

BUILDING ON EXPERIENCES  
**A WIN-WIN APPROACH  
TO TRANSNATIONAL  
INDUSTRIAL RELATIONS**  
IN MULTINATIONAL COMPANIES

FINAL REPORT





With the financial support of the European Union

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in partnership with the Employers' Associations



and with the European Trade Union Federations



## ABOUT THE AUTHORS

ETUC and BusinessEurope would like to thank Marie-Nöelle Lopez and Stefania Marassi for the work performed and to express their utmost appreciation for their dedication and professionalism.

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## DISCLAIMER

The views and opinions expressed in the report are those of the authors and do not represent the opinion of the European Commission. The ETUC and BusinessEurope are authors of the joint conclusions, for which they hold the sole responsibility.



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# INTRODUCTION

## **Building on experiences: the background of the joint project**

In recent years, Transnational Company Agreements (TCA) have become an increasing practice in multinational companies (MNCs). Currently, more than 280 texts have been signed. This is the result of the internationalisation of industrial relations in which European and International trade unions on the one hand, and some MNCs, on the other hand, have found a common ground for action.

Over the last decade, TCAs drew the attention of EU Institutions as well, since they proved to be able to tackle delicate topics in a concerted way (such as anticipating change and restructuring) as well as to contribute to policy objectives of the EU, like some of the targets of the EU 2020 Strategy. The European Commission set up a Committee of experts (including representatives from both trade unions and employers' organisations) in 2008 and commissioned several reports on related topics (such as effects of the TCAs in different legal systems, settlement of disputes etc.). The European Parliament adopted a resolution endorsing the report "Cross-border collective bargaining and transnational social dialogue (2012/2292(INI))" on 12 September 2013 (rapporteur MEP Thomas Händel), and invited the Commission itself to considering ad hoc measures for TCAs.

The topic of TCAs has been in the spotlight also at the international level. The ILO conducted some studies on it and the role TCAs can play for a sustainable governance of global supply chains was one of the core issues that was addressed at the ILO International Labour Conference in June 2016.

The growing number of agreements led the European social partners to agree upon opening a discussion on such a phenomenon. The recent project, for the first time ever, put trade unions, employers' organisations and companies around the table and initiated a debate, building on results of discussions internal to their organisations and other projects on TCAs carried-out by both the ETUC and BusinessEurope over the recent years.

On the trade unions' side, many ETUFs had stepped up their work to negotiate and conclude TCAs and the ETUC has been actively supporting their work since 2009, aiming to address any problems emerging in the process.

The ETUC accomplished two different projects which led to a proposal for building an enabling environment for this kind of negotiations.

At the same time, BusinessEurope and its affiliates have been looking into the issue of TCAs and stimulated exchanges between companies. In 2010 a joint project with ITC-ILO discussed experiences of a number of multinationals. More recently, another project with ITC-ILO discussed challenges and opportunities linked to TCAs and global supply chains.

The common feature of those actions was that both organisations wanted to build on current practices in order to identify solutions that may be of support to bargaining agents. Against this background, the ETUC and BusinessEurope developed the joint project "Building on experiences: a win-win approach to transnational industrial relations in multinational companies". They met several times over the last two years. Following a preparatory phase which took place through the first half of 2017, the European social partners met for the first workshop in Helsinki in October 2017. Here, they discussed about drivers and benefits of TCAs. The second workshop was held in Berlin in late January 2018, where the debate focused on negotiations and implementation of the agreements. A final event to discuss the report and draw joint conclusions was held in Brussels in May 2018. Interviews and discussions held throughout the project contributed to inform both the final report – drafted by the two independent experts, Marie-Nöelle Lopez and Stefania Marassi – as well as the political conclusions drawn together by ETUC and BusinessEurope which close the text.

## **Outcomes of the project: the final report**

This final report identifies and outlines the key findings from the interviews conducted between July 2017 and March 2018 with central management and union representatives of eight companies that had concluded transnational company agreements (TCAs), specifically European framework agreements at company level (EFAs) and/or global framework agreements (GFAs).

The steering committee selected eight companies with headquarters in Italy, France and Germany. Moreover, the project focusses on the study of six EFAs and two GFAs.

The sample of companies covers a wide spectrum of situations. One of the companies selected is relatively new to European-level negotiations and three have concluded only one TCA to date. Conversely, four of the companies selected have been very active in the transnational negotiation arena, the first having already concluded seven TCAs (five EFAs and two GFAs), the second company three TCAs (two EFAs and one GFA), the third company two EFAs, and the fourth and final company three EFAs.

Furthermore, the sample includes two EFAs that have undergone a renewal and renegotiation process. The study of these agreements has been useful to gain a better understanding of specific issues related to the renegotiation process: how social partners can identify problems encountered in the implementation process, how to build a joint diagnosis of the situation, and how to work together to find solutions for improving the implementation of agreements at local level.

Finally, the TCAs under study tackle different issues, ranging from youth inclusion, employability, change anticipation, health and safety at work, and fundamen-

tal labour rights. They have all been negotiated with European Trade Union Federations (ETUFs) or Global Union Federations (GUFs).

The interviews were based on a questionnaire that the steering committee had previously prepared. The list of questions covered a wide range of areas: a) the driving factors that prompted the signatory parties to engage in negotiations and conclude this type of agreements, b) the benefits stemming from the conclusion of TCAs for all the relevant parties and therefore their ability to negotiate 'win-win' agreements, and c) the negotiation and implementation processes and the signatory parties' ability to overcome challenges and secure solutions that benefit all the relevant parties when an issue arises.

On the union side, interviews were conducted with 17 representatives of ETUFs/GUFs and trade unions at national level that were involved in the negotiation and/or implementation of the selected TCAs. On the management side, 12 representatives of central management were interviewed.

