

A stylized world map composed of a grid of dots. Most dots are grey, but several are red, highlighting specific regions like North America, parts of Europe, and Africa.

# Global Framework Agreements in a Union-Hostile Environment: The Case of the USA

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- Global Union Federations have made significant progress in advancing Global Framework Agreements that create arenas for labor relations based on the Core Labor Standards of the International Labour Organization (ILO). These Agreements – signed and implemented by labor and management – are a means of setting minimum standards and organizing unions in Transnational Corporations, to date largely European, and their worldwide production and supply networks.
- Global Framework Agreements around the world have not been a routine exercise. Implementation in the US has resulted only from union pressure, both locally and through transnational collaboration involving unions from other countries and Global Union Federations.
- Although the study did identify cases of good practice, most evidence points to the US as being a prime example of the existing deficiencies in the overall process of initiation, negotiation, implementation and conflict resolution. Most importantly, unions and management from the US were generally absent from the steps leading up to implementation and thus have claimed no »ownership« of a GFA.
- In light of the initiation of negotiations over a Transatlantic Trade and Investment Partnership (TTIP), it is essential for organized labor on both sides of the Atlantic to push for the inclusion of better and more comprehensive labor standards. Global Framework Agreements, based on the ILO Core Labor Standards, are an initial step in that direction.

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## Acronyms

ABC	Associated Builders and Contractors
BCTGM	The Bakery, Confectionary, Tobacco Workers and Grain Millers International Union
BEA	Bureau of Economic Analysis
BLS	Bureau of Labor Statistics
Boilermakers	International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers
BOMA	Building Owners and Managers Association
BWI	Building and Wood Workers' International
CSR	Corporate Social Responsibility
CWA	Communication Workers of America
EFCA	Employee Free Choice Act
FDI	Foreign Direct Investment
GFA	Global Framework Agreement
GUF	Global Union Federation
HRM	Human Resource Management
IAM	International Association of Machinists and Aerospace Workers (IAMAW)
ICEM	International Federation of Chemical, Energy, Mine and General Workers' Unions
IFA	International Framework Agreement
IMF	International Metalworkers Federation
ILO	International Labor Organization
IndustriALL	Global Union Federation that united IMF, ICEM and ITGLWF
ITGLWF	International Textile, Garment, Leather Workers' Federation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
LIUNA	Laborers' International Union of North America
NAFTA	North American Free Trade Agreement
NLRA	National Labor Relations Act
NLRB	National Labor Relations Board
PLA	Project Labor Agreement
PPP	Public-Private-Partnership
RTW	Right to Work
SEIU	Service Employees International Union
Teamsters	International Brotherhood of Teamsters (IBT)
TNC	Transnational Corporation
TTIP	Transatlantic Trade and Investment Partnership
UAW	United Auto Workers [International Union, United Automobile, Aerospace and Agricultural Implement Workers of America]
UE	United Electrical Workers
UFCW	United Food and Commercial Workers
ULP	Unfair Labor Practice
UNI	UNI Global Union
USW	United Steelworkers

## Introduction

This report examines the implementation, in the USA, of Global Framework Agreements (GFAs) negotiated between transnational corporations (TNC) and the global union federations (GUFs). The report is based on research from the project »Organization and Regulation of Employment Relations in Transnational Production and Supply Networks. Ensuring Core Labor Standards through International Framework Agreements?«<sup>1</sup>, that aimed to contribute to a better understanding of such agreements as international instruments regulating labor relations and setting labor standards throughout the TNC and its global production network. The research was under the direction of Dr. Michael Fichter and Prof. Dr. Jörg Sydow at the Freie Universität Berlin, supported by a generous grant from the Hans Böckler Foundation<sup>2</sup> (Düsseldorf, Germany).

Field research in the US was conducted by Prof. Dr. Dimitris Stevis (Colorado State University) and Dr. Michael Fichter with support from Mr. Steven Toff. In drafting this report the authors drew on primary sources (interviews with union representatives and managers of companies) and on secondary sources such as company reports, press releases and internet sources. The bulk of the field research, which was closely coordinated with the core project team in Berlin, was initiated in February 2010 and completed in July 2011. Subsequently, our interviewees were provided with a draft of this report, which we then presented at a workshop sponsored by the Friedrich-Ebert-Foundation in Washington DC on September 15, 2011. Many of the interviewees, especially from the unions, were in attendance. We are grateful to the participants for their contributions which have sharpened our understanding of the issues and enabled us to revise and improve the report overall. In finalizing this report we have consulted secondary material and requested and received more recent information. We have also made the final draft of this report available to those same people for their comments. For all practical purposes, therefore, the information in this report extends to the end of July 2013.

This report is divided into four sections: the first section provides an overview of the research methodology and the case selection process with reference to all of the countries in which we conducted empirical research: Brazil, India, Turkey and the USA. The second section provides an overview of the characteristics and dynamics associated with European investment and domestic industrial relations politics in the USA that are relevant to the implementation of the GFAs. The third section of the report consists of 9 cases studies. The case studies include a company profile and provide information and analysis on labor and union relations and local GFA implementation. In the concluding section of the report, we summarize the results and present our recommendations on ways to improve implementation and make GFAs into a more effective instrument of constructive labor relations and social dialogue. In doing so, we also address the potential role GFAs can play in the context of a Transatlantic Trade and Investment Partnership (TTIP) now under negotiation.

## 1. GFA Research: Methodology – Case Selection – General Insights

### 1.1 Methodology

GFAs are agreements between representatives of employees and single employers, initiated and fostered by the Global Union Federations (GUF), which are organizations of national and regional trade unions from specific industry sectors or occupational groups. While all four core labor standards of the International Labour Organization (ILO)<sup>3</sup> are the bottom line of GFAs, freedom of association and the right to collective bargaining are the most contentious issues. The first GFA was signed in 1988. As of the end of July 2013 there were at as many as 88 functional GFAs out of 100 that have been signed. 90% of GFAs have been negotiated by four GUFs with the central management of TNCs, the vast majority of which are based in the European Union. While all of these TNCs regard GFAs as an element of their policy on corporate social responsibility, labor argues that they represent a means of globalizing labor-management relations.

1. International Framework Agreement is the original generic term; however, the term Global Framework Agreement is more commonly used today.

2. The authors wish to thank both the FES and the Hans Böckler Foundation for making this publication possible.

3. International Labour Organization (ILO) (1998): Declaration on Fundamental Principles and Rights at Work, <http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang-en/index.htm>, (30.04.2009).



Over the course of the past four years, our international and interdisciplinary team of researchers<sup>4</sup> has sought to evaluate the development and relevance of GFAs. Our focus has been on understanding GFAs as instruments of private governance for regulating labor standards and employment relations within TNCs and their global production networks. Our analysis of all of the existing agreements, combined with a selected number of case studies, has allowed us to examine not only the motives behind negotiating and signing such agreements, but also the process of implementation within TNCs and across their production networks, in particular in Brazil, India, Turkey and the USA. With this focus, we have developed a comprehensive approach to evaluating GFAs as a genuine step toward building and institutionalizing a transnational arena of labor relations in which actor recognition, interest articulation, negotiation and boundary setting are established processes.

Our empirical assessment of the status of implementation is based on semi-structured interviews conducted by our project team for a total of 19 selected GFAs. Altogether, we conducted over 150 interviews, primarily with representatives of management and labor at corporate headquarters (74) and at corporate production sites (55) in our four case study countries. As such, we are able to reflect on »capital« and »labor« perspectives, respectively.

## 1.2 Case Selection

In order to better understand whether and how the organizational and institutional environments have been conducive or detrimental to the practical impact of GFAs, we collected and reviewed publicly available data both on TNCs and their operations (including reports on social responsibility) and on GUFs, as well as on the relevant institutional environment of the country of origin and the host country. In addition, the research team members were able to participate in several workshops, discussions, and meetings in which union and employee representatives, and managers, either engaged in GFA related activities or reflected on their approach to GFAs.

In selecting our target TNCs for our case studies, we picked those GFAs that meet the following three criteria

in order to control for industry-specific characteristics, institutional home region effects and the global reach of the TNC:

(a) The TNC has signed an agreement with one of four GUFs, i.e. International Metalworkers' Federation (IMF), International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM), Building and Wood Workers' International (BWI), or Union Network International (UNI) (for more details see Stevis and Boswell 2008; Croucher and Cotton 2009). Together these four GUFs<sup>5</sup> account for 90 percent of all GFAs signed in the last 15 years;

(b) The TNC is headquartered within Europe (85 percent of all firms with GFAs), which is generally indicative of a European style of HRM policies and labor relations at the HQ level (Stevis and Boswell 2007; Preuss et al. 2009);

(c) The TNC has subsidiaries in all four of our field research countries: Brazil, India, Turkey and the USA. On this count, a few exceptions had to be made due to changing priorities and investment strategies of the selected TNC.

We have chosen these countries because of their relevance for the changing pattern of the global division of labor. Together with China and Russia, Brazil and India belong to a group of countries that has a growing political and economic importance in the world economy. The USA is the largest national economy in the world and a prime focus of manufacturing and service investments among our sample TNCs. Apart from its above average economic growth rates, Turkey is of particular regional importance for European TNCs owing to the process of European integration. For a variety of reasons, including contentious local industrial relations, peculiarities in national labor law and the impact of the informal economy, compliance with core labor standards is a difficult problem in all four countries. In our view, policies that fail in these important countries are not likely to succeed in other places.

This selection process yielded a group of 22 TNCs with a GFA, for which we sought to capture interview data on both sides (management and unions). In 19 of those cases we were successful in attaining matched pairs of interviews (management and labor) at both

4. See [http://www.polsoz.fu-berlin.de/polwiss/ifa\\_projekt](http://www.polsoz.fu-berlin.de/polwiss/ifa_projekt)

5. In June 2012, ICEM and IMF merged with the International Textile, Garment & Leather Workers' Federation (ITGLWF) to form IndustriALL.

the headquarters and the case study country levels. In some instances, the TNC had no manufacturing/service subsidiary in the country; in other cases, a variety of circumstances prevented us from arranging interviews with responsible representatives at a TNC or a trade union<sup>6</sup>. Only in a few instances were we successful in conducting research at suppliers.

### 1.3 A Multi-organizational Practice Perspective on GFA Implementation

According to our definition a GFA is an agreement signed by one (or more) GUFs and the central management of a TNC. GUFs are always signatories, often participate in negotiations and are generally involved in the implementation of the agreements. A closer look at the signatures on the agreement points to the involvement of additional organizations on the labor side. Our analysis of the negotiations and the early stages of implementation (Fichter et al. 2011; Stevis 2010), together with the work of others (e.g. Hammer 2005; Papadakis 2008 and 2011), show that the national unions in the home country of the TNC and national or European works councils are frequently important actors on the »labor« side. On the »capital« side, central management plays a dominant and largely exclusive role. On occasion a GFA may be affected by information exchanges with a national employers' organization or with the International Organization of Employers (IOE) but these types of organizations play a marginal role when compared to headquarter management. In signing the agreement headquarters assumes overall responsibility for implementing the GFA on behalf of the TNC across its whole production network.

While it is true that the implementation of the GFA is first and foremost a commitment by central management, throughout the process of implementation the potential number of organizational actors involved continuously increases (Stevis and Boswell 2007). Beyond the signatory organizations, national and local representatives of capital and labor are directly charged with putting the agreement into practice. As a result, because of the political nature of employment relations in particular countries and corporate reality in general, we need to consider a much wider range of responses (including

non-responses) in regard to implementation. Such examples of »non-response« may occur when corporate management regards the GFA as only a confirmation of existing CSR policies (cf. Waddock 2008). Non-response may also occur due to the absence of implementation capabilities or resources or where a symbolic approach to management (Pfeffer 1981) is dominant.

In addition to non-responses we can expect a significant amount of diversity in management's implementation policies and practices. The interplay of factors such as the degree of organizational hierarchy and the more or less active role of subsidiaries, the significance of suppliers, corporate information policies and available resources may all affect corporate GFA policy, and ultimately, the extent of management's pursuit of implementation. Simply put, just as with corporate approaches to social responsibility, such factors can conceivably generate management policies that may range between *pro forma* implementation and comprehensive implementation, or a variety of partial implementation policies and practices in between.

Besides the multiplicity of organizational actors in the category of »management«, i.e. headquarter and subsidiary managers of the GFA signatory as well as managers at independent firms in the global production network, we have a significant spectrum of organizational actors representing labor. Based on their involvement in the negotiation phase, GUFs and other representatives of labor such as home country trade unions and (European) works councils are likely to want to have a say in the process. Inasmuch as implementation is at the workplace, host country national and local unions as well as employee representative bodies, should they exist, may be involved. This range of labor »stakeholders« is flanked by state and supra-state agency, in the case of the European Union, and non-governmental organizations. In the process of implementation, headquarter as well as subsidiary management may draw on knowledge of not only these organizations and their strategies, but also of consultants and national and/or global employers' organizations.

Consequently, the implementation of a GFA will vary substantially, not only from one corporation to another but also within one TNC and its global production network. For example, in comparing TNCs, the extent to which headquarter management has been able to

6. Such deviations from our basic research design will be noted in the cases in which they occurred.

dominate the GFA negotiations based on an existing active policy towards CSR will probably be reflected in the GFA's implementation, possibly even in regard to legally independent businesses in the global production network. On the other hand, in an institutional environment with powerful and active unions, the implementation of the agreement may be more reflective of a strong input from the »labor« side. Indeed, the complexity of the overall process, combined with its geographical fragmentation and the involvement of a large number of autonomous and semi-autonomous organizations interacting in a more or less »heterarchic« (Hedlund 1986) system, will tend to lead to even more varying outcomes within a single TNC and its global production network.

For all these reasons we argue in favor of a *multi-organizational perspective* that focuses also on the actual and possibly quite diverse implementation *practices*. The implementation of a GFA, then, should be conceptualized as a process of structured and structuring interaction of these organizations in all phases of the process. Such practices are not permanently fixed by the signed agreement but continue to be (re-) negotiated during implementation. As such, this process represents an interaction taking place in a complex and diverse institutional environment that, at the same time, is reproduced or transformed by this very interaction (Giddens 1984). The result of this interaction, as much as the process itself, is contingent not only upon this environment but also upon the power relationships of the many organizations (collective actors) involved in the »contested fields« (Levy 2008; Amoore 2002) of labor relations in TNCs.

Given these contingencies and the fragility of (inter-) organizational practices in general, the *outcome*<sup>7</sup> of GFA implementation processes may vary widely. On the one end of the scale we find the non-implementation of a GFA because of a lack of willingness and/or capacity, or because of severe organizational or inter-organizational constraints or barriers. At the other end we expect an implementation of the agreement in the global production network (i.e. including not only the TNCs and its foreign subsidiaries but also a significant

number of their suppliers) that overcomes organizational and inter-organizational obstacles and constitutes some kind of promising, if not »best« practice. All kinds of outcomes between these opposite ends of the spectrum are possible, including such aberrations as active avoidance or delay of the implementation or even the »de-implementation« of a GFA in parts of or in the entire production network.

Any multi-organizational practice perspective on GFA implementation must allow for the fact that parts of the agreement (e.g. prohibition of child labor) are better implemented than others (e.g. recognition of unions). Towards such a more differentiated understanding of the (inter-) organizational implementation process, the *content of a GFA* needs to be examined according to the following criteria:

- The core labor standards with a global reach set by the ILO and, possibly, additional labor standards concerning for instance working time, pay, workers' representatives, or health and safety issues.
- Extension of the agreement beyond legally dependent subsidiaries to include alliance partners and joint ventures, as well as suppliers and sub-contractors.
- Recognition of all organizational representatives of »labor« and »capital«. Depending on the stage of implementation, these would be not only central management of the TNC and the responsible GUF(s), but also the responsible national or local union and local management.
- Furthermore, the GFA should contain a process-oriented plan of implementation, including a specification of the appropriate resources needed (material, personal, organizational).
- A robust, bottom-up feedback process for problem-identification and complaints and a mechanism/process for their correction.
- Dispute and conflict resolution mechanisms.

Taken together, these six elements are the core of how we define and evaluate the content of a GFA. A »strong« GFA may go well beyond the core labor standards of the ILO, include suppliers and possibly even sub-contractors,

7. In the language of policy analysis we can think of the text of an agreement as a *policy output* and its implementation as a *policy outcome*. While a policy outcome may not be anticipated by a policy output one can not dismiss policy outputs as random words. . The overall project and this case study pay close attention to the dynamic relations between outputs and outcomes.



contain monitoring and sanction mechanisms, and lay out detailed procedures for conflict resolution in the TNC and its network. »Weak« GFAs, by contrast, may be confined to the core labor standards, not include suppliers, abstain from monitoring and sanctioning, and not contain procedures for conflict resolution.

Beyond the negotiated content of a GFA, whether »weak« or »strong«, the success of implementation will depend greatly on a number of context- and actor-related factors: What impact does the labor relations system of a country have on implementation? Which actors are responsible for implementing the agreements? Have they been adequately informed of the agreement and the ways of its implementation? And how do GFAs impact labor relations at the company and plant level?

## 2. The US Context

The significance of North America, especially the USA, for the implementation of GFAs and the globalization of employment practices in line with global core labor standards cannot be emphasized too much and, this, for two related reasons. First, the USA remains the largest economy in the world while North America is the second largest regional economy. Moreover, the USA is a major destination of Foreign Direct Investment (FDI) second only to the European Union and ahead of China and Hong Kong combined. 2010 FDI inflows into the USA increased 43% over the previous year to reach \$186.1 billion. The rate of increase was well above its major competitors (UNCTAD 2011). As wages in China and elsewhere rise, it has been predicted that the lure of being close to such a large consumer market will make the USA even more attractive (The Economist 2012). If successfully negotiated, a trade and investment agreement between the USA and the EU will certainly enhance the global role of both regions individually and collectively. Second, the USA, arguably, has the lowest labor standards amongst industrial countries and below those of many less industrial countries and the strongest anti-union tradition. For these two reasons, global labor policies that fail to cover the USA and the North American Free Trade Agreement (NAFTA) region will be incomplete and precarious. This negative dynamic will be amplified by two related factors. First, the USA will exercise a »ratcheting down« effect on global labor standards through US companies operating abroad.

Second, the USA could have the same effect on foreign companies from countries with better industrial relations, especially when such companies choose to locate in anti-union states, most of which are in the southern USA.

