

International Framework Agreements – Opportunities and Limitations of a New Tool of Global Trade Union Policy

by Torsten Müller, Hans-Wolfgang Platzer, Stefan Rüb

1. Framework conditions of the development of international framework agreements

The Global Unions¹ broke new ground when they developed the international framework agreements (IFAs) which they have concluded with transnational companies since the mid-1990s as an innovative tool of global trade union policy. This new policy approach had become feasible and necessary under a certain constellation of economic, political, and societal development tendencies.

In the view of the trade unions, the need to develop this tool arose in direct connection with the neoliberal globalisation process which led to the transnationalisation of financial, product, and labour markets as well as corporate structures and strategies while endeavours to design and regulate the social and labour aspects of these processes at the international political level stagnated and lagged behind. Just to outline the problem, this asymmetry manifests itself in the contrast between the international political and legal power of the ‚market-creating‘ institutions and codes (world trade regime, Washington Consensus) on the one hand and a comparatively weak regulatory capacity (‚soft law‘) and the limited global controlling capacity of ‚market-correcting‘ institutions (International Labour Organisation/ILO) and social codes (core labour standards, OECD guidelines) on the other hand.

Thus, it was and still is impossible to secure the universal incorporation of social standards in international trade agreements, which the unions have been demanding for decades.² As social regulation remains limited at the international political and governmental level, it is inevitable that societal ‚self-regulation‘ should gain in importance, including the unions‘ attempt to negotiate framework agreements with companies on a voluntary basis.

As the ILO project of creating a ‚social dimension‘ to globalisation has remained largely unsuccessful so far, international framework agreements, although a ‚second-best strategy‘ for the trade unions (Mund/Priegnitz 2007: 671ff.), represent an indispensable tool as well as a blueprint for more far-ranging global initiatives such as the creation of transnational networks of lay and full-time union officials.

1 Global Unions is a collective term for the ITUC, the ten global union federations, and the Trade Union Advisory Committee to the OECD (TUAC). The Global Unions operate a common website (www.global-unions.org).

2 For an overview of the current status of the implementation of social standards in bilateral trade agreements, see Peter Bakvis and Molly McCoy, 2008.

The opportunity to develop and pursue this policy approach arose out of certain favourable framework conditions, one of them being the strive of trade unions, social movements, and non-governmental organisations to promote a critical attitude towards globalisation among the public. An important element of this transnational culture of dispute are worldwide campaigns against transnational enterprises that disregard fundamental labour rights, thus becoming vulnerable to image and sales losses, albeit to an extent that varies depending on their products and value chains.

There is a direct link between these politicisation tendencies and the rapid growth in the number of voluntary commitments to observe corporate social responsibility (CSR), although this development may be partly due to business considerations – including the increasing importance of sustainability on the stock market – and imitation effects (Kocher 2008). Another result of the changing political climate in the 1990s is the Global Compact initiated at the turn of the millennium by the then UN Secretary General, Kofi Annan. Far more than 1,000 enterprises have signed up to this initiative so far, committing themselves to conform to social and ecological norms.

Organisational-policy reasons were a major driving force for the Global Unions to pursue the strategy of international framework agreements in order to exploit a ‚window of opportunity‘ which opened due to this particular political constellation. Had they not done so, they would have left the field of global rulemaking to the prerogative of companies and their voluntary commitments, or to the initiative of non-governmental organisations. At the same time, this policy approach offered the Global Unions a chance to strengthen their role as recognised negotiation and contract partners vis-à-vis their own membership and companies (for an overview of the links between these global framework conditions and union developments, see Müller, Platzer, Rüb 2004).

