsibilities of TNCs and related business enterprises with regard to human rights (E/CN.4/2005/91) and a Resolution which requests the Secretary-General "to appoint a special representative on the issue of human rights and transnational corporations and other business enterprises, for an initial period of two years, who shall submit an interim report to the Commission on Human Rights at its sixty-second session and a final report at its sixty-third session, with views and recommendations for the consideration of the Commission, with the following mandate:

(a) To identify and clarify standards of corporate responsibility and account-ability for transnational corporations and other business enterprises with regard to human rights;

(b) To elaborate on the role of States in effectively regulating and adjudicat-ing the role of transnational corporations and other business enterprises with regard to human rights, including through international cooperation;

(c) To research and clarify the implications for transnational corporations and other business enterprises of concepts such as "complicity" and "sphere of influence";

(d) To develop materials and methodologies for undertaking human rights impact assessments of the activities of transnational corporations and other business enterprises;

(e) To compile a compendium of best practices of States and transnational corporations and other business enterprises" (2005/69).

A statement by the International Federation of Human Rights (FIDH), a NGO with consultative status to the UN, nevertheless "does acknowledge the weaknesses and ambiguities of the norms adopted in August 2003 by the Sub-Commission on Human Rights, in particular the vagueness of notions […]. It acknowledges that the norms leave open a crucial question: how the means of implementation, in particular regards to the State, ensure that no human rights violation committed by a transnational corporation is left unpunished and without remedy" (FIDH 2007). The FIDH insists that the responsibilities of States should be clarified and, if necessary, expanded, in

order to meet the need to effectively protect the rights of the victims of the activities of transnational corporations.

Finally, the ISO, through an initiative by Brazil and Sweden, has started a process to develop a standard on social responsibility. An ISO Working Group on Social Responsibility (WG SR) has been given the task of drafting an International Standard for social responsibility. The Bangkok meeting of the WG SR (2005) communicated that the guidance standard will be published in 2008 as ISO 26000 and its use will be voluntary. It will not include requirements of monitoring and accounting and will thus not be a certification standard. The standard will reflect an international consensus among all the stakeholder categories impacted by social responsibility.

The pressure for mandatory mechanisms by the unions and involved NGOs is a reaction to the inadequacy of voluntary mechanisms for corporate account-ability. The crucial point is whether the concept of CSR, favoured by the business sector and strictly based on self-regulation and voluntary participation, will achieve results in the sense of really improving the social and environmental conduct of multinationals and other corporations. Many unions are concerned that these voluntary codes of conduct are a public relations tool for the business world and are not sufficiently accompanied by measures of "accountability", i.e. reporting, monitoring, transparency and verification.

The level of negotiations and agreements

In the case of the violation of social and environmental norms by MNEs, the GUFs principally have two courses of action open to them. They can react by initiating demonstrative action or they can take proactive steps by making an offer to nego-tiate with the corporation on relevant agreements (Müller et al., 2003).

The first type of action, which can be described as "naming and shaming", is more aggressive and aims to publicize violations by the multinationals. This is done through publicity campaigns, by calling on potential clients to boycott products or by initiating such action as worldwide campaigns, for example the Clean Clothes campaign. This type of action is very close to the strategy of many NGOs and mostly done in alliance with them. Often, putting the company under pressure is the only way to force them to accept negotiations on social and environmental norms. The existence or the development of global union networks (GUNs), connecting the activities of European works councils or even world works councils and global unions, is very helpful in supporting this type of action (Müller and Rüb, 2005).

Today, the strategic priority of the unions lies more with the second type of action, i.e. negotiating with the central management of MNEs on the basis of dialogue structures, and trying to build up to producing agreements. Since 1995,

examples of successful International Framework Agreements (IFAs), setting up social and environmental norms and formal ongoing relationships between MNEs and GUFs, have increased. By November 2005 43 agreements of this type had been concluded (for a complete list see Carley, 2005 or Pichot, 2006).