## 1. WHY NEGOTIATE A TCA? AN EMPLOYER'S PERSPECTIVE

TCAs share a certain uniqueness in so far as they are tailor-made, they seek to respond to significant issues faced by a business group and they can develop a specific social or HR policy able to meet such a challenge. The starting point for businesses is the issue and the challenge they need to address. Only then does the company's management decide whether to conclude a TCA. This is done after assessing the value that such an agreement could generate in comparison with the alternative of the company deploying a unilateral policy.

Even though the drivers and topics addressed are clearly specific to individual companies, the interviews conducted with the company management teams highlighted several common factors that drive companies' decisions to pursue negotiations and conclude a TCA.

What are, therefore, the cross-cutting aspects, and some common reasons that spurred these companies to opt to

conclude a TCA rather than developing a policy on a unilateral basis?

### **A. TCAs allow a company's management to be challenged on their practices and results**

Among the companies included in the study, many management teams stated that their commitments have more impact when they are laid down in a TCA. Indeed, the conclusion of these agreements entails certain follow-up procedures by the signatory parties. It is exactly this level of requirements that is sought by those who commit to the process.

In other words, companies seem to look for and appreciate the obligation that is laid down in many TCAs to report on what they have done to implement the agreement and the progress achieved. The possibility of

being challenged on their practices and results, through a counter-balancing influence within the company, is also something that companies value.

### **B. TCAs allow a company's management to rely on employee representatives' involvement to successfully implement their internal policy**

When negotiating a TCA, management teams expect not only to be challenged by employee representatives but also to get support from these actors in deploying their internal policy. Indeed, for many companies, negotiating a TCA, and consequently involving employee representatives, is a way of going beyond the limits of the managerial policy implementation channels and relying on the channels of worker representation. As a result, in most of the agreements studied - and this is most often the case with EFAs - the signatory parties often revert to either local level negotiation or social dialogue to implement the agreement.

The health and safety agreements (Company A and Company G) are rather representative of this approach, as they seek to foster social dialogue on these issues at local level. In Company G, the TCA allows workers' representatives to request an annual discussion on the H&S matters where a dedicated body does not exist.

Schneider Electric's TCA provides for the implementation of structures for national social dialogue in those countries where none exist at this level. These bodies should then meet on a regular basis to discuss the issues of changing jobs and skills. The TCA concluded by Engie provides for an annual meeting in each division, which is dedicated to presenting to and discussing with employee representatives the division's strategy and the consequences on the jobs and skills thereof. All these provisions allow local level unions to take up the baton for the agreement at local level and they enable employability and skills policies to operate at local level by engaging local managers on its themes.

## **2. DRIVERS FOR NEGOTIATING TCAS**

As mentioned above, TCAs are tailor-made agreements that address priority issues/challenges faced by both employers and workers on a global or European scale. Both parties see the need to set provisions that will serve as a framework to tackle the common challenge(s). The following sections present some examples of drivers that have been identified on the basis of the companies' case studies.

These challenges may be linked to business expansion and transformation (a) or related to other more specific topics such as H&S or the renewal of the workforce (b). Establishing a group's vision and/or image that may also reinforce the company's reputation could be another driver (c) as could strengthening mutual trust and cooperation between the signatories and diffusing a culture of social dialogue across the different business operations (d) or homogenising HR/labour relations practices among the subsidiaries (e).

### **A. To respond to challenges linked to business expansion and transformation**

For some of the companies studied it was their transformation that was the driver to enter into a TCA, whether because the company was in full swing in terms of raising its business to an international level (Enel), it was preparing to adopt a different business model (Engie), or it was anticipating several changes in its business, particularly in relation to technological changes and new markets (Schneider Electric).

When a business change is the driver, the initiative to start the negotiations often stems from workers' representatives. In such cases, the agreement shows that workers and workers' representatives are concerned about the impact of this change (Enel and Engie). Meanwhile, the employees' need for transparency and guarantees echoes some of the concerns of the company's management, as shown in the examples below.



- When the change involves globalisation, trade unions wish to establish a framework whereby social practices can converge to create a kind of level playing field where the rules of the game are the same and disparities are minimised (Enel). This can resonate with the company's own interests to diffuse the company's culture across its operations, especially in terms of managing the business's transformation via social dialogue.
- Within the context of the business's transformation, the trade union's demands for a framework to anticipate and better manage the impact of the transformation on jobs also resonate with the company's own interest in reassuring employees about the business transformation and the group's ability to manage the changes in a socially responsible manner. Engie is an example of the goal of establishing confidence not being as abstract a notion as it may first appear. The agreement sets out very concrete commitments that safeguard employability, with an emphasis on both training and mobility. The objective was that employees were able to find their place in the future organisation. By doing this, the company's management was looking to make sure that staff regarded the business transformation in a more positive manner.
- The prospect of a significant company-related change is also a chance for social partners to relaunch momentum in anticipation of change. The implementation of mechanisms to help identify the company's needs, for example, in terms of employment and skills, is beneficial to both parties (Schneider Electric).

### **B. To work jointly and in a collaborative way towards the achievement of (a) common objective(s) that meet(s) a company's need or challenge**

The readiness of both central management and trade unions to work together towards the achievement of (a) common objective(s) is one of the main driving factors behind the conclusion of most of the TCAs examined. This begs the question as to which goals the signatory parties intend to reach, thereby using a TCA as a vehicle to do so.

As mentioned in section 2, these agreements, and the topics they address, are tailor-made to the needs

and priority issues faced by the company, employee representatives and workers at a given moment in time. The features of the business sector in which the company operates may also play a role in the range of topics that a TCA addresses (e.g. a company will most likely be keen to find new ways to keep know-how in-house by transferring this expertise to a younger generation of workers if it relies on a highly specialised workforce to carry out its main operations).

Accordingly, the signatory parties of some of the TCAs studied made use of these agreements to reach a wide variety of objectives and solve challenges in a joint and collaborative way. These challenges range from a shortage of skilled workforce to the anticipation and identification of the skills required in future roles (see section 3.a) and the need to secure a shift in the management's and workers' mindset with regard to the importance of H&S standards.

