

A decorative graphic consisting of a grid of grey dots of varying sizes, with several dots highlighted in red. The dots are arranged in a pattern that roughly outlines the shape of a map of Europe.

# International Framework Agreements

## An Instrument for Enforcing Social Human Rights?

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January 2014

- International framework agreements create norms for the application of social and labour-policy standards in transnational enterprises. They are an instrument developed by global and sectoral trade union federations with the aim of ensuring that fundamental labour and employment standards are also effectively applied on the periphery of global value-added chains.
- International framework agreements have so far only partly helped to achieve the goal of establishing social human rights in the global economy. They have, however, made a contribution towards casting a public spotlight on the normative significance of fundamental social standards and workers' rights, as well as manifesting in concrete terms how these rights can be experienced at the corporate level.
- They are, in this way, a key supplementary instrument in efforts to strengthen, both politically and legally, social human rights on a global scale and to advance the international networking of labour unions as well as the transnationalisation of labour relations at the corporate level.



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## 1. Introduction

International framework agreements (IFAs) are a comparatively recent instrument that have been having a growing impact since around the year 2000 in setting transnational and enterprise-related norms for standards to apply in social and labour policies. The term global framework agreement (GFA) is now also increasingly being used.

International or global framework agreements are an approach developed by global union federations (GUFs) operating in specific sectors with the aim of using negotiations and agreements with the central management of transnational corporations (TNCs) to implement enterprise-specific and cross-border components of labour relations.

In these agreements, reference is made to the body of internationally codified social human rights; in particular, and in the vast majority of all IFAs that have been signed, these are the core labour standards set out by the International Labour Organization (ILO).

On the basis of the IFAs, TNCs commit themselves to compliance with and (decentralised) implementation of these standards. This commitment also applies to subsidiary companies as well as, mostly in a somewhat diluted form, to suppliers and network partners.

IFAs include procedural rules for monitoring and oversight of the agreements and for mediating conflicts that might arise during the application and implementation of the standards and rules.

International framework agreements are located in a central material subfield of social human rights – that is social human rights in the world of work (core labour standards). There are a number of reasons why IFAs have a special significance in the political and academic discourse concerning social human rights:

The normative status, as well as the empirical, factual significance of social human rights, are subject to permanent change and alteration due to the process of globalisation and the conditions that it creates. In this context, new questions have arisen concerning the legal quality, the justiciability, the enforceability and, therefore, the effectiveness of social human rights.

One aspect of this is the question of the role of public-state transmission agencies and their relationship to civil society transmission agencies, that is to say to the voluntaristic approaches of private governance. Against the backdrop of such a discussion, IFAs are a practical testbed, the empirical analysis and theoretical consideration of which could provide important pointers as to whether, and to what extent, a system of standards and rules can be effective in enforcing social human rights if it is developed and implemented through a political approach based on self regulation by societal actors.

The following contribution addresses this question. It is based on our own empirical data collection (explorative case studies and document analysis) as well as the evaluation of secondary literature. We begin with a short sketch of the political and theoretical context for the debate. The main empirical section focuses on international framework agreements from both quantitative and qualitative perspectives. Finally, we attempt to offer an initial assessment of the impact of this instrument in enforcing social human rights in the world of work.

## 2. The Political and Theoretical Context: Globalisation, Global Governance and Transnational Labour Relations

With reference to globalisation research, we have, without setting them out in detail, accepted the following findings and theoretical premises:

Firstly: since the 1980s/1990s, a more intensive and dynamic globalisation is underway in the economic field (trade in goods, movement of capital, and multinational corporations), leading to an era of »dis-embedding« in economies. Whether, and to what extent, attempts to tackle the impact of the global financial crisis can or indeed will lead to a new phase of »re-embedding« is an open question. But experience would suggest that this is less than likely.

Secondly: in the context of the transnationalisation and globalisation of corporations, the following is significant:

- Since the 1990s, economic globalisation processes have been taking place in large measure under the aegis of liberalised global financial markets.

- The significant increase in direct and portfolio investments is both an expression and consequence of a development in which competition between corporations and companies often no longer takes place either exclusively or primarily via product markets but instead increasingly via financial and capital markets. Global or transnational corporations and groups are both driving this process and driven by it.

- In many instances, this trend towards a financialisation of corporate decision-making goes hand in hand with far-reaching organisation-related changes among corporations, which, alongside a revised logic regarding decisions on choosing global locations, is also manifested in qualitative changes in transnational management forms and corporate strategies. New ever-accelerating processes of cross-border systematic rationalisation (redefinition of the value-added chain), corporate policy based on flexible operability, the import of experimentally-tested production models or benchmarks, the dominance of shareholder value, etc., are the catchwords that stand for this recent trend in the development of corporate policies – whereby the word trend does not, as empirical studies on corporate development illustrate, imply that there is a signal unified pattern.

- On top of this process of qualitative structural and strategic change among corporations, there has also been a significant growth in the number of multi- or transnational enterprises. Shortly after the year 2000, in the early years of the new century, there were already more than 65,000 multinational groups and corporations with more than 850,000 subsidiaries (UN World Investment Report, 2001).

Thirdly: the continued cross-border liberalisation and globalisation of economic activity weakens the binding force of national regulation and the capacity for integration and stability of the social subsystem of collective labour relations. However, the extent to which this tendency is manifested varies from country to country (different models of labour relations and varieties of capitalism).

Fourthly: the question of the possibilities of and limits to the social harnessing of capitalist value-added chains in a globalised economy and, above all, the question of the enforceability of fundamental labour and employment

standards on the periphery of the network of value-added chains is of central importance in the context of the debate concerning social human rights.

It is here that attention turns to research into global governance. Based on work in this field, we have accepted the following observations and premises:

Firstly: globalisation processes in the economic and corporate fields are also influenced by political and legal structures on the various supranational levels of action – that is to say by a specific global governance architecture. In this context, societal actors are relevant players in the process of global governance.

Secondly: the global governance architecture that is relevant for the field of labour relations is characterised by an asymmetry that is structurally detrimental to and hinders the enforcement of the interests of working men and women. In this context, it is important to highlight the following parameters and development trends:

- The WTO regime established in the course of the 1990s, the new quality and scope of the opening up of markets and the liberalisation of trade (the Washington Consensus), as well as the dominant role of the WTO, World Bank and International Monetary Fund (IMF) in shaping the international architecture for trade and finance, not only facilitated the process of economic globalisation: they also expedited the emergence of a version of global governance that has been described as »neoliberal institutionalism«.

- So far on the international level, no counterweight has been able to establish itself institutionally in the areas relevant to labour or social policy that would be in a position to challenge these dominant architectural elements – be it social standards in world trade agreements, Tobin Tax, etc. Even the ILO has failed to give much substance to its goal of bringing a »social dimension« to globalisation, despite the various attempts it has undertaken since the 1990s.