With these clarifications in mind we proceed in four steps. We first examine European FDI in the USA in order to show that it is important and increasing and that it has profound implications for the calculus of management and unions. We then examine the country's industrial relations in the private sector followed by a review of the current state of US unions. Our goal here is to highlight elements of industrial relations and union organization that are likely to affect the implementation of GFAs, instruments which are based on traditions of corporatism and social dialogue and which require transnational union collaboration across and within countries. We finish by summarizing union strategies for reversing declining unionization and the attitudes of US unions towards the GFA strategy.

### 2.1 European Companies in the USA

According to the most recent data (2010), gathered and reported by the Bureau of Economic Analysis (BEA), European countries are the major sources of FDI into the USA. As shown in Table 1 European companies accounted for a bit over 63% of value added by majority-owned foreign affiliates (Anderson 2012). Majority-owned subsidiaries of European companies employed some 3.445 million employees or about 65% of all employees in majority-owned foreign affiliates.

Large states, such as California, New York and Texas account for the highest absolute numbers of employees in European companies. At the same time the relative employment impact of such companies in some smaller states is quite significant. An important trend is that manufacturing FDI, by both foreign and US companies, is growing in Southeastern states with weak labor laws (Handwerker et al 2011).





Table 1: Profile of European Investment by Country of Origin (2010)

	<b>Assets (millions \$)</b>	<b>Sales (millions \$)</b>	<b>Value Added (millions \$)</b>	<b>Employment (in thousands)</b>
<b>Total</b>	11,829,706	3,085,949	649,337 (5.8%)	5,270.4 (4.7%)
<b>EU</b>	8,410,708	1,866,954	425,159	3,445.3
<b>UK</b>	2,253,900	428,608	116,013	879.2
<b>Germany</b>	1,472,304	371,758	77,099	569.6
<b>France</b>	1,332,604	247,102	68,730	499.0
<b>Netherlands</b>	922,517	293,516	40,257	343.2
<b>Sweden</b>	91,601	47,717	12,966	176.0
<b>Denmark</b>	31,447	16,003	3,315	23.0

Note: Switzerland is not included but has a comparable level of investment.  
Anderson (2012), Tables 13.2 and 1 (percentages).

Table 2: Selected GFA Signatories with Subsidiaries in the USA

<b>Sector</b>	<b>Companies</b>	<b>Unions</b>
Construction	Hochtief, Skanska, Impregilo, Volker Vessels, FCC Spain, Ferrovial	Building & Construction Trades
Construction Material	Lafarge, Italcementi	USW Teamsters Boilermakers
Industrial Manufacturing	Siemens, SKF, GEA Vallourec, EADS, ArcelorMittal, Aker	USW IUE-CWA
Retail	Ikea H&M Danone Accor	IAM UCFW Teamsters BCTGW
Chemicals	Rhodia (Solvay), Evonik, SCA	USW Teamsters
Motor Vehicles	VW, Daimler, BMW Leoni, Bosch, Rheinmetall Prym, Rochling	UAW IAM Teamsters
Property Services	G4S, Securitas, ISS	SEIU, guards-only-unions
Multiservice	Sodexo	SEIU UNITE-HERE
Temporary Workers	Adecco, Kelly Services, Manpower, Randstand, USG People	UCFW IBT



Table 3: GFA Implementation Practices – Overview

Dominant Practices	Companies (examples)	Notable Developments (examples)
Avoidance	Freudenberg Lafarge BMW, IKEA Siemens, H&M Accor Hochtief (Flatiron)	Successful Campaigns at Lafarge, IKEA (Swedwood), H&M
Partial Avoidance	Daimler (Mercedes) Skanska	Daimler agreement used to unionize Faurecia, a supplier to Mercedes. But management at the Mercedes plant refuses to make a »positive neutrality« statement  Skanska accedes to contract bargaining largely through HQ and home union pressure – domestic management is largely passive
Engaging US Unions	SCA SKF ArcelorMittal	Exception: SCA Tissue only
»Facilitating« Unionization	Danone Statoil Rhodia Securitas G4S	Exception: Danone subsidiary Stonyfield farms hired union avoidance company during recent IBT unionization campaign.

Over the last ten years the presence of European companies in the US has continued to grow, despite noticeable retrenchment of overall FDI during the recent recession (Anderson 2012, Table 7). Seventy-three of the 104 companies that had signed GFAs as of the end of July 2013 have operations in the USA where they directly employ hundreds of thousands of workers<sup>8</sup>. Because much of European investment is in high-end manufacturing the impact of these companies is multiplied by the significant number of people employed in their supply and distribution chains<sup>9</sup>. However, the increasing presence of European multinationals in the service sector (e.g., security, cleaning, multi-service) is significant and worth noting. The North American security services market, for instance, is 28% of the world market and projected to rise to 49% by 2021 (G4S 2012, 14). As Table 2 shows, corporations with GFAs that have major operations in the US include a sizeable number of »global players«. Most importantly, they play a significant and even dominant role in a number of sectors, such as building services and temporary employment services.

8. The number of companies and the number of GFAs do not coincide because one company has signed two agreements and one agreement involves six companies.

9. A University of Alabama study commissioned by the Economic Development Partnership of Alabama claimed that the Mercedes car plant plant, which directly employs about 2,800 people, accounts for 41,000 jobs in Alabama. The Birmingham News, July 11, 2007.

The most recent public data show that unionization in foreign-companies was at about 12% in 2007, well above the 7% for the private sector overall. But this percentage has declined since 2002 when it stood at 14% (Anderson and Zeile 2009: 54–55). The behavior of European companies abroad varies and in the USA they tend to adopt inferior labor practices (Human Rights Watch 2010). In many cases this is due to the fact that they grow by acquisition and many of the companies they acquire have anti-union practices. In other cases they adjust to the lower standards operating in the USA. A continuation of this negative trend is likely if there is no effective response by unions (Cooke 2001; Fichter 2011).

It is fair to say that some GFA signatories also take advantage of the opportunity to ratchet down their labor relations practices (see Table 3). This can take place through direct means (the company refusing or establishing obstacles to unionization) or, as is the case in »right to work« states, by taking advantage of rigorous opposition to unionization by local elites, development agencies, and other groups. It is noteworthy that the labor-oriented American Rights At Work has included only one GFA signatory – SCA Tissue – in any of the annual lists of companies that pursue a high road in labor practices (2005–2011). Even that company, however, exempted its non-tissue activities from its national neutrality and collective agreements with the USW. In



general, then, the practices of GFA signatories in the USA offer themselves as critical cases for exploring further the interface of diverse national industrial relations.

The increasing internationalization of European corporations, particularly those from Continental Europe, has caused some anxiety amongst European unions and employee organizations in the same way that the internationalization of US corporations had similar impacts on USA unions during the late 1960s and early 1970s. As a result, there is evidence that some European national unions and employee organizations have come to see the GFA strategy as a means for shadowing ›their‹ corporations beyond national boundaries (e.g., Stevis and Boswell 2007, 176–181; Egels-Zanden 2009).

The way a company internationalizes is also of interest (and here we use examples from the pool of GFA signatories). If it does so through the acquisition of major local companies, as was the case with Hochtief's acquisition of Turner or G4S's acquisition of Wackenhut, then it tends to stick to the existing approach to labor relations at the new subsidiary. If it buys a number of smaller companies it is likely to face a period of integration of these companies into a whole, as is the case with Skanska or Rhodia. In some sectors, such as construction and building services, personal relations at the local level are key and a company can impose external management at its own risk. Many of the GFA signatories have grown in this fashion and more often than not they adopted the contentious or highly variable industrial relations of the companies or even facilities that they bought. In some cases global HQs is genuinely interested in fusing these companies into a transnational whole, as has been the case with G4S, while in other cases it is unable or unwilling to impose its will, as has been the case with Hochtief. Even ›model‹ companies, such as SCA-Tissue or Rhodia, have ended up in the midst of controversies due to the practices of subsidiaries that they purchased.

Some companies, particularly in manufacturing, also engage in greenfield investment as with VW, Daimler, and BMW. Such investments may take place parallel to acquisitions, as has been the case with Daimler. Where and under what conditions they choose to invest is important. As we discuss in more depth later, investing in ›right to work‹ states, particularly in the South, is usually bundled with non-union practices (The Economist 2013).

Corporations, in these cases, do not have to engage in anti-union practices, although many do, because local laws and elites ensure that unions are kept at bay. A GFA signatory that chooses to violate global labor standards in the US South, by adopting local practices, is no different from a company which claims that it has to violate global labor standards when it operates in China. GUFs have been very clear that national standards cannot trump global standards, but they have not always been able to have this clarity anchored in the GFAs they have signed. So there is a need for continually working toward ensuring that a GFA signatory is part of the longer term solution and does not perpetuate the problem.

## 2.2 Industrial Relations in the US Private Sector

Industrial relations in the USA are contentious and fragmented while unions in the private sector have experienced precipitous decline since the 1980s. In what follows we reflect on this complexity by outlining some of the characteristics and dynamics of US industrial relations<sup>10</sup> in the private sector that are relevant to understanding the implementation of GFAs which are the products of corporatist-style industrial relations. Sometimes these asymmetries between European and US industrial relations have been used as an excuse to avoid implementation in the USA, and indeed, it has become apparent that the state of labor relations in the US poses a major challenge to the overall success of GFAs as a policy tool (Tørres and Gunnes 2003; Rudikoff 2005; Stevis and Fichter 2012; Fichter et al 2012).

### 2.2.1 The Contentious Politics of US Industrial Relations

Historically, industrial relations in the US private sector have been predominantly confrontational rather than collaborative. This is mainly due to the dominance of extensive management prerogative and a deep-seated aversion to ceding power to a collective representative of workers' interests. For its part, labor has taken up the challenge and fought back, embracing the necessity of adversarial tactics. In this test of strength, employers have usually held the upper hand, anchoring this power

10. We use the term industrial relations, rather than employment relations, because we are focusing on the relations between unions, management and the state rather than human resource management – the other pillar of employment relations.

asymmetry in generally weak labor regulations, especially notable in anti-union, »right to work« states. In contrast to many European countries where class-based labor-management conflicts matured into institutionalized cooperation, business hostility towards unionization has grown even more sophisticated in recent years, as evidenced by the expansion of the union avoidance industry (Logan 2006). Efforts at corporatist arrangements similar to those in Europe and South America never took root because there never was a political majority that was able and willing to move the state in that direction.

In this context, those instances of »strategic participation« that are to be found have »emerged from an ad hoc set of private initiatives« (Appelbaum and Hunter 2005: 265; see also Hogler 2004; Hogler and Grenier 1992; Kaufman and Taras 2000).<sup>11</sup> There is no centralized power, whether a corporatist state, a powerful political party, a strong inter-sectoral union federation, or an authoritative business organization that can translate these ad hoc initiatives into a national social dialogue. The massive decline of labor unions over the past decades is not only a function of the dominant fragmentation and decentralization of US labor relations; it also makes the challenge of collaborative industrial relations through social dialogue with willing corporations and transnational union alliances even more formidable.

### 2.2.2 Fragmentation and Decentralization

Industrial relations in the USA are fragmented in two ways: institutionally and in practice. Institutionally there are a number of identifiable systems of industrial relations, undergirded by political dynamics; in practice the actual relations between employers and labor consist of a complex patchwork with a clear tendency towards devolution to smaller and smaller units, a process that has been going on since the 1980s (Katz 1993). As a result, the pattern of industrial relations is significantly different from the more centralized European systems, at least in Central and Northern European countries. These asymmetries create problems in both pursuing social dialogue with willing corporations and transnational union collaboration.

11. For an in-depth study of the Kaiser Permanente Labor management Partnership see Kochan et al. 2008. This case is of interest in that it may have influenced the SEIU's approach towards other corporations.

Institutionally, industrial relations in the private sector are subject to legal regulations at the federal level (Sinn and Hurd 2011; Katz and Colvin 2011). However, the fragmentation is evidenced by a legal framework that both created multiple industrial relations systems and promoted their decentralization (for an overview of US labor laws see Hegji 2012). Federal regulation began with the Railway Labor Act of 1926, which today covers airlines as well. Then, under the impact of the growing power of industrial unionism (Hogler 2004), Congress passed the National Labor Relations Act (NLRA) which was signed by President Franklin D. Roosevelt in 1935. The NLRA recognized the right of workers to organize, outlawed company unions<sup>12</sup>, and established the National Labor Relations Board (NLRB) to oversee union recognition elections and solve disputes over unfair labor practices. After World War II, major amendments to the NLRA – the Labor-Management Relations Act of 1947 (Taft-Hartley Act) and the Labor Management Reporting and Disclosure Act of 1959 (Landrum-Griffin Act) – curtailed many of its union-supportive provisions. Additionally, the NLRA system exempts several large categories of workers<sup>13</sup>, including agricultural and domestic workers, independent contractors and supervisors (the latter are currently over 6 million) from coverage. The independent contractor and supervisor exemptions have been used extensively by employers to fragment workforces and exclude shop floor leaders from being part of bargaining units (on the construction industry, see Greenhouse 2010; Shimabukuro 2012). At the same time, over the past thirty years, the jurisprudence of the NLRA has devolved the focus of union recognition toward the recognition of smaller and smaller bargaining units (Katz 1993). Moreover, multi-employer bargaining has been steadily declining, a trend that has had emphatic support from anti-union law firms (c.f. Wessels Sherman 2013).

In addition to provisions that limited or prohibited particular union activities, the Taft-Hartley Act represented a decisive step toward decentralizing labor relations by permitting individual states to pass »open shop« laws, known more commonly under the

12. European-style works councils surely fall under the category of illegal bodies if introduced in place of union representation. This understanding has influenced the mostly skeptical views of US unions on works councils. For forms of non-union representation, mostly in the USA and Canada, see Kaufman and Taras (2000).

13. Private security guards are also prevented from membership in a union representing other categories of workers unless their employer agrees to a recognition process (Barry 2008). This is has been an issue between SEIU and the GFA corporations Securitas, ISS, and G4 S.

misnomer »right to work« laws. Such laws do not ensure employment protection but instead undermine union security agreements by allowing an employee to »opt out« of paying membership dues or a fee for the services the union is required to perform as the recognized bargaining agent.<sup>14</sup> This is clearly a »free rider« privilege when an employee refuses to join the legitimately recognized union at his/her workplace, even though that employee is entitled to the benefits of the union contract (Baird 1998). This system emerged mostly in the southern US states during the period between the adoption of the NLRA and the Taft-Hartley Act. It has since spread to the West and, most recently to the Midwest with the passage of such legislation in Indiana and Michigan. The classic argument advanced by conservative politicians in these states in favor of »right to work« law is the need to compete for investments – a classic case of joining the »race to the bottom«.

### 2.2.3 Industrial Relations in the US South

While »right to work« has more recently been evolving into a national strategy, the US South holds a central position, amplified by its common history. Anti-union policies in Southern states have long been used to attract investment from the US North (Cobb and Stueck 2005, particularly chapters by Guthrie-Shimizu and Maunula; Zieger 2012).<sup>15</sup> Increasing investment by US and foreign MNCs in the South is particularly evident in the automobile sector (Handwerker et al. 2011). The German companies Daimler, BMW and VW – all GFA signatories – have located strategically in the region as have Japanese and South Korean companies. Unionization efforts in the South have had to contend not only with an unfavorable political and legal environment, but also – at least in the auto industry – with the fact that workers at such »transplants« are often unwilling to risk their jobs over a conflict with (anti-union) management. As a manager of one of our case study companies told us »...if you had

the employees in the South sort of deciding to choose a union, that would be their decision...And why there is a real sort of reluctance on the part of people to do anything they feel is like upsetting what for them has now become steady employment. For people who were primarily working in an agriculture-based economy, and had seasonal work and all of a sudden had this steady high-paying job working in a...factory. For them there is no need why you need a union, to be honest. Because people have transitioned from a history of sort of seasonal, not very good, hard labor, to now, working in air-conditioning, on a [MetalCorp] product. So I can understand why the mentality would be »why do I need a union« and particularly with people who have any fear, whether or not it is accurate, that they are then being forced to stand in line for union seniority versus someone who has been transferred from a plant somewhere else around the country.« (JJMeMMU-11.10.2010)

This logic underpins the dynamics of the corporate »Southern strategy« and shows why organizing in the South is especially challenging for unions and requires perseverance and innovative strategies.<sup>16</sup> For its part, the United Auto Workers (UAW) has been working with the German metalworkers' union IG Metall, which has a strong position of representation at the German brands, to overcome management resistance and worker anxiety at all three companies. In its efforts at VW (Chattanooga, TN), Mercedes (Tuscaloosa, AL) and BMW (Spartanburg NC), the UAW has argued that US management must respect their company's Global Framework Agreement which embodies the ILO Core Labor Standards (ILO 1998), including the right to freedom of association. In contrast, after attempts at dialogue with Nissan (which does not have a GFA) failed, the UAW has mounted a global campaign targeting the company's poor human and labor rights record at its plant in Mississippi<sup>17</sup>. If these companies remain non-unionized the prospects for unionization in the whole automotive sector in the USA will be bleak. Moreover, automotive companies have an integrated North American strategy and are continually adding to their production capacity in Mexico as well,

14. The Taft-Hartley Act did not simply outlaw »closed shops« that require membership in a particular union as a condition for employment. Right to work laws can »prohibit or restrict union security arrangements and give employees the option of employment without requiring them to join a union or to pay union dues« (Hegji 2012, 19–20). In »agency shops«, non-union members pay a fee to the union for its bargaining services. Unions and employers can also enter into union security arrangements, whereby a worker has to join a union after a certain time – but does not have to be a union member to be hired. These exceptions do not apply to the Railway Labor Act system.

15. As an example, Freightliner, now part of Daimler Trucks, moved to the South during the late 1970s to avoid unions. See photo.

16. Of the 24 »right to work« states only three have union density above 10% (Iowa, Nevada, and Michigan). For map of »right to work« states see <http://www.nrtw.org/rtws.htm>. For unionization rates see Bureau of Labor Statistics (2013) »Union affiliation of employed wage and salary workers by state« at <http://www.bls.gov/news.release/union2.t05.htm>. Most of the remaining 24 states have union density over 10% with the exceptions of New Mexico, Colorado, and Missouri.

17. See <http://www.dobetternissan.org>.

where labor law is even weaker and the situation of independent unions is precarious.