By way of example, the company's need to further expand its operations as well as to keep in-house the knowledge and skills acquired by a generation of workers close to retirement prompted the signatory parties of one of the TCAs to seek a coordinated way to attract and integrate young people into the company, via work-based learning schemes, for example (Safran).

Similarly, the improvement of H&S standards in the whole group was also the key factor that led the signatory parties to negotiate three of the TCAs examined (Barilla, Suez and ThyssenKrupp). Given the nature of the business, Company H had a strong interest in tackling and overcoming dangerous situations faced by its employees in their day-to-day jobs. As for Barilla, a "zero accident" objective was explicitly laid down in the agreement and pursued by the signatory parties. In Suez, in view of its sector's high frequency and severity of H&S related accidents, this issue was a real priority for management and employee representatives, and both parties were keen to secure a TCA on this topic.

### **C. To establish a group's vision and/or image that may also reinforce the company's reputation**

Creating a group identity is an important driving factor leading to the conclusion of some of the TCAs examined, particularly from the central management perspective. In this respect, three aspects are worth highlighting:

- a) Firstly, a TCA can be a way of channelling and giving visibility to a group's vision on the topic addressed by the agreement and/or the challenge faced by the company. Thus, a company may use a TCA to establish a group vision on supporting a change in the business (Engie) or it may consider that establishing and maintaining a set of common values and principles (e.g. on the importance of social dialogue and the respect for fundamental labour rights) across the group is a key driver and a pivotal stepping stone when engaging in the process of business expansion (Enel). This must, of course, always be done taking into consideration and respecting national legislation and national and local industrial relations traditions.
- b) Secondly, a TCA can be a vehicle for a company to develop a new, pan-European employer brand and image that henceforth go beyond the headquarter country. This is especially the case when the current company image is heavily rooted in, and connected to, the business's operations in one country (Safran). This driver also echoes what employee representatives consider an important driver to conclude a TCA - the creation of a European social foundation in a company where this feature is not yet present (Safran).
- c) Thirdly, according to trade unions, the conclusion of a TCA can be considered an important tool to boost the company's reputation in a specific area (e.g. H&S), especially where the labour standards at the company's headquarters are already very high (Barilla).

#### **D. To strengthen, deepen and/or formalise social dialogue between management and trade unions at both central and local level**

TCA's can contribute to reinforcing and buttressing the working relation and dialogue between a company's management and trade unions, whether at central or local level. To this end, the conclusion of TCA's can be considered an important vehicle to strengthen mutual trust and cooperation between the relevant parties and diffuse a culture of social dialogue across the different business operations that is based on a collaborative social partnership between management and unions rather than an adversarial relationship.

Within this context, from both a company and trade union perspective, a TCA can assist in "exporting" the successful social dialogue model that exists in the company's headquarters in a specific working area (e.g. H&S) to the other business sites. This is in an effort to undertake a path of common growth in the continuous improvement of H&S standards throughout the group (Barilla).

By the same token, TCA's can contribute to deepening and extending social dialogue to a different, and potentially broader, level. For example, the establishment of an additional level of participatory processes at transnational level (e.g. through the creation of a Global Works Council - GWC) benefits not only workers' representatives (and ultimately workers), but also the company itself. As such, the former are better informed about the company's operations and strategies worldwide, while the company has an important channel at its disposal to communicate on the performance of the group's different entities (Enel).

Furthermore, positive working relation between a company and a trade union sometimes may reach the point where both parties perceive the need to institutionalise the social dialogue practices that are already in place (e.g. exchange of views and information on alleged violations of fundamental labour rights). This formalisation may serve the purpose of making the group's different entities and the outside world aware of the collaborative working relation between the company and the trade union in dealing with labour rights (Metro). At the same time, strengthening social dialogue via the conclusion of TCA's can also constitute a robust foundation for the advancement of labour rights, which is a central driver especially for trade unions. It may also mitigate the risk of campaigns and actions, which, according to trade unions, may be an important reason behind a company's decision to engage in transnational negotiations (Metro).

#### **E. To ensure that social commitments are homogeneous throughout the group**

Section 3.c has underlined that the establishment of a group's vision and/or image can be one of the drivers behind the conclusion of a TCA. In some of the TCA's examined in this study, this driver extends even further, to the point where the parties recognise that these agreements have the potential added value of reaffirming and making homogeneous/harmonising the company's social commitments in all the group's entities within the agree-

ment's scope of application. This is not, and does not need to be, to the detriment of compliance with national legislation and national and local traditions, particularly during the implementation phase of TCAs.

More specifically, the conclusion of TCAs can contribute to harmonising a company's commitments in the areas touched upon by the agreement, for example the training and integration of young people (Safran). In

addition, it can be a vector to ensure that all the group's entities share a common vision on the importance of social dialogue and the positive consequences that may stem from a collaborative working relation between a company and trade unions, among other things (Enel). From an employee representative perspective, a TCA may also ensure that a company's behaviour is similar at all its sites (Barilla).

### 3. SHARED AND MUTUAL BENEFITS

The results of the interviews show that companies and trade unions can have a deep interest in negotiating TCAs, as not only are the benefits stemming from their conclusion and implementation often shared by both parties, but they are also mutually beneficial. Five main areas of benefits can be identified in relation to the TCAs examined in this study. Some of the benefits mirror the driver(s) outlined in section 2, thereby showing that the signatory parties were successful to a large extent in implementing the agreements. It is also important to note that for some of the TCAs examined (e.g. those that have been renegotiated and the most recent one), it is rather premature to assess whether they have already produced a positive outcome. In any event, some (indirect) benefits have been identified by the interviewees.

#### A. Concrete results on how TCAs have tackled common challenges

The results of the interviews highlight that TCAs have enabled the relevant parties to introduce innovative and mutually beneficial mechanisms to respond to the variety of needs and challenges faced by a company (see sections 2a and 2b for examples).