- What this means is that whilst all the international government organisations mentioned here have been working on the basis of the primary legislation of international agreements, their capacity for generating »law« (secondary law, by-laws, decisions) in the process of global governance is clearly graduated: because of

its semi-judicial rules-based approach underpinned by sanctions (Dispute Settlement Understanding), WTO law represents the highest level of enforceability. The law as applied by the IWF and the World Bank is overall characterised by a more limited but still considerable degree of enforceability. On the one hand, sanctions, including exclusion, can be applied against member states that fail to meet their payment obligations to the organisations. On the other, the structural adjustment programs adopted by the two organisations (conditionality) can be used to exert conditional pressure because member states facing financial problems are often highly dependent on loans provided by the organisations. ILO law is the weakest, being in the main a case of »soft law«; although it cannot be denied that it does in practice have a certain binding effect (Nahamowitz 2002: 36).

■ Treutner (2002) is far more sceptical in his assessment of this binding effect. It is true that the tripartite ILO (composed of government, labour and employer representatives) has attempted to adapt its traditional instruments (agreements and recommendations) to the newly or ever more clearly emerging problems of globalisation – such as by concentrating on a core of labour and social standards, or through efforts to extend the area in which agreements apply to include countries that have not so far ratified them. However, the scope and impact of the norms is, Treutner suggests, limited – not least due to a diminishing ratification rate among developing and export-oriented threshold economies. For Treutner, the significance of the ILO therefore lies less in setting globally applicable and effective social standards, and more in stimulating socio-economic modernisation processes in less developed countries and supporting them in the creation of economic and social structures.

Thirdly: this asymmetric governance architecture is a reflection of the theoretically-provable and empirically-observable gradations in the application of »negative« (in the broadest sense market-creating) and »positive« (in the broadest sense market-correcting) regulations for transnational socio-economic interaction (for further details, see Zürn 1998). As redistributive provisions demand specific political pre-conditions and are fraught with far-reaching consequences because they involve positive coordination and the redistribution of resources, such strategic interventions and substantial results in the fields of macro-economic management and international social policy are not to be expected from global

governance either at the present time or in the foreseeable future. Regulatory arrangements, either in the form of the binding management and monitoring of the behaviour of actors in any given field through prohibitions or regulations, are non-existent on the global level in areas relevant to labour policy – in contrast with, for instance, the first international regulatory successes in the field of environmental policy. The result is the lack of a state impulse to promote the transnationalisation of industrial relations or a political-structural framework established through governance by government. In view of this lack of an effective international regime for labour and social policy, no significant political-structural boost is being given to regulatory structures that could emerge from governance with government and that are either predicated on, or might at least lead to, a strengthening of the role of transnational organisations representing social partners. When it comes, therefore, to the regulation of transnational social-economic complexes of problems, labour market actors are very largely left with the option of governance without government.

Fourthly: given the quantitative growth of transnational corporations and the qualitative changes in corporate logic, the corporate level has become a strategically-central level for the trade unions in responding to the impact of globalisation. This means that the TNC is becoming the central location for efforts to create what would (also) be the supranationally effective regulation of the working world. It is with this goal in mind that the trade unions have developed the instrument of the IFAs.

Fifthly: the enterprise-based approach of »private governance« is supported by a patchwork of highly varied internationally and governmentally agreed norms. This set of norms, which is employed as a point of reference in the shaping of IFAs, has, in the same way as in the case of the ILO core labour standards as a main reference framework, the legal quality described above. However, the guidelines for multinational enterprises that were adopted by the OECD in the year 2000 fall well below that standard. The OECD guidelines are not legally binding, but instead represent »voluntary normativity« (Nahamowitz 2002: 47). The same applies for the ILO's tripartite declaration »Multinational Enterprises and Social Policy« (1977; updated 2006) and ISO 26000 (a reporting format for social responsibility) as well as for the UN Guiding Principles on Business and Human Rights (from 2011).

### 3. International Framework Agreements: Quantitative Developments and Qualitative Aspects

#### 3.1 Conditions of Development

Even if the struggle, communicated and conducted by civil society, with (neoliberal) forms of globalisation and their consequences is difficult to encapsulate analytically in terms of its concrete impact, it can be assumed that there are connections between globalisation-critical public campaigns, the development of a transnational culture of criticism, and the politicisation of environmental and socio-political agendas by NGOs on the one hand, and, on the other, the patterns of the reaction of the transnational enterprises.

The growing corporate vulnerability to worldwide NGO campaigns against violations of rules and agreements, but also the immediate corporate-economic calculation resulting from the growing stock market relevance of sustainability, explain the boom in concepts for corporate social responsibility (CSR) that are becoming a strategic element in corporate management for a growing number of enterprises.

This changing climate and new tendencies towards responsible corporate citizenship help to explain the huge growth in enterprises that have embraced the Global Compact launched by the UN secretary-general. Over 8,000 enterprises from 140 countries have declared their support for this initiative, which was propagated by Kofi Annan at the 1999 World Economic Forum, and has, since July 2000, been coordinated by UN headquarters in New York.

Against this backdrop, it is clear that a window of opportunity has been opened that can be used by transnational trade unions to enforce their new enterprise-based policy of bilateral agreements. With the growing importance of CSR for the enterprises, which has since the beginning of the 1990s expressed itself in a rapidly growing number of unilateral codes of conduct and the increasing commitment of corporations to so-called multi-stakeholder initiatives, there is a favourable »negotiating climate« for the unions and the door has been opened for a bilateral negotiating approach that can be anchored in the labour relations at individual enterprises.

This instrument gave the trade unions the possibility of independently occupying the field in which global norms are established and no longer being dependent either on the prerogatives and voluntary commitments made by enterprises or initiatives undertaken by NGOs. Measured against their demand for the creation of a »social dimension« of globalisation as a stepping-stone on the path to political regulation through state agencies, the trade unions see the IFAs a »second-best strategy« (Mund/Priegnitz 2007: 671ff.).

In view of the existing global governance architecture, international framework agreements remain a useful, even indispensable, instrument for establishing globally-applicable minimum social standards in transnationally-operating enterprises and, at the same time, developing a potential for creating more far-reaching global initiatives such as transnational networks for the representation of workplace and trade union interests.

The strategy of the trade unions could be said to be: shifting from the setting of contractual norms to the creation of structures – that is to the creation of an enterprise-based transnational arena for institutionalised participation and the articulation of interests.<sup>1</sup>

#### 3.2 Quantitative Developments

Beginning with the first pioneer cases from the mid-1990s, growth has been continuous since the year 2000.