Sign posted at Daimler Trucks North America plant, Mt. Holly, NC prior to unionization 1991



#### 2.2.4 The Union Recognition Process

Fragmentation and decentralization of industrial relations has been enhanced further by the legal procedures governing the union recognition process. Under the NLRA, unions have two basic options: The first option is for the union to call for an election, to be supervised by the NLRB, once it has collected signatures from 30% or more of the employees in a bargaining unit. Over the last few decades, a veritable industry of «union avoidance» consultants has grown up to aid hostile corporations in preventing unions from having a chance to win such elections. For example, challenges can be made as to the make-up of the bargaining unit. Consultants have also developed various means to prolong the time between the submission of the request and the date of the election (cf. Wessels Sherman 2013). During that time, management has unlimited opportunities to dissuade workers from voting for union recognition, while the union is able to officially contact workers only a short time before the election date. Not surprisingly unions want a shorter and more streamlined process from petition to election (Bronfenbrenner and Warren 2011). Or, as the UAW has recently proposed, the election process should be made fairer and more balanced (UAW 2011a). As statistics for 2007 indicate, even in those cases in which the union has overcome employer opposition and won the election, it still has less than a 50–50 chance to reach

a collective agreement with the employer within a year (Bronfenbrenner 2009). If it fails, it can be subject to decertification.

Although unions have been winning certification elections, this success has been tempered by the fact that the number of petitions for elections has fallen from over 12,000 in 1970 to less than 1,380 in 2012. In terms of the workers involved, the number of eligible voters was less than 90,000 (Amber 2013). In an increasingly anti-union climate, unions have become disillusioned with the process (see Bronfenbrenner and Warren 2011). As we will discuss in dealing with union strategies to stem membership decline, recent attempts at the NLRB to amend the process have run up against strong management opposition.

A second route to unionization, also consistent with the NLRA, is that of voluntary recognition. In this case the employer can recognize a union once the majority of the employees in a bargaining unit have signed authorization cards. This kind of «card-check» recognition is normally associated with neutrality agreements (see Hurd 2008), which are also currently under attack. According to a number of authors (Eaton and Kriesky 2001; Brudney 2007) card-check recognition agreements have facilitated unionization and account for the majority of workers unionized during the late 1990s and early 2000 and, perhaps, beyond. The incorporation of stronger procedural support for card-check in the proposed Employee Free Choice Act (EFCA) was of major importance to the AFL-CIO – and at the same time the focus of opposition to the Act on the part of business advocacy organizations and corporations (Marculewicz 2009; on EFCA see Shimabukuro 2011).

Finally, the NLRA allows so-called pre-hire agreements in the construction industry (General Accounting Office 1998; Mayer 2010), most commonly known as Project Labor Agreements (PLA). A PLA «is a comprehensive labor relations agreement – the «job site constitution» – that governs over various area craft agreements, setting uniform terms and conditions, for a particular project» (Kotler 2009: 2; Fichter and Greer 2004). PLAs commit the participating contractors to hire union labor or treat non-union labor on the project as if they were union for the duration of the agreement. For unions, PLAs require an extensive commitment to cooperation and coordination. PLAs are prominent in construction markets



where unions are strong and in larger commercial, industrial, and infrastructural projects, sectors in which union density remains high (see Cooper 2012). However, they account for a very small portion of residential construction. Business and political challenges to PLAs for being monopolistic have been rejected by numerous court rulings.

While pre-hire agreements combine recognition with a collective agreement the two are not normally connected. Once a union is recognized it has to negotiate with the employer, a process that can be as contentious as recognition. Corporations and unions are expected to negotiate in »good faith« but cannot be easily made to agree. Union-avoidance specialists have developed a host of strategies that allow management to avoid being charged with »bad faith« negotiations while delaying the process until it collapses. As one of them states (Wessels Sherman 2013):

A more aggressive bargaining strategy, but one frequently used these days, is »impasse.« The fundamental principle here is that it is entirely legal for an employer to present tough concessionary proposals to a union, to negotiate to impasse and, after impasse is reached, to implement those proposals unilaterally.

In our assessment of the dynamics of labor relations in the US private sector, we would argue that the fragmentation of industrial relations, the growing influence of right to work forces and the devolution that the recognition and bargaining processes produce is strengthening the dynamics towards a race to the bottom at three levels. First, at the global level, the USA is driving standards downwards when compared to Europe and a number of industrializing countries. Second, right to work states are driving standards down within the USA. Third, decentralization promotes greater wage competition which enables lower standards at the level of individual plants, markets and corporations. In short, there is a multi-level whipsawing effect within and across corporations and countries. Multinational companies are particularly well situated to engage in whipsawing practices at all of those levels (see Greer and Hauptmeier 2012). In the case of localized jobs, such as building services, it is possible to temper this dynamic by negotiating market-wide agreements in which the unions involve not only the direct employer (sub-contractor) but also the »customer«, which may be a general contractor,

a building owner or an investment management firm. One example of this approach can be seen in the construction sector in regard to the use of PLAs at specific project sites. Another important example can be seen in building services (cleaning, security, maintenance etc.). In the latter case, a single firm or site contract negotiated by the SEIU will be activated (»triggered«) only after it has attained union recognition and contracts with a substantial majority of the local market<sup>18</sup>.

## 2.3 The State of Unions in the USA

In the previous part we pointed out how the institutionalization of industrial relations in the US tends to fragment unionization both because it allows competing national systems and because it allows the decentralization of the unionization and bargaining units, in practice. These dynamics produce some significant asymmetries between US and European industrial relations that can make social dialogue or corporatist relations in the USA difficult while also complicating relations between US and European unions. The decline of unionization in the USA combined with the organizational fragmentation of unions aggravates these problems.

### 2.3.1 Patterns of Declining Unionization

For an overview of declining patterns of unionization in the US it is necessary to provide some background information covering both the public and the private sector. In 2010 there were about 130 million workers in the USA – 108 million in the private sector and the rest in the public sector. Employment in the private sector has grown more rapidly than employment in the public sector over the last 50 years or so (Mayer 2011: 2). Overwhelmingly, public employment is at the local level. The public sector has its own systems of industrial relations with federal employees largely covered by the Federal Service Labor-Management Relations Statute (Hegji 2012) and state and local employees by state and local laws.

Important changes are taking place in the public sector that are relevant to a fuller understanding of industrial

18. Yet, companies can pit particular markets against each other, a point that was made very strongly to us with respect to the cement industry in the USA. This is also why the SEIU has mounted an effort to negotiate national agreements which commit management to the negotiation of local agreements.





relations in the private sector and of the US union movement. More and more government activities and public services are being subcontracted – from military interventions to school cafeterias to security for public facilities to libraries. Some of the companies that have signed GFAs, such as Sodexo, ISS, Securitas and G4S, have major contracts with government agencies and are likely to continue growing there. This dynamic is essentially hollowing out the public sector and erasing the public-private distinction. Associated with this process is a frontal attack on unionization in the public sector, which is much more unionized than the private sector. The end result will be the weakening of some of the largest unions representing employees in the public sector, e.g., National Education Association, AFSCME and others. It will also weaken unions we associate with the private sector. About one million of the SEIU's 2.2 million members, for instance, are in the public sector. An exception to this trend are the unions for police and firefighters that have strong ties to the Republican Party, as well as guard-only-unions securing federal installations.

Unionization in the US private sector has been declining since the 1970s. Unionization in the public sector has held its own, although there was noticeable decline due to union membership drops in Indiana (after it passed a 'right to work' law) and Wisconsin (state laws limited public unionization). At the end of 2012 the unionization rate in the public sector was 35.9%, down from 37% in 2011 while in the private sector it was 6.6%. The overall unionization density was 11.3% down from 11.8% in 2011 (see Bureau of Labor Statistics (BLS) 2012; 2013). The impact of the recent curtailment of union rights in Indiana, Wisconsin and Michigan is an ominous sign regarding the future of unions in the US because as research has shown, weak and decentralized labor laws and practices, particularly those associated with 'right to work'-states, are detrimental to organizing workers (Collins 2012; on impact of institutions see Godard 2003; Sack 2010).

Historically, US unions have generally focused their organizing efforts on higher skilled and better paid workers. But in recent years, with increasing de-skilling and atypical low-wage employment spreading, the need to devise organizing strategies for these workers has become imperative. SEIU's Justice for Janitors campaign and its 'organizing model' (Bronfenbrenner and Hickey

2004) are probably most well known for tackling this challenge. Similar approaches, such as the campaigns to unionize car washers, Walmart and fast food restaurants, are important developments that broaden the fields of organizing and flank traditional constituencies.

An important characteristic of US industrial relations is that 'union contract coverage' is largely limited to actual membership. In short, collective agreements are between a union and an employer (or association of employers at the project level or city level) for only those employees in a bargaining unit that has a majority of union supporters, either by card-check or by an NLRB election. As a result, collective agreements in the US cover 15.9 million workers, or only 1.5 million above the 14.4 million unionized employees (2012), with government employees accounting for about half of this number (BLS 2012a: 2). This pattern is very different from some countries with neo-corporatist structures in which national and sector level agreements between unions and employer organizations (sometimes involving the state) may cover all workers (or large categories of workers beyond those formally unionized)<sup>19</sup>.

Table 4: Unionization Rates By Sector (2012)

Sector	Persons employed (thousands)	% Unionized
Local Government	10,554	41.7
State Government	6,279	31.3
Federal Government	3,552	26.9
Transportation and Utilities	5,359	20.6
Construction	6,205	13.2
Manufacturing	13,941	9.6
Information	2,775	9.7
Education and Health	20,394	8.1
Mining	923	7.2
Wholesale and Retail	18,174	4.7
Professional and Business Services	12,726	2.4

Sources: Bureau of Labor Statistics 2013 and 2012.

19. In other countries such as in Germany, contracts are generally applied to all employees of a member company of an employers' association, whether or not they are union members. In France where union density is lower than that of the USA, union coverage is over 90%. For a study of union membership and union coverage trends in industrial countries see Schmitt and Mitukiewicz (2011).

### 2.3.2 Union Fragmentation

Labor unions in the USA are also quite fragmented, a fact that is evident by the large number of unions, many tracing their existence back to 19th century craft unionism exemplified by the American Federation of Labor. There are presently almost 90 national sectoral and craft unions ranging from the National Education Association, which has more than 3 million members to small independent unions, such as that of baseball players. Multiple unions in the same sector and company create jurisdictional and coordination problems. As one unionist from the construction sector admitted, the lack of cooperation among construction unions is partly the reason why GFAs in the sector have not been tested more. (CCReBTU-30.01.2013).

The largest unions in the manufacturing sector are the Teamsters (which actually are active in more sectors than manufacturing), the USW, the Communications Workers of America (CWA), the UAW and IAM while in the service sector there is the SEIU and the United Food and Commercial Workers (UFCW). In many cases growth by unification or absorption has created internal tensions (Moody 2010). And many unions in search of new members have branched off into new jurisdictions. Only a small percentage of the United Steelworkers membership is in steel, for instance. There are many instances in which individual unions disagree over an issue because the industries they represent are impacted quite differently by the same economic or political development. For example, some units of the union may support renewable energy while others may support extraction.

There are currently two inter-sectoral federations – the AFL-CIO and Change to Win (CTW) (Masters et al. 2006). UNITE-HERE, LIUNA, and UFCW, three of the seven original founding unions of the CTW have rejoined the AFL-CIO. There is also evidence of some reconciliation and pragmatic agreements as evidenced by the recent settlement of an organizational conflict between the SEIU and UNITE-HERE, one of the unions previously in the CTW and now back in the AFL-CIO. Bitter as the split has been, there has been continued collaboration involving unions from both federations at the local or regional level in regional and metropolitan Central Labor Councils.

The building and construction trades highlight the problems of union fragmentation. While the Building

and Construction Trades Department of the AFL-CIO does provide for some coordination and collaboration, competition among unions for market shares has hardly abated. Some unions in the sector recognize the problem and numerous mergers have occurred in the past. Still, union structures in this sector are highly fragmented. And in contrast to unions in other sectors, most of the BCT unions are not affiliated with a GUF, which is particularly problematic for the negotiation and implementation of the relevant GFAs.

### 2.4 Union Strategies to Reverse Decline

How to stem the decline in unionization has been a pressing and divisive issue in the US labor movement. The strategies employed by unions can be divided into policy and organizing ones. Policy strategies aim to influence the rules of industrial relations; organizing strategies aim to activate members and potential members in the interest of gaining union recognition and influencing the practices of corporations through campaigns and social movement alliances.

At the policy level unions have sought to reverse their declining power in three ways. First, they have spent significant resources on trying to elect union-friendly political leaders (for detailed overviews see Bloomberg BNA, 2010 and 2013). The United States has never had a labor or social democratic party that would promote rules advantageous to unions, and so unions have had to continually devote a large amount of their resources to supporting individual representatives.

Secondly, unions have sought the active involvement of the National Labor Relations Board in enforcing the National Labor Relations Act. But because NLRB members are political appointees of the US President, its actions (or non-actions) generally depend largely on whether the Board's majority was appointed by a Republican or a Democratic President. Thus, labor unions applauded at the end of July 2013 when President Obama's nominees to the NLRB were finally confirmed after a drawn-out Republican filibuster. Thirdly, there are significant interfaces between the public and the private sector. Not only does the public sector in the USA directly account for about 40% of spending but, also, much of the private sector depends significantly on continuing public spending (e.g., military sector, infrastructure, health,

education, and so on). Thus, unions have sought public policies that encourage the use of union labor in public or publicly funded projects to promote unionization. Employers' associations such as the Associated Builders and Contractors (ABC), on the other hand, are generally opposed to PLAs and other policies recognizing unions.

Unions also have a broad repertoire of strategies towards corporations. Both service and manufacturing unions routinely seek to expand unionization by engaging willing companies and helping them succeed. While this keeps willing companies (or deeply unionized companies) under the tent it does not necessarily change the views of those companies opposed to unions. Earlier on we mentioned the Kaiser Permanente Partnership and the UAW's reaching out to corporations. The BlueGreen Alliance, an alliance of unions and environmentalists, has aggressively pursued collaboration with high-road companies and has established a corporate advisory council, to add another example. Union leaders sit on the boards of some of those high road companies.

Unions have also sought to reverse their decline through »organizing« (Bronfenbrenner et al. 1998) and direct campaigning strategies. One strategy aims at the unionization of people hitherto bypassed by unions. For example, since the 1990s, the SEIU has sought to unionize less skilled and more precarious workers in building services and, more recently, in multi-service companies such as Sodexo. Many of these workers are immigrants. As we noted earlier efforts to unionize Walmart workers, car washers and fast food industry workers also fall in this category.

The corporate campaign strategy is a central element in the repertoire of several US unions across the strategies mentioned above. There are a variety of types of campaigns whose common ground is the targeting of specific corporations (Bronfenbrenner 1998, 2007). European unions are less familiar with such corporation-centered strategies due to the availability of corporatist forms of interest mediation. For US unions, especially in the private sector, there are no alternatives other than »direct« actions, such as campaigns, and efforts at changing the law. While the militant tone that such campaigns take reinforces the confrontational tenor of US industrial relations the goals of unions are to achieve recognition and bargain collectively with the corporation.

As a result, campaigns take place only after the company has proven intransigent.

Unions have also sought to reverse decline by putting sustained pressure on corporations across their production chain, including across boundaries. Examples of campaigns that have gone transnational are the Deutsche Telecom (t-mobile) campaign, jointly carried out by the CWA and the German service union ver.di, the Wackenhut/G4S campaign of SEIU and UNI, and the Swedwood campaign of the International Association of Machinists in collaboration with Building and Wood Workers' International and the Swedish home country union at IKEA. These campaigns highlight the increasing efforts of US unions to engage in transnational collaboration. While there are some examples of success the record here is not as encouraging. One of the problems with these efforts has been the absence of sustained transnational collaboration, a point we will return to later in regard to GFAs.

## 2.5 US Unions and GFAs

US unions were at the anti-communist forefront in the Cold War and active participants in what one may call union imperialism. For many decades they engaged in union foreign policy rather than collaboration. Even then, however, some of them strongly backed transnational union collaboration, as was the case with World Company Councils in the 1960s and 1970s (Gallin 2008; Stevis and Boswell 2008). In recent decades a new generation of unionists has adopted a much more active and engaged approach to transnational union collaboration, one that seeks to move beyond the previously episodic nature of global campaigns (Meyerson 2009).

At the same time, European trade unions also participated in Cold War politics and despite deepening political integration in Europe, in fact, transnational collaboration amongst European unions has been slow (e.g., Larsson 2012) while collaboration with US unions is often contentious (e.g., Greven 2008). Transnational union collaboration or opposition to it, in short, is not immanently USA or European. Rather, we have to look empirically for those cases in which unions take the lead and those in which they resist collaboration. Industrial relations traditions and politics matter but, of course, unions have contributed to those traditions. The case



studies, as well as the overall experience with GFAs, can help us identify instances of best and worst practices.

We recognize that a number of US unions are pursuing transnational strategies that are programmatic and long-term. GFAs may not be the only possible or most productive transnational strategy but they are the only sustained strategy of transnational social dialogue between labor and capital. For this strategy to be fully effective it must be based on transnational union collaboration involving a variety of tools, such as campaigns and transnational union networks. For many unions, in particular those which in the past have accrued a substantial level of recognition and institutionalization, this will bring with it deep-seated changes. As we were repeatedly told by a US union official with a long experience in transnational labor politics the formation of transnational union networks is a prerequisite on the road to negotiating an agreement – not simply a result of the agreement. Such a network should push the company towards confronting existing problems in the hardest places and committing to finding a way to solve them. Only then should unions be willing to negotiate and sign an agreement (TBCoBTU-08.02.2011). Without deeper union collaboration GFAs can easily degenerate into microcorporatism and, worse, a public relations exercise for business. In what follows we outline the attitudes of US unions towards GFAs.

Some US unions have been skeptical towards GFAs (USW 2006; Herrnstadt 2007). Others, such as the SEIU, have made active use of this tool and, as our research shows, a number of US unions have engaged the GFA strategy one way or another. To examine these varying responses more closely, it is useful to divide this question into two parts: (1) Are US unions seeking to persuade US companies to negotiate GFAs? (2) Are US unions participating in efforts to both bring foreign companies with operations in the US to the GFA negotiation table and to ensure implementation of existing GFAs in the USA and beyond (see Stevis and Boswell 2007 for an earlier discussion)?