2. International framework agreements as a new union tool

It was under these conditions that the Global Unions developed their own model code in the mid-1990s; the so-called „Basic Code of Conduct Covering Labour Practices“, which was adopted by the executive committee of the ICFTU³ in 1997. It contained a list of standards which, representing a minimum in the trade unions‘ view, were intended to cover all codes of conduct relating to employment relationships (ICFTU model code, preamble). Not only was the model code supposed to assist individual trade unions in negotiating with companies and in campaigns conducted jointly with non-governmental organisations, it was also to be used as a benchmark for evaluating unilaterally adopted codes of conduct (ibid.). All model codes and/or agreements subsequently applied by the Global Unions or International Trade Secretariats, as they were called before they were renamed in 2002, were derived from the ICFTU model code.⁴

Until the end of the 1990s, the Global Unions used the terms ‚negotiated codes of conduct‘ or ‚agreements on codes of conduct‘ to describe what is now designated as international framework agreements. This was done deliberately in order to distinguish IFAs from unilaterally adopted codes of conduct which often do not meet the unions‘ minimum requirements. Moreover, this nomenclature is intended to show that the focus is not only on corporate social responsibility (CSR). Another point that is at least of equal importance in the unions‘ view is that international framework agreements are tools which serve to establish working relationships between trade unions and the top management of transnational companies and to advance the unions‘ organising drives in hostile environments.

In the view of the Global Unions, international framework agreements are their very own tools,

3 Late in 2006, the International Confederation of Free Trade Unions (ICFTU) and the denominational World Confederation of Labour (WCL) merged to form the International Trade Union Confederation (ITUC). (For an evaluation of this process, see Traub-Merz and Eckl 2007.)

4 Among other sources, the ICFTU model code is to be found in ICFTU (2001), 129-132. Updated versions of the model agreements of the ITUC and the Global Unions appear on their internet pages.

which is why they are prepared to accept negotiated codes of conduct as international framework agreements only if they either bear their signature or were at least signed in their name. Furthermore, they insist that international framework agreements concluded by them or in their name should conform to certain minimum requirements (global scope, ILO core labour standards⁵, supplier clause, implementation provisions).

Although the concept of international framework agreements was developed in the context of negotiated codes of conduct, it is interpreted more broadly by the Global Unions, and it also includes other agreements concluded by the Global Unions at the global company level. The intention of the concept is for international framework agreements to provide a general framework for concluding further agreements at the national or local levels. However, this concept of multi-layered agreements has failed to materialise so far because it is normally the international framework agreement itself which is used in practice.

Now that the experience with this trade union tool extends over 10 years and some 60 international framework agreements have been concluded, the most important questions that arise in the debate about its developmental potential, its opportunities, its ambivalences and limitations (see also Papadakis 2008) are:

- The first question is concerned with the potential quantitative development of international framework agreements. In other words: Are the agreements concluded so far precursors of a broader development in which other agreements will follow, or are they extreme cases facilitated solely by company-specific conditions so that their numerical potential will soon be exhausted?
- The second question is whether international framework agreements in their present shape can

actually serve to realise the unions' objectives, or whether they will be instrumentalised by companies in the media or in politics as required. This question points at problems and ambivalences that are as characteristic of international framework agreements as they are of any voluntaristic political approach: on the one hand, there is the (potential) danger that these agreements might reduce the pressure on political solutions, encourage the „privatisation of social rights“, and be used as a “social fig leaf” for neoliberal globalisation. On the other hand, there is the (potential) chance that global companies cease to concentrate solely on advancing economic globalisation and social dumping and become part of nascent transnational social spaces and, by the same token, turn into potential (not to say ‚ideal‘) transmission entities and laboratories encouraging the application of core labour standards in places where they would otherwise never be respected because of the local political situation.

- Lastly, the third question is whether the Global Unions, given their limited personell and financial resources, would not be overtaxed sooner or later by the task of ensuring that international framework agreements are adequately implemented and monitored in case their number should continue to grow dynamically.

As this analysis will show, these questions play a part in the unions' strategic debate about the continuation of the process. However, this debate is realistic to an extent that is caused by the sheer weight of the relevant numbers: while there are around 64,000 transnational companies with more than 870,000 subsidiaries (UNCTAD World Investment Report 2003) only somewhat more than 1,000 companies have signed up to the global compact and only some 60 enterprises have so far been prepared to go beyond unilateral CSR approaches and conclude bilateral international framework agreements with the Global Unions.