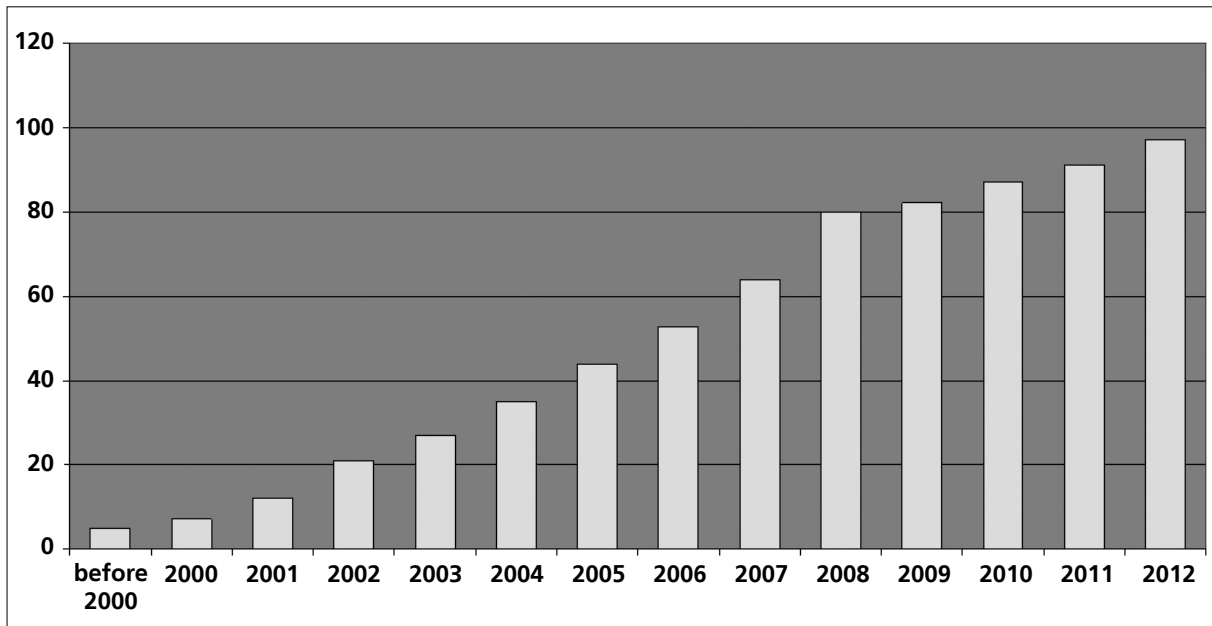
The geographical distribution shows that the overall majority of all international framework agreements were concluded in enterprises that have their headquarters within the European Union and the European Economic Area. Furthermore, half of these agreements are concentrated in just three countries: Germany, France and Sweden. Only just under 18 per cent of the International Framework Agreements involved enterprises from outside Europe, whereby this figure has since risen slightly. (Hessler 2012: 326ff.).

This would suggest that the success of this voluntaristic approach is not alone based, or is only to a small extent based, on the transnational mobilisation and cam-

1. The opposite development can be observed in a few isolated cases of existing World Works Councils (WWCs): the conclusion of an IFA as a WWC project – as evidence of the impact that the WWCs is having.



Figure 1: Quantitative Development of International Framework Agreements from 1994 to 2012



Source: Hessler 2012: 326ff., diagram 9 plus own update

paigining capacities of global trade unions, but rather on enterprise-specific constellations of preconditions, in which – with a different emphasis in each instance – the following factors (can/must) apply:

- the willingness and capacity of national trade union and employee representatives to conduct negotiations;
- management interests that view agreements that are concluded as an (additional) aspect of their CSR strategies and either accept these defensively or exploit them proactively;
- national codetermination mechanisms that lead to the signing of IFAs as part of conflicts, exchange processes, and compromise balances;
- and finally, corporate cultures and national traditions in labour relations that are based on cooperative consensus-oriented principles.

The necessary presence of (several) of these factors points to the conclusion that the quantitative growth potential of IFAs will in the medium terms at best only correspond with the growth pattern so far observed and that their adoption in enterprises outside (western) Europe is likely to remain very limited.

Alongside the uneven regional distribution, there is also a very mixed picture concerning the level of sectoral distribution.

This is due to the following factors:

The IFA strategies pursued by the GUFs are not based on any »master plan« and have a different significance in the strategy of each global federation<sup>2</sup>, which is in turn influenced by enterprise- and sector-specific factors as well as factors connected with the organisational structures of individual unions (e.g. the limited, or more limited, significance placed on TNCs in GUFs in the public services, arts and education).

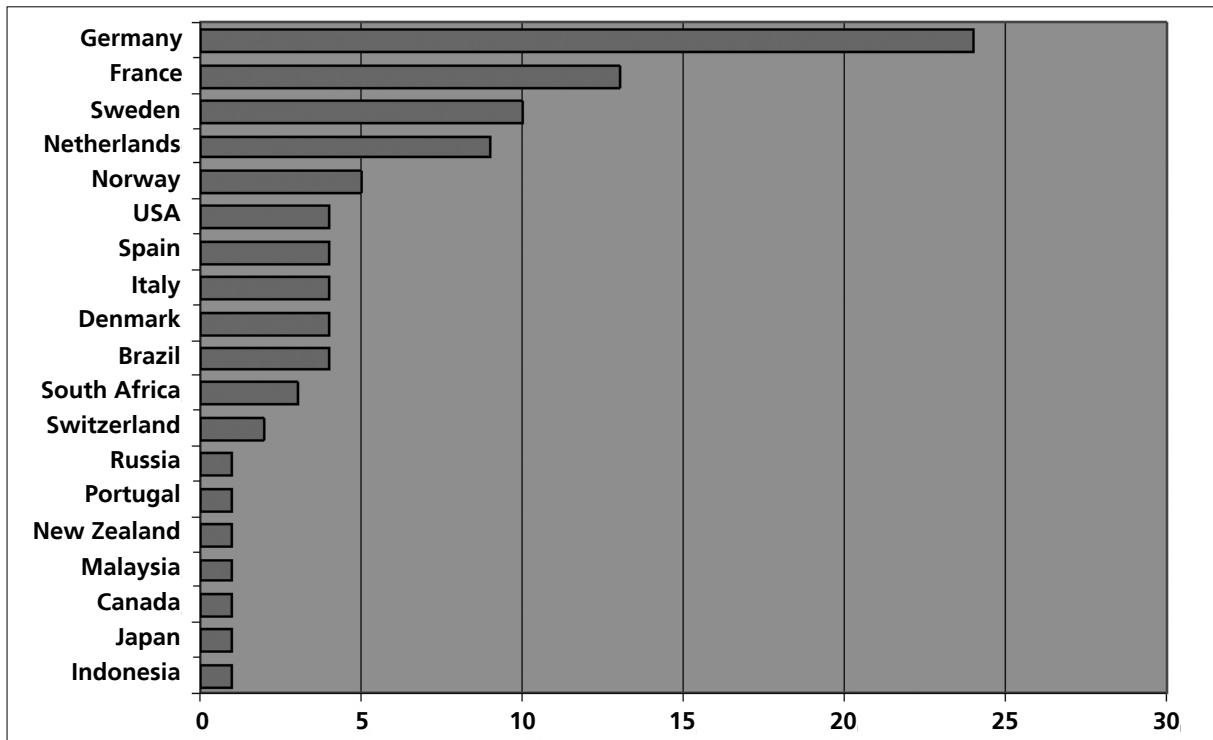
The different production structures and value-added chains within the TNCs are central sector-specific factors influencing the IFA strategies pursued by the GUFs. It is, according to Bair and Gereffi (2000), possible to distinguish between sectors with value-added chains dominated by buyers and sectors with value-added chains dominated by producers, each of which define different

2. The International Transport Workers' Federation (ITF), which is very powerful in terms of resources and influence, (deliberately) does not employ IFAs as an instrument, but instead prefers sectoral transnational wage agreements and lobbying as mechanisms for enforcing regulations qua state institutions.