### 2.5.1 US Transnational Corporations and GFAs

US corporations have been generally hostile to negotiating GFAs. This is not surprising given the dominance of managerial prerogative and the prevailing climate of union avoidance in the US business community. Moreover, unlike most European based companies, US companies

take a victor's approach to corporate social responsibility and consider it an extension of managerial autonomy and authority (Marens 2012). As such, it is quite exceptional at this point that the Ford Motor Company signed a GFA with IMF (now IndustriALL) in April 2012 (IMF 2012). What impact this may have and whether this is a breakthrough is still uncertain. While efforts at negotiating a GFA at Ford have a longer history the agreement was finally negotiated and signed as a result of an intensified effort by the UAW, which at its March 2011 special convention on collective bargaining made transnational collaboration and GFAs formal elements of its agenda for the next four years (UAW 2011b). The UAW is also pushing negotiations at GM while Fiat, which now owns Chrysler, has long been a target for a GFA but continues to resist it. Despite harbouring a general skepticism about GFAs, the Teamsters have also been involved in efforts to move US TNCs in the direction of a GFA. More specifically, the Teamsters prefer the IUF's approach which they feel is more sensitive to US realities and is not willing to sacrifice the content of the agreement for the sake of getting one. For example, the union has had an active role in the IUF-led Coca-Cola campaign. The company has signed a Memorandum of Understanding but has not yet shown an interest in turning it into a GFA. In fact, there is continuing evidence of anti-union practices. The Teamsters and UNI have had discussions with Loomis over a GFA, a process slowed down while a complaint by the union is pending at the NLRB. The Teamsters have also raised the issue of GFA negotiations with UPS, and in the International Association of Machinists (IAM) there has been some consideration of approaching Boeing in this regard.

### 2.5.2 European TNCs and GFAs in the US

Despite the existence of robust institutions of labor relations in Europe and the strength of unions at TNC European headquarters, the implementation of GFAs in the US has not been a routine exercise. In a number of instances US unions tried to implement the agreements but failed. In some cases there were limited preparations in the belief that the agreements had autonomous regulatory power; or the agreement was still too new (EADS, Siemens<sup>20</sup>). In other cases home and host unions

20. After drawn-out negotiations, Siemens signed a GFA in July 2012. At the same time, its US management was hiring union avoidance specialists and telling employees that unionization was not in the employee's »best

could not find common ground. As a result, some US unions have strong reservations about their usefulness. In most cases US unions have had to mount transnational campaigns and struggle aggressively to get GFAs – signed and displayed by corporate headquarters – recognized by local management at US subsidiaries. For example, the SEIU did not limit its strategy to the US but adopted a global strategy to bring European multinationals companies operating in the USA to the bargaining table. The first major success was at G4S (McCallum 2013). Another success – at least as far as a GFA is concerned – was the campaign against the French company Sodexo. In these efforts SEIU has pursued capacity building in countries where those companies operate but where unions are weak, closer engagement with global union federations (UNI and IUF), and closer collaboration with foreign unions, especially those in the home country of the targeted TNC. SEIU's strong involvement in UNI – a strategic decision on its part – has allowed it to contribute to the formation and implementation of global campaigns and the negotiation of global agreements with a variety of companies in the property services sector. During 2010, for instance, the SEIU launched a national campaign to ensure the implementation of the global agreement with Securitas. Since then, SEIU has been able to advance relations with Securitas, G4S, and other leading companies in this sector. And during the summer of 2012 the ISS agreement was invoked to bring a strike in Houston, Texas, to a successful end.

The USW's approach has been somewhat ambivalent and critical towards GFAs (USW 2006). The union regards GFA language to be generally too weak to have a positive impact on the adversarial environment of US labor relations. Moreover, the union criticizes the GUFs for not having involved affiliates in the negotiation process early on. The implementation of a GFA also requires the provision of adequate resources, which a union like the USW can mobilize if it »fits« to the union's overall organizing strategy.<sup>21</sup> Still, the union is playing a leading role in the global network across Gerdau operations (whose goal is a GFA) as well as the Occupational Health and Safety Agreements with ArcelorMittal and Rhodia. During 2010 the USW also invoked the Rhodia agreement

to unionize a Rhodia plant in Illinois. It has been active in the renegotiation of the Lafarge agreement and is participating in discussions of a possible agreement with Saint-Gobain.

The CWA has been playing a leading role with respect to Deutsche Telekom's operations in the USA. CWA and its German partner union Ver.di, have ramped up their campaign and have been joined by UNI and the International Trade Union Confederation. The Teamsters have also been involved in the DHL campaign, one goal of which is a global agreement. UFCW has used the agreement with H&M to unionize workers in New York as well as in Ontario and the Bakery, Confectionery, Tobacco Workers and Grain Millers International Union (BCTGM) has been active in the implementation of the Danone agreement which also helped the Teamsters unionize two Danone subsidiaries on the West Coast during the summer and fall of 2012. Both unions are actively involved in the Danone Council for Information and Consultation (Danone's »world employee council«).

Most interestingly, a number of unions, especially the Boilermakers, successfully employed the original Lafarge agreement, an otherwise weak agreement, to solve a series of disputes. With the USW and the Teamsters they have also created a network to unionize construction material companies in North America. Its goals also include implementing and promoting GFAs as well as counteracting company attempts to play off one union against another. Finally, IAM's wood sector led the transnational campaign to get IKEA to implement its commitments at the Swedwood factory in Danville, Virginia.

Combined, these examples indicate that some US unions are now engaging the GFA strategy more actively. What is evident from these cases is the significance of transnational union networks and the role of GUFs (UNI in the case of services, the ICEM and BWI in the case of Lafarge, ICEM in the case of Rhodia, IUF in the case of Danone, and IMF in the case of ArcelorMittal – ICEM and IMF are part of IndustriALL since 2012).

At this point the unionization of European automobile companies that have signed agreements i.e., Daimler/Mercedes, VW and BMW poses a significant challenge for the GFA strategy in the US and highlights the comments we have just made. All of them have located major

interests«. US union protests were to no avail, but in the meantime, there is a coordinated union effort to strategically tackle this case. On EADS see Fichter and Helfen 2011.

21. Remarks by a USW official at the GFA workshop, September 15, 2011, Washington D.C.



investments in the South and despite their signatures on a GFA, the message being spread by their US management to employees is that they would be better off without unionization. For the UAW – and indeed, for the German metalworkers' union IG Metall as well – unionization of these plants is a must. If they fail, not only will the future of GFAs in the US be in doubt; far more importantly, the future of the UAW as the representative of auto workers will be uncertain<sup>22</sup>.

In sum, the US is in many respects the most important testing ground for the viability of the GFA strategy. While we will explore this issue more extensively in the conclusions to this report, we think that it is important to recapitulate some key points that we have made in this section. For one, US unions are operating in an increasingly hostile political environment, both within companies and in society in general; anti-union forces have been quite effective in putting unions on the defensive. Secondly, extensive corporate restructuring – from offshoring to casualization – has contributed to decimating union membership ranks and in too many cases stymied adequate organizational responses. Thirdly, the GFA strategy developed primarily out of a European context of social dialogue. Many US unions – the SEIU is a notable exception – have been either disinterested or for a variety of reasons regarded GFAs as not being applicable to the US. Ironically, this has also been the line that US management has supported, albeit for very different reasons. Finally, there have been successes – along with coordinated ongoing transnational efforts to push the GFA strategy forward and to build transnational union networks.

### 3. Specific Company Cases

In this part we present our findings with respect to the nine<sup>23</sup> companies that we have researched. Seven of them are core cases chosen by the project while two are of particular interest in the US context. In each case we present a profile of the company's entrance

and presence in the USA and its labor relations. We then discuss developments that have taken place with respect to the implementation of the GFA. The case presentations address the following set of questions with more attention to implementation and thus questions 4–9.

1. Does the agreement cover the core labor standards and does it include any provisions of particular relevance to the USA?
2. Does it cover the whole production network in the USA, including partners, joint ventures and suppliers?
3. Were US unions directly involved or recognized during the negotiation of the agreement?
4. Have all US representatives of labor and capital been ›recognized‹ in the process of implementation?
5. Is the agreement known locally and by whom? Has it been communicated to the company's US employees and managers and to its suppliers? Has it been communicated to the local unions?
6. To what extent has the GFA been implemented? Have there been any management, union or joint initiatives? Have they been ad hoc or longer term?
7. Does implementation include any national level provisions for monitoring and conflict resolution?
8. What has been the impact? Have labor relations improved, such as allowing for union recognition and collective bargaining, improved working conditions, more dialogue between management and labor unions and any other improvements for employees and unions, including those at suppliers and sub-contractors?
9. What have been the main factors facilitating or obstructing implementation? Has it been national or local regulation and industrial relations? Management approach and strategy? Union approach and strategy? Other elements encountered in the course of implementation?

22. Equally important in this regard is the broadly-based corporate campaign the UAW is directing against Nissan in Canton, Mississippi. Nissan does not have a GFA and is completely unwilling to enter into any kind of dialogue with the union.

23. We have chosen not to include a further case we researched, WireCorp, because this company has relocated its major production units to Mexico and as such, the findings regarding GFA implementation in the US were insignificant. Limited resources prevented us from evaluating GFA implementation in Mexico.



Table 5: General USA Profile of Target Companies

Company	Sector	No. of employees (2011 or 2012)	Unions
<b>BuildingCorp</b>	Construction	7,280	Building and Construction Trades
<b>ConstructCorp</b>	Construction	9,400	Building and Construction Trades USW
<b>ResourceCorp</b>	Construction Material	9,600	USW Boilermakers LIUNA Teamsters UMW
<b>ChemCorp</b>	Specialty Chemicals	1,700	USW LIUNA Teamsters
<b>RubberCorp</b>	Chemicals Rubber Plastic	11,00–13,500	UE UNITE-HERE UAW
<b>MetalCorp</b>	Cars and Trucks	21,000	UAW IAM
<b>SecureCorp</b>	Security	50,000	SEIU USGOA
<b>ServiceCorp</b>	Cleaning	15,000	SEIU
<b>ProtectCorp</b>	Security	108,000	SEIU SPFPA

### 3.1 BuildingCorp

**BuildingCorp's Presence in the USA:** The USA is very important for BuildingCorp. According to information from its 2011 report and the websites of its major subsidiaries the company employs about 7,300 people in the USA (or about 10% of BuildingCorp's global total of 75,000). The Americas account for about 25% of the company's global sales (2011), most of it in the USA. While BuildingCorp's global employment went up compared to 2010, in the US it has decreased, reflecting the continuing impacts of the recession. However, the Americas (now without Brazil) continue to be the second most important market for BuildingCorp, if well behind Asia Pacific. Highlighting the volatility in the sector, during 2011 another European company gained a controlling interest in BuildingCorp and in November of 2012 also took management control. As in other cases involving the sale of a GFA signatory the current status of the GFA is not clear.

Its major subsidiaries in the USA are the national Commercial Building Subsidiary and the Infrastructure

Subsidiary (West). Through these companies BuildingCorp has also purchased (2010) the Infrastructure Subsidiary (East). Combined with the 2011 purchase of a Canadian company it is evident that North America is central to its global plans. Given their longstanding history and operations, all subsidiaries enjoy a fair amount of operational autonomy.

The Commercial Building Subsidiary was purchased in 1999 and is the leading or one of the leading US companies in healthcare, educational and commercial construction, including the growing green construction segment. It has operations throughout the country. During 2011 it had sales of approximately \$8 billion and employed about 5,000 people. While it has adopted a service model it continues to employ a significant number of employees directly. This subsidiary has a strong, profitable, and long presence in the US allowing it some autonomy within the overall company. It has its own divisions and also owns a number of subsidiaries of its own. Although it does build many public buildings there are few instances of Public-Private-Partnership (PPP) projects involving the Commercial Building Subsidiary.



Infrastructure Subsidiary (West) was purchased in 2007. It now employs about 1,400 people, well below the number employed in 2008 (2,500), and had sales of a bit over \$1 billion in 2011. It is a leading company in transportation infrastructure construction with operations in the Western US and Canada. Infrastructure Subsidiary (West) is a frequent participant in PPP projects.

Infrastructure Subsidiary (East) is a regional infrastructure company based in New Jersey. It was formed in 1984 and claims to have completed over 1 billion dollars worth of projects since then. It employs about 225 skilled craftsmen on its own. Finally, the Canadian subsidiary was purchased by Commercial Building Subsidiary in 2011. It employs 700 people and is actively involved in PPPs.

**BuildingCorp Labor Relations:** As a major building contractor, the Commercial Building Subsidiary is signatory to a number of national union agreements. Where unions are stronger, it tends to work with union labor, for example in Southern California, or in Oregon, where, around 2008, the company shifted from using non-union sub-contractors to unionized ones. A state union leader has informed us that the Commercial Building Subsidiary is largely known as a «union» contractor in his state. However, as national union leaders have pointed out to us, that seems to be the case only where there is a strong union presence.

This is supported by the fact that Commercial Building Subsidiary is a frequent signatory of PLAs. For example it was a participant in the 2009 New York PLA Agreement with the New York City Building and Construction Trades Council which ran until June 2010. More recently it participated in a labor-management agreement that affected 43 projects in the NY City area. In December 2009, in fact, Commercial Building Subsidiary ran into trouble with competitors for trying to «remove low bidders» from a school project in Illinois. Evidently there were interactions between city officials, unions and management to discuss the bids.

While the above suggest a positive relationship to unions, we have found examples of disputes and claims of bad practices. During 2008 an eastern state Laborers' District Council picketed Commercial Building Subsidiary over allowing its subcontractors to misclassify their employees. In January 2010 it was the target of actions by various unions (Carpenters, IBEW, Boilermakers, Sheet Metal

Workers and Teamsters) in a Southern state. A search of the NLRB website indicates a number of Unfair Labor Practice (ULP) filings during the last two years, some involving the Northern California District Council of Laborers as well as a Laborers local elsewhere. There was only one union recognition case since 2001, involving the Operating Engineer's union. In short, there is evident variability in BuildingCorp's labor relations, reflecting union capacity. As we were told by a union leader while Infrastructure Subsidiary (West) does sign PLAs in various parts of the country it systematically avoids them in the state where it has its headquarters. Once we told him about the GFA he stated that if he ever had the chance to talk to management he would ask them «why is it you have this global agreement and in [our state] we cannot even talk to you?» (NHBuBTU-31.12.2012)

**The BuildingCorp GFA in the USA:** The BuildingCorp agreement is one of the earliest ones and it is a hybrid of negotiated agreement and a voluntary management code of conduct. The signatories were global headquarters, the home country union, the national works council and the GUF, BWI. US unions, very few of which were and are members of the GUF, were not involved in its negotiation. In the agreement, BuildingCorp pledges to respect key labor standards and ensure their application in all entities which have a contractual obligation with the company. The list includes the core labor standards (freedom of association and collective bargaining, non-discrimination, prohibition of forced labor and child labor) as well as provisions on wage and working conditions. However, the text is very sparse and general, including the references to the ILO standards. There are no provisions explaining implementation procedures, and monitoring provisions lack specific language and are largely under the control of the company. The mechanisms that have evolved since then are not very institutionalized, e.g., there are no permanent organizational arrangements nor has the company effectively modified its organization and culture to implement the agreement.

Not surprisingly, corporate headquarters has been unable or unwilling to ensure that the GFA is recognized and implemented in its local subsidiaries. During the early 2000s the company held a meeting with US unions and its key Commercial Building Subsidiary. During 2006 BuildingCorp and ConstructCorp (see below), joined in promoting social dialogue based on their GFAs. The unions participating were the Iron Workers International,



Sheet Metal Workers International, LIUNA, Teamsters and IAM. As publicly stated the hope was that this would be the first step in a more systematic interaction amongst HQs, US subsidiaries and US unions towards implementing the agreements. A follow-up meeting took place in 2008. There have been no further systematic interactions between the company, its US subsidiaries and US unions intended to implement the GFA. There is no evidence that the GFA has been communicated to lower level managers. As we have been told, the CEO of the Commercial Building Subsidiary showed no interest in the agreement, despite some pressure from global headquarters. The company's subsequent labor relations record supports that, as does our experience of not being able to arrange interviews with national and local managers. We also received no reply to an early draft of this report we sent to HR managers in both major subsidiaries. Initially, Infrastructure Subsidiary (West) sent us some factual comments and promised an interview on a specific time and date. Just before that date, however, we were asked by global HQs to not contact national and local managers any further.

Nor have unions done a better job. Some of the unions may have sent information to local organizations but we have not found any evidence of systematic efforts at communication and training. The director of a state BCT council where one of the subsidiaries is headquartered was not aware of the GFA until we spoke with him (NHBU-TU-31.10.2012). A national unionist well acquainted with the agreement has pointed out that part of the blame must be placed on the fragmentation of unionization in the construction sector and a great deal on the Commercial Building Subsidiary. In that unionist's view proper implementation requires active participation of unions and management in training local management and unionists in the implementation of the GFA. (CCR-BTU-30.01.2013)

Commercial Building Subsidiary's website does not mention the Agreement or labor-management relations, more broadly. The same applies to Infrastructure Subsidiary (East). Infrastructure Subsidiary (West)'s Corporate Social Responsibility page is extensive but also does not mention the agreement nor does its Code of Conduct refer to labor standards. The Social Responsibility page provides a link to BuildingCorp's »Code of Conduct for Business Partners.« The code's coverage of forced labor, child labor and discrimination is fairly close to the ILO standards but

with respect to freedom of association the code is even more general and privileges local laws. Most importantly, in its own statement of commitment to respecting the Code, Infrastructure Subsidiary (West) does not make collective rights explicit.

The implementation of a GFA in the construction sector presents important challenges given the extensive amount of subcontracting and the dispersed and temporary nature of work. We expect that BuildingCorp is also facing these challenges but we have not received any input from management despite repeated calls, e-mails and promises.

The GFA has had no discernible impact on Commercial Building Subsidiary despite the promising 2006 meeting with the unions. There are no examples of the agreement facilitating unionization. The major factors for these outcomes seem to be the power of the national subsidiaries and the limited organizational integration of the company. At this point we have to conclude that the GFA is not a priority for BuildingCorp's subsidiaries in the USA.

### 3.2 ConstructCorp

**ConstructCorp's Presence in the USA:** The USA is ConstructCorp's single largest market. According to its US website its subsidiaries employ over 9,400 out of the company's approximately 56,000 employees worldwide. During 2011 it generated 28% of its total construction revenue in the US (construction accounted for 89% of ConstructCorp's total revenue of \$19 billion). ConstructCorp's dependence on the US market in North America is fundamental as the company does not operate in Canada and Mexico. Other operations can be found in Northern and Eastern Europe, the UK and South America. The company has also adopted a service model in its operations but it seems that it has done so less than other companies, hence the high number of direct employees. But, like all construction companies, it depends heavily on subcontractors.