5 Their key content consists of the four core labour rights of the International Labour Organisation. Specifically, these include the abolition of child labour, the suppression of forced labour, the elimination of all forms of discrimination and, finally, freedom of association and the right to collective bargaining.

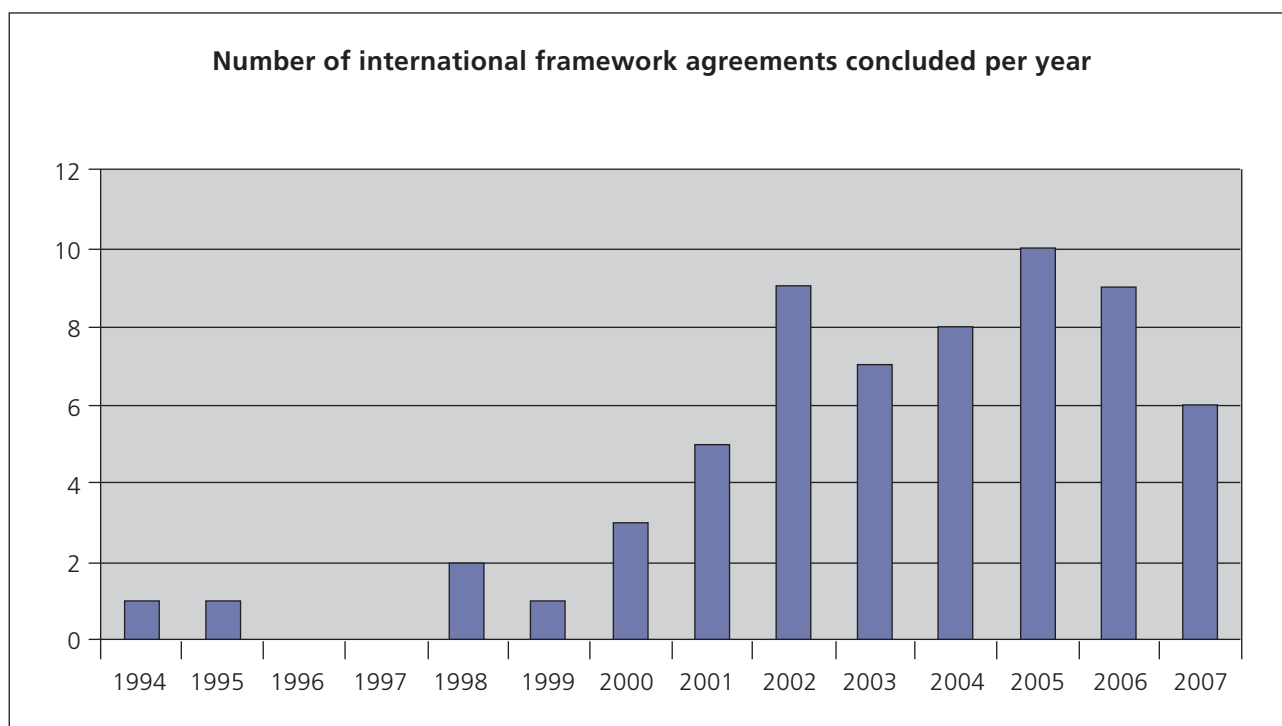
3. Overview of the current state of international framework agreements

Between the mid-1990s and the present, the global union federations concluded a total of 62 international framework agreements.⁶ Most of these agreements were signed after 2001. While no more than eight international framework agreements existed before that date, between five and ten new international framework agreements have been signed every year since then.