Evidence of this are the positive results stemming from the TCA concluded in Safran, whose implementation led the signatory parties to reach several of the (quantitative) objectives that they had previously set, such as the number of young professionals to be integrated into the company through work-based learning schemes, the development of partnerships with universities and schools, and the identification of best practices in this

area as a tool to eventually improve the implementation of the agreement at local level.

Moreover, the conclusion of the TCA in ThyssenKrupp is one of the tools that led to a shift in the management's and workers' attitude and mindset regarding the importance of the continuous improvement of H&S standards. By way of example, this change in outlook on these topics has prompted the creation of new mechanisms and systems to improve H&S standards within the company. Likewise, H&S is now a topic that is regularly tabled in meetings and discussed by the relevant actors.

Despite its recent conclusion, the TCA concluded by Barilla can be said to have already produced some - if indirect - benefits. The organisation of symbolic H&S events in two countries in which the company operates is evidence of the importance placed on this topic by both signatory parties.

Among the TCAs that Suez has concluded following the original business group's deconsolidation, it is the H&S TCA that has delivered the most. The reason for this is that this TCA addressed a priority issue for both the company and the social partners. Well-developed social dialogue on the H&S working group, which handles the implementation of the TCA, is viewed by both parties as underpinning a virtuous circle. Feedback from the grassroots and from employee representatives on policy initiatives enables management to adapt and improve the overall H&S strategy.

Both management and trade unions emphasised the importance of an employee survey on H&S topics

that was carried out jointly by management and the H&S working group, and a Europe-wide survey was launched. The H&S working group selected a sub-group from its members to work with the management on an employee survey. The survey covered three themes - one chosen by management and two by the employee representatives. The sub-group worked on the questionnaire content and format with the assistance of a consultant. Several specific meetings were organised to analyse the survey results and its conclusions resulted in group H&S policy action points. The results showed, for instance, that headquarters staff possessed little knowledge of the H&S policies being undertaken by the company. Thus, one of the policy action points was for each business unit to particularly focus on apprising these employees of H&S issues and developments.

At Engie, the signatory parties of the TCA observed a change in the parties' mindsets. For the most part, the TCA addresses issues of employability and training. In this respect, trade unions remarked that thanks to this agreement, the attitude of certain local-level managers had shifted towards the perception of training being more an essential investment for maintaining employability than a cost line item.

The TCA has also encouraged the entities involved with business reorganisation, business transfers, and closures to devote more resources to the accompanying measures and to give more time to social dialogue. This was, for example, the case in the UK, where several restructurings took place, including the closure of a site, and for which the agreement made it possible to go beyond the legal requirements concerning the involvement of workers' representatives.

### **B. TCAs have strengthened and/or formalised the relation and social dialogue practices between the signatory parties**

The conclusion of three of the TCAs examined is evidence of this benefit, as both signatory parties acknowledge that their relation and social dialogue practices have been bolstered thanks to the TCA.

In Barilla, the TCA has strengthened the relation between management and the signatory ETUF. As such, it is instrumental to set in place social dialogue mechanisms and, more specifically, a centralised procedure to monitor and improve the H&S standards on all the company's European sites. The signatory ETUF (EFFAT) and the European Works Council (EWC) will play a central role in this process.

By the same token, in Enel, the TCA led to the establishment of a GWC, whose members are appointed by trade unions, and of three multilateral committees. The creation of these social dialogue mechanisms has boosted the communication channel between the company and workers' representatives. The GWC's active involvement in a major reorganisation that took place in the company a couple of years ago confirms the increased attention and importance paid by both the company and trade unions to the establishment of a robust and sound system of industrial relations within the company.

Finally, in Metro, the TCA has formalised the process that regulates the working relation between the signatory parties, especially in terms of monitoring the agreement's implementation. Since the conclusion of the agreement, the signatory parties have regularly met in bilateral meetings throughout the year, and on an annual basis for the meeting held between all the local trade unions/workers' representatives that exist in the company's sites/countries worldwide.

### **C. TCAs have enabled central management and ETUFs/GUFs to gain a better insight into how the company operates in its operations in Europe or worldwide**

In some of the TCAs examined, the establishment or strengthening of social dialogue mechanisms within the company has not only created an important vehicle whereby information is channelled and shared between the company and employee representatives (see previous sub-section), but this process has also contributed to enhancing the level of knowledge of both central management and trade unions on the company's (social) behaviour in the different countries in which it operates. This is an important and mutually beneficial added value for both parties.

Thus, following the conclusion of the TCA and the subsequent creation of the GWC, employee representatives of Enel have gained a better insight into how the company operates worldwide from both a social (e.g. respect of fundamental labour rights) and a business (e.g. strategic decisions that may have social consequences) perspective. Similarly, from the trade union's point of view, central management's participation in the annual meeting attended by local trade unions has enabled Metro to receive and gather detailed information on labour-related issues arising in its operations worldwide. The same goes for the signatory GUF, which has been able to better coordinate actions with local trade unions thanks to the TCA.

**D. TCAs have also contributed to establishing and improving social dialogue at local level thanks to the active role played by the ETUF/GUF together with the company's management in finding solutions to issues arising at this level**

The interview results have highlighted that TCAs are an important vehicle to improve social dialogue at local level not only by enabling a culture of social dialogue in countries where it is less developed but also by creating a framework that helps to raise awareness among local actors on the importance of collaborative relations.

By way of example, in the trade unions' view, the TCA concluded by Metro contributed to establishing trade unionism. Evidence of this is the creation of the first trade union in the commerce sector in one of the countries in which the company operates in the immediate aftermath of the conclusion of the TCA. The same agreement has also assisted central management to reaffirm among local managers that sound social dialogue practices are a pivotal aspect in running a business.

