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International framework agreements: new paths to workers' participation in multinationals' governance?¹

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Summary

This article describes the results of a major study on the impact of codes of conduct and international framework agreements (IFAs) on social regulation at company level. The limits of labour legislation at the national, as well as the international, level provide a strong motivation for both multinationals and trade unions to negotiate and sign IFAs. IFAs offer a way to regulate the social consequences of globalisation and to secure adherence to labour and social standards. They thus form part of the growing political debate on the international working and production standards of private actors. Examination of the negotiation process, the motivations of the parties, and the content of the agreements and implementation measures provides valuable insights into the impact of IFAs on multinationals' behaviour in respect of social dialogue and core labour standards. Finally, the article highlights the influence of such agreements on public policy-making and the limits of private self-regulation at European and international level, addressing the growing and controversial debate on the need for supranational structures to regulate labour standards and industrial relations.

Résumé

Cet article décrit les résultats d'une étude majeure sur l'impact des codes de conduite et des accords cadres internationaux (ACI) sur la réglementation sociale au niveau de l'entreprise. Les limites de la législation du travail aux niveaux tant national qu'international motivent fortement et les multinationales et les syndicats à négocier et à signer des ACI. Les ACI offrent un moyen de réguler les conséquences sociales de la globalisation et de garantir une adhésion aux normes sociales et aux normes du travail. Ils font donc partie du débat politique croissant sur les normes du travail et de production internationales des acteurs privés. L'examen du processus de négociation, des motivations des parties, du contenu des accords et des mesures de mise en oeuvre permet de se forger une idée claire et utile de l'impact des ACI sur le comportement des multinationales en matière de respect du dialogue social et des normes du travail fondamentales. Enfin, l'article met en évidence l'influence de tels accords sur les politiques adoptées par les autorités publiques et les limites de l'autorégulation privée aux niveaux européen et international, en abordant le débat croissant et controversé sur le besoin de structures supranationales pour réguler les normes du travail et les relations professionnelles.

Zusammenfassung

Dieser Beitrag beschreibt die Ergebnisse einer groß angelegten Studie über die Auswirkungen von Verhaltenskodizes und internationalen Rahmenvereinbarungen (IFA) auf die soziale Regelung auf Unternehmensebene. Angesichts der Grenzen der arbeitsrechtlichen Vorschriften auf einzelstaatlicher und internationaler Ebene ist es für multinationale Unternehmen und Gewerkschaften wichtig, IFA zu verhandeln und zu unterzeichnen. Diese Vereinbarungen bieten die

¹ This article summarises the results of a research project 'Codes of conduct and international framework agreements: new developments in social regulation at company level' for the European Foundation for the Improvement of Living and Working Conditions. The final report is due to be published in early 2008.

The project was carried out jointly by a consortium of Wilke, Maack and Partner in Hamburg, Audencia Nantes School of Management and the ETUI-REHS in Brussels.

Möglichkeit, die sozialen Folgen der Globalisierung zu regeln und zu gewährleisten, dass Arbeits- und Sozialnormen erfüllt werden. Folglich sind sie auch Teil der zunehmenden politischen Debatte über die internationalen Arbeits- und Produktionsnormen privater Akteure. Die Untersuchung des Verhandlungsprozesses, der Beweggründe der beteiligten Parteien und des Inhalts der Vereinbarungen sowie der Durchführungsmaßnahmen liefert wertvolle Einblicke in die Auswirkungen der IFA auf das Verhalten der multinationalen Unternehmen in Bezug auf den sozialen Dialog und Kernarbeitsnormen. Zum Schluss wird der Einfluss derartiger Vereinbarungen auf die öffentliche Politikgestaltung beschrieben und auf die Grenzen der Selbstregulierung privatwirtschaftlicher Unternehmen auf europäischer und internationaler Ebene hingewiesen. In diesem Zusammenhang entwickelt sich eine kontroverse Debatte über die Frage, ob es supranationaler Strukturen für die Regelung von Arbeitsnormen und industriellen Beziehungen bedarf.

Keywords:

international framework agreement, global framework agreement, code of conduct, corporate social responsibility, fundamental social rights, core labour standards, transnational collective bargaining

Over the past few decades, the fast process of globalisation has been accompanied by a growing political debate on international working and production standards. As the liberalisation of trade and capital movements starts to challenge established national forms of social dialogue and industrial regulation, there is a growing controversy within the debate on the need for supranational structures and regulation of labour standards and industrial relations.