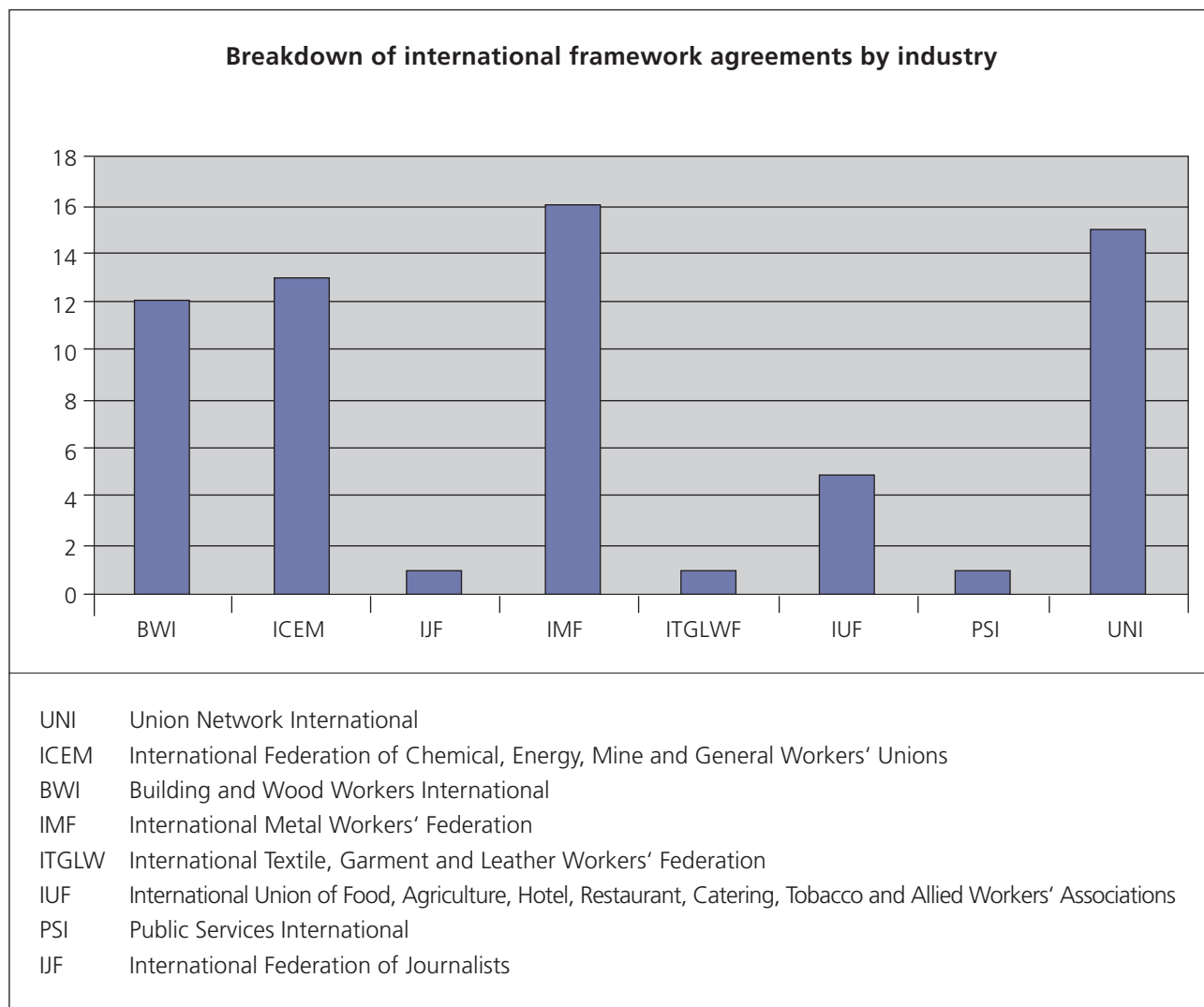
The international framework agreements concluded so far cover a variety of industries and areas organised by the global union federations. The pioneer was the IUF which organises agriculture and food. In 1994 and 1995, respectively, it signed the first international framework agreements with Danone and Accor. Several Global Union Federations have concluded more than ten agreements: 12 by the BWI (building, wood), 13 by the ICEM (chemical, energy, mining), 16 by the IMF (metal), and 15 by the PSI (public services). Three agreements with companies

that operate in more than one industry appear twice in this account because each of them was concluded by two global union federations (Lafarge: BWI/ICEM; EDF: ICEM/PSI; and Umicore: ICEM/IMF). The number of agreements concluded by the IMF (13) and the ICEM (nine) reached its peak between 2002 and 2005, whereas the BWI (six) and the PSI (nine) reached their peaks more recently in the period between 2005 and 2007.