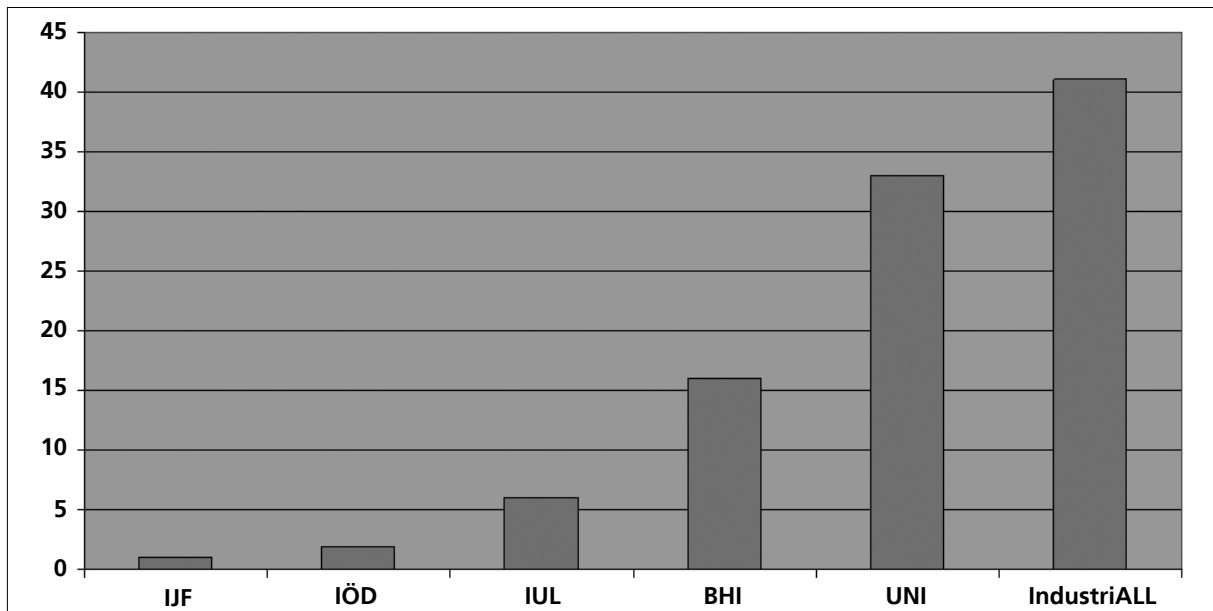


Figure 2: Distribution of International Framework Agreements according to Country (HQ of Parent Company)



Source: Hessler 2012: 326ff., diagram 9 plus own update

Abb. 3: Distribution of International Framework Agreements according to the Organisational Sector of the GUFs



Source: Hessler 2012: 326ff., diagram 9 plus own update

- IJF International Federation of Journalists
- IÖD Public Services International
- IUL International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association
- BHI Building and Wood Workers' International
- UNI UNI Global Union International (global service sector federation)
- IndustriALL IndustriAll Global Union (global union federation)

framework conditions for the formulation of trade union strategies. In sectors with buyer-dominated value-added chains, such as the textile and clothing industries, the bulk of production is outsourced into a complex multi-level network of suppliers. In contrast, core competencies for production in sectors with producer-dominated value-added chains, such as capital- and technology-oriented sectors in the automotive and aerospace industries, are located within each individual multinational enterprise.

It is therefore possible to differentiate between two categories of IFAs. Whilst in the case of producer-dominated value-added chains, the IFAs are primarily linked with individual enterprises, the IFAs in buyer-dominated value-added chains primarily target regulation of the supply chain, because outsourcing enterprises tend to have largely pulled out of the production process. It is above all buyer-dominated value-added chains that pose special challenges for the GUFs, because in this area, as the example of the ITGLWF<sup>3</sup> in the textile and clothing industries shows, even concluding an IFA can prove to be highly problematic. According to Miller (2004, 2008), the ITGLWF faces two problems that have so far stood in the way of the conclusion of IFAs. Firstly, the ITGLWF cannot rely on any established institutions in the field of industrial relations in the home country of outsourcing enterprises because the national trade unions are only poorly organised and only have limited access to strategic decision-makers. Experience in other sectors has shown that both are necessary preconditions for the conclusion of an IFA. Secondly, the lack of transparency that results from the existence of multi-level supply chains creates extremely unfavourable conditions for organisational campaigns by the trade unions. What is more, this applies to a sector that is already characterised by a strongly anti-trade union attitude among employers. This is also reflected in the fact that there is no other sector where there are so many enterprises operating with unilateral codes of conduct as alternatives to IFAs.

In the final analysis, the strategies pursued by the individual GUFs depend in large measure on internal trade union factors. GUFs are second-order organisations, which is to say that, rather than individual members, they organise national trade unions, which, according to

their national traditions and structures in industrial relations, have differing approaches to IFAs. Trade unions from countries with voluntaristic labour relations that are more characterised by conflict (such as the USA and Great Britain) tend to view IFAs more strongly as an instrument of trade union organisation, while unions from countries with a stronger institutionalised and more co-operative tradition of labour relations (such as in Europe and above all in Germany, Sweden and the Netherlands) see IFAs as a pragmatic first step towards the development of an on-going relationship based on dialogue with the enterprises and aimed at solving concrete problems at the international level. Which of these perspectives prevails internally and emerges as the official policy of each individual global trade union federation depends on internal constellations of interests and power in each individual case.

Depending on differences in external and internal patterns of organisation, there are graduated differences between GUFs both in terms of the goals that are pursued by concluding IFAs and the approaches taken towards achieving these goals. It is in this context that the IUF<sup>4</sup> distinguishes itself most from the other GUFs. Following an internal review of its experience with the enforcement of IFAs, carried out in 2005, the IUF carried out a political reassessment, which led to the establishment of the growth in membership and trade union strength in transnationally operating enterprises as the criteria for measuring the success of IFAs. Although the promotion of organisational campaigns by trade unions is also a key function of IFAs for other GUFs, the IUF is the only one that gives absolute priority to this aspect. The approach taken by BHI, IMF and ICEM is more pragmatic.<sup>5</sup> They view IFAs as »living documents« that are continuously improved through everyday use. Their main concern when negotiating IFAs is therefore in establishing dialogue and labour relations with the central management of global enterprises in order to use these as a basis for improving the conditions for trade union organisation and exercising fundamental workers' and trade union rights. The different approaches among the GUFs are also evident in their role in the ne-

3. ITGLWF stands for the International Textile, Garment and Leather Workers Federation that has since 2012 been part of IndustriAll.