In response to concerns raised by trade unions, NGO campaigns and consumer protests, as well as the initiatives of several international organisations such as the OECD², the ILO³ or the UN⁴, many multinationals have accordingly paid more attention to their corporate social responsibility (CSR); this is defined by the European Commission as the voluntary integration of social and environmental concerns in a company's business operations and its interaction with its stakeholders (European Commission 2002). In doing so, companies should go beyond legal minimum requirements and obligations stemming from collective agreements in order to address societal needs. This latter aspect of CSR is much criticised, as codes of conduct tend to prevent or at least to delay the adoption of new legally binding social regulations. Furthermore, there are concerns with regard to the setting up of private norms and their complex and ambiguous relations with legislation (Daugareilh 2005, and in this issue).

Parallel to the development of codes of conduct, albeit starting at a later stage, so-called 'international or global framework agreements' have been promoted, mainly by global union federations, to address an emerging need for the internationalisation of industrial and labour relations in the global context (Drouin 2005; Hammer 2005; Sobczak 2006a). First adopted in two

² The OECD Guidelines for Multinational Enterprises (1976) were revised in 2000 after being fairly inactive. Improvements were made mainly to the content, including the inclusion of the core labour standards and supply chains.

³ ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, 1977. The Declaration of Fundamental Principles and Rights at Work 1997-98.

⁴ The UN initiated the Global Compact Initiative in 2000 in order to improve the cooperation of United Nations, the business community and other social groups towards sustainable economic development. The Global Compact is based on ten principles which reflect the General Human Rights Declaration, ILO core labour norms and the principles of 'Agenda 21' on sustainable development.

French multinationals at the end of the 1980s and in the mid-1990s, and after a slow increase during the 1990s, the number of these agreements has accelerated since 2000. As of May 2007, 52 agreements had been signed⁵. Although both codes of conducts and global framework agreements should be seen as instruments among a much larger range of firms' initiatives at the international level, global framework agreements are concluded between international or European trade union organisations and the management of individual multinational companies and are thus, in most cases, based on a negotiation and bargaining process. Even if these international framework agreements (IFAs) are not legally binding and may not be considered as collective agreements (Sobczak 2006a), the assumption is that these agreements are more effective and legitimate than unilateral codes of conduct (Tørres and Gunnes 2003). Furthermore, they characterise new and additional paths to workers' participation in multinationals' governance. Beyond the formal content of these texts and their enforceability, the question is whether they are being used as a reference guide by the management and workers' representatives and whether they have changed, at least partially, the strategies of both parties in the context of social conflicts or social dialogue.

The research project on 'Codes of conduct and international framework agreements: new developments in social regulation at company level' aimed to analyse the impact of both codes of conduct and international framework agreements on labour conditions and on social dialogue, as well as on corporate cultures, and select good practice experience with regard to the issue of enforceability and effectiveness. In this respect, a twofold methodological approach was adopted. A quantitative analysis of all existing IFAs and of a sample of 50 codes of conduct has delivered an insight into the content of these texts, their scope, their dissemination and monitoring procedures and on the emerging provisions on dispute settlement in some of them. In parallel and adopting a qualitative approach, 11 case studies have been conducted in companies that have established a code of conduct, an IFA or both tools. Interviews with representatives from management and employees as well as with global union federations and employers associations enabled us to understand the motivations and interest constellations of these parties and to report on the concrete changes these tools have or have not introduced in the companies. This article presents the main findings of the research project and demonstrates in particular that international framework agreements characterize new paths to workers' participation in multinationals' governance.

Table 1: Company case studies: titles of the documents

Company	Codes of conduct	International framework agreement
Arcelor	Code of ethics	Worldwide agreement on the Principles of ARCELOR's Corporate Social Responsibility
BASF	Code of conduct. Compliance Programme of the Group	---
Bosch	---	Principles of Social Responsibility at Bosch
Chiquita	Code of conduct 'Living by our own values'	IUF/COLSIBA and CHIQUITA Agreement on freedom of association, minimum labour standards and employment in Latin American Banana Operations
EDF	Group's Principles of Ethical Practice	Agreement on EDF Group Corporate Social Responsibility

⁵ 65 international framework agreements had been registered as of December 2007.