The analysis of the geographical breakdown shows that 54 of the 62 existing international framework agreements were concluded with companies headquartered within the European Union and the European Economic Area. Among the eight remaining companies with international framework agreements, two are headquartered in Europe (Switzerland and Russia), two in South Africa, and one each in Australia, New Zealand, Canada, and the US. In the EU/EEA region, three out of four agreements concluded are to be found in four countries, namely Germany (17), France (ten), the Netherlands (seven) and Sweden (six). Of the seventeen agreements con-



⁶ The following evaluation is based on a list printed in Papadakis 2008: 267ff. which shows the international framework agreements that were concluded before the end of 2007.



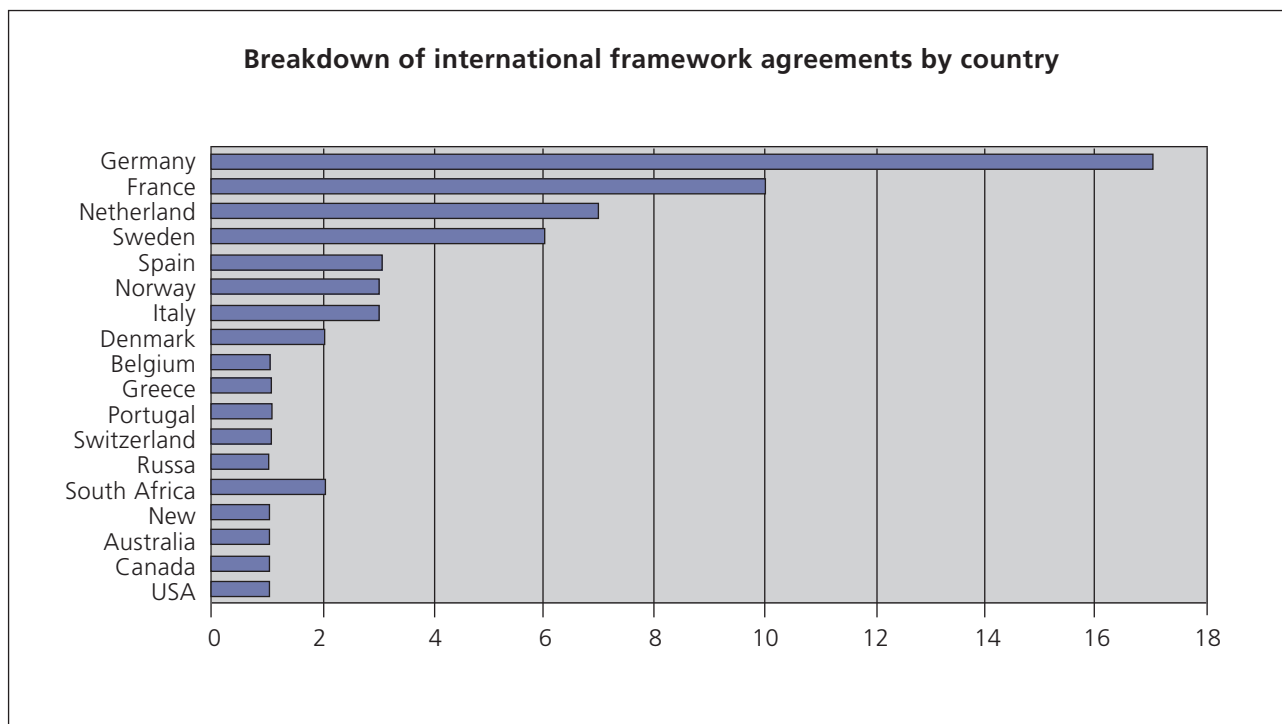
cluded with German parent companies, twelve come within the province of IG Metall – the German Metal Workers' Union – giving it a share of almost one fifth in the total number of agreements.