4. IUF stands for International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Association.

5. BHI stands for Building and Wood Workers' International, ICEM for the International Federation of Chemical, Energy, Mine and General Workers' Unions, IMF for the International Metalworker's Federation. Since 2012 ICEM and IMF have, together with ITGLWF, formed the global union federation IndustriAll Global Union.

gotiating process. The IUF puts particular emphasis on being directly involved in the process, while in the case of BWI, ICEM, IMF and also UNI<sup>6</sup>, national trade unions and European Works Councils (EWCs) play an important role in preparing and conducting negotiations due to their privileged access to central management. As a result, only one IFA has been co-signed by a national union within the IUF. By way of contrast, the proportion of IFAs also co-signed by trade unions within the BWI, ICEM and UNI stands at 50 per cent and higher. Within the IMF, meanwhile, around three quarters of the IFAs have been co-signed by EWC representatives (Schömann et al. 2008: 50).

Beyond the differences in the approaches adopted by the various GUFs, there has through time been a cross-sector change in the IFA strategy pursued by the GUFs from a quantitative strategy, designed to conclude as many IFAs as possible, to a qualitative strategy, within which the GUFs have put far more emphasis on establishing effective implementation mechanisms. While in the 1990s and in the first decade of the new century the focus was on achieving a critical mass of agreements in order to step up pressure on reluctant enterprises and political institutions, with the passage of time the qualitative aspects became ever more important. The increasing regulatory content of IFAs described below is an expression of this shift in strategy that has taken place in recent years – at the price of a future decrease in the number of agreements concluded.

### 3.3 Regulatory Content

One unavoidable consequence of the voluntaristic political approach is that there are substantial differences between IFAs in terms of regulatory content and implementation procedures. This is even in part the case when they are negotiated by one GUF and within one sector.

Nevertheless, there are quantitative and formal criteria for identifying certain patterns in the agreements, as the different analyses of the texts of various agreements show (Fichter, Sydow, Volynets 2007; Schömann et al. 2008; Telljohann et al. 2009; a diagram providing an

overview of which international framework agreements refer to ILO Conventions or other multilateral instruments, including the Universal Declaration of Human Rights of 1948, is provided by Papadakis 2011: 249ff.).

- The vast majority of the agreements comprise the ILO's four core labour standards and refer explicitly to the related ILO Conventions.<sup>7</sup> The agreements also generally refer to one or more sets of international regulations, including for instance the Global Compact, the UN Declaration of Human Rights, or the OECD Guidelines for Multinational Enterprises.
- Many agreements go beyond the core labour standards and also include fields like health protection in the workplace, just wages, further training, environmental issues and corporate restructuring.
- Nearly half include clauses on working hours and overtime. IFAs generally tend to be limited to the regulation of social minimum standards, which are, to a greater or lesser degree, below the standards that normally apply in countries with established institutions for labour relations and developed trade union structures.
- Numerous, but not all, agreements stipulate procedures for communicating the contents of agreements to the workforces and suppliers. The difficult topic of the extent to which suppliers are affected by the undertak-

7. The question of the freedom of association has proved to be a point of conflict in the bilateral negotiation of international framework agreements. Some examples: in the case of the negotiation of an agreement on the »principles of social responsibility at the Mahle Group«, it was only after long negotiations that the employees' side (EWC, IG Metall, IMB) managed to push through its demand that Mahle accepted the right to collective bargaining independently from the specific nationally-applicable legal provisions and that management would not interfere in the case of trade unions organising. It was the question of the co-signing of the agreement by the IMF that finally led to the collapse of the negotiations. Group management was unwilling to accept this demand, because it was concerned that the IMF signature would improve the capacity of the US branch of IMF to give external momentum to the trade union organisation of the previously non-trade union organised workforces at the Group's US plants. At the same time, management assumed that if the agreement were only signed by the EWC, the US labour unions and the IMF would not have been able to invoke the agreement, which would only have taken effect if organisational activities had been undertaken internally by the workforce (Rüb/Müller/Platzer 2011). In the case of renegotiation of the international framework agreement at Arcelor-Mittal, the corporation's negotiating team was highly reluctant to permit collective bargaining to be anchored in such a way that it would improve the capacity for trade union organisation at the corporation's US plants. In the case of negotiations at Siemens ThyssenKrupp, negotiations over an international framework agreement threatened to collapse over the fact that the employer side did not want the ILO's core labour standards to be established as universally valid, as was the case in the agreement at Bosch mentioned above, but insisted instead on giving priority to the application of national law.

6. UNI stands Union Network International, the global service sector union founded in 2000.

ings set out in an agreement is mentioned in the majority of agreements, but there considerable differences in the formulation of the extent to which the commitments made are binding.

The distinction can, in this respect, be made between three different approaches. One approach consists in the supplier merely being informed of the existence of the IFA, which is linked with the intention of supporting enforcement of the IFAs by the supplier. A second approach consists in making compliance with the IFAs a criterion for establishing business relations. The third approach, which goes the furthest in the level of commitment made, consists in making compliance with the IFAs a fundamental requirement for the establishment of business relations, and, in the case of continuing violation of the IFAs, business relations with the supplier in question are discontinued (Hammer 2008: 103).

- All agreements are at the same time statements concerning the unions' participation rights and claims, albeit varying in the extent to which they are clear and binding. The majority, finally, include stipulations concerning institutionalised procedures for monitoring the agreement and the arbitration of disputes.
- One tendency that can be observed is that there has over the years been an increase in the regulatory substance of the IFAs. This is, on the one hand, evident in the fact the contents of agreements increasingly extend beyond the provisions set down in the ILO's core labour standards. It is, however, also especially apparent because IFAs increasingly contain concrete stipulations concerning their implementation. These relate to various procedures for informing the workforce of an enterprise and its suppliers as well as the creation of concrete mechanisms for monitoring the implementation of the agreement.

### 3.4 Implementation and Monitoring

The mechanisms that ensure the validity and sustainability of the agreed standards represent a crucial element in assessing the impact of the IFAs as a voluntaristic approach. An analysis both of what has been set down on paper and of the procedures and possible practices set out by the GUFs results in the following overall picture:

With the conclusion of an IFA, enterprises commit themselves to observing certain minimum working conditions. From the point of view of the GUFs, the enterprises therefore have the main responsibility for the systematic implementation and observance of IFAs because they are responsible for integrating the contents of the agreement into corporate policy and ensuring its implementation via existing management systems. For the GUFs, two fundamental preconditions for the successful implementation of an IFA are: firstly, the translation of the agreements into all languages that are relevant to each individual enterprise; and secondly, the guarantee that all employees of the enterprise are informed about the contents of the agreement – including employees of subsidiaries, suppliers and sub-contractors.