IKEA	Minimum Requirements for Environment, Social and Working Conditions and Wood Merchandise IKEA Way of Purchasing Home Furnishing Products IKEA Way of Preventing Child Labour	Framework agreement between IKEA and the IFBWW
Leoni	---	Declaration on Social Rights and Industrial Relationships at Leoni
PSA Peugeot Citroën	Code of ethics	Global framework agreement on Social Responsibility
Securitas	Code of conduct	Agreement on the Development of Good Working Relations in the Securitas Group
Telefónica	Our Business Principles	UNI-Telefónica Code of Conduct
Unilever	Code of Business Principles	---

Table 2: International framework agreements in our case studies

Company	Year	Country	Global union federation	Signed by EWC	Signed by national union
Telefónica	2001	Spain	UNI	No	Yes
Chiquita	2001	USA	IUF	No	No
IKEA	2001	Sweden	BWI	No	No
Leoni	2002	Germany	IMF	Yes	No
Bosch	2004	Germany	IMF	Yes	No
EDF	2005	France	ICEM, PSI, IFME and WFIW	No	Yes
Arcelor	2005	Luxembourg	IMF	No	No
PSA Peugeot Citroën	2006	France	IMF	No	Yes
Securitas	2006	Sweden	UNI	No	Yes

CSR codes of conduct versus IFAs: from unilateral management initiatives to a participative joint commitment

Almost all multinational companies have adopted a code of conduct in order to formalize their commitments in the field of CSR, whereby most of them refer to existing legislation (mainly in the United States). It seems that these texts are increasingly perceived as standard tools, not only for multinationals but also small and medium-sized companies, without relying on a detailed analysis of the added value they may create or even without paying too much attention to their impact. By contrast, international framework agreements constitute a more recent instrument that, as of 2007, only existed in some 52 companies whose managers usually scrutinise the challenges and advantages of negotiating such a text with the employees' representatives.

The analysis of the content, motivations and interests of the parties to IFAs shows that there are certain objective factors that may favour the negotiation of IFAs, such as the sector or the nationality of the company. International framework agreements are tools that are concentrated in five sectors (metal, construction, chemicals, food and services) and in companies headquartered in Member States of the European Union with a tradition of social dialogue, such as Germany and France. However, these factors are insufficient in explaining why a company negotiates an IFA. Indeed, there are numerous multinational companies in Germany and France in the five sectors that have no IFA, that do not plan to negotiate one in the near future and that are not even targeted by the relevant global union federations to negotiate such an agreement. It is therefore necessary to take a closer look at the more subjective motivations and interests of the parties involved.

Context and motivation

A global framework agreement or IFA is an agreement signed between the management of a multinational company and the relevant global union federation, which commits the company to respect minimum labour standards in its operations around the world. In most cases, it is based on a more or less long negotiation and bargaining process. First concluded in multinationals based in Europe (France, Germany and the Nordic countries – and indeed 80% of such companies are still headquartered in Europe), many other countries now also feature, such as the USA.

Whereas codes of conduct are clearly a management initiative, IFAs are considered, at least by some companies, as embedded in the company's international human resources policy and/or as part of the company's social dialogue. However, only the representatives of the company's headquarters sign the IFA, which reflects the reality of economic power within the company. As each subsidiary has its own legal personality, even if it is highly integrated in a group, the fact that only a representative of headquarters signs the IFA precludes it from being considered as a collective agreement as defined in labour law.

On the workers' side, global union federations are the main driving force for international framework agreements. The International Metalworkers' Federation (IMF), the Building and Wood Workers' International (BWI), the International Federation of Chemical, Energy, and Mining Workers (ICEM) and Union Network International are the most active unions in this respect, as they have recognised the need for developing mechanisms to negotiate with multinational corporations at global level over the last decades. International framework agreements are in some cases co-signed by national unions. This co-signing is discussed among the different actors involved; from a legal point of view, it seems to transform the international framework agreement into a collective bargaining agreement in the country where the headquarters are located (see below).

The involvement of European Works Councils (EWCs) promoted by some international unions up to the co-signature of the agreement appears to be a strategy of the IMF only. Although not falling within the competence of EWCs according to the EU Directive 94/45/EC on the establishment of European Works Councils, this strategy seeks to guarantee EWCs' future involvement in the dissemination and monitoring process. By including more partners on the side of the workers, unions secure the appropriation of the IFA by labour at all levels and in doing so combine competences and manpower.

In most cases the initiative for negotiations lies with the global union federations, with the participation on a case-by-case basis of European and/or national unions, and of world, European and national works councils. In rare cases, IFAs are the result of a joint initiative of management and labour or even a management initiative. On the management side, the negotiations closely involve the human resources department, which relies on its experience in social dialogue. In this way human resources managers reaffirm their role in CSR issues. Other departments may however also be involved in negotiation rounds.