4. The regulatory content of international framework agreements

It is inevitable that, given the voluntaristic approach pursued, international framework agreements should differ widely with regard to content and implementation procedures. Occasionally, this even holds true for agreements that were negotiated by one global union federation and apply only to one industry. Nevertheless, certain quantitative and formal patterns can be described and weighted. According to an eva-

luation of fifty-three international framework agreements by Fichter and Sydow (2007), the vast majority includes the four core labour standards of the International Labour Organisation (ILO) and explicitly refers to related conventions. In addition, further ILO standards are referred to in around forty agreements. Furthermore, most agreements include one or more international codes by reference, such as the Global Compact, the UN Declaration of Human Rights, and the OECD guidelines for multinational enterprises.

Beyond the core labour standards, many agreements address subjects like workplace health and safety, equitable pay, training, the environment, and corporate restructuring. Almost half contain clauses on working hours and overtime. International framework agreements largely confine themselves to regulating



social minimum standards which fall more or less far short of those that commonly apply in countries with established labour institutions and developed trade union cultures.⁷

Although this is not universal, there are numerous agreements which specify the process by which their content is to be communicated to the workforce and the suppliers. While the difficult matter of binding suppliers to the stipulated obligations is addressed in the majority of agreements, formulations differ greatly in the degree to which they are binding.

Despite a certain degree of variation in clarity and binding force, trade union participation rights and entitlements are mentioned in all agreements. Lastly, most agreements define institutionalised monitoring and conflict resolution procedures.

Although the content of international framework agreements may vary widely depending on the specific interests and strategies of corporate managements

and trade unions, the range of matters covered in them has tended to increase over the years. For one thing, this is indicated by the fact that their content frequently goes beyond the provisions of the ILO core labour standards. For another, more and more international framework agreements contain concrete provisions regulating their implementation which lay down procedures for informing the workforce of the company and its suppliers as well as concrete mechanisms for monitoring compliance with the agreement.

The notification processes used in practice include, for example, publishing the international framework agreement on the company's website, in social and sustainability reports, and in corporate newsletters; handing out flyers; and posting notices at all company sites. Sometimes, the procedures used are even more elaborate, such as holding regular meetings of management representatives from all subsidiaries or informing suppliers and subcontractors on the B-to-B website of the company.

⁷ In practice, however, certain provisions may be used even in countries like Germany, where the international framework agreement at Daimler was used against several suppliers which had obstructed elections to the works council and dismissed one works council member.

The growing density of compliance monitoring regulations is evident from the fact that many of the more recent international framework agreements provide for integrating compliance monitoring in the corporate auditing process and, by the same token, in the system of annual reports. Beyond that, a growing number of the more recent agreements provide for the creation of so-called “joint monitoring groups” whose task it is to define criteria for monitoring compliance and serve as contacts in case the agreement is not observed.

5. The Global Unions’ strategic developmental lines and problem perceptions

Under their broader strategy for developing a social dimension to economic globalisation, the global union federations pursue four fundamental objectives with international framework agreements (Rüb 2006: 7):

- a) To secure social minimum standards at all locations operated by transnational companies and their suppliers and contractors to keep working conditions from deteriorating in a descending spiral.
- b) To develop a continuous relationship of dialogue and negotiation with international as well as national/local managements once the company has recognised unions as legitimate representatives of the workforce by signing an international framework agreement.
- c) To use international framework agreements in support of organising campaigns that aim to set up trade union structures at the locations operated by a company and its suppliers.
- d) To utilise international framework agreements in the creation of transnational company-related trade union networks in order to improve international cooperation among trade unions.

While approaches to achieve these objectives and the significance accorded to each objective in the overall context of the IFA strategy pursued by a global union federation may differ, there are two aspects of the implementation of an international framework agreement which the Global Unions consider important: first, international framework agreements are intended to directly improve the working conditions in transnational companies and their suppliers. Second, international framework agreements are meant to promote the development of sustainable structures of union organisation and networking because a lasting process of continuous improvement in working conditions can be initiated only if effective union representation structures exist at local level.

The specificities of the IFA strategy of the global union federations are due less to a rational master plan and more to pragmatic adaptation to the interaction between a number of external company- and sector-specific factors on the one hand and union-internal factors on the other.