The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) was the pioneering organization. In 1989, it concluded the first global agreement with the Danone Group on the issue of giving information about the economic development of the company to the workers' representatives and later, in 1994, regarding respect of trade union rights. Other global unions, such as the International Metalworkers' Federation (IMF), the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), the International Federation of Building and Woodworkers (IFBWW) and the Union Network International (UNI) followed by concluding global agreements with well-known multinationals such as Statoil (1998); Faber-Castell (see Köhnen, 2003), Freudenberg, Hochtief, Telefonica (2000); Chiquita (see Riisgaard, 2005), IKEA, Skanska, (2001); DaimlerChrysler, ENI, Volkswagen (2002); Rheinmetall, SKF (2003); Bosch, Carrefour, EDF, H&M, Lukoil, Renault (2004); and BMW, EADS (2005).

All these agreements contain the full catalogue of ILO core standards (trade union rights, workplace equality, protection of health, safety and the environment, information and training, ban on child labour and forced labour). In addition to the core ILO standards, in some IFAs protection of the environment and improvement of working and environmental conditions in accordance with international, European and national norms are explicitly stipulated.

These formal agreements, signed by the management of multinationals and the global unions, are different from the majority of codes of conduct which are unilaterally declared by some TNCs or are concluded bilaterally between TNCs and NGOs and only sometimes include workers' representatives at the company level.

An example of best practice is the agreement between the Faber-Castell Corporation and the IMF and the International Federation of Building and Wood Workers (IFBWW), concluded in 2000. Faber-Castell is a TNC based in Germany, producing all kinds of pencils and writing materials. It has 5,000 employees, 15 production units and 19 distribution units (the biggest company is in São Carlos in Brazil). The agreement fulfils all the criteria of the model code of conduct which the ICFTU published in 1997. Beyond the ILO core standards, the senior management committed itself to pay sufficient wages, not to require overtime, to guarantee acceptable working conditions and to abstain from intimidation, sexual harassment and ill-treatment of workers. These standards and recommendations are available at every single workplace in the

relevant languages. Unions have access to all the information about working conditions at all company sites and the participation of the local unions and works representatives is guaranteed.

This code of conduct is implemented by making it an integral part of the management system, using special checklists. Verification takes place in close cooperation with the unions and workers' representatives at all levels. Every two years, a verification audit is carried out by a special monitoring committee with external observers and representatives from management, the unions and the elected workplace-level worker representatives. They analyse the reports and the checklists and may suggest solutions to problems. It is true that examples like Faber-Castell are still rare but they point in the right direction and provide principles to guide trade union policy (Köhnen, 2003).

Agreements between the unions and management are always the result of dialogue procedures established on the basis of international union networks. Without such structures in the background, a monitoring process for the agreements cannot be adequately put into effect. The European works councils and the few existing worldwide workers' councils (VW, DaimlerChrysler etc.) may be very helpful in initiating and supporting such dialogue procedures, because of their long experience in building up relations with the management of the TNCs. But if the workers' councils pursue a purely company-centred policy in order to extend their influence, this may be a cause of conflict with the global unions.

Preconditions and prospects for successful international union action

The experience of unions in their efforts to influence standard-setting on sustainability, both by lobbying international institutions and by negotiating agreements with MNEs on social and envionmental norms, have highlighted some basic problems.

Dealing with conflicts of interest

Conflicts of interest about the implementation of sustainability norms (whether voluntary or mandatory) exist not only between the unions and workers' representatives on the one hand and the TNCs on the other, but also within the union movement and between the workers of different nations and locations. Although globalization has put pressure on national policies, labour regulation is still to a large extent determined by national law and collective bargaining. So trade unions prioritize the national context for their action strategy and tend to defend the corporate interests of their clients. European works councils, which are often dominated by delegates from the parent

corporation, are strongly linked to national or local interests, and this can make a fair reconciliation of interests at the global level difficult to achieve. Thus, sustainability norms have been viewed by some as instruments of a protectionist policy favouring the interests of workers in developed countries to the detriment of workers in developing countries.