Although objective factors of influence (either company specific such as structure, size and home country or international environment, sector, market, etc) may favour the adoption of codes of conduct and the negotiation of international framework agreements, they are insufficient to explain why a company adopts a code of conduct or negotiates an international framework agreement.

A closer look at the more subjective motivations and interests of the parties shows that both management and workers negotiate international framework agreements in order to develop social dialogue at international level and to reinforce the corporate culture. They also aim at using IFAs to reduce social dumping and, by increasing adherence to core labour standards, to raise competitiveness in international markets and secure good and better workplaces. Another joint motivation is to develop social dialogue between management and labour at all levels in order to solve potential difficulties, and by doing so to create a kind of early warning system with regard to potential conflicts (see below).

On the part of the trade unions, IFAs constitute a formal recognition of social partnership at the global level and provide a global framework for protecting trade union rights and encouraging social dialogue and collective bargaining. Furthermore, IFAs help to adapt good domestic social dialogue structures to the multinational level. An additional motivation is to strengthen the fight against violations of core labour standards both internally and externally, as well as to contribute to the harmonisation of good working conditions. Furthermore, IFAs help trade unions and workers to appropriate CSR issues and issues related to transnational social dialogue and they provide strong channels of communication with union members at all levels, not least to improve communication channels between them and management.

For management, signing IFAs enables them to secure the competitiveness of the multinational in global markets and, especially, improves their position in the stock market with regard to ethical standards, thus influencing investors. Furthermore, IFAs contribute to a better risk management strategy by providing implementation measures (for a corporate code of conduct). They also create a coherent framework for the group's commitment in the field of CSR to consumers and clients, as well as NGOs, and reinforce multinationals' credibility. Finally, they also make it possible to share initiatives and to foster the group's internal culture and values.

Neither codes of conduct nor international framework agreements have a clear legal status. From a legal point of view, the adoption of these tools is voluntary, even if national legislations or public purchasing policies, as well as the pressure of stakeholders, may favour their adoption. The legally binding character of codes of conduct (Sobczak 2002) and international framework agreements is still an issue under discussion and is currently discussed within the framework of the growing debate on

whether an optional legal framework in this field would encourage or halt the development of these tools (Ales *et al.* 2006).

Content

Both IFAs and codes of conduct may contribute to the definition of minimum standards, reaffirmation of core labour rights or more effective enforcement of labour laws among the different subsidiaries of the company, and among its suppliers. To contribute to improved industrial relations and working conditions, codes of conduct and IFAs can introduce new rights for workers, workers' representatives and trade unions, or can emphasise making existing rights more effective. For workers in countries outside the European Union, the recognition of fundamental social rights may be a priority. Indirectly, this may also be of benefit to workers in the EU insofar as it contributes to the defining of minimum labour standards and thus to the fight against social dumping. But even within the EU, there is potential for progress, in particular in the development of rights that are not directly related to working conditions and that correspond to much broader social or environmental aspects of the lives of workers and their families. As we will show, the analysis of the content of IFAs and our sample of codes of conduct reveal that both instruments sometimes differ significantly with regard to the issues raised and the quality of the commitments.

In contrast to many CSR codes of conduct, international framework agreements usually include commitments on trade union rights, collective bargaining rights, and information and consultation of the workforce. Whereas IFAs focus on issues related to labour rights and industrial relations and refer to the ILO, codes of conduct have a much broader scope, including also other CSR or business ethics issues. Both tools may include provisions on equal opportunities, health and safety, decent wages and the banning of child and forced labour. Another difference between IFAs and codes of conduct is related to the implementation and monitoring measures. IFAs allow unions to play a central part in participating in and monitoring the multinational's core business.

Another way for codes of conduct and IFAs to contribute to new rules in international industrial relations is to define a broad scope of application covering the company's worldwide subsidiaries and suppliers. One of the major problems for working conditions and labour law standards in the era of globalisation is the fact that they are limited to the regulation of relations between companies and those who are bound to them through a contract of employment, thus excluding, in most cases, legal liability for the workers in subsidiaries and in subcontracting companies. Analysis of the content of international framework agreements and codes of conduct shows that many texts in both categories deal with the social regulation of the company's suppliers. In general this is much more detailed in international framework agreements than in codes of conduct. This applies to both regulations and explicit references to subsidiaries, as well as to suppliers and business partners. But the surprisingly high rate of both IFAs and codes of conduct stipulating suppliers' codes indicates a growing need for more effective social regulation in global supply chains, as well as the added value IFAs and codes might offer in this field.