The nature of production structures and value chains is a key sector-specific factor. According to Bair and Gereffi (2000), sectors in which value chains are dominated by buyers can be distinguished from sectors in which producers dominate. In each sector, different framework conditions prevail for the formulation of trade union strategies. In sectors where the value chain is dominated by buyers, such as the textile and garment industry, production is largely outsourced to a complex multi-tier network of suppliers. By contrast, core production competences rest with the multinational enterprises in sectors where producers dominate the value chain, including, for example, the automobile and aviation industry which are both capital- and technology-intensive.

Major corporate factors include the tradition of industrial relations, i.e. whether a company is receptive or sceptical towards cooperating with trade unions; the interest pursued by the company in concluding an international framework agreement; the depth

and organisation of its value chain; and, finally, the influence of the unions within the respective company. As international framework agreements are voluntaristic in character, all these factors influence the framework of strategic options available to a global union federation.

In addition, the strategy pursued by a global union federation strongly depends on internal factors. Global union federations are second-tier organisations, meaning that their membership consists not of individuals but of national trade unions which, depending on the national traditions and structures of industrial relations, may have different ideas about the objectives of international framework agreements. In countries where labour relations are traditionally voluntaristic and conflict-oriented, such as the USA and Great Britain, unions tend to regard international framework agreements as an organising tool. Conversely, in countries where labour relations are traditionally more institutionalised and cooperative (e.g. in Europe, especially in Germany, Sweden, Austria, and the Netherlands), trade unions tend to take a more pragmatic view of international framework agreements, regarding them as a first step towards the development of a continuous dialogue with a company with the objective of solving concrete problems at the international level. Which view will prevail in the internal debate and thus become the official policy of the global union federation in question depends on the latter's internal power and interest constellations.

Because of this, the trade unions' policy in the matter of international framework agreements finds itself cornered by a strategic dilemma or, to put it bluntly, in a European dead end. Feeling massively constrained to adopt a defensive attitude, the American trade unions currently tend to measure the benefit of international framework agreements mainly by the extent to which they improve their own organising options. If international framework agreements were to include provisions which substantially enhance the organising rights of trade unions by, for instance, granting them rights of access to the workplace and obliging the management to remain neutral vis-à-vis trade union organising activities (specifically union elections), the American unions would regard IFAs

as much more attractive, inducing them to promote the policy of international framework agreements more actively than hitherto. On the other hand, those European unions who have been supporting this tool most actively so far believe they would be severely hampered in concluding IFAs with European companies if such provisions were to be included. Rejecting the introduction of such provisions, central managements of multinational companies headquartered in Europe argue that their American subsidiaries enjoy autonomy in deciding about such organisational matters, and that it is not part of their corporate culture for headquarters to prescribe such rules to the managers of subsidiaries of European companies in the USA.

Beyond this internal discussion, the objectives of the strategy pursued by the global union federations have ceased to be purely quantitative, i.e. aiming at the conclusion of as many international framework agreements as possible, and become more qualitative, meaning that the global union federations now pay much more attention to specifying effective implementation mechanisms. From the 1990s to the beginning of this millennium, the point was to reach a critical mass of agreements in order to put more pressure on wavering companies and political institutions. Later on, the importance of qualitative aspects began to increase apace. The fact that the regulatory content of international framework agreements is growing as diagnosed in the preceding chapter indicates a change of strategy that was implemented in the last few years despite the possibility that the number of agreements concluded might dwindle in the future.

6. Implementation and monitoring of international framework agreements

A company which signs an international framework agreement thereby commits itself to conform to certain minimum working conditions. In the interpretation of the trade unions, it is the companies which are mainly responsible for systematically implementing the agreement and monitoring compliance. At the same time, the unions demand to be involved in the corporate implementation and monitoring

process, complementing it is as far as possible with structures and processes of their own. Past experience shows that the practice of implementation differs widely with regard to both the commitment of the company and the form in which unions are involved in the implementation process.