Moreover, the winners and losers of globalization processes are not only separated by a North–South divide. Unions all over the world are faced with economic winners and losers among their own national or regional membership. So the task of convincing the membership of the need for active international solidarity, in the sense of "solidarity among the unequal", becomes even more of a challenge. The need to coordinate diversity has increased, but at the same time the preconditions for such an ambitious goal have not improved.

Capacity building and investment of resources

Not the least of the reasons for the weakness of international cooperation between the unions is a lack of resources. The lack of human and financial resources at global union level and the lack of trained personnel with international experience, are a consequence of the limited policy of the national unions. The global level suffers from a lack of powers because national unions are often afraid of losing influence and control on international issues by delegating decisions to an upper level or, even worse, give priority to an isolationist policy instead of promoting multilateral action. Unless national member unions enhance and re-evaluate the status of the global unions and the international confederations, no real progress in terms of strengthening the union influence on global standard-setting processes will take place. Instead of short-term action and short-sighted campaigns, there is a need for enduring action on the basis of ongoing capacity building. A major task in this context is to qualify union experts for work at international level. This includes willingness for intercultural learning and the capability to interact with people from different institutional backgrounds, such as NGOs.

Developing a policy of alliances

Trade unions are a single global player in the global governance system and not the strongest one. If they want to be successful in implementing strong norms of CSR, including mechanisms of accountability, they have to rely on the support of allies. Those allies can be both governmental agencies and NGOs. The NGOs have turned out to be the unions' natural allies on many issues, whether in conflicts with TNCs or at the level of UN commissions and multistakeholder dialogues. However, it has to be recognized that unions are the

experts on the world of work and that NGOs often tend to ignore the importance of local unions. They have to learn that the participation of the local or regional labour movement is decisive for the efficient implementation and monitoring of codes of conduct.

The unions can profit, in these alliances, from the high credibility of the NGOs and they can learn from their flexible and innovative forms of action. As multi-stakeholder initiatives are often the best way to address the accountability gaps in TNCs, the unions are well-advised to secure the assistance and support of NGOs. These alliances should be based on their own transnational networks. But there are some preconditions to reconsider, and some barriers to overcome, if cooperation with NGOs is to bring benefits to the unions. Unions, in contrast to NGOs, are strongly embedded in national bargaining processes and have to take into consideration the impacts of their action on their bargaining partners. Unions are mainly linked to their company-based rank and file, and are less attuned to societal needs than are the NGOs. Also, many union members are exposed to global competition. This means accepting the consequences of standard-setting, which has impacts on their social welfare. Moreover, the different attitudes of unions and NGOs and their members are not without their potential for conflict.

Taking these differences into account, the unions have to prove the benefits of cooperation with NGOs in every individual case, and they have to convince their membership of the resulting advantages. There is also a need to broaden their policy approach. The moralizing and universal approach of NGOs may grate with a union movement which is still very much bound to protectionist and labour-centred values. So what is required from the unions is a cultural switch from a traditional work-centred policy to one which includes sustainability norms and the whole dimension of work–life relations. This does not mean that the unions should become like NGOs, but they have to adopt new values and a new sense of responsibility for civil and universal rights. In the meantime, the first steps in this direction have been taken by the unions.

All of this makes it necessary to invest in research about the implementation and the real impacts of IFAs. How do they really work? What problems are emerging with the implementation of sustainability norms? What about the relations between global unions and local unions affected by those agreements? Are sufficient instruments of accountability in place? Case studies are needed to improve the quality of these framework agreements and the further prospects for this instrument. Such an evaluation may end up showing that some of the IFAs are only pieces of paper and have little impact on the reality of industrial relations. But this research could also lead to more knowledge about the conditions for the implementation of IFAs, and help to improve this instrument and its handling by the global unions.

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