Building on this, some of the TCAs examined have also been instrumental for central management and ETUFs/GUFs to solve disputes at local level and have contributed to the overall enhancement of social dialogue practices among local actors. On this account, the TCAs enabled central management and trade unions to successfully intervene in countries where dialogue

between local actors had come to a halt (Enel) or where the company had allegedly engaged in anti-union behaviour (Metro). Furthermore, in relation to the TCA concluded by Schneider Electric, the intervention of IndustriAll Europe in a dispute arising at local level had a positive outcome by helping the parties to reopen the dialogue process and reach a negotiated solution on the closure of a plant.

**E. The implementation of a TCA has led to the establishment of a company policy**

The results of the interviews show that the implementation of a TCA can be a vehicle to adopt internal policies of a company. An example of this practice is the TCA concluded by Enel which transposed the joint recommendations issued by one of the multilateral committees established via the TCA in an internal policy on diversity and inclusion.

This is a good illustrative example of how a company can capitalise on the work done to implement a TCA to further improve labour and working conditions. At the same time, the introduction of company policies thanks to the implementation of a TCA could be considered a key driver to prompt the relevant parties to engage in negotiations and conclude these agreements. In other words, the conclusion of a TCA could be the leading step to support the establishment of subsequent company policies.

## **4. THE NEGOTIATION PHASE: A CRITICAL BUT ESSENTIAL PHASE FOR THE SUBSEQUENT IMPLEMENTATION OF AN AGREEMENT**

Negotiation is only a preliminary phase of reaching an agreement. How it plays out has a crucial impact on the actors' ability to take ownership of the agreement and put it into practice. This is why negotiating with an ETUF/GUF is part of the group's reflection on its industrial relations strategy. Companies that decide to interact and exchange with ETUFs or GUFs do so with the goal of recognising their role as transnation-

al-level counterparts with which the company seeks to establish a positive relationship and as coordinators for national union organisations (a).

TCAs also need national-level appropriation in order to deliver real results. This means that local management teams need to be involved in one way or another before these agreements are put into operation, i.e. during the

negotiation phases (b), and that local specificities must also be taken into account in this phase (c).

Finally, ongoing collaboration also means that the signatories are prepared 'to get back to the drawing board' and that each renegotiation experience serves to both clarify commitments vis-à-vis challenges that are evolving and improve on how the agreement is put in place (d).

## **A. Negotiating with an ETUF/GUF**

TCA's require both parties to work together to surmount the same challenges and to adopt an approach based on continuous collaboration. This begins at the negotiation phase.

### **i. Negotiating with an ETUF**

Choosing to negotiate an EFA with an ETUF depends on a fundamental principle underlying many industrial relations systems, namely the principle of mutual recognition. In order to be recognised as a party to negotiations, ETUFs highlight their level of representation within a company as well as their ability to involve and coordinate other trade unions active in the company. ETUF-based negotiation procedures rely on national union mandates and national union validation of draft agreements, as well as national union representative involvement. National representative involvement is also a way of boosting the chances of an agreement being implemented effectively.

Another point worth mentioning is that ETUFs are able to show pragmatism in adapting the negotiation process to the concerns expressed by companies or by national representatives. Moreover, ETUFs can play a pivotal part in coordinating the national trade unions involved in the negotiation process and in making sure that the union delegation speaks with one voice when engaging with a company. However, aside from any procedural aspects, it is beneficial to address how other actors, management and employee representatives, perceive the negotiations led by an ETUF.

#### ***A. Trade union organisations that value the democratic nature of the negotiation procedures between companies and ETUFs***

National trade unions view involvement in all stages of negotiations (preparatory, ongoing, and validation of the agreement) as an expression of democracy and a way of becoming an integral part of the process. Indeed, it was the national trade unions' request to participate in the negotiation that spurred the European Metalworkers'

Federation (EMF) to develop a negotiation procedure. This has then served as a basis for the procedures drawn up by other ETUFs.

#### ***B. Employers that see the potential for simplification***

From an employer's perspective, the fact that the ETUFs can provide a turnkey solution has helped convince company management teams as to their efficiency, where they may otherwise be reluctant or unsure of how to proceed in the various negotiation scenarios. Some of the companies studied considered a variety of possibilities in terms of negotiating partners. In the end, they opted to negotiate with IndustriAll Europe, because dealing with an ETUF meant Europe-wide coordination while still involving the company's employee representatives (Safran). In another example (Engie), initial European negotiations took place with union representatives from the countries in which the group had a presence. However, after its first experience negotiating with ETUFs, the company chose to negotiate further agreements with ETUFs. In this sense, negotiating with ETUFs is perceived by some companies interviewed as introducing simplicity into what is, by its very nature, a complex process, especially given the diversity of social dialogue cultures and variety of legal frameworks.

#### ***C. Employers that recognise the expertise of ETUFs when it comes to formulating a compromise***

Companies' managements often applauded how the negotiating partners were able to put forward solutions and come to the table with proposals, which could lead to compromises but also to solutions to problems that also concerned management itself. The reason behind this is that ETUFs have plenty of negotiation practice and experience with other companies and are thus able to adapt previous solutions to new situations, etc.

### **ii. Negotiating with a GUF: establishing a long-term partnership**

Choosing to negotiate a GFA with a GUF also relies on the principle of mutual recognition. Negotiating with a GUF is a way of establishing social partnership with a global actor so that the group can better manage any problem that may arise, particularly in remote countries.

For instance, Metro is engaged in exchanges of views and information on labour-related issues arising at country level and reported by unions. This relationship enables the group's management to become aware at an early stage of any issues, to cross-match the information with that one provided by the managerial channel and then work with the GUF to solve the problem. In this respect, a GUF may become a valuable social part-

ner that is able to coordinate information gathering from local unions and, if necessary, make it accessible to central management.

