



# Global Framework Agreements in the USA: An Assessment of their Implementation and Impact

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- Global Union Federations have made significant progress in advancing Global Framework Agreements (GFAs) 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 (TNCs), to date largely European, and their worldwide production and supply networks.
- Despite the existence of robust institutions of labor relations in Europe and the strength of unions at TNC European headquarters, the implementation of Global Framework Agreements around the world has 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 on which this paper is based 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.

Over the past decade, Global Union Federations (GUFs), organizations of national sectoral unions, have made concerted efforts to negotiate Global Framework Agreements (GFAs) with transnational corporations. Such agreements are intended to regulate labor relations and set labor standards throughout the TNC and its global production network. While all four core labor standards of the International Labour Organization (ILO)<sup>1</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 as many as 88 functional GFAs out of 100 that have been signed. 90 % of all 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.

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 enough. 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 US, a very substantial proportion of which came from the EU, increased 43 % over the previous year to reach \$186.1 billion. 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 US, arguably, has the lowest labor standards amongst industrial countries and below those of many less industrial countries; equally notable, it also has the strongest anti-union tradition.

For these reasons, standard-setting policies for labor that fail to cover the USA and the North American Free Trade Agreement (NAFTA) region will be incomplete and precarious. The US will exercise a »ratcheting down« effect on global labor standards through US companies operating abroad. And within the US, foreign companies from countries with better industrial relations will be

offered the opportunity to »adapt« to lower standards, especially when such companies choose to locate in anti-union states, most of which are in the southern USA.

The results of extensive empirical research<sup>2</sup> show 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 labor relations in the US, the TNC's headquarters needs to inform local management that the GFA is 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 and adequately 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 the result of networking initiatives by the unions.

A proactive role by those European corporations that have signed GFAs is necessary if the strategy is to be effective. 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 the International Metalworkers' Federation (now IndustriALL) in April 2012. What impact this may have on other US-based TNCs is still uncertain.

The role of US unions is also central if the strategy is to be effective. 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. Several unions representing workers from the metal and transport sectors were quite critical of GFAs, arguing that as »stand-alone« instruments of social dialogue, they were unenforceable. In contrast, unions from other sectors, in particular from the service

1. 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).

2. See the project website [http://www.polsoz.fu-berlin.de/polwiss/ifa\\_projekt](http://www.polsoz.fu-berlin.de/polwiss/ifa_projekt). The research was supported by a generous grant from the Hans Boeckler Foundation, Düsseldorf, Germany. The full report on the US is available at <http://library.fes.de/pdf-files/id/10377.pdf>

sector, were aggressively (and successfully) using GFAs to gain employer neutrality and secure their recognition. Such differences, it may be concluded, partly reflect the diversity of the organizational context; beyond that, the particulars of union involvement at the global level certainly are influential.

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 Eurocopter, Siemens<sup>3</sup>). In other cases home and host unions could not find common ground. 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. As a result, some US unions have strong reservations about their usefulness.

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 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>4</sup>.

In sum, the US is in many respects the most important testing ground for the viability of the GFA strategy. For one, US unions are operating in an increasingly hostile

3. 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 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 Eurocopter see Fichter and Helfen 2011.

4. 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.

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 (Fichter 2011; Fichter et al. 2012; Stevis and Fichter 2012).

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. Even the strongest GFAs are instances of private regulation at the level of individual corporations. Labor unions recognize that the negotiation of contracts 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« on labor and production standards also recognize that comprehensively applicable labor rules protect them from unfair competition. Currently, US labor is clearly on the defensive in regard to public regulation and restoring a more equal balance in collective relations between labor and capital. 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)<sup>5</sup>.

5. The Trans-Pacific Partnership is equally important but no major Asian companies have signed a GFA.



## GFAs and Transatlantic Trade

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 two of the world's largest regional economies. 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 economic zones 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 as 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 and appropriate strategy and arguments on the part of labor, there is a danger that even existing labor standards – regarded as »behind the border barriers« – will be jettisoned instead of strengthened. 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 within 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 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 this case the inclusion of labor standards in trade and investment agreements such as the TTIP? This is a question that has not received much attention yet, although the connection can be easily made. 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 push for stronger mechanisms of resolving labor disputes. 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 inter-union communication and collaboration. 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 add 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 or East-West divide.

To close, 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, 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>6</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 noted earlier, 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.

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.

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6. 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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