Looking at implementation measures for IFAs two basic approaches can be identified (similar to CSR agreements found at European and/or sectoral level). Either existing transnational structures or procedures such as EWCs are used (indeed EWCs seem to be playing an increasing role in this area), or a new supranational management-union forum or process is established. These two approaches can be combined or, alternatively, there can be simple consultation on compliance with workers' representatives, with the appointment at management level of a person responsible for compliance control. If necessary, there can be recourse to an arbitration process.

The analysis of the content of both codes of conduct and international framework agreements shows that IFAs can be considered as a means to promote the respect of fundamental social rights among

multinational companies and their economic partners, whereas this is only partly the case for codes of conduct. Consequently, IFAs tend to correspond to an emerging form of social dialogue at the international level, whereas codes of conduct are mainly used as guidelines for behaviour and instruments of legal risk management for companies. The analysis of the content of the existing IFAs and the sample of codes of conduct highlight that IFAs aim at regulating labour relations within multinational companies, even if they may sometimes include broader issues, whereas codes of conduct aim at reaffirming norms related to the broader concept of corporate social responsibility and business ethics, and thus also include references to labour standards. In the case of IFAs, labour standards are the main focus, whereas in codes of conduct labour standards are only one issue among others.

Impact: the involvement of workers makes the difference

International framework agreements and codes of conduct differ to an important extent in their dissemination and monitoring procedures. Whereas the dissemination and monitoring of IFAs involve both social partners and thus contribute to creating new issues for social dialogue, the implementation of codes of conduct usually remains in the sole hands of the management, control sometimes being entrusted to external auditors. This finding is confirmed by the fact that some companies have decided to conclude an IFA to improve the dissemination and monitoring of their existing code of conduct.

International framework agreements and codes of conduct also differ as to the duties they impose on employees. Many codes of conduct explicitly provide for disciplinary or even civil sanctions for employees whose behaviour does not conform to the principles they lay down (see Daugareilh, in this issue). In many cases, the employees are also required to report any violations of the code they may observe using anonymous hotlines. International framework agreements contain no such provisions. On the contrary, the latter sometimes create dispute settlement procedures involving the social partners at the local, national and international levels. They thus underline the signatory parties' willingness to use IFAs to identify possible violations of fundamental social rights in subsidiaries or even suppliers at an early stage and to solve these problems internally through social dialogue rather than go to court or bring the matter to the attention of the general public.

Furthermore, the involvement of both management and unions in the dissemination and monitoring of IFAs makes it more likely that the enforcement of fundamental labour rights will have a real impact, since it is based not only on one tool and one key actor, but on several instruments and the involvement of both social partners. Although both corporate codes and IFAs have a positive impact on the implementation of basic labour and social rights, certain fundamental rights such as freedom of association and collective bargaining, in contrast to other fundamental labour rights, are covered by corporate codes to a much lesser degree.

Furthermore, domestic workers' consultation bodies such as (European) works councils and/or national unions may play an important role in the elaboration and/or implementation of international framework agreements. Works councils, as well as EWCs, are legally established bodies enabling the exchange of information between management and workforce. As such, they are an institutional platform with resources and access to information on the national and European activities of firms. In addition, they also have consultation rights and are part of the social dialogue structure at business level. It is therefore obvious that they may play a role in the development of IFAs, although not all EWCs play an important role⁶. It is clear that the activities of EWCs have

⁶ The involvement of EWCs is characterised by a certain heterogeneity from one multinational to another. Differences in the practices and effective roles of the EWCs may be influenced by a common set of factors (Marginson *et al.* 2004): the degree of internationalisation of production in the multinational and the need to create a business alignment in the subsidiaries which allows the EWCs to intervene; capacity

influenced international framework agreements in recent years. This can be seen in sectors in which European federations – such as the European Metalworkers’ Federation – are particularly engaged in supporting EWC involvement as a facilitator in the negotiation of international framework agreements (Bourque 2005; Pulignano 2005). A general trend seems to be that the unions are increasingly recognizing the usefulness of the EWCs as a source of information and, at times, as a forum for coordination to the extent that EWCs are invited to sign agreements (Teljohann 2005). This may lead to trade unions cooperating more effectively with EWCs in order to promote European-level negotiation but also in the context of international framework agreements. As a consequence, some unions have started to invest more in EWCs. In this respect, EWCs are contributing to the Europeanisation of industrial relations systems based on the transnational dimension of the workforce (Daugareilh 2005; Moreau 2006; Voss 2006). Interestingly, and according to the circumstances, the existence of a well-functioning European Works Council may have a certain influence on the willingness of the management to negotiate an IFA (Moreau 2006). Furthermore, EWCs may serve as the precursor of a wider, broader information and consultation body that the partners of international framework agreements may set up to ensure the reporting and monitoring of their agreements. In some cases, the EWC fulfils this task beyond its European scope of application, but in other cases the use of EWCs can be a strong limitation (Liv and Stein 2003).