Publication, notification and distribution of the contents of the agreement within each individual enterprise can take place in a range of different ways. The procedures that are employed in practice by the enterprises include: publication of the agreement on the enterprise's website and in social and sustainability reports, the distribution of fliers, as well as the posting of notices in all of the enterprise's plants. In some cases, even more complex procedures are employed: regular meetings, for instance, of the management representatives of all subsidiaries. Or suppliers and sub-contractors are informed via the enterprise's BtoB website (Schömann et al. 2008: 59ff.). Alongside such measures undertaken by enterprises, the GUFs themselves also contribute to the distribution and publication of the contents of agreements by organising regular seminars and implementation workshops for trade union and workplace representatives from different regions of the world and by urging member federations to use all national and local meetings to inform employee representatives of the contents of an IFA.

Beyond these problems, the central challenge in the implementation of an IFA from the point of view of the GUFs lies in the creation of effective mechanisms for monitoring the agreement. Here too, practical experience shows that there are various different approaches. In one approach, the monitoring of the IFA is carried out by external certification-, auditing-, or similar agencies. There are however several reasons why an external monitoring procedure of this kind is viewed as problematic from the employee and trade union perspective. Firstly, because of the complexity of the value-added chain, the external agencies are not in a position to continuously monitor all suppliers. Secondly,

the external agencies often do not have the necessary experience and know-how to monitor enforcement of trade union and workers' rights. And thirdly, there is the danger that trade union and employee representatives will be excluded from the process of external oversight of the enforcement of IFAs and that enterprises that commission the external agencies will retain sole control over the monitoring process (Kearney/Justice 2003: 108f.; Rüb 2006: 16). The GUFs, therefore, only tend to accept external agencies as a supplementary instrument for monitoring complex and extended supplier networks and only in instances where there are clear agreements about the concrete monitoring procedure and the utilisation of the results yielded by these agencies.

The GUFs view on-site monitoring by employees and their trade unions as the only effective system for ensuring the »independent monitoring« of an IFA (Hellmann 2007: 28). However, the structures and resources necessary for such »independent monitoring« are lacking, because this would require the presence of independent trade unions at each of an enterprise's relevant plants and suppliers, which is often simply not the case. Against this backdrop, the majority of the GUFs concentrate their efforts on being part of the development of monitoring procedures by the enterprises and being continuously informed and consulted during this process. This goal can be achieved in a variety of ways. To begin with – and this is above all practiced by the ITGLWF – via co-operation with enterprises and NGOs in so-called multi-stakeholder initiatives, one of the explicit goals of which is the joint development of effective implementation and monitoring procedures. Prominent examples for the concrete cooperation between trade unions, enterprises and NGOs in the framework of multi-stakeholder initiatives include the Ethical Trading Initiative, the Fair Labor Association, the Fair Wear Foundation and Social Accountability International.

Another possibility is for management and trade unions to set up joint bodies within individual enterprises. This strategy has, for instance, been pursued by the BWI, with the deployment of so-called reference or monitoring groups. These bodies are normally made up of at least one representative of the BHI, the unions and/or workforce representation structures from the home country of the enterprise in question and at least one representative of the enterprise's central management (Rüb 2006: 18). The role of these bodies, which meet at least once a year,

is to ensure regular discussion of the standards adopted and the efficiency of the existing management system for monitoring the agreement, as well as of concrete cases of (non-) compliance with the agreement (Hellmann 2007: 28). In some cases, the reference or monitoring groups organise joint inspections of suppliers.

However, as the GUFs are reluctant to be entirely dependent on monitoring of an agreement that is primarily carried out by the management side, they make every effort possible to develop their own capacities for overseeing IFAs. As the GUFs are in this context in large measure reliant on relevant activities undertaken by their national member unions, they try to win their support through measures such as training courses or by helping to put them in a position to guarantee effective implementation of the agreement.

Furthermore, the GUFs try to improve the cross-regional and cross-level communication within the trade unions by establishing global trade union networks in individual enterprises. The goal of these global enterprise-related structures is to build up continuous and transparent communication structures in order to ensure that information on (non-) compliance with IFAs is reliably transmitted from the local to the central level (of the GUFs). This is in turn of central importance because it is only on the basis of reliable information concerning the violation of an IFA that it is possible for the GUFs or the national member unions in an enterprise's home country to demand that central management rectifies bad practices. In these efforts, however, the GUFs quickly reach the limits of their capacities and it is therefore only in individual cases that they are able to pursue the systematic and continuous development of global structures. They are, therefore, all the more reliant on the willingness of enterprises to push ahead with the implementation process on their own initiative.

The establishment of effective conflict resolution mechanisms to address infringements against the stipulations of an IFA represents another important step in the practical implementation. The resolution of existing conflicts is, in principle, made easier when enterprises and trade unions have, in advance of and independently from any concrete disputes that might emerge, agreed on a fundamental procedure for dealing with any infringement of agreements and on what sanctions are taken if the infringements are not rectified.

Whilst the procedures developed can vary from enterprise to enterprise, the following elements have emerged in the GUFs' everyday practice: if and when there is notification of the violation of an agreement, the GUFs try to carry out a thorough investigation of the case. If the infringement of the agreement is confirmed, the GUFs initially respond by calling on their national member unions to resolve the conflict at the local level with local/national management. If this does not succeed, the GUFs cooperate with national trade unions and workforce representation structures from the home country of the enterprise in question to inform central management of the situation and demand that a joint catalogue of measures to be taken is drawn up in order to rectify the bad practice on site as quickly as possible. In cases in which the involvement of central management does not lead to the desired outcome, the trade unions can carry out a public awareness campaign to step up the pressure on the enterprise to take serious measures to address the infringement of the IFA. If all these attempts fail to lead to a resolution of the conflict, the last resort for the GUFs is to terminate the IFA.

Finally, the IFAs are also used by the GUFs to launch and carry out organising campaigns for the unions – independently of whether there are or are not any infringements of IFA stipulations.

On the basis of existing (case) studies of the practical reality of the application of the rules, the following patterns emerge:

### 3.5 Empirical Evidence Concerning the Local Implementation of International Framework Agreements

The local implementation is, on the one side, dependent on the implementation activities of the parties to the agreement »from above« (publication of the contents of the agreement, training measures, audits, etc.) and, on the other, on the behaviour of the on-the-spot actors.