The unions' attitude towards outsourcing the implementation and monitoring process to external agencies, such as certification or auditing firms, is sceptical in principle because, in their opinion, it implies the danger of being excluded from the process and, consequently, losing control over it. What is more, they find it difficult to believe that such agencies really act independently of their employers (Kearney and Justice 2003: 108/109; Rüb 2006: 16). Consequently, they are prepared to endorse the involvement of external agencies only as assistants in monitoring far-flung supplier networks, and then only if concrete processes to supervise the actions and results of these agencies have been agreed beforehand.

In principle, the unions are convinced that the most efficient solution is to have agreements monitored "independently" by the employees and the trade unions themselves. However, there is a lack of structures and resources for such 'independent' surveillance, for this would call for the existence of independent trade unions at most, if not all, locations operated by the enterprise and its suppliers. This, however, is not the case. So, instead, the unions regard international framework agreements as a tool for advancing union membership in companies and their suppliers.

What is more, such a monitoring system presupposes a communication and network structure that enables the trade unions to spread the requisite know-how and communicate information about infringements of agreement provisions at peripheral locations through the union's structure to the global union level, where they can be dealt with. The global union federations attempt to promote the creation of such structures by training union members at local level, offering implementation workshops to union representatives from locations scattered all over the world, and setting up company-related union networks. However, setting up such structures in a sys-

tematic and continuous process quickly brings them to the limit of their resources, so that they depend all the more on the willingness of the companies to advance the implementation process themselves.

7. Overall assessment and perspectives

The dynamism that has been prevailing in globalisation since the 1990s prompted endeavours on the part of the Global Unions to develop their set of corporate transnational action tools. They continued to pursue their strategy of establishing global union networks in major companies that dominate their respective industries which dates back to the 1960/70s, adding new tools such as world works councils and international framework agreements.

Following the concept of the trade unions, these tools are intended and required to complement and stimulate each other in order to add a new quality to the transnational representation of employee and trade union interests.

In terms of their growth to date and their current number, international framework agreements constitute the most dynamic element among the unions' approaches vis-à-vis companies. As has been shown, this tool is potentially capable of being developed flexibly and adapted to the diverse conditions prevailing in different companies and industries. While the potential of consistently implemented global agreements to secure social minimum standards is far from exhausted in many ways, the unions are confronted by resource problems which inevitably hamper effective implementation and monitoring. As far as its regulatory quality is concerned, an international framework agreement necessarily constitutes a 'soft' tool which primarily sets standards. Given favourable conditions, however, it may well promote the creation of cross-border employee and union networks and, by the same token, the creation of transnational structures.

As far as its potential effect is concerned, an international framework agreement cannot and will never be a tool for handling globalisation problems which result from the aggressive competition among loca-

tions that is to be found even within companies. At best, and primarily, it may serve to strengthen employee and union rights in developing and emerging countries.

The geographical distribution of parent companies with which international framework agreements have been concluded as well as the fact that they are concentrated in Western Europe show that the success of this voluntaristic policy approach is due not exclusively and often only in small part to the unions' transnational mobilisation and campaigning capabilities. Rather, it is founded on specific constellations of conditions prevailing within a company which may be variously influenced by the following factors: the willingness and ability of national unions and employee representation structures to conduct negotiations; the interests of managements which, regarding such agreements as a (complementary) part of their CSR strategies, either accept them passively or use them proactively; national codetermination mechanisms which produce international framework agreements as a result of disputes, exchange processes, and compromises; and, finally, corporate cultures and national industrial relations traditions based on cooperative and consensus-oriented principles.

Because these constellations, meaning the presence and interaction of several such factors, are indispensable for concluding international framework agreements, it is to be assumed that the quantitative growth potential of this tool will remain limited even in the medium term, and that it is rather improbable that it will ever become widespread in companies outside (Western) Europe.

Nevertheless, the unions have succeeded in developing international framework agreements into an innovative tool which deserves to be strengthened and enhanced wherever possible, if only because there are so few strategic alternatives.

International framework agreements are part of a necessary process of strengthening transnational industrial relations and the Global Unions themselves. Now and in the future, it is very likely that this process can be advanced only pragmatically, by tenaciously taking a series of small steps, setting up a patchwork of different transnational regulations, and by accepting regional imbalances as part of the bargain.

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