While the company's presence in the US is formally organized under ConstructCorp, USA,, it really consists of two major subsidiaries – ConstructCorp USA Building, Inc and ConstructCorp USA Civil.. Both of them are part of the construction group which accounts for the

overwhelming portion of the company's revenue and each has its own management structure. Overall, the company has been administratively and operationally decentralized within the USA but there is evidence, confirmed to us by national management, of growing administrative centralization, at least in some respects, both in the USA and at the global level.

ConstructCorp USA Building is one of the top general contracting and construction management companies in the areas of electronics, pharmaceuticals, health care, sports and entertainment, and infrastructure. It has integrated companies that the parent company has bought and employs about 4,500 people.

ConstructCorp USA Civil focuses on civil engineering construction and infrastructure projects along the East coast, but also has operations in Colorado, and California. ConstructCorp USA Civil includes a civil engineering firm based in Southern California, which ConstructCorp bought in 2002, as well as a number of other companies that have been purchased during the last ten years or so. It employs about 4,000 people.

**ConstructCorp Labor Relations:** ConstructCorp is generally considered to be a very ethical company with good labor relations. In order to avoid compromising its ethical standards it has withdrawn from particular markets. Our interviews and our own research suggest that any labor problems that may take place in the US are not the result of bad faith on the part of global management nor of a strategy of deflecting responsibility onto subsidiaries. Rather, they reflect the fact that the company has grown via acquisitions and national management has fallen behind in implementing the agreement in the USA.

Because ConstructCorp is almost solely involved in large projects, the labor contracts they participate in are mostly with regional or state-wide Building & Construction Trades and Labor Councils. Where unions are strong ConstructCorp and the various Trades Councils use PLAs. As a result of committing to PLAs in some cases ConstructCorp has been the target of anti-union interests. In February 2010, ConstructCorp formed a safety partnership with OSHA, centered around a specific project but with the expectation that it will help promote such collaborative practices. This attention to safety is consistent with the BWI's priorities in this case. All this

is evidence of positive labor relations but there are also indications that ConstructCorp has been avoiding PLAs even in PPP Projects, despite President Obama's Executive Order encouraging them in such projects. As a state level union official told us, the Obama Executive Order has not had an impact in his state, even for companies with GFAs. (NHBuBTU-31.12.2012) ConstructCorp has also been fined for pretending to hire protected category subcontractors in order to enhance its bids for public projects.

ConstructCorp is a member of Associated Builders and Contractors, an organization that brings together 'merit shop' construction companies, i.e., non-union companies, and prominently announces awards received from the Association. During the Congressional debates on the Employee Free Choice Act in 2009–2010, its name appeared amongst companies opposed to it. The company indicated that this was an error by a lower level manager but, according to a union official, it refused the request to formally retract its signature (TBCoBTU-08.02.2011). There have been only three unionization cases involving ConstructCorp at the NLRB since 2001 when the GFA was signed, the most recent discussed below.

**The ConstructCorp GFA in the USA.** The ConstructCorp agreement was also one of the earliest ones and it is as general as the BuildingCorp GFA. As in the case of BuildingCorp, that was also a time when the company pursued an aggressive internationalization strategy. Also, like BuildingCorp, it has been trying to cobble a cohesive company out of a range of companies, albeit none the size and influence of BuildingCorp's Commercial Building Subsidiary.

The negotiators and signatories were the relevant GUF, the company's European Works Council and the company. Unions along the company's production network were not involved. The home country union is also not a signatory but it was central to the negotiations and continues to drive the process. Here it is important to underscore that the company's EWC reflects the home country model of union appointments to the EWC. This is not the practice in other countries such as Germany.

The agreement makes specific mention of the ILO core labor standards as well as of conventions on compensation and working and employment conditions. Occupational health and safety is a particular focus of

the company and the BWI, and thus central to their interactions. The agreement covers the company's operations while suppliers are to be informed. There is no evidence that this has taken place or that there has been an effort in that direction, certainly not in the USA, but in 2008 the company did adopt stronger procedures for vetting subcontractors. The implementation provisions of the agreement are among the least institutionalized centering around a reference group with representatives from the GUF, the company and the EWC. Yet, because of the corporate culture and the active home union the agreement has been implemented better than one would guess from its formal provisions. The Reference Group meets twice a year, in conjunction with the meetings of the EWC. This agreement is also one of two that include arbitration as a method for dispute resolution but the process has not been used, so far.

As noted previously, in 2006 BuildingCorp and ConstructCorp met with unions for the purpose of promoting social dialogue based on their GFAs. The company also participated in the 2008 follow-up meeting and, in September 2009 it hosted BWI and associated trade unions in a joint visit to job sites in Florida. There was also a meeting with ConstructCorp management. Florida is particularly problematic in terms of labor relations and, as we were told by a unionist, the blame is not to be placed solely on the company. (CCReBTU-30.01.2013) Lack of union initiative and collaboration is also a problem. While there is coordination amongst some construction and trade unions there is very little across the sector because many of these unions are not members of the BWI. As a result of US union participation in the meetings of the Reference Group and pressures by the Swedish unions, national management agreed, in 2011, to annual meetings, the first of which took place in 2012. The 2012 visit was to a unionized site in New Jersey and of limited value in terms of the agreement's implementation.

One case in which the agreement was used was at one of its subsidiaries in Southern California. For some 30 years, the employees at one of its engineering offices in the Los Angeles area have been represented by the Teamsters. In March, 2009, local management announced that it would allow the contract to run out and would not negotiate a new one. The Teamsters regarded this as a violation of the GFA and not in line with commitments to social dialogue that ConstructCorp had made in 2006 regarding its operations in the United States.

The union notified BWI of the company's refusal to bargain, asking the GUF to work with ConstructCorp headquarters to rectify this GFA violation. Simultaneously, the Teamsters filed for a new union recognition election, which was scheduled for July 2009. Shortly beforehand, the local ConstructCorp manager urged employees to vote »no« to further union representation, citing a union financial statement allegedly showing that the local had spent »absolutely nothing« on behalf of the members (Management letter, 2009, in possession of the authors). Despite local management opposition the employees gave the union a full vote of confidence in the election and shortly thereafter, management entered negotiations on a new contract which was signed in the summer of 2010. According to a representative of the Swedish construction union Byggnads, his union intervened with ConstructCorp headquarters on behalf of the Teamsters and the US employees (TBCoBTU-22.07.2009; CWCobTG-01-10.2009). US management has also informed us that the problem has been resolved and is not indicative of the company's attitude. National union officials in the US have informed us that they have close relations with Byggnads and that they have found the union to be responsive to US unions and willing to learn more about the challenges they are facing (CCReBTU-30.01.2013).

There is no evidence that the GFA is known locally as a result of a systematic dissemination effort. That was confirmed to us by the director of a state BCT council where one of the company's subsidiaries is located. The websites of ConstructCorp subsidiaries in the USA do not mention the Agreement or labor-management relations, more broadly, other than the parent company's very brief Code of Conduct. This version also privileges national law practices. In addition, the US subsidiary takes a reactive approach to the GFA. As we have been informed by management »we work closely with [HQs] on any issues that arise, although seldom have any substantive issues come up in the past several years that I am aware of, and will host BWI representatives on visits to the US periodically.« (TCCoBMU-19.08.2011) There are no national level provisions dealing with monitoring and conflict resolution, other than the bi-annually scheduled joint visits with BWI. The case above as well as cases in Florida are examples of improvement in labor relations but they remain sporadic. The company seems more interested in unifying its units and that may also affect its labor practices, as national management has

suggested to us. Other than the 2006 meeting unions have also not taken further systematic steps to promote implementation. A comment by management also highlights the problem of subcontracting in the sector and its implications for the GFA's coverage. Specifically management noted that

»as you may know in the US the majority of the trades we employ are employed through sub-contractors and are not full-time employees of or directly hired by [the company] – even those trade laborers we may employ directly are done so through the union halls on a temporary basis for projects where we, for example, are »self-performing« the work.« (TCCoBMU-19.08.2011)

In general, ConstructCorp is more engaged with the implementation of its GFA in the US when compared to BuildingCorp. This is not due to any particular enthusiasm on the part of US management but, largely, due to the company's corporate culture and the willingness of the Swedish union and the GUF to be responsive to US concerns. This inference is motivated by the observation that while the same GUF and US unions are also involved in the BuildingCorp case, that home country union is not responsive to US union concerns.

### 3.3 ResourceCorp

**ResourceCorp's Presence in the USA:** ResourceCorp is in the construction materials business. It has a long-standing presence in North America, largely in the form of initially autonomous subsidiaries. During 2006 it bought out the shares it did not own and centralized its operations. The GFA that it had signed the year before may have contributed to its decision to control its production network but it was probably a secondary factor. According to the company it employed about 9,600 people in the US in late 2011, down from previous years, or about 14% of the company's 68,000 worldwide employees. This makes North America the fourth largest region in terms of employment after Middle East and Africa, Asia, and Europe.<sup>24</sup> The company's 2011 sales in North America accounted for ca. 20% of total revenues (significantly lower than previous years) making it the

third-ranked region in the world, down from second in years past. In total it has about 350 facilities, 21 of which are cement plants; the others are aggregate quarries and ready mix plants. The largest of these facilities typically employ around 150 people each. Overall, the company's NA operations were seriously affected by the 2008 crisis. At this time the company claims to be the largest »diversified supplier of construction materials in the USA and Canada.«

During 2011 and 2012 ResourceCorp reorganized its global organization, including the sale of assets as well as administrative changes. In March of 2011 it sold two cement plants (in Alabama and South Carolina) and a cement grinding plant in Georgia to a South American company. It also sold its ready-mix concrete units in that part of the US. In late 2011 it announced its intent to reorganize and completed the process in March of 2012. In late September 2012 it also sold its cement, aggregate and concrete operations in Missouri and Oklahoma and exchanged properties elsewhere with another company in the sector. In general, there was significant reorganization and repositioning during 2011 and 2012 demonstrating that global dynamics affect place-based sectors as much as they affect off-shorable sectors.

**ResourceCorp Labor Relations in the USA:** According to the company's 2009 Sustainability Report about 68% of the company's global workforce is represented by elected representatives or unions while 72% is covered by collective agreements (down from 90% in 2005). From the information that we have the density is lower in the USA where ResourceCorp is not known as a union-friendly company. But, for historical reasons (contracts with entities that it bought over time) a substantial part of its plants and other facilities have been unionized by the USW, the Boilermakers, and the Teamsters. Since the signing of the GFA, there has been no significant additional unionization as the company has continued its anti-union stance (see below). In the case of Colorado, where it has the highest concentration of major non-unionized facilities, it purchased a number of concrete and paving contractors that previously hired union labor and immediately began hiring non-union labor.

**The ResourceCorp GFA in the USA:** ResourceCorp signed its GFA in 2005. On the labor side the agreement was negotiated by BWI, ICEM and a third global building workers federation from the former Christian unions,

24. These numbers have to be modified to include contractors which are important in the sector. During 2011, for example, the company worked with over 33,000 contractors worldwide, accounting for 33% of the people employed by the company (above the 68,000 direct employees).



reflecting the fragmentation of unionization in the cement sector. Home country unions were excluded at the insistence of the company, a decision that has produced a number of problems ever since. On the management side the agreement was negotiated at the HQ level. The agreement covers the core labor standards as well as wages, working time, health and safety and training. It sets up a reference group consisting of the signatories that was designed to meet annually. Disputes are to be solved jointly. The company is expected to »provide information covering the agreement in written or verbal form in all countries where this agreement is applicable.« The agreement is intended to cover suppliers and there is some evidence of management paying closer attention to the problems associated with subcontracting.

Highlighting the dynamic we mentioned earlier, US management did not want the agreement to apply to the USA, as has been the case with many other corporations. As we were told by a person who has intimate knowledge of the three years of negotiations:

»The major stumbling block was application in the United States. The agreement would have been reached at least 12 months earlier if it hadn't been for the United States. One of the stumbling block meetings I referred to both general secretaries were involved...[ResourceCorp] flying out US management at that time to a meeting to talk about operations in the United States and to try... to get their management on board to the idea of the framework agreement. So the United States was by far the stumbling block issue.« [JCREBG-18.05.2009]

In the years after the signing of the agreement the company showed no interest in implementing it, particularly in the USA until, in 2010, it formally committed to fully respecting the GFA's provisions in the country. Ironically the letter was signed by a US citizen who is a member of the senior management team and who had been an obstacle to the negotiation and implementation of the agreement. Recently, the completion of negotiations for a revised GFA was announced by the participating GUFs and a revised agreement has been signed. Still, there is currently no information on the GFA or labor relations on the website of the USA subsidiary. The global website has more information on the company's CSR practices, including from two labor members of its stakeholder panel, but there is no reference to the GFA.

The letter stating ResourceCorp's commitment to implement the agreement was the result of a confluence of a number of related developments. During the years after the GFA was signed the company continued to obstruct unionization while also taking aggressive steps affecting existing collective agreements. In one prominent case the company hired a union avoidance specialist to prevent unionization. In another it sought to walk away from its collective agreement commitments. This case involved a plant organized by the Boilermakers. As a result of an ICEM meeting that had been attended by their leadership the union saw the possibility of using the GFA and transnational collaboration to push back. Its subsequent experience has led the union to become more engaged with the relevant GUFs and be a more active participant in national activities, discussed below. This, in our view, is an example of how a GFA can catalyze and channel transnational collaboration even in the case of a recalcitrant company.

In October 2008 the Boilermakers took their dispute over changes in the status of retirees at a company cement plant, to the company's HQs in Paris. This initiative was actively supported by the USW, LIUNA and the Teamsters. In another instance in 2009, the Boilermakers sent a large delegation to an ICEM meeting at which they voiced their problems with ResourceCorp. An agreement which produced positive results regarding this specific case was reached in October 2009, but further efforts by the unions had to be mounted to resolve issues at other plants. The company's decision to address these problems can be said to extend some kind of recognition to US unions but, as we discuss below, there is no national implementation or social dialogue involving US management.

According to interviews with a union leader in the US, the ICEM sent a letter to the company in which it

»actually announced their willingness to cancel the GFA which is highly unusual. For a GUF to even consider cancelling a GFA...I do not want to say it is unprecedented but can't find any history that has ever been done. So we, our guys at the ICEM, were willing to take that step if [the company] had not agreed to meet and agreed to act as a responsible corporate citizen here in the US...« (JF+JPREBTU-07.10.2010)

For the unions, the attitude of the company that the GFA did not apply to North America was unacceptable

and the ICEM's threat to pull out of the agreement was not only a sign of commitment and sensitivity to US circumstances, but also moved ResourceCorp to act.

These unions also set up the North American Cement and Building Materials Network (February 9, 2009) which enjoyed the backing and encouragement of the ICEM and now IndustriALL. One of the goals of that network is to »enforce global framework agreements in North America.« The network is coordinated by the Boilermakers and the Steelworkers. A representative from ICEM/IndustriALL has been present at all three of the meetings that have taken place. The existence of the network, as well as the participation of the relevant GUF, can be considered as a positive step in the direction of including US unions in the GFA implementation as well as in the global strategy towards other cement companies which are also GFA targets.

The cement industry, as well as the unions in it, is quite fragmented both in the USA and globally. European companies play a dominant role in the USA and all of them, with the exception of two, have refused to sign agreements. As in the service sector unions do not want to place GFA signatories, or companies that have positive labor relations, at a disadvantage. As a result they have properly targeted the key players in the whole sector.

We have reason to believe that the intervention of global headquarters, as a result of global pressures and concerns over financial implications, led to the change in the USA but, so far, there is no evidence that ResourceCorp North America has adopted a national implementation strategy, despite what seem to be continuous personnel changes at the higher levels of HRM as well as at the contentious sites. Despite frequent calls and e-mails to HR managers, global HQs and media/communications people, we have found it more difficult at ResourceCorp than at any other company to identify a person in charge of labor relations at the national level in the US. From the limited interaction we have been able to have with the company, we would surmise that ResourceCorp is worried about information on its labor relations policies being publicized. At this point, and in the unfortunate absence of management input, we have to conclude that while the company is aware of its obligations and the possible costs of non-implementation in the USA it has not adopted a meaningful implementation strategy.

At least one union, on the other hand, has communicated the agreement largely via reports prominently posted on its website and publications. Moreover, this and other unions participating in the North American Cement Network have actively and publicly sought to promote the implementation of the agreement in the USA. In this case, therefore, the unions have been more active disseminators of information but these initiatives are intended to move the GFA towards implementation and they are not evidence of joint implementation in any way.

In practical terms the mobilizations around the GFA (rather than its implementation by the company) allowed the resolution of some labor disputes but have not led to more profound forms of implementation. The value of this case, so far, has been in demonstrating that the fusion of national and transnational collaboration can move a company towards the implementation of its GFA. In this case it seems that the top leadership of the company is not totally opposed to the GFA, thus allowing an opening for dialogue, however episodic. The fact that a substantial part of the company's facilities were unionized and that the three unions were able to find common ground were important factors. If the unions did not have some institutional access to the company or they were engaged in jurisdictional conflicts, the outcomes could have been different. Still, this case highlights the value of networks and, in particular, the creative ways in which national alliances and networks can be organized. This could also serve as an impetus even for building a global network at ResourceCorp.

### 3.4 ChemCorp

**ChemCorp's Presence in the USA:** ChemCorp, a specialty chemicals company, has a significant portion of its activities in the USA (and to a much lesser degree Canada). According to its website North America accounted for 1,700 employees or about 12% of its global workforce and for about 20% of ChemCorp's revenue during 2010. The company currently operates 18 sites as well as one of its 5 global R&D centers in the USA. During 2011 ChemCorp was acquired by another European multinational whose goal is to enhance its presence in North America. IndustriALL as well as the US unions would like a global agreement with the new owner. According to IndustriALL, informal discussions regarding a new GFA are being conducted with company



headquarters, but US management reported to us that they have not been informed of such talks.

ChemCorp's operations in the USA include elements of its various divisions. One of its major divisions operates only in the US and is a leader in sulfuric acid regeneration, of great significance to the refining industry and in paper mills. This division has absorbed local companies and plants whose history goes back to WW II. In recent years ChemCorp has purchased a number of smaller companies.