There are now case studies focussing on specific countries and enterprises in which the possibilities, limitations and practice of local implementation as well as the impact of international framework agreements have been examined. These studies go beyond the evaluation of contractually agreed implementation activities by examining the extent to which IFAs (can) trigger independent on-the-

spot implementation activities and, especially, to what extent local trade unions use the IFAs for their work. Studies carried out in Brazil, India, Mexico, Turkey and the USA (Fichter et al. 2012; Hessler 2012) show the following:

(1) Sector- and country-specific factors are important in the implementation of international framework agreements. Child labour, for instance, only plays a role in IFA implementation in certain sectors (such as the textile and food industries) and countries (such as China, India, Bangladesh). Country-specific problems include, for instance, in the case of Mexico the so-called »protective contracts«, in which a trade union's sole right of representation in an enterprise is agreed between »trade union« and plant management without any employee participation. In the case of the USA, the problem of »union busting« is confronted through management commitments to respond neutrally to all organisational activities undertaken by the trade unions.

(2) International framework agreements are already having an impact. However, their implementation often only takes place inconsistently (in individual enterprises/locations) and/or selectively (limited to individual provisions of the agreement). The following examples apply:

- One more or less exemplary case is the implementation of an international framework agreement at FaberCastell; this above all applies to the anchoring of the agreement in the management process. In this case, compliance with the provisions of the agreement is monitored through a three-phase monitoring system. In the first phase, social checklists are used so that local management in the individual plants can regularly inform the company's central management on implementation and observation of the international framework agreement. In the second phase, representatives of central personnel management and quality control cooperate to carry out regular internal audits at FaberCastell locations spread around the world. Company headquarters is informed of unresolved problems in the annual report. In the third phase, all of FaberCastell's plants are inspected every two years by a monitoring committee made up of both local and central management representatives and local and central workforce and trade union representatives (including BWI and IG Metall). The aim is to check whether the internal audits are in fact working and whether implementation of the framework agreement is going according to plan. In this process,

local management is obliged to report on the current status, the extent to which defects registered during the previous audit have been rectified, and how any existing deficiencies are to be put right. Statistical data is used by the monitoring committee for discussions to jointly decide whether the progress that has been made – concerning, for example, the prevention of accidents in the workplace in Costa Rica, or the reduction in the high proportion of temporary employees in India that has been the subject of complaint – and whether the measures included in the proposed corrective action plan are acceptable or not (Rüb 2006: 19).

- In existing studies, there are a whole series of cases in which IFAs have successfully been used to transform previously trade union-free enterprises into enterprises with trade union organisations, including cases like Daimler (at suppliers and dealerships in Brazil, Costa Rica, Turkey and the USA (Müller/Platzer/Rüb 2004: 176, fn. 76.; Rüb 2006)), Inditex (recognition of seven trade unions in at least ten enterprises in the global value-added chain as well as the establishment of industrial relations in five larger-scale enterprises in the garment production field), Chiquita (increase in the level of trade union organisation in enterprises and their suppliers in Costa Rica, Columbia and Honduras), Leoni (in plants in Rumania, Slovakia and Ukraine), Telefonica (call centre in Brazil) (all Papadakis 2011: 278ff.).

- IFAs have also been used to extend supplementary benefits guaranteed in collective agreements, such as the free use of transportation or access to the canteen, to employees of outsourced service providers like cleaning and canteen staff (Hessler 2012: 159), to negotiate and reduce the number of dismissals (Papadakis 2011: 279; Müller/Platzer/Rüb 2004: 175f.), and to prevent the blocking of works councils at Daimler supplier companies in Germany (Rüb 2006).

(3) At the same time, available studies show that substantial problems are involved in the implementation of international framework agreements, including the following deficits:

- On-the-spot publication and notification of the IFAs is inadequate. In many instances, management, the unions and employees in the company locations surveyed in countries mentioned are not aware of the provisions of the IFAs. In other cases, notification is limited to senior

management level. One positive exception is a Mexican plant belonging to a large Germany automotive supplier, in which the IFA was integrated into the local collective agreement that was handed out to each employee (Hessler 2012: 262).

- Even when the IFA is well publicised, local actors are often not aware of the possibilities that there are for applying the agreement. It is only in rare instances that the employees or their (mainly trade union) representatives take recourse to the IFA in order to push through workers' interests. Fichter et al. (2012: 5) estimate that an extension of training and transnational networking activities is necessary if more widespread implementation is to be achieved.

- Both the trade unions and local management can block the implementation of international framework agreements. In the case studies that have been compiled so far, trade unions at locations in both Turkey and Mexico blocked the implementation of IFAs in order to secure their privileged trade union status at the plants (in both cases they were not members of the relevant global union federation). In other cases, national or local management have blocked implementation of an international framework agreement by simply ignoring the provisions that it contains. It was not, for example, possible in the cases of EADS and Daimler (in: Fichter/Helfen 2011: 103ff.), Hochtief (in: Scheytt 2011) and IKEA (in: [www.uniglobalunion.org](http://www.uniglobalunion.org)) to put a stop to anti-union management practices at US plants despite international framework agreements.

- Implementation of an IFA can be particularly difficult in the case of suppliers (depending on the depth and structure of the value-added chain) and in many instances it comes up against insurmountable barriers. In sectors with buyer-dominated value-added chains, the complex multi-level supplier networks often make it a problem to inform the suppliers and sub-contractors at the bottom end of the supply chain because in many instances the outsourcing company simply does not know who they are (Miller 2004: 219). A further problem can arise due to the fact that, as a rule, suppliers deliver to more than one enterprise at the same time and are therefore often subject to several and possibly conflicting IFAs concluded by different end users. In such a situation, it is difficult for a single company to insist on implementation of its own agreement among its suppliers.



There are also implementation problems in capital- and technology-intensive sectors with producer-dominated value-added chains because in this case first-stage suppliers often have substantial market power compared with their end users, making it difficult for the latter to have any influence on production or working conditions among their suppliers (BDA 2005: 15).

#### 4. Evaluation of the Instrument and Preliminary Summary of Its Impact

The question of whether IFAs in their present form are the right tool for achieving the goals set by the trade unions, or whether they can in the final analysis be manipulated by enterprises either, as required, through the media or politically, is all part of a broader debate on the issue of regulation that is taking place within the field of global governance research.

The discourses range from, on the one hand, a sceptical-negative position, which sees self-regulation as essentially a forced privatisation of regulation and politics and a deregulation of social standards linked with the process of neo-liberal globalisation, and, on the other hand, positions that highlight the innovative quality and substantial effectiveness of the codes of conduct. The latter positions emphasise that the codes of conduct are increasingly multilateral or multi-stakeholder agreements designed to set norms for social and environmental standards, which, on the basis of contractual agreements undertaken by an enterprise right along the supply chain, are legally and commercially binding and therefore have a normative-substantial impact (see also in summary Köpke/Röhr 2003).

The problems and ambivalences that are a feature of international framework agreements – as they are of all voluntaristic policy approaches – have also been noted within the trade unions, where they are (in part at least) the subject of controversial debate.