Finally, clear differences between international framework agreements and codes of conduct result from their different natures: international framework agreements represent a pragmatic approach to industrial relations and social dialogue, which also includes the acceleration of the elaboration of global structures of dialogue, information and consultation and the ‘export’ of a certain domestic or European social model of employer-employee relations. In contrast, corporate codes of conduct represent an affirmative approach that seeks to reinforce good corporate practice and both illustrate and implement the excellence of the respective company in fields such as management integrity and compliance with basic human rights and national laws, including basic labour rights. Concrete impacts are much harder to discern in this respect.

Based on these developments, our hypothesis is that the switch from CSR policies as simple PR instruments to company-specific strategies, including trade union involvement and negotiation of international framework agreements, is the result of a growing motivation on the part of both multinationals and unions to close the current legal gap in international and European labour law in order to (self-) regulate the social consequences of globalisation, and ensure adherence to labour and social standards, though for different reasons.

Opportunities and limits of IFAs in paving the way to the internationalisation of industrial relations

However, the increasing number of negotiation procedures and signatures of international framework agreements should be put in perspective. So far only a small number of multinationals (65 in December 2007) are involved, mostly based in the European Union. The scope for further agreements remains for the moment rather limited, given that, on the one hand, global unions acknowledge the need for an evaluation of the process in respect of impact assessment and indicators of good practices, while on the other hand managements rarely initiate negotiations on international framework agreements.

to appropriate the issues of globalisation and CSR; the management strategy; the structure and acceptance of the workers’ representative body (Teljohann 2005); capital structure (Müller and Platzer 2003); and the functioning of the body itself.

Nevertheless, international framework agreements can be seen as stepping stones in a process of creating social dialogue between multinational managements and the workforce for dealing with the social consequences of globalisation. The message to public policy given out by these initiatives of private actors via *sui generis* agreements is clear: it is their intention to overcome the current legal gaps in the regulation of international labour issues through self-regulation. However, private actors cannot take over the role of public authorities.

Workers' involvement as a benchmark for strengthening international social dialogue between labour and management of multinationals

The above discussion shows clearly that international framework agreements point towards new opportunities and space for trade union organisation and bargaining, as they pursue the same goals of promoting social dialogue with multinationals.

In most cases, IFAs have been negotiated on the basis of existing good relations between the multinational's headquarters and the workforce, represented by global, local and/or national unions and/or (European) works councils. Here again, the existence of a well-functioning industrial relations system applied at company level plays a decisive role in the promotion of such good social relations within a broader, international arena. Furthermore, international framework agreements are not intended to substitute for local and national collective agreements, but rather to function as a supplementary and additional level of dialogue to local practice. Moreover, IFAs need the local level to secure the efficient appropriation and implementation of the issues.

In addition, international framework agreements represent a new means by which unions at all levels are able to raise awareness and promote union rights and additional core labour standards and to make them applicable within the scope of multinationals' activities, thus 'adapting' domestic (legally) binding rights outside their national scope of application.

On the one hand, companies recognise the positive impact of international framework agreements on corporate culture, industrial relations and the corporate image, to the extent that in a few cases employers have initiated negotiations, thereby acknowledging the 'win-win' character of IFAs. On the other hand, international framework agreements tend to transform firms' CSR policies into more concrete and binding commitments, thus enriching both the transparency of their principles and objectives and their internal and external credibility. In doing so, international framework agreements give unions the possibility to monitor corporate behaviour on an agreed basis and to act upon any violation of workers' rights by entering into direct consultation and negotiations with the company management. Thus international framework agreements seem to have an increasing function as early warning systems and are starting to operate as alternative dispute resolution mechanisms by creating a framework for mediation and consultation. A last resort in the case of violation of international framework agreements would be for unions to campaign publicly against the multinationals, as the relevant legal procedure is still uncertain, at least on the basis of labour regulations. On the basis of consumer law and competition law, however, consumers and rival enterprises can make claims against, respectively, unfair and misleading advertising and failures to respect good faith and morals in competition. Both stakeholder groups can exert considerable public pressure on a company that uses the fact that it observes certain social minimum standards as a form of manipulative advertising for its products. However, a code of conduct or an international framework agreement will not be brought before the courts on the basis of the violation of a fundamental social right, but on the ground of violation of a company's obligation to inform consumers fairly.