***A. Management involvement the negotiation phase: both a critical and complex issue***

Involving national representatives is both a union and a management issue. To this end, some companies have even adapted their negotiations practices after deciding that it would be useful to involve local managers in some fashion. As a result, they engage them in the process, rather than just giving them the impression that the head office has made a decision without taking their views on board or thinking about any local consequences.

At Barilla, Safran and Schneider Electric, management teams were informed at the different stages of the negotiations. Early and timely involvement with local managers is indeed perceived as facilitating local level 'ownership' of the agreement when it is to be put in place.

However, at the same time, by negotiating an EFA, company management teams seek to 'impose' a certain group vision on issues or social policies. This led some companies (e.g. Engie and Suez) to assume that, by only marginally including local management teams, central management had more scope to negotiate standards in line with the central vision.

***B. The importance of taking local traditions into consideration***

The second important aspect, and, to an extent, a challenge, that can play a role in the negotiation stage of TCAs is the impact that different local traditions may have in how the specific content of an agreement is defined and decided upon by the negotiating parties. By way of example, different views and opinions among the local actors that are involved in the negotiations from the union side can lengthen the negotiation stage and make it more difficult to reach a compromise. This situation can be the result of a different point of departure among local trade unions on a specific topic due to the features of their legal systems and/or traditions in terms of industrial relations.

For example, in ThyssenKrupp, the main challenge that was encountered in the negotiation process concerned the somewhat diverse opinions within the union delegation on the company's proposal to introduce an idea management system based on a reward for employees who present suggestions for improvements to the H&S situation/risks within the company.

Central management and the ETUF leading the negotiation on the union side worked together in finding a

shared solution to overcome this challenge. To this end, the ETUF tried to involve the national affiliates by asking them to provide their opinions on the different drafts of the agreement and by clarifying that the TCA would be implemented at local level in accordance with national legislations and traditions. At the same time, the company played an important role in this process by making clear that local traditions would not be undermined in the implementation of the TCAs.

***C. Renegotiating an agreement: working together to make improvements***

Continuously working on improving the agreement's implementation is a common challenge for both parties. This also implies that they are able to face the limits of the agreement they have negotiated. Two case studies (Safran and Schneider Electric) deal with renegotiated agreements and show precisely what was involved in the renegotiating process of the agreements.

These studies show that the issue of improving the implementation process was at the heart of each and every renegotiation. This was in an effort to render the agreement more effective. Furthermore, they highlight how the social partners were able to identify the challenges in the implementation process, how they built a joint diagnosis of the situation, and finally how they jointly found solutions for improving the deployment of the agreement.

In Safran, in terms of numbers, the signatories could take pride in their work on developing apprenticeships and integrating young people. However, they were also aware that the social dialogue developed on these themes was less satisfactory.

In Schneider Electric, the first agreement dates back to 2007 and it undoubtedly led to favourable results in terms of the challenging restructuring issues that the company was facing at the time. However, it was less successful in terms of anticipating change.

In both companies, social partners have set aside time to jointly assess the success stories but also to identify shortcomings and weaknesses. This has helped to create the conditions for establishing the new terms of the future agreement and eventually securing a more effective implementation.

## 5. THE IMPLEMENTATION PHASE: A COMMON CHALLENGE BUT A VENUE FOR INNOVATIVE SOLUTIONS

The interviews show that the management teams and trade unions have encountered one common challenge in the implementation phase of the TCAs, namely the difficulty to take ownership of the agreement at local level. However, one cannot overlook the fact that the signatory parties have undertaken several steps and initiatives to find autonomous solutions that could overcome this challenge. In doing so, they have also experimented in looking for different ways to ensure a more effective implementation of the TCAs. Having said that, the following sub-section (a) will examine in detail the common challenge encountered by the parties and the reasons behind it. Sub-section (b) will then outline four examples of how the signatory parties of the examined TCAs have successfully found a solution to overcome the different challenges in the implementation phase. The interviews show that these four practices represent areas of innovation in this field. In this respect, the signatory parties of TCAs could develop them further in the future in order to successfully manage and improve the implementation of TCAs at local level.

### **A. The common challenge: actors can have difficulty taking ownership of the agreements at local level**

The common challenge that the signatory parties have encountered in the implementation phase of some of the TCAs examined relates to the difficulty that local actors can have in taking ownership of the agreement at local level. This concerns both the trade union and the management side. More specifically, once negotiated, some of the TCAs may not be implemented effectively at local level owing to four reasons related to the way the agreement is disseminated at local level (section i), the difference in topics dealt with by the agreement and those that the local actors consider more pressing (section ii), the resources that national trade unions have to monitor the implementation of the agreement (section iii) and different social dialogue practices and local traditions (section iv). The following sub-sections will discuss each of these reasons in detail.

#### **i. Dissemination of the agreement**

The results of the interviews show that in some cases local actors have encountered challenges in 'owning' and 'accepting' the TCA and this has repercussions on the extent to which the agreement is then implemented at local level. The challenge of taking ownership of the agreement at local level is sometimes closely linked to the way the agreement has been disseminated. Little knowledge and/or lack of understanding of the TCAs' content as well as a degree of detachment between the parties may have a significant impact on the implementation process.

By way of example, in Safran, improving knowledge of the agreement at local level was one of the main points in the renegotiation phase of the TCA. In this process, both negotiating parties have identified that the translation of the agreement in all the languages of the countries within the scope of application of the TCA is one of the ways to overcome potentially ineffective implementation, due to the extent to which the agreement is being disseminated.

#### **ii. Topics dealt with by the TCAs and those that are more pressing at local level**

The second reason behind the difficulty in taking 'ownership' of the TCAs at local level is the mismatch between the topics addressed in the agreement and those that seem more pressing to local actors. For example, in ThyssenKrupp, the priority given by both the company and local trade unions to tackle more urgent needs, such as economic difficulties, is one of the reasons behind the lack of implementation of the TCA in some of the countries within its scope of application.