**ChemCorp Labor Relations:** ChemCorp USA's main component, the one specializing in sulfuric acid regeneration, has been long unionized largely by the USW. In addition, the Teamsters hold some contracts as does LIUNA. The company's labor relations have been generally good, but management has not readily consented to unionization in the plants that it has purchased in recent years. Since 2005, when the GFA was signed, there have been a number of ULP complaints filed with the NLRB by the USW. More than half were filed during 2010 and 2011 and involved four different plants. A major strike during 2009 was brought to an end only through the involvement of global HQs and the ICEM.

**ChemCorp's GFA in the USA:** In general, the ChemCorp agreement provides an example of good practice in the implementation of GFAs. This is evident in various ways, including monitoring provisions, organizational innovations, and continuous dialogue that facilitated the agreement's renegotiation and improvement.

ChemCorp signed its GFA in 2005 and it has been renegotiated twice since. The agreement was negotiated between the ICEM and ChemCorp as a result of an explicit choice by the company to negotiate a global agreement with a global representative of labor. The main question now is whether current discussions involving IndustriALL and ChemCorp's new parent firm will result in a GFA for the group as a whole. The agreement (as it has been renegotiated) covers all core ILO Conventions and also pays particular attention to health and safety and global social dialogue. Suppliers are explicitly covered. As far as the company is concerned it is the responsibility of the ICEM to inform and involve member unions, including the home country unions.

The implementation of the agreement is the joint responsibility of the ICEM and the company and there are provisions for annual meetings as well as annual site visits. The agreement is explicit that monitoring will be continuous. Reflecting the company's and the ICEM's concern with health and safety the two parties agreed on the formation of a Global Safety Panel, discussed below.

The USA has been very much within the scope of the agreement's implementation. In fact global management encountered some concerns, by both national unions and management in the US, that its focus on social dialogue could be understood as being a prelude to forming a company union. In December 2009 ICEM and ChemCorp carried out a joint mission for monitoring their GFA in the US, as provided by the agreement. The US unions involved were the USW, the Teamsters and LIUNA. It appears that North American headquarters initially refrained from taking any specific steps to implement the GFA, apparently not wanting to foster the spread of union representation to its non-union facilities. Only after that visit of a joint mission of representatives from corporate headquarters and the ICEM did North American headquarters show a greater inclination to comply. Nevertheless, we have found no information about national implementation plans and there is no information on the company's US website about the GFA. In this case we can assume that the HQ initiatives are global and that these cover the USA. In a small company that may be enough but information from management was too general to ascertain what it is doing with respect to the GFA in addition to the HQ initiatives.

The agreement was also used to solve disputes and facilitate unionization. In late 2009 the ICEM intervened to help end a Teamster strike at a ChemCorp plant. The major issue was that of rising health care costs. In a written communication national management informed us that »as always, ChemCorp negotiated in good faith and we believed we had reached a fair agreement. We were surprised and disappointed by the strike.« (JHChCMU-06.09.2011)

In another case in July 2010, the USW made use of the GFA to facilitate unionization at a facility in Illinois that ChemCorp had recently purchased. According to news stories as well as interviews with union officials this was a productive use of the GFA and an example of good collaboration with the relevant GUF.

In addition to labor relations the agreement also pays close attention to health and safety. In April 2010 ChemCorp and ICEM established a Global Safety Panel which consists of management, ICEM and worker representatives from North America (USA), South America (Brazil), Europe (France) and Asia (China).<sup>25</sup> The Panel held its first meeting in October 2010 in Baton Rouge, at which the representatives from labor and management defined its mandate. National management was well represented, and according to a panel member, the meeting was well-organized (e.g., there were translators) and its mandate well-received. ChemCorp treated the group with a great deal of respect and US management also exhibited a positive attitude. In response to our question as to whether it was global, national or local management that took the lead, our respondent indicated that ChemCorp was engaged at all levels. (SHChCTU-03.12.2011) Two more meetings of the panel have taken place since, indicating that it is a well operating entity.

Labor relations at ChemCorp in the US have improved as a result of the global activities of ICEM/IndustriALL and ChemCorp management. US national management has responded positively to union requests that it abide by the provisions of the agreement. There is strong evidence that global HQs and strong transnational union collaboration have played an active role and that national management, while less enthusiastic in the beginning, may be coming on board. Additional information from management can shed light on this issue. The major issue now is whether the agreement will be renegotiated to cover ChemCorp's new owner.

### 3.5 RubberCorp

RubberCorp is a family owned and controlled agglomeration of smaller companies throughout the world. These are organized into four business sectors – seals and vibration control, nonwovens, household products, and specialties (which ranges from specialty chemicals to information technology). As a result of its internal diversity the company straddles many industries.

**RubberCorp's Presence in the USA:** RubberCorp's presence in North America is through sixteen subsidiaries

that accounted for about 19% of the company's sales (2011). Overall the company's US operations employ anywhere from 11,000 to 13,500 workers out of a global total of about 37,000 workers (end of 2011).

Altogether there are over 30 production facilities in the USA (some owned by the same subsidiary and many shared with RubberCorp-Joint Venture, see below). In general, the company's structure in the USA reflects its global structure as an agglomeration of operationally independent companies. Facilitated by the company's family structure there is probably more operational autonomy than there is administrative autonomy.

In 1989 RubberCorp set up the RubberCorp-Joint Venture that focuses on rubber and sealing products for the automotive sector and was intended to operate solely in the Americas but has now expanded into Asia as well. Since RubberCorp owns 75% of the partnership it should be considered to be under the control of the parent RubberCorp. In fact, HQs does not differentiate RubberCorp-Joint Venture sales in North America from those of its other subsidiaries.

The economic and financial crisis that has unfolded since 2008 has led to some retrenchment in certain operations but North America remains central, as evidenced by additional acquisitions and recent growth. Globally the company is also enjoying growth.

**RubberCorp's Labor Relations:** According to US management the main business unit of RubberCorp in the US – the Joint Venture–has its own human resource organization that does not report to global HQs. HR managers in the other RubberCorp units however do report directly to superiors at corporate HQs. As we were told HRM is »local. What I would tell you is that [RubberCorp] has global guiding principles that really overlay anything that any of us do throughout the world. Those were introduced in 1999...but in terms of HR policy we are very regionalized.« (SORuCMU-30.09.2010) HR managers from various parts of the globe meet and interact to discuss best practices and efficient practices. The partial resolution of contentious issues discussed below indicates however that HQs can exert its influence across all business units in the US.

RubberCorp is sparsely unionized and has generally not facilitated unionization. According to US management

25. Interestingly, local unions in the US were informed of its creation after the fact. Also of great interest is the participation of a Chinese union representative.

union contracts with the UE, the UAW, and UNITE-HERE originated with the previous owners. Sites that were not unionized when purchased by RubberCorp have been kept non-union. RubberCorp's »view is that we would prefer, we have no problem dealing with the union if one exists. Our preference is not to have an intermediary. I want to deal directly with my associates. You know, as a company.« (SORuCMU-30.09.2010) The few efforts to unionize have been contentious, particularly when union organizers have approached workers on company grounds. According to management

»...its been quiet for the last year [2010]. Before that, we clearly had increased activity...But we have periodically had unions arrive on properties, you know, sharing information with associates. That clearly has happened not in several months. But clearly there was a targeted campaign on Freudenberg some time ago. And they came to several facilities, they being, it could have been, for sure it was one particular union. I think there may have been another union represented.« (SORuCMU-30.09.2010)<sup>26</sup>

As reported at the January 2008 meeting of the United Electrical union's General Executive Board

»UE is using its international solidarity links – specifically with the International Federation of Chemical, Energy, Mine and General Workers Unions (ICEM) and Germany's chemical workers union – to pressure the multinational chemical company [RubberCorp] to live up to its pledge of neutrality in organizing campaigns. Brother Kingsley said [RubberCorp] workers in Iowa are seeking to join UE.«

A search of the NLRB indicates that UAW locals have filed three ULP in the last three years involving the same RubberCorp facility.

**The RubberCorp GFA in the USA.** The RubberCorp agreement was one of the earliest ones (2000). It was renewed in 2002. The GFA was signed by the ICEM, the home union and global management. US unions were not involved but the home union and ICEM were aware of UE's efforts to keep a plant that the company had just purchased unionized. It covers all ILO core labor standards as well as health and safety and restructuring. Its implementation procedures are only weakly

institutionalized, providing only for an annual meeting to monitor the agreement.

There is no evidence that the company has broadly communicated the GFA to its various subsidiaries but top HR managers are aware of it. As we were told

»I say »of course«, because clearly I had access to the agreement before all of this transpired. But because our union activities are fairly benign, we have generally very good working relationships with our unions, it has really not been in the forefront this global agreement. And even though of course I already knew about it, it had to almost be reintroduced to us in this time of turmoil, when our management team, not used to having unions approach the property or solicit discussions with our associates on the property, it was something that we clearly had to re-address.« (SORuCMU-30.09.2010)

As we were told managers at the local level learned about the agreement after a union drive started. They then claimed that because this was a Rubber-Corp Joint Venture facility the agreement did not apply. When the union approached national management it was told that this was a local issue. In short, national RubberCorp management sought to exclude its major division from the GFA.

Worth noting here is that in response to North American problems ICEM facilitated a meeting between management and North American unions (USW, UE, and a Canadian union). One of the results of these efforts was the modification of the GFA to include explicit neutrality language. According to the ICEM, »[RubberCorp] respects the right of its employees to freely decide whether or not to establish or to associate with any legitimate trade union of their choice. [RubberCorp] shall remain strictly neutral concerning its employees' choice in the matter.« The agreement also states that »ICEM and IGBCE [the German mining and chemical workers' union] agree to use their best efforts to promote constructive approaches in local organising drives in the spirit of social dialogue and to achieve positive labor relations as expressed in this Agreement.«

In talking to national and local unions it became apparent that there was a shift in RubberCorp's negative attitude as a result of collaboration amongst US unions and a very active role taken by the ICEM. The plan of action that was

26. The union involved also provided us with a video showing a specific manager asking them to leave the premises.



developed, in collaboration with global management, to test the company's commitment has not been pursued any further by the unions due to various reasons. It is worth noting here that a plant that had been chosen by the unions as the most likely site to test this plan of action is no longer operating with RubberCorp employees, although it may still be operating using agency workers.

The company itself has not taken any steps to implement the agreement, such as the circulation of information on the agreement and the company's renewed commitment to it. As a result there is no evidence that the agreement has changed labor relations or that they have improved. The role of global HQ is pronounced, but extensive restructuring and consolidation plans, including the reconstitution of the company under EU statutes, leave the question of the future direction of labor relations at RubberCorp open. US labor unions have informed us that they are hopeful that the dialogue with RubberCorp will continue along the positive lines negotiated in recent years. But information from the European works council at RubberCorp makes this possibility seem less encouraging. Central management is seen as having little interest in shaping the company's labor relations in the US.

Despite our overall pessimistic view this agreement supports the hypothesis that the articulation of national and transnational collaboration amongst unions can move even a recalcitrant company. This case also shows that the devolution of US industrial relations, and the company's organizational if not administrative decentralization, can be a formidable obstacle in a company whose business strategy is to cobble together disparate smaller companies.

### 3.6 MetalCorp

MetalCorp is a truly global company with important production and sales presence on all continents. Yet, as one looks closer it becomes apparent that its core brand is solidly anchored in the home country and, thus, its home country industrial relations potentially play an influential role.

**MetalCorp's Presence in the USA:** North America, particularly the USA, is central to MetalCorp's global presence both in terms of production and sales. The USA

accounted for about 20,700 of its employees in 2011 (or about 7.5% of total), an increase of 2,500 over the previous year. It also accounted for about 21% of the company's revenue (2011). Available evidence suggests that both the USA and Mexico will continue to play an important role. At this point the company has two plants in Canada, two in Mexico and thirteen in the USA.

MetalCorp entered the US market in 1982 when it purchased a company that is the core of MetalCorp Trucks which now includes a number of companies that MetalCorp has bought over the years. MetalCorp Trucks is the largest heavy truck manufacturer in North America which is its second largest market in the world. The US locations employ about 14,000 people. In 2008 the company announced plans to close plants in Oregon and Ontario, the production to be shifted to Mexico, but in October 2009 it was decided to keep the Oregon plant open. Publicly, this was attributed to the acquisition of a major Army contract. But there is information that the ›solution‹ was due to considerations having to do with the company's obligations in regard to its pension plan. At this point MetalCorp Trucks has plants in Oregon, North Carolina, South Carolina and Michigan. Production has increased recently, leading to new hiring after a period of decline.

Second in terms of footprint is the passenger car division, largely due to sales and increasingly due to production at its Southern US plant – only its second passenger car production facility outside the home country. The plant employs close to 2,800 workers and is likely to employ more as the crisis abates and the production of more models is relocated to the US. The USA is an important market for MetalCorp vans but the production of these vehicles is not located primarily in the US, where there is only one small assembly unit in South Carolina. MetalCorp also has a presence in buses. Its only plant is in New York state and now employs about 600 people. MetalCorp also produces buses in Mexico and Canada. Finally, the company employs about 950 people in its financial arm. The USA is the most important market for its financial services.

**MetalCorp Labor Relations:** MetalCorp has union contracts at all of its Truck and Bus operations, primarily with the UAW, but it also has a contract with the IAM at one of its plants. Both unions have tried to gain union recognition at its Southern auto plant,

as yet unsuccessfully. The path to unionization of the three truck plants in a Southern state is instructive. The company that MetalCorp purchased in 1982 moved to the South in the late 1970s in order to avoid unions. After many efforts one of the plants was unionized in 1990 but it took another thirteen years to unionize a second plant because the company pursued a union avoidance strategy. It seems that the company agreed to a card check process at that point in exchange for certain concessions by the UAW. The GFA did not have any direct influence on the unionization of the second plant in 2003 but it may be that the dynamics of negotiations involving home and host country unions and the company's works council that had started in the late 1990s may have propelled the process. The bargain that was struck at that time eventually led to some serious intra-union problems during the renegotiation of the contract in 2007. Worth noting is the strong criticism of this pro-union shift in company strategy voiced by the National Right To Work Committee.

The situation has been even more complicated at the auto plant. The UAW tried twice and the IAM once to unionize the plant. The company has promised to and seems to have remained legally neutral but its manner of informing employees is standard fare for union avoidance campaigns. Local anti-union interests (e.g., chambers of commerce, development agencies or organizations) have launched anti-union campaigns, including the hiring of a union-avoidance specialist, in 1999 and again in 2006. Worth noting here is that, according to management,

»to the extent that we would ever, for example, have a labor issue, it would really probably be dealt with as a local issue...And maybe that's because each of the local business units has its own individual contract, but we clearly are a US employer in negotiations over labor issues and in dealing with members of Congress specifically on those type issues. And its only been on these broader, overarching, like climate issues, that we're [MetalCorp], a German company.« (JMeMMU-11.10.2010)

**The MetalCorp GFA in the USA.** The MetalCorp agreement was signed in 2002 after extensive negotiations that also involved the UAW because in 1998 MetalCorp had bought a major US auto manufacturer. This is the only GFA outside the service sector in which a US union was involved in its negotiation. Neither the IMF and its successor IndustriALL nor the home country

union are signatories. The original version from 2002 was signed by the chairman of the general works and world works councils and a member of the council from the UAW on behalf of the IMF. The agreement was revised in February 2012 and Bob King, the President of the UAW, is now a cosigner on behalf of the company's world works council. Despite its many merits the MetalCorp agreement does not extend full recognition to the GUF, nor has it always enabled unions to work uninhibitedly towards their recognition. This GFA is an example of a corporate-centered agreement, the implementation of which is articulated around central management and the General Works Council (Helfen and Fichter 2013).

The agreement refers to the core labor standards in a very general sense, making reference to both the Global Compact and the ILO. It also has provisions on wages, working time, health and safety (added later) and training. The implementation of the agreement is the responsibility of management which is expected to report to the world works council. Because the council is supported by the powerful general works council this is a productive arrangement, albeit one that has given rise to a complaint based implementation. Over the years the world works council has received and passed on to management a number of complaints from around the world, most of which have been resolved satisfactorily. These complaints involved mostly suppliers, which also makes this agreement stand out. However, while the company has taken some internal steps to implement the agreement as part of its business code – and the world works council is kept informed- this is not a case of proactive, joint implementation. There are some steps in that direction but nothing akin to the joint implementation at ChemCorp or to the service sector agreements discussed below. In this case management and the general works council have a preponderance of influence while IndustriALL's role is marginal. Union recognition in the USA may modify but will not transform this picture.

Amongst the provisions of the original GFA was that the UAW would have representation on the company's Supervisory Board as well as the world works council that was set up to coordinate unions across the world and talk with management. Despite some disagreements and at times contentious relationships between the major unions in the home and host country, the UAW is currently a recognized participant in the world works council. When



Bob King became president of the UAW he initiated a rapprochement with IG Metall as well as with the works councils at a number of corporations in the automotive sector. While not all efforts have gone as smoothly as hoped there is evidence that MetalCorp's general works council is responsive to the UAW's concerns.

During its negotiation and its early years the agreement may have helped in the unionization of the company's truck sector in the US. In another operation of the truck division, which had been restructured to become an independent business unit, there was explicit use of the GFA by the union. When the employees asked the IAM, which represents blue-collar workers in the plant, to support their bid for union representation, local management at first refused to recognize the union as the bargaining agent. Only after the IAM included reference to the GFA in its arguments did the company to agree to an NLRB election, which the union won handily. Still, the IAM had to keep pressuring management to agree to collective bargaining.

A related case involves a logistics supplier of the passenger car plant. The regional NLRB found significant violations in the supplier's responses to the UAW's effort to unionize it. Eventually the union lost the vote (late 2008) but the practices of the supplier were clearly problematic. For its part, MetalCorp subsequently produced a written statement that it had been neutral. While there is no evidence that MotorCorp actively backed the supplier's anti-union policy, there is strong evidence that local interests had taken it upon themselves to prevent unionization while the company has expressed its preference for non-unionization on the grounds that its practices and benefits are competitive.