In this way, IFAs seem to be a way of promoting a culture of legal compliance and respect for core labour standards, as well as good industrial relations and respect for the role of trade unions alongside processes of globalisation (Liv and Stein 2003; Justice 2004). However, they also open up new challenges and a need for clarification.

Limits of self-regulation

The challenge clearly is to prevent CSR and codes of conduct from becoming a substitute for proper regulation (Justice 2004). Because international framework agreements are a voluntary form of social regulation created by the social partners without a legal framework, they leave open many questions. The main areas of clarification concerned are (i) the legal nature and impact of these texts, (ii) the representativeness and mandates of the signatory parties, from multinational managements to (global, regional or local) unions, including EWCs, (iii) the scope of application of international framework agreements as concerns groups of enterprises and coverage of workers in subsidiaries and suppliers, (iv) the legitimacy of the actors involved in dealing with other issues, such as core labour standards, AIDS or the environment, and (v) finally their legal status (Sobczak 2006b). The lack of legal certainty may lead unions to be careful in negotiating and signing international framework agreements. On the other hand, multinationals are unable properly to evaluate the risks they may face in signing international framework agreements – for example, the legal risk of court proceedings.

Embedded in the debates on the development of soft law and the trend towards labour law deregulation (Schömann 2004), CSR in general and international framework agreements cannot ensure that social and economic stability, together with the protection of core labour standards, are maintained and protected by soft law alone. Many scholars have stressed the need for action by the public authorities to frame CSR initiatives in order to ensure their transparency and credibility, but also to bring some organisation to the anarchic and spontaneous development of CSR initiatives. Moreover, state and public authorities are already involved in CSR initiatives in some EU Member States as regulatory bodies and/or as initiators⁷. Although little research has been done on this issue, an interesting study (Bredgaard 2004) on the necessary links between public policy programmes and business interests has demonstrated the need to develop policy instruments in order to transcend the dichotomy between voluntarism and coercion in CSR approaches.

Concluding remarks

CSR can be a contradictory notion. It is important to identify both the stakeholders and their motivations for joining and appropriating CSR initiatives. While unions seek to agree international framework agreements, thus encouraging businesses to take the 'high road' in respect of their competitive behaviour, they also seek a public commitment as a countervailing power in the form of regulations. Some multinationals, on the other hand, although asserting the voluntary nature of CSR, commit themselves to more binding obligations in signing up to international framework agreements. Thus the appropriation by both parties of CSR as a potential added value for business and its accountability acknowledges the close link between corporate social responsibility and transnational social dialogue. In this way, both management and labour show their desire to address the limitations of both (domestic) labour legislation and industrial relations at international level in

⁷ Practical examples of public involvement can be found in French legislation on new economic regulation, which includes the obligation for listed companies to publish an overview of the social and environmental impact of their activities, and in the Belgian law on social labelling. Furthermore, by encouraging the introduction of social clauses in procurement contracts, public authorities have shown their commitment to participate in CSR initiatives in order to ensure that certain social standards are applied in the awarding of public contracts, as long as these standards do not discriminate against other and/or foreign tenders. The ECJ has recognised the compatibility of this approach under EC rules on public procurement (ECJ, 20 September 1988: Case C-31/87 and ECJ, 2000: Case C-225/98).

providing the necessary conditions for dealing with the social consequences of a global economy. By acting as self-regulators, they suggest a negotiated way of filling the current legal gaps in international and European labour law in order to secure adherence to labour and social standards. They thereby also influence the growing political debate on the elaboration and efficiency of international working and production standards by private actors. Investigation of the context of this process, the motivations of the parties, the content of the agreements and their implementation measures provides valuable insights into the impact on multinationals' behaviour of international framework agreements in respect of social dialogue and core labour standards. The influence of private actors on public policy-making via *sui generis* agreements is clear but reaches the limits of private self-regulation at European and international level. Here again, as in the case of the development of the European Works Council Directive, practice seems to precede legislation, addressing at the same time the need for supranational structures and the regulation of labour standards and industrial relations at transnational level.