These include, on the one hand, the dangers that (can) arise by easing the pressure for political solutions, giving encouragement to the privatisation of social rights, and finally serving as a social fig leaf for neo-liberal globalisation. But there are also the opportunities that (could) be linked with the fact that globally-operating enterprises are part of emerging transnational social spaces and

could therefore potentially (and possibly even »ideally«) serve as transmission stations and laboratories for giving validity to core labour standards in places where local political conditions would mean that they would not otherwise be respected.

An initial reference framework for classifying and evaluating IFAs is their contribution to the transnationalisation of trade union organisations and policies. This is based on the assumption that the enforcement of social human rights in the working world (in the sense of a necessary, if not sufficient condition) depends on the collective articulation of interests organised and facilitated by the trade unions.

From this perspective, the current state of research (on the GUFs, an overview: Platzer/Müller 2011) points to the following conclusions:

Against the backdrop of the dynamic process of globalisation witnessed since the 1990s, the global trade unions have tried to continue to develop the enterprise-related transnational tools that they have at their disposal. The strategy, already pursued in the 1960s/70s, of establishing global trade union networks in key sector-dominant enterprises has been continued and enhanced with the creation of new instruments like World Works Councils and IFAs. The unions hope that these instruments could and should complement each other and, at the same time, be mutually beneficial, bringing a new quality to the transnational representation of workers' and trade union interests.

- IFAs are, in terms of their rate of growth and current number, the most dynamic element among enterprise-related tools for action.
- They are an instrument that is ideally suited to be developed further and flexibly and adapted to a broad range of conditions in different enterprises and sectors. The huge potential for securing social minimum standards that lies in the systematic implementation of global agreements is in many instances far from exhausted although it is often hampered by the problem of the limited trade union resources that are available, especially in the areas of implementation and monitoring.
- The IFA-related activities undertaken by the various GUFs have contributed to a strengthening of their functional profile, both from the perspective of »influence



logic« and the perspective of »member logic«. From the perspective of »influence logic«, the signing of an IFA means that enterprises officially recognise the GUFs as dialogue and negotiating partners on the global corporate level. This carries a lot of weight in terms of the organisational potential of the GUFs because it means that they can take up an independent place in the field where global standards are set. From the perspective of »member logic«, the IFAs strengthen the position of the GUFs vis-à-vis their member organisations in several ways: firstly, due to their direct participation in the negotiating, signing, implementation and monitoring processes; and, secondly, due to important service functions for the national member organisations (including organising transnational seminars and conferences, establishing trade union contacts in the various countries, and the creation of transnational networks). This tendency towards an upgrading of the global trade union level is – as part of a necessary multi-level transnational strategy – perhaps the most important »side-effect« of the IFA policy.

- Empirical experience suggests that one trade union goal that it is primarily linked with this instrument – the goal of strengthening decentralised levels of representation, and above all of organising in peripheral regions – has only been selectively achieved.

The central reference criterion for evaluating IFAs from the perspective of social human rights is – as was formulated in the thesis at the beginning of this contribution – linked with the question of whether and to what extent IFAs can lead to a social harnessing of capitalist value-added chains under conditions of globalisation and – particularly on the periphery of value-added chains – create fundamental, effective and universally-applicable labour and employment standards.


The empirical evidence concerning these questions is so far incomplete and only permits the following initial and cautious conclusions and generalisations:

- Assuming that the discourse surrounding social human rights must constantly be maintained and renewed in order to ensure that these rights are applied, then the negotiating and implementation activities related to IFAs make a limited but specific contribution to this process: they are part of a global political struggle for a »more just world order« and draw attention in different pub-

lic forums to the normative significance of fundamental social standards and workers' rights; they highlight the legitimacy of these standards by formulating the observance and recognition of social human rights (also) as an obligation of private governance and as a core commitment of corporate policy, as well as anchoring these standards in bilateral and transnational agreements between labour market actors.

- To judge by where the parent companies are based, the IFA process has so far been biased towards Europe. That is to say that it has been shaped and advanced by (western-) European traditions in labour relations. Despite the recent increase in agreements in enterprises from outside Europe, this structural feature is likely to remain prevalent in the medium term. The fact that the IFA process is structured in this way can – both from a global perspective, and especially from a north-south perspective – be linked with various different implications: the willingness of elements of the workforce of a group or corporation who can have a positive impact on the outcome of negotiations to offer solidarity and support; the »export« of a »European model« of dialogue-oriented labour relations, which in other countries or regions of the world is viewed as beneficial and adopted; as well as an »export model« that is met with indifference because it is not considered to be compatible with local cultures of labour relations or local traditions of trade union action. Existing empirical findings give no conclusive answers on these issues, but they do back up the potential risks and opportunities outlined here.

- In overall terms, IFAs are still a young instrument. With reference to other experiences in the development of transnational labour relations, such as the amount of time that was necessary for European Works Councils to develop into functioning bodies, then it would appear likely that the developmental potential and the potential capacities of IFAs are in many ways far from fully evolved or exhausted. Based on this premise, it is clear that IFAs are not an instrument that automatically clicks into action, having a broad and immediate impact due to the nearly 100 agreements already signed, guaranteeing comprehensive implementation and application of all agreed provisions. IFAs are, however, a document agreed by two sides, stipulating standards and procedural rules, which are, firstly, only employed, or only need to be employed, in acute cases of evident breaches of regulations; which, secondly, (can) lead to what is



initially only the gradual development of communicative and political networking on the part of the workforce and the trade unions; and which, thirdly, establish a set of regulations that only begin to have an active impact in conjunction with other tools of trade union action (campaigns, protests, strikes, etc.) or in cooperation with other civil society actors (globalisation-critical NGOs, etc.).

- Empirical findings so far available (based on case studies) on the implementation and observable effect of IFAs yield an uneven picture: there are, as already show, examples of positive impacts, but these remain specific (limited to individual local problem zones) and selective (limited to the contents of individual agreements).
- The majority of IFAs have (so far) only had limited spin-off effects at the decentralised level, such as for instance trade union organisation in peripheral locations of an enterprise. In many cases, the necessary implementation

preconditions (publication or notification of an agreement) are not fulfilled. It is above all within the supply chain that the impact of the enforcement of fundamental labour and social standards remains extremely limited.

- Because of their voluntaristic character, and because they are still limited in number, IFAs can on a global scale only really be seen as a supplementary instrument in the strengthening of social human rights through political and legal mechanisms (social clauses in trade agreements, etc.). While IFAs cannot replace political and legal solutions, neither can they themselves be replaced when it comes to strengthening the political and legal enforceability of social human rights. After all, they create an additional channel for the communication, implementation and monitoring of social human rights whilst at the same time helping to set preconditions for these impacts by promoting the international networking of trade unions and the transnationalisation of labour relations at the corporate level.



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This publication is printed on paper from sustainable forestry.



ISBN  
978-3-86498-758-8