From management's point of view this is an exceptional case as most of its suppliers are unionized. Yet in other cases of non-union suppliers, there is evidence that MetalCorp was at least indirectly supportive of the supplier's union avoidance stance. Nevertheless, at one of the supplier's plants, the MetalCorp agreement was effectively used to facilitate unionization. In this case the organizers countered management's claims that unionization was against MetalCorp policy by providing a copy of the MetalCorp agreement. In a small way this shows the potential of combining strong organizing drives with the GFA even though, in this case, the combination was due to an organizer's vigilance rather

than a long term plan. These two cases are also the only cases involving the use of the GFA at suppliers in the US amongst all the companies we have examined.

The major problem in implementing the GFA at MetalCorp in the US is in regard to the passenger car plant. The plant remains non-union despite ongoing efforts to unionize it. Management states that in the past they did not create any obstacles. But as local management's reaction to current union organizing efforts shows, it continues to discourage union recognition.

Despite the transnational origins of the agreement and the composition of the world works council the GFA has not been implemented well in the US. The MetalCorp GFA has been included in the company's Code, which is binding on all managerial activities. But in its original form as a joint agreement between management and employees, the GFA is virtually unknown. Having not been explicitly communicated through either management or union channels to local actors as corporate policy, and without being subject to a pro-active set of training programs, it seems quite understandable why its impact has been limited to incidences of conflict. As such, MetalCorp is at once a prime example of the overall problems of GFA implementation in the US and an example of the fact that even in the most transnational corporations with GFAs a very heterogeneous, country-by-country and even site-by-site approach to labor relations is the rule. As our research shows, at least in Brazil and possibly in Turkey, MetalCorp has a much better record of GFA implementation.

### 3.7 ServiceCorp

ServiceCorp is a global company that like the other two property service companies we are covering in this report has roots in Scandinavia and has grown globally through acquisitions and mergers. ServiceCorp is diversifying aggressively, offering a range of services such as catering, facility management and security. The company has been owned by financial organizations since 2005, one of them Goldman Sachs. At the end of 2012 it employed over 530,000 persons in more than 50 countries in all continents except Africa and had sales of about 11 billion dollars, almost half of it in Europe. The majority of its revenue comes from cleaning services.

**ServiceCorp's Presence in the USA:** ServiceCorp entered the USA in 1979 and by 1993 it was the largest cleaning company in the USA. Due to accounting irregularities the company liquidated its early position in the USA. In 2007 it decided to re-enter the lucrative US market by purchasing a company which was renamed ServiceCorp Facility Services. At the end of 2012 ServiceCorp Facility Services employed just over 15,000 persons (only 3% of the company's worldwide workforce) and accounted for 4% of the company's revenue. It is increasingly operating nationwide. About 70% of the US revenue (2008) comes from cleaning services making ServiceCorp Facility Service the 8th largest in the sector. Like the parent it is diversifying, including into managing public facilities, such as airports.

ServiceCorp is a company built on outsourced business, i.e., a giant supplier and subcontractor. However, a local union activist working for ServiceCorp reported that ServiceCorp (and other companies in the sector) do subcontract, most likely when bidding for public contracts. In the specific case, for instance, the subcontractor employees were about 100 or 25% of total employees. One of the subcontractors refused to recognize that it was covered by the ServiceCorp contract as far as labor practices were concerned. (SKSrSTU-30.11.2010)

**ServiceCorp Labor Relations:** In late 2006, a year before ServiceCorp reentered the US and two years before the ServiceCorp GFA was renegotiated, SEIU janitors ended a five-week strike by ratifying their first contract in Houston, which included the company ServiceCorp purchased in 2007. The strike was called in support of contract negotiations. The janitors had unionized on the basis of a 2005 card-check agreement so there were some positive interactions before the 2006 strike moved the negotiation process forward.

In June 2008, a new contract covered about 2,100 janitors in Greater San Diego. Again, this involved a number of companies including ServiceCorp Facility Services. In the first quarter of 2010 another SEIU local negotiated an agreement with six cleaning companies (including ServiceCorp) in Houston, after a month-long strike that received a great deal of national and international attention. It is not clear that the GFA had an impact in these cases given the existing relations with ServiceCorp Facility Services.

We noted earlier that labor relations in the building services sector have much in common with labor relations in the construction and temporary employment sectors (and increasingly other sectors). The basic commonality is that there are three major parties to the negotiations – the workers and their unions, the contractor who does the work, and the owner of the facility who is the ultimate employer. Unless that latter party agrees to pay higher wages any agreement between unions and contractors is meaningless.

Theoretically an owner who wants and can afford to pay higher wages can establish a special relationship with a contractor and a union. However, the markets in both construction and building services are very competitive with wages being a key cost since both sectors are labor intensive. The reason why owners do not have their own direct workers is exactly because they want to have the flexibility to shop around. In practically every market, then, there are any number of contractors whose comparative advantage is that they are non-union. As a result unions in these sectors are particularly interested in ensuring that union-friendly companies thrive and are not »disadvantaged« by a collective agreement. This means that they have to change the rules of the game by controlling enough of the market.

In the building services sector the customers of the immediate employers are organized in Building Owners and Managers Associations (BOMAs). The SEIU seeks agreements with Building Owners and Managers Associations where these associations are willing and able to negotiate. While they are not usually parties to the collective agreements between the union and the contractors they are active participants »behind the scenes« in the negotiations. In order to ensure that contractors willing to work with unions are not punished by the market the SEIU has adopted a two step process, separating unionization from contract negotiations. With respect to unionization it seeks neutrality and card check. With respect to contract negotiation it waits until the unionized companies reach a very high portion of the market – well above 50%.

**The ServiceCorp GFA in the USA.** The original GFA was signed in 2003, well before the company reentered the US market, so it is not relevant to our study. During 2008 UNI and ServiceCorp signed a revised global agreement that unions and management consider to be very strong.



We agree that this is the case. It was negotiated between global management and UNI. SEIU is very active in UNI and the person who negotiated the agreement was very familiar with US labor relations. So it is fair to say that this agreement recognizes the particular difficulties US unions face. The agreement covers all the core labor standards. Most significantly it clarifies what needs to take place in order to facilitate unionization as well as the union's obligation to ensure that the company does not end up at a disadvantage in any particular market as a result of its positive attitude towards unions. The company is expected to inform its managers and workers that it takes a positive attitude towards unionization. It provides for regular meetings to monitor the agreement as well as a strong dispute resolution process that can reach the level of arbitration. The agreement includes additional provisions and it is generally characterized by placing emphasis on the mechanics of unionization.

Information about the key points of the agreement can be found on the global and US websites (the later linking to the global site) as well as on the company's corporate social responsibility report but it is not clear to us that the information has filtered down to local management. Even top US managers, in our brief exchanges with them, seemed to have a hard time differentiating the global agreement from the company's overall corporate responsibility practices. As we were told in a short communication from management, this may be due to the fact that the company has only recently re-entered the USA. In another brief communication, the company's HRM did not seem to know about the agreement, offering to bring us in touch with the British subsidiary to learn more about the company's CSR practices. Repeated efforts to talk to company managers in more depth have not been successful.

As we were told by a union official the GFA has been invoked in a number of instances to facilitate unionization and negotiations. In order to move things forward, given the multipartite nature of the process and the key role of the local BOMA in the background, mobilizations remain necessary. In the summer of 2012, for example, the SEIU went on strike in Houston against ServiceCorp and a number of other companies over a new contract. The local BOMA was an active if not formal participant in these negotiations. The strike received broad support in the US with UNI helping raise some international support. UNI, in particular, sent a delegation of unionists from

key countries and leveraged the agreement towards a solution satisfactory to the SEIU and the local. As we were told, ServiceCorp's behavior in this case was consistent with its positive, if reactive, attitude towards the agreement. Having a major player such as ServiceCorp adopting a positive approach seems to have helped in resolving the dispute.

Because the SEIU is a key player in the sector from the union side and because there are no other unions vying for members (most of the sector is not unionized) there is no need for networks across unions but there is a need for more information and training of local unionists as well as networking amongst them. While a number of union officials at the local level know about the agreement others do not. In one particular case the internal organizer of a facility with more than four hundred ServiceCorp employees asked us for a copy of the agreement as well as assistance in interpreting its provisions (because of a specific problem that she was facing). Still, more SEIU local union officials know about the GFA strategy than is the case with most other unions.

The agreement has been used to facilitate unionization and contract negotiation in fairly easy cases in the sense that the companies that ServiceCorp acquired were neither very large nor extremely hostile to unions. The real test, we have been told, will take place if and when ServiceCorp acquires a large, non-unionized entity. It is then that ServiceCorp's commitment to its GFA will be tested. On balance, the implementation of the other service sector agreements is influenced by the fact that the SEIU is very active in UNI, and is the major union in the building services sector. That minimizes fragmentation and facilitates coordination. The SEIU is also one of the few unions that have grown by unionizing additional workers during the last few years by targeting precarious workers.<sup>27</sup>

### 3.8 SecureCorp

SecureCorp is a global company and one of the very few ones to have signed a GFA as a result of a global union campaign. Part of it originated in Scandinavia but after a

27. That is the case in building and security services, the sectors covered here. The health sector has a different dynamic. We recognize that the union has been criticized for being top down and for being too accommodating to employers and are aware of the contentious developments amongst health sector locals and unions.

series of divestments and acquisitions it is now based in the U.K.. It is the only company from this country to have signed an agreement.

**SecureCorp's Presence in the USA:** SecureCorp has expanded aggressively in the USA, as it has worldwide. It has done so by merging, in 2004, with another European company which had previously (2002) acquired a major US company, itself a TNC. SecureCorp employs about 50,000 people in over 100 sites in the USA. It works through two subsidiaries, one set up so that it can bid on government contracts that require security clearance (as mandated by the Foreign Ownership, Control or Influence Regulations). SecureCorp's Canadian subsidiary employs over 9,000 people. Combined, the North American operations employ about 9% of the company's global workforce of over 620,000 people but accounts for 19% of its turnover (2012).

SecureCorp operates in the areas of facility and cash security and draws most of its revenue from contracts with major corporations and industrial facilities, government installations and financial organizations. Guarding government facilities by private corporations has a history that goes back many decades. As the privatization of government services spreads, even including logistical and administrative tasks around military operations, the market for companies such as SecureCorp has grown tremendously. Currently, government contracts account for 23% of its global revenue.

**SecureCorp Labor Relations:** Relations between the SEIU and SecureCorp's key US subsidiary had been very acrimonious starting in 2002. Like most companies in the security sector the subsidiary was strongly anti-union. In 2004 SecureCorp reached its present organizational structure as a result of a merger/acquisition with the US subsidiary's parent company. The new company, named SecureCorp in 2006, was immediately embroiled in the ongoing conflict with the SEIU over its subsidiary's anti-union policies. SEIU made the issues involving the US subsidiaries into a global campaign in the same year. The campaign came to an end in 2008 when the SEIU and SecureCorp signed a national agreement in parallel with the GFA. Today, the only Unfair Labor Practice complaints with the NLRB come from rival associations.<sup>28</sup>

28. The International Union of Security, Police, and Fire Professionals of America, and the United Government Security Officers of America have filed a few ULPs during the last year.

**SecureCorp GFA in the USA.** For all practical purposes SecureCorp is a UK company, despite the fact that one of its major components was Scandinavian. As a result its labor relations and human resource management practices are closer to those found in the USA.

Negotiation of the agreement took place at the global level with the key persons being a high level manager and an official of UNI. Because SecureCorp was a new company in which regional managers had a great deal of authority – HQs employed about 100 people – the corporate negotiator kept them abreast of developments. On the one hand HQs wanted them to buy in, especially in light of the global campaign. On the other, it reflected a HQ decision to centralize a rather decentralized company. As a result, as we have been told by global management, all high level regional and national managers are aware of the agreement. (JMSeSMH-30.07.2010) The company's global and US websites do provide much more information than other GFA signatory websites on the agreement and the company's employee engagement and CSR practices. In addition, the company has taken some practical steps in gathering information about labor and human resource practices across its production network.

On the labor side UNI set up a small group that met a number of times to discuss the progress of negotiations. SEIU played a central role in this process with the key negotiator coming from its ranks. It continues to play a central role in all developments in the property services sector through the UNI Property Services Steering and Organizing Committee. The home country union kept its distance from the global campaign and sought to facilitate the negotiation of the global agreement.

The resulting agreement, like the 2008 ServiceCorp agreement, seeks to specify the process of unionization and conflict resolution. It thus goes well beyond the focus on core labor standards and the relative silence on the mechanics of unionization of the other GFAs we are dealing with in this report. It was signed by the company, UNI and the home country union and sets up a small committee from these parties to monitor the agreement's implementation. It was decided to roll out the agreement in steps around the world.

The 2008 GFA brought to a close the bitter SEIU-SecureCorp's key US subsidiary conflict and resulted in a

separate two-year (2009–2010) neutrality and card-check authorization agreement covering certain categories of employees in nine cities. SEIU and SecureCorp's key US subsidiary also dropped mutual lawsuits. The workers covered under the agreement were guards in four types of buildings (government, hospitals, high-rise residential and multi-tenant and single tenant commercial buildings) in a number of cities throughout the country, with one of them in the South. The national agreement expired at the end of 2010 when the GFA was scheduled to apply to the USA. For legal reasons this did not formally happen until mid 2011. The significance of the USA and the Americas for the implementation of the GFA is underscored by the fact that the person who negotiated the agreement for SecureCorp is now in charge of the relevant management functions for the Americas.

During 2011 SecureCorp joined ProtectCorp and another major company in agreeing with SEIU on a process that allows employees in various markets to unionize and bargain collectively. This process has produced results in a number of cities such as Portland, Twin Cities, and Philadelphia. If successful, this arrangement breaks new ground in terms of the articulation of global and national strategies. As we were told by a union official »We see this arrangement as the US implementation of the global agreement, which in order to create some order and rationality has phasing, triggers, etc.« (AISESTU-05.10.2012] Local leaders and activists involved in SEIU campaigns are aware of the GFA and are using it in their recognition drives.

We have not been able to ascertain whether SecureCorp's GFA has been communicated to lower level managers in the US but we do know that the process mentioned above does require broader communication and implementation with local managers. Quite possibly, then lower level managers may be increasingly aware of the GFA and its implications. As we have been told by a manager with intimate knowledge of the recent developments some important »baby steps« have taken place during the last few years, particularly the last two years, in moving from a deeply anti-union attitude among security companies to one of guarded dialogue.

### 3.9 ProtectCorp

ProtectCorp is also a globalizing company from Scandinavia controlled by an individual investor. It employs about 300,000 people in over 50 countries and had a revenue of \$9.7 billion (2011). Its centers of gravity are the USA and Europe where it employs about 216,000 of its global workforce (2011). It operates largely in security.

**ProtectCorp in the USA:** ProtectCorp entered the US in 1999 with the purchase of the then largest security company in the country. In 2000 it purchased the second largest. In 2001 it expanded into the cash handling market by purchasing another major company. It has continued to grow by acquisitions. In 2007 it restructured its US operations as part of a company wide reorganization. It now operates in all fifty states as well as Canada and Mexico. It employs about 108,000 people and accounts for about 35% of the parent company's revenue. It has 18% of the market share in the USA, its major market, and its major competitors are SecureCorp and another US company. In 2008 its cash handling division was renamed and now operates as an independent multinational.

This has produced a number of developments. In 2011 that cash company refused to continue recognizing the Teamsters in six locations on the West Coast after many decades of relations. The company argued that from then on it would deal with »security guard only« unions. The Teamsters took their case to ProtectCorp HQs and called upon the company to respect its GFA obligations. During 2011 and 2012 the Teamsters pursued a multifaceted strategy, including suits in California and a submission to the NLRB. In addition they spearheaded an investigative commission consisting of UNI, Swedish unions, and Swedish political leaders that held three public meetings in late February – early March 2012. The case is currently at the NLRB. In the meantime, the cash handling company and UNI have been holding negotiations over a global agreement. As we have been told, a condition for an agreement is that the company allow workers to choose a union – rather than being confined to having a guard only union. If another GFA emerges from this process it would owe much to the dynamics discussed below.

**ProtectCorp Labor Relations:** As with other companies in the security sector ProtectCorp's subsidiaries have had an anti-union approach with an important exception

which involves long standing relations between a union leader and a high level manager in the sector. During 2003, with some prodding from UNI and the home country union global headquarters encouraged ProtectCorp to sign a neutrality agreement with the SEIU. The agreement covered about 10 cities and certain segments within those cities.

As a result of the 2003 agreement SEIU has negotiated collective agreements with ProtectCorp in a number of cities. In January 2008, for instance, an SEIU local in California ratified a five year collective bargaining agreement covering 4,000 commercial building security workers. In April 2008 another SEIU local in Minnesota also ratified an agreement covering 800 employees, some of them working for ProtectCorp. In April 2008 an SEIU local won the first ever contract for security officers employed by four companies (including ProtectCorp) in Washington DC. The contract was for four years and covered over 1,500 guards.

In addition to these market based agreements an interesting development took place in January 2009 when Kaiser Permanente was praised by SEIU for awarding a contract to a company (ProtectCorp) considered more union friendly. The contract covers all locations where Kaiser has security guards, beginning with 1,800 employees in four states and Washington, D.C. In total, however, SEIU represents less than 10% of ProtectCorp's workers in the US. There are also about 4,000 ProtectCorp workers who are represented by security guard-only unions. After a short period of tension during 2010 the relations between the SEIU and ProtectCorp (as well as SecureCorp) have improved and are more mature today.

**The ProtectCorp GFA in the USA.** The ProtectCorp GFA, signed in 2006, probably owes a great deal to the home country union responding to the rapid internationalization of the company. It was certainly not associated with a major campaign or some other event. In the view of a high level manager in the US, global HQs decided to take the high road without being fully aware of the challenges to collaborative labor relations in the USA. The signatories were ProtectCorp, UNI and the home country union. While US management was consulted it did not play a central role in the negotiations. SEIU was clearly aware of the process given its role in UNI. Like other agreements in the property sector this

agreement also focuses on the mechanics of unionization and commits the company to facilitate unionization. It also set up a review committee consisting of UNI, the host union and the company.

During the first four years of the GFA's existence there was no reason to invoke it in the USA given the 2003 national agreement. In general terms ProtectCorp was the model among security companies and felt that it was being put at a competitive disadvantage by being the leader. However, there are good reasons to believe that it also benefitted from this.