References

- Ales, E., S. Engblom, T. Jaspers, S. Laulom, S. Sciarra, A. Sobczak and F. Valdés Dal-Ré (2006) *Transnational collective bargaining: past, present and future. Final report*, Report commissioned by the European Commission Directorate General Employment, Social Affairs and Equal Opportunities, Unit D2.
- Bourque, R. (2005) *Les accords-cadres internationaux (ACI) et la négociation collective internationale à l'ère de la mondialisation*, Institut d'études sociales: DP/161/2005 BIT, Geneva.
- Bredgaard, T. (2004) 'Corporate social responsibility between public policy and enterprise policy', *Transfer*, 10 (3), 372-392.
- Daugareilh, I. (ed.) (2005) 'La responsabilité sociale des entreprises transnationales et les droits fondamentaux de l'homme au travail: le contre exemple des accords cadres internationaux', in I. Daugareilh *Mondialisation, travail et droits fondamentaux*, Paris: Bruylant-LGDJ, 349-384.
- Drouin, C.-R. (2005) *International Framework Agreements: A Study in Transnational Labour Regulation*. PhD, University of Cambridge.
- ETUI (2004) 'CSR: A threat or an opportunity for the trade union movement in Europe?', special issue of *Transfer*, 10 (3).
- European Commission (2002) Communication from the Commission concerning *Corporate Social Responsibility: A business contribution to Sustainable Development*, COM(2002)347, final, 2 July 2002, Brussels.
- Hammer, N. (2005) 'International Framework Agreements between rights and bargaining', *Transfer*, 11 (4), 511-530.
- Holdcroft, J. (2006) *International Framework Agreements: A Progress Report*, IMF Metal World, No 3, 18-22.
- ICFTU, International Confederation of Free Trade Unions (2001) *A Trade Union Guide to Globalisation*, Brussels: ICFTU.

IOE, International Organisation of Employers (2006) *Trade and Labour Standards*, IOE information paper, Geneva: IOE.

Justice, D. (2004) *A trade union guide to globalisation* (2nd edition), Brussels: International Confederation of Free Trade Unions.

Liv, T. and G. Stein (2003) 'Global framework agreements: a new tool for international labour', Fafo, International Labour Think Tank.

Marginson, P., M. Hall, A. Hoffman and T. Muller (2004) 'The impact of EWCs on management decision making in UK and US based multinationals: a case study comparison', *British Journal of Industrial Relations*, 42 (2), 209-233.

Moreau, M.A. (2005) 'La recherche de nouvelles méthodes de régulation sociale: quelles fonctions, quelles complémentarités ?', EUI Working Paper, LAW No 2005-08, Florence: European University Institute.

Müller, T. and H.-W. Platzer (2003) 'European Works Council: a new mode of EU regulation and the emergence of a European multi-level structure of workplace industrial relations', in B. Keller and W.-H. Platzer (eds.) *Industrial relations and European integration*, Aldershot: Ashgate.

Pichot, E. (2006) 'Transnational texts negotiated at company level. Facts and figures', Working Document, Study Seminar Transnational Agreements, 17 May.

Pulignano, V. (2005) 'EWC and cross national employee representative coordination: a case of trade union cooperation?', *Economic and Industrial Democracy*, 23 (3), 383-412.

Schömann, I. (2004) 'CSR: Threat or opportunity for the social dialogue?', in H. Jørgensen, M. Barentsen and J. Monks (eds.) *European Trade Union Yearbook 2003-2004*, Brussels.

Sobczak, A. (2004) 'La responsabilité sociale de l'entreprise, menace ou opportunité pour le droit du travail?', *Relations Industrielles - Industrial Relations*, 59 (1), 26-51.

Sobczak, A. (2006a) 'Les accords-cadre internationaux: un modèle pour la négociation collective transnationale?', *Oeconomia Humana*, 4 (4), 13-18.

Sobczak, A. (2006b) 'Are Codes of Conduct in Global Supply Chains Really Voluntary?', *Business Ethics Quarterly*, 16 (2), 167-184.

Teljohann, V. (2005) 'The EWC – a role beyond the EC Directive?', *Transfer*, 11 (1), 81-96.

Tørres, L. and S. Gunnes (2003) *Global Framework Agreements: a new tool for international labour*, Geneva: FAFO.

Voss, E. (2006) *The Experience of European Works Councils in the new member states*, Dublin: European Foundation for the Improvement of Living and Working Conditions.