#### **iii. National trade unions' resources**

The results of the interviews highlight that national trade unions may lack the resources required to fully grasp the content of the TCAs and to effectively contribute to monitoring their implementation at local



level, which may therefore be hindered. For example, in Enel, the small extent to which national/local trade unions were involved in monitoring the implementation of the agreement in some of the countries in which the company operates was considered a challenge. The organisation of training sessions with local trade unions was identified as an important solution to overcome this challenge.

#### **iv. Different social dialogue practices and local traditions**

Diverse social dialogue practices, local traditions (in industrial relations) and legal systems existing in the countries in which a multinational enterprise operates may have an impact not only on the negotiation phase of a TCA but also on the degree to which an agreement is implemented at local level. For example, in Thyssen-Krupp, the results of the interviews illustrate that the agreement was effectively implemented in the countries in which an idea management system in H&S is part of the local industrial relations tradition and is already in place in the company irrespective of the TCA. Conversely, more resistance was encountered in countries where this system is not common.

### **B. Four areas for innovation and experimentation in relation to the implementation of TCAs**

The results of the interviews have identified four practices in which the signatory parties are currently engaging and which could be considered important areas for further innovation and experimentation.

#### **i. Management understands that the better an agreement's content is publicised, the better the chances are that local actors fully grasp it**

The dissemination of an agreement at local level is not solely a concern and point of attention of the signatory ETUFs and more generally of trade unions. In this respect, the results of the interviews indicate that central management shares the same opinion, especially considering the relation between the dissemination of the TCA and its effective implementation, as explained in detail in sub-section 6.a.i.

It is in this context that most of the companies interviewed have undertaken different initiatives to promote and enhance the knowledge of the agreement at local

level. For example, in Engie, central management took on the responsibility of translating a presentation leaflet that the trade unions had prepared on the content of the agreement into all company languages. Thanks to this leaflet and a video made by the management, the TCA is well known, which is a good thing, both for management and unions. As a relevant example, management underlines that most of the national employee representation bodies evoke this TCA when they have to address a company reorganisation.

Moreover, as previously mentioned, Safran provided for the translation of the renewed agreement in all the languages in which the company operates. In addition, the most recent agreement examined in this study (Barilla) emphasises that the translation of the text of the TCA is a key aspect for the effective dissemination and implementation of the agreement.

#### **ii. HR Managers can play an active role in promoting the dissemination of the agreement**

The way and in which the HR/IR function and roles are organised within the company group can have a significant impact on the degree of implementation of the agreement at local level. For example, in Safran, the company committed to ensuring that their Europe HR Manager would present and promote the renewed agreement in all countries in which the company operates and explain to the different entities of the group how to take ownership of the agreement. This could be an innovative solution that the signatory parties of future agreements could potentially adopt.

#### **iii. New instruments are developed to improve the implementation of the agreement at local level**

The introduction of new instruments (e.g. quantitative and qualitative indicators, national actions plans) to evaluate the implementation of a TCA at local level is another innovative element that has been introduced by the signatory parties, which seem to concur as to their importance. These instruments are then used to regularly assess the implementation of the agreements in the monitoring committee's meetings or in any other context as decided by the signatory parties.

This development is particularly evident in more recent TCAs and in TCAs that have undergone a renewal process. This is why, for example, considering the challenges encountered in the implementation of the

previous TCA, the signatory parties of Safran have gone a step further and agreed to include a specific qualitative indicator ('mapping local action plans') in the list of indicators. This will assist them in evaluating how well the different European subsidiaries implement the agreement during the monitoring committee's meetings. This new indicator only adds to the quantitative indicators that have been used and will continue to be used in this respect in monitoring the implementation of the renewed agreement.

#### **iv. The role of the EWC/GWC in monitoring the implementation of the agreement**

In some cases, the EWC/GWC can play a significant role in monitoring the implementation of the agreement. For instance, in Barilla, the signatory parties have agreed that the EWC will take up a stronger role in monitoring the improvement of workers' wellbeing in the group. Likewise, in Enel, the GWC has been very active during the reorganisation that took place in the company a couple of years ago.

At Engie and Suez, the EWC also plays a pivotal role in monitoring the implementation of the agreement, in addition to the follow-up procedure provided for in the TCA. The body's resources and prerogatives are fully mobilised to enable the agreement's success. The content of Engie's TCA on reorganisation and jobs development comes within the scope of the EWC's information/consultation rights. Each time the EWC has

to deal with business changes, it also ensures that the group's commitments are applied at local level.

Regarding Suez's TCA, the agreement establishing the EWC is aimed at creating an H&S working group. According to the TCA concluded by this company, this H&S working group is tasked with ensuring that its commitments and principles are upheld, producing an annual review of the H&S policy as it is applied, as well as monitoring the developments and results thereof. However, in reality, the committee carries out this task as part of the regular ongoing social dialogue with management within the group.

In this company, EWC resources are also mobilised to ensure the agreement operates effectively at local level (18 trips per year). The agreement establishing the EWC enables its members to travel to several other countries. One of these trips was to the UK, where work commenced with the UK H&S management team on how the agreement could be transposed to the British business unit. The EWC bureau has also decided that during each trip, it will spend up to a full day on H&S issues so that local representatives are fully up-to-date with the TCA and can discuss how it is implemented.

To conclude, one can argue that an active role of an EWC/GWC coordinated by a ETUF/GUF could ensure effective monitoring of the implementation of an agreement at local level. This is especially true in light of the knowledge an EWC/GWC has of the business.

## 6. LESSONS LEARNT

1. Companies that commit to TCAs do so because they believe that the agreement is by its very nature apt to ensure a broader impact for the commitments the company undertakes.
2. The topics dealt with in TCAs are tailor-made to the needs and challenges faced by a company's management, employee representatives and employees alike.
3. Companies and trade unions often have shared or, in any event, convergent drivers that prompt their involvement in transnational negotiations. This reflects the fact that the benefits that TCAs can produce are not one-sided.
4. Companies that agree to negotiate with ETUFs/GUFs do so based on the principle of mutual recognition.
5. ETUFs have developed negotiation procedures that are viewed positively both by companies and by local employee representatives who have experience thereof. The latter recognise the ability that ETUFs have, both to effectively drive negotiations in a coordinated fashion with national union bodies and to play a significant role when an agreement is being put in place, especially in terms of resolving any problems that may arise during its implementation.
6. The involvement of local actors is essential to ensure the effective implementation of TCAs. ETUFs contribute to this goal by coordinating with national trade union bodies during both the negotiation and implementation phases and especially during the follow-up of the agreement. Furthermore, management has an interest in somehow involving local managers in this process.
7. Both companies and trade unions are aware of the consequences that poor dissemination or a lack of understanding of TCAs among local actors may have in the implementation of agreements. For this reason, they have an open attitude to experimenting with new ways to secure wide deployment of an agreement (e.g. translation in all the languages of the countries in which the company operates).
8. The signatory parties of EFAs rely on national/local collective bargaining and social dialogue when implementing an agreement's commitments at local level. This contributes to the development of social dialogue and collective negotiations locally.
9. Both companies and trade unions are willing to work on the development of tools (e.g. performance indicators) that can help to assess, and ultimately improve, the effective implementation of TCAs at local level.
10. Companies welcome the fact that they become accountable for the progress they are able to make in the implementation of agreements, they are open to challenges from workers' representatives regarding this, and they can rely on employee representation bodies to secure more effective implementation at local level.
11. Alongside ETUFs, EWCs often play a role in the agreement implementation process. At global level, GWCs may play this role.
12. ETUFs/GUFs as well as central management play an active role not only in the negotiation process but also in ensuring that the agreement is implemented at local level. In doing so, as a last resort, they contribute to resolving disputes arising at local level, thereby also fostering and enhancing the development of social dialogue among local actors. The positive contribution that the involvement of ETUFs and GUFs makes in addressing local disputes underlines their value as social partners and may have a bearing on the company's choice of bargaining counterparts.

## JOINT CONCLUSIONS OF ETUC AND BUSINESSEUROPE

For us as European social partners, this project was a valuable contribution to increasing our expertise on Transnational Company Agreements, by sharing views and experiences, together with managers and trade unionists who are personally involved in negotiations and implementation of these agreements. We have decided to sum up our exchanges in these joint conclusions, containing some shared elements that we wish to highlight.

Autonomy of social partners may be exercised in different ways. TCAs are one important tool for social dialogue that trade unions and multinational companies may make use of, taking into account the specific national circumstances. However, when they decide autonomously to engage in such an exercise, discussions held throughout the project have demonstrated a well-established capacity to work together in a cross-border environment. When faced with common challenges, they proved able to find collaborative solutions to overcome difficulties, implement policies and actions of common interest as well as to better plan future business developments. This creates a win-win situation for all actors concerned: companies, trade unions and workers themselves.

The project and report gather experiences and data from eight company examples from different sectors, in which a common thread may be found. For example, they make clear that a number of different factors may lead to the negotiation and conclusion of TCAs. These vary, for instance, from policies regarding anticipation of change or health and safety, to improving professional training. Drivers are identified on a case-by-case basis according to the specific situation in each company and shared by both sides, management and unions. Also, in the cases covered, such factors always go hand in hand with the promotion (or strengthening) of a company culture based on continuous social dialogue, cooperation and trust between management and unions.

Differences in social dialogue and collective bargaining practices across European countries are often regarded as an unsurmountable obstacle for the deployment of transnational industrial relations in Europe. Nevertheless, our experience is that trade unions and companies

are able to overcome such barriers by applying a pragmatic and inclusive approach. The success of a TCA indeed resides in the capacity to involve all concerned stakeholders (on both sides) from the very beginning. This helps identify problems at an early stage, paving the way for better agreements and a smoother enforcement. Moreover, strengthening the ownership of both sides at all levels leads to all concerned parties sharing responsibility for the implementation of the agreement reached. In other words, they make each other "accountable".

While the initiative for TCAs is in most cases taken by the management side, the capacity to coordinate the different levels (European, national, local) benefits from the role played by the European Trade Union Federations (ETUFs) as representatives of national trade unions. Multinational companies participating in the project have expressed appreciation of the work performed by the ETUFs in coordinating and involving all concerned trade unions, both in the negotiation and implementation phases. During negotiations, thanks to their internal procedures and experience, ETUFs proved able to manage the complexity of national contexts and traditions as well as showing the capacity to coordinate unions across Europe (both within and among countries). In the implementation phase, ETUFs contribute to detecting omissions and challenges at local level, via their networks, as well as helping the central management to mediate with local actors, in order to solve conflicts. Thanks to these factors, the parties have built up mutual trust and have further strengthened their willingness to keep cooperating, leading to companies' central managements and ETUFs recognising each other as legitimate interlocutors at European level.

# LIST OF TRANSNATIONAL COMPANY AGREEMENTS

## European Framework Agreements

Barilla European Convention on Health and Safety (2017):

[http://www.effat.org/en/node/14594;](http://www.effat.org/en/node/14594)

Engie European Labour Relations agreement (2016):

<http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=281;>

Safran European Framework Agreement for Professional Integration of Young People (2013, renewed in 2017):

<http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=221;>

Schneider Electric European agreement on the anticipation and development of competencies and employment with respect to its business strategy (2007, renewed in 2017):

<http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=147;>

Suez European agreement on fundamental principles for health and safety at work (2014):

<http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=253;>

Thyssenkrupp Elevator Implementation of an Ideamanagement Health & Safety at ThyssenKrupp Elevator Operating Units Central-Eastern-Northern Europe and Southern Europe-Africa-Middle East (2012):

[http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=204.](http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=204;)

## Global Framework Agreements

Enel Global Framework Agreement (2013):

<http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=232;>

Metro Joint Statement with UNI