Yet, while the 2003 national agreement was limited to a number of cities and segments, the GFA covered the whole country. It is not unreasonable, therefore, to assume that the SEIU wanted to expand the geographical scope of the relationship and looked to the GFA as setting superior goals. During 2010 the union initiated a campaign to move the national agreement in the direction of the GFA by targeting a number of cities that were not covered in the 2003 agreement. The campaign also had an international component. As a result of some trust between key management and union persons the campaign did not result in an irrevocable breach. By the end of 2010 there were some positive responses from the management of ProtectCorp and two additional major security companies and during 2011 management and labor negotiated a process that envisions the unionization of a larger segment of the security labor force in urban settings, largely in the West, MidWest and East. The results of that process have been evident in various cities, such as Portland, the Twin Cities, and Philadelphia. This multipartite process is known to unions and management in the settings affected. But, the comments we made with respect to SecureCorp also apply here. It is not evident that the GFA has been communicated broadly to local management and there have not been any training initiatives. On the side of the union it is known down to the level of local leaders and, probably, activists as a result of efforts to implement it in particular places.

It is not clear what the exact role of global HQs was in promoting these developments. As we have noted ProtectCorp was a model company in a sector that is deeply anti-union. US management has suggested that they were given ample space within which to find win-win solutions with the union. (JMSrSMU-06.10.2011 and

31.10.2012) Others have suggested that HQs played a more active role and demanded that the problem be solved. In any event, this case never became as acrimonious as at SecureCorp where the local subsidiary pursued a long and harsh campaign largely because of its anti-unionism.

While these important developments are taking place in the USA, UNI engaged global management in the renegotiation of the agreement, a process that has resulted in a stronger agreement at the end of 2012 that incorporated the Protect, Respect, Remedy framework regarding the operations of transnational companies. The renegotiated global agreement breaks some new ground by connecting the agreement with the Ruggie Principles<sup>29</sup> on the responsibility of multinational companies.

On balance, then, developments in the sector and in ProtectCorp, specifically, are strong evidence of the potential of the GFA strategy in the US. However, there is good reason to believe that, for the immediate future, the strategy has been adjusted to national realities. While the long term goal is national implementation, the process covers a significant number of cities, but not all cities. In addition it is particularly sensitive to the competitive nature of the sector and seeks to avoid placing any of the companies participating at a disadvantage. Here we see, therefore, how the decentralization of US industrial relations is shaping the implementation of the agreement.

Whether it be the GFA or overall improving national relations, the ProtectCorp (and SecureCorp) GFAs are helping in the unionization of significant numbers of security people. As we were told by a person with a long history in the sector and intimate knowledge of these developments, this is a historical case that we cannot do justice to in this report (JMSrSMU-06.10.2011 and 31.10.2012). We are able to point out, however, that GFA implementation is one ingredient in this major development in the industrial relations of the security sector. The supportive role of global HQs, the relatively conciliatory stance of key management in the USA and the assertive roles of home and host country unions combined to move the process forward.

29. See [http://www.unglobalcompact.org/issues/human\\_rights/The\\_UN\\_SMSG\\_and\\_the\\_UN\\_Global\\_Compact.html](http://www.unglobalcompact.org/issues/human_rights/The_UN_SMSG_and_the_UN_Global_Compact.html)

## 4. General Conclusions

Any general conclusions to be drawn from our research on GFA implementation in the United States will certainly reflect both the fragmented and heterogeneous nature of labor relations and the pervasiveness of ingrained union-avoidance policies practiced by management – with a few exceptions as shown in our case studies. Nor is it surprising that this dominant trend is only absent in instances where unions have the strength to counteract or where corporate headquarters – as in a few of our researched cases – has exercised a leadership role concomitant with its signature under a GFA.

Drawing on the set of questions we used to structure our case study presentations we would argue that the issue of GFA implementation in the US is a prime example of the existing deficiencies in the overall process of initiation, negotiation, implementation and conflict resolution. To begin with, the involvement of US unions in initiating the process and preparing for negotiations has been the exception rather than the rule. At both MetalCorp and SecureCorp, involvement leading up to GFA negotiations was more the result of special circumstances (a corporate merger here, a bitter recognition campaign there) than of a strategic plan. Regarding the negotiations themselves, US unions seemed to have been either generally unaware of the actual contents being discussed or were unable to relate their own policies to what was being drafted. On the corporate side, we found little evidence of direct personal involvement of US managers in either the initiation or negotiation phases. And yet, US operations in almost all of our cases were regarded by management as being so important as to be worthy of special consideration. For example, at ResourceCorp, where a US manager was actually present during negotiations, attempts were made to exclude the US despite the understanding of it being a »global« agreement<sup>30</sup>. And as we have shown, the US case highlights the problems that arise when GFAs do not specifically designate the application of »best protection«, whether that be through ILO standards or country law.

Once negotiated and signed at corporate headquarters, GFAs need to be communicated to both local management of the TNC and its suppliers and to the GUF affiliates. In the US we found this process to be

30. This was by no means an isolated incident. We heard several reports of similar instances during other negotiations.



highly deficient. In most cases, both management and the unions were either unfamiliar with the provisions of the GFA or it was completely unknown to them. To the extent that local managers were aware of the existence of corporate policy on labor standards, that knowledge was gleaned from the TNC's policy statements on corporate social responsibility, i.e. it had nothing to do with a negotiated contract between representatives of labor and management. Unions in the US – with the exception of SEIU – generally showed no »ownership« of the GFA, unless they became involved in its use in recognition campaigns – such as with the Boilermakers at ResourceCorp.

Our research showed the importance of negotiating GFAs that contain clear and definitive language that is not subject to widely differing interpretations, most importantly regarding the neutrality of employers during a union organizing drive. Because of the fundamentally antagonistic nature of US labor relations, the TNC's headquarters needs to inform local management about the GFA as a joint company-union policy and train local TNC and supplier management personnel to use it. The monitoring and auditing of procedures involving management and unions need to be accurately defined. In our case studies, we found some evidence of intervention on the part of the TNC's headquarters to ensure compliance by local management. However, as a rule, this intervention was not self-initiated, but rather the result of networking initiatives by the unions.

Regarding the applicability and effectiveness of GFAs, especially as a tool for union recognition, we found US trade unions to be pursuing diametrically different approaches. Some unions representing workers from the metal and transport sectors were quite critical of GFAs, arguing that as »stand-alone« instruments of social dialogue and not legally binding, they were unenforceable. In contrast, unions from other sectors, in particular SEIU in the service sector, were aggressively (and successfully) using GFAs to gain employer neutrality and secure union recognition. Such differences, it may be concluded, partly reflect the diversity of both organizational context and strategy; beyond that, the particulars of union involvement at the global level certainly are influential. One encouraging development that we have found is the impact of positive experiences with GFA implementation by unions that were not previously involved in the process. In these cases national

unions also became much more engaged with national and transnational networks.

#### 4.1 Policy Recommendations Regarding GFAs

While the US labor relations environment poses a number of country-specific challenges, our research has shown that there are important aspects of the overall development of GFAs that are not country-specific. In all four countries of our case study research, GFAs were still widely unknown among local managers and union officials. Where knowledge of them existed, local actors often lacked an understanding of how they could use the GFA in the context of their labor relations. But as we have shown in this report, along with our reports on Brazil (Arruda et al. 2012) and Turkey (Fichter et al 2013) there are a remarkable number of cases in each country in which the GFA was used successfully – and even innovatively. Taken as a whole, our case studies provide evidence in support of the following arguments:

- Policies of the organizations involved can have a greater impact on the success of a GFA by overriding the particular environmental constraints of local and national institutions. The extent of centralization/decentralization of the TNC and its global network organization – along with the strength, sustainability, and extension of trade union networks – are decisive factors in this regard. Involvement of local actors throughout the GFA process, from its initiation to its implementation and its evaluation, is crucial for establishing a viable multi-level GFA arena throughout a global production network.
- Pro-active policies of locally tailored implementation are essential, especially in countries such as Brazil, India, Turkey, and the United States, all of which lack the embedded European experience of social dialogue. To ensure pro-active implementation, a greater commitment to organizing the implementation process and the resources it needs during the negotiation phase is required. To date, implementation is generally dealt with reactively on a case-by-case basis; only in select cases did we find instances of pro-active approaches, though they were still lacking in comprehensiveness.
- Implementation based on participatory, bi- and multilaterally negotiated approaches promises to be more successful than the currently widespread



practice of unilateral implementation by management. The effectiveness of GFAs, as policy devised in labor-management negotiations, necessitates being communicated and practiced as a joint instrument.

- For a »full scale« implementation of a GFA – apart from strong content – three sets of practices involving all relevant actors are necessary: the first set concerns the information dissemination and communication practices; the second set is marked by training practices; while the third is operational and concerns the introduction of routines, rules, and procedures as well as related organizational and inter-organizational structures (e.g., an inter-organizational team in charge of coordinating the monitoring process, or contractual achievement goals for managers consistent with GFA commitments).

## 4.2 The Challenges and Opportunities Ahead in the US Context

**Bridges Across the Atlantic.** Effective GFAs set in motion two tightly connected dynamic processes. First, they institutionalize a global social dialogue between labor and capital whose aim is the continuous improvement of labor standards across the production networks of multinationals. Second, they institutionalize global social dialogue amongst unions whose aim is the establishment of long term transnational labor unionism.

In this report we have tried to present an overview of the ways in which US unions have been involved in and confronted by these processes. As we have reported above, several of the unions involved in this report expressed valid reasons for being skeptical of GFAs, especially when they had not been properly informed about intentions to negotiate, or had the opportunity to be adequately involved. At the same time, GUFs have pointed to a lack of information coming from their US affiliates regarding ongoing or planned organizing drives at potential candidates for GFA negotiations. Both the Eurocopter case (Fichter and Helfen 2011) and the very recent Siemens case<sup>31</sup> are typical examples of such transnational communication failures that can have

long-term negative impacts on the use of GFAs as a tool of union recognition.

Based on our research, we certainly agree with union skeptics in saying that many agreements are so general and weak that they serve to protect the company more than establishing global social dialogue. This concern is even more pronounced when US unions perceive a limited interest on the part of unions at the (European) headquarters of GFA signatory corporations in understanding US circumstances. We have consistently encountered cases in which such an attitude has undermined evident opportunities for collaboration; at the same time, we can point to other cases where genuine dialogue has helped overcome misconceptions and frustrating experiences.

Valid skepticism also arises from an expectation that a company that has signed an agreement will honor that agreement and start behaving differently compared to a company that has not. A GFA is a commitment by a company to *start* ratcheting up its global labor relations by adopting internal changes and allocating resources to joint implementation, especially where labor standards are violated. A GFA should mean that the company will now be part of the solution, not the problem. In that sense, all GFA negotiations need to pay closer attention to defining the processes of implementation, in particular those regarding unionization. Examples of such clarity can be found especially in some GFAs in the property services sector.

While the arguments voiced by skeptics carry weight, we think that it is also necessary to emphasize that GFAs are not legally anchored regulatory acts that will automatically force change in a company or redefine the relations among the many unions and workers across the corporation's global production networks. GFAs are a vehicle to push for change and for the institutionalization of labor standards within the corporation, and for developing transnational approaches across and within unions. Still, in light of the many differences between US and European industrial relations and unions, the institutionalization of transnational social dialogue and industrial relations are formidable challenges.

Even the strongest GFAs are instances of private regulation at the level of individual corporations. Labor unions recognize that the negotiation of contracts

31. Siemens signed a GFA with IndustriALL on July 25, 2012. However, this had no impact on the company's local management in Maryland, who continued to pursue a union avoidance campaign that was eventually successful.

covering whole sectors and industries and embedded in comprehensive legal institutions of public regulation is the most effective and desirable route to global labor regulation. Corporations that choose to take the high road also recognize that labor rules that apply across the whole economy protect them from unfair competition. Currently, US labor is clearly on the defensive in regard to public regulation. Attempts during the first Obama administration to strengthen legislation on union recognition (Employee Free Choice Act) failed dismally. And today, those forces that prefer higher labor standards confront a momentous challenge as posed by the negotiations beginning around a Transatlantic Trade and Investment Partnership (TTIP).

**GFAs and the Transatlantic Partnership.** A trade and investment agreement between the USA and the EU is a momentous challenge and opportunity for labor for a variety of reasons. First, it is an agreement between the two largest economies in the world. It is not an exaggeration to say that its provisions will have an impact – not necessarily positive – well beyond the USA and the EU. Second, it involves two of the most powerful industrial powers in the world, each of which has substantial levels of investment in the economies of the other partner: 30% of all FDI coming from the EU is invested in the US; in the other direction, the amount is around 40% (DGB 2013). Most of the existing trade agreements of both the US and the EU have been negotiated with less industrialized countries and issues have been framed along a North-South dynamic. This agreement, however, is conceived to be a means of contributing »to the development of global rules that can strengthen the multilateral trading system« (European Commission 2013). Or as William Reinsch, president of the US National Foreign Trade Council, said in a recent interview, its either us (US and EU) or China that will set global standards (Reinsch 2013). To get there, however, powerful business interests in both the EU and the US will be squaring off against each other. While they all subscribe to the main goal of economic growth, the question of how to achieve that goal and who will benefit most is open to dispute.

Labor standards and »high levels of protection« are reportedly being recommended for inclusion on the agenda, although they are certainly not the focus of the TTIP negotiations (US-EU HLWG 2013). Indeed, without a comprehensive strategy and arguments, there is a danger

that even existing labor standards – regarded as »behind the border barriers« – will be jettisoned instead of strengthened. We would argue that while labor standards in the EU are generally higher and more comprehensive, there is clear evidence that not only the US but also the EU is marked by an extensive fragmentation and patchwork of standards. Labor law and regulation is mostly in the jurisdiction of the EU member states and the differences in levels of protection for workers from one member state to another is self-evident; where labor regulation has been Europeanized, the trend has been toward more market and less regulation. To both throttle this trend and strengthen labor standards in both the US and the EU will require a massive transatlantic effort on the part of labor.

Are there any possible synergies between the private regulation that GFAs aim at and public regulation, in general through the inclusion of labor standards in trade agreements, and in this particular case in the TTIP? This is a question that has not received much attention yet (see van Roozendaal and Voodsgeerd 2011; Peels 2011), although it has been mentioned in some studies and in official reports prior to the commencement of negotiations. We close this report by suggesting some other possible synergies as well as the implications and necessity of strong public regulation.

If the trade agreement does not include labor standards, as is the case with the WTO, or the standards and processes included are weak, as has been the case with NAFTA, then the GFA strategy will be more crucial than ever for labor's standard-setting agenda in the US. But the inclusion of recognized international labor standards in this trade agreement will not necessarily do away with the utility of striving for well-implemented GFAs in the USA. In fact, an EU-US agreement on a mutual set of comprehensive standards would create an institutional foundation for exploring new frontiers in constructive and mature employment relations. And it would be a model for furthering the recognition of such standards globally.

But what can the GFA strategy contribute to the negotiation of labor standards in trade agreements? There are a number of potential synergies provided that unions across the Atlantic collaborate. Most immediately GFAs have legitimated the ILO's core labor standards thus offering a common starting point

for unions. Both the AFL-CIO and the European Trade Union Confederation have published statements on the TTIP calling for the inclusion of ILO conventions in any forthcoming agreement (AFL-CIO 2013; ETUC 2013). Health and Safety standards should not be a contentious issue as they were in the social clauses of previously negotiated US trade agreements, since the implementation costs would not be prohibitive. Indeed, achieving such standards would not only be economically feasible for the US and the EU but would also promote environmental goals as well. The handling of disputes is likely to be an important issue in these negotiations but free of the North-South implications. Just as business will likely push for a strong investment dispute resolution process, labor too needs to get the importance of strengthening mechanisms of resolving labor disputes on the agenda. In this connection, the AFL-CIO has pointed out that under a further opening of the US economy to foreign investors, these interests should be required »to remain neutral in union organizing drives (e.g., by entering into global framework agreements).« (AFL-CIO 2013) For those European based corporations that have negotiated and signed a GFA – most of whom have substantial investments in the US – it should be self-evident, that their application of ILO standards to their own operations and to those of their suppliers will be most effective in an overall EU–US environment of high labor standards. It is not an exaggeration to say that calling for inferior labor standards in trade agreements contradicts the commitments that signatories have made in signing GFAs.

To be sure, the TTIP negotiations are likely to bring forward a number of differences amongst unions over issues beyond securing strong labor standards because they are differentially positioned in global production networks. But there is a basic and recognized need for unions to collaborate on ensuring the inclusion of strong labor standards and processes in the agreement as the most adequate protection against competition and fragmentation. For a number of unions in the US, GFAs have opened new opportunities for building alliances across the Atlantic and with the GUFs, enhancing communication and collaboration with each other. These experiences have added to and supplemented already existing union networks which are not related to GFAs and which have also provided fora for transnational union dialogue. The opening of TTIP negotiations offers unions a window of opportunity to articulate these

various linkages around a common theme and goal. If they are not able to do it in this case – when European unions still have some leverage – they are not likely to be able to do it at anytime in the future. Raising the level of interaction on this account could be a valuable impetus toward a more broadly-based union transnationalism, as long as the US and EU unions recognize the need to keep unions outside the USA and Europe informed and consulted. Otherwise, US and EU unions will be seen as accomplices to reproducing a North-South divide.

To close, the trade negotiations between the EU and the USA are a constitutional moment in the organization and regulation of the world political economy. Unions have an opportunity to fuse the various disparate transnational linkages that they have developed into a more cohesive strategy. The obstacles to this are formidable. But so will be the price of not trying.

GFAs, both individually and as a whole, have had only marginal impact on the overall state of labor standards in the US. And in Europe they have only rarely been recognized as a supplementary tool for ensuring adherence to existing standards – let alone using them to ratchet up standards. Nevertheless, we would argue that GFAs in their fundamental inclusion of ILO standards represent one part of a growing global understanding of the need for governments to *protect* workers' rights and labor standards, for business to *respect* those rights, and in the case of their violation, to work with unions and other social forces towards a *remedy* – i.e. the so-called Ruggie framework (UN 2010)<sup>32</sup>. Singly, their impact is quite limited; but as an element of a broader global thrust toward recognizing the need for and advantages of labor standards, GFAs have begun contributing to raising awareness and supporting constructive labor relations. When implemented, GFAs have proved to be effective instruments of facilitating union recognition and collective bargaining in the context of mature labor relations and social dialogue. But as we have noted, they are private agreements at the level of single corporations that must be embedded within a more comprehensive and secure institutional environment of transnational labor regulation. In our view, this should be taken into consideration as a major goal of the TTIP negotiations.

32. The recently signed accord on fire protection and building safety in Bangladesh is a concrete instance of realizing those principles. (Accord 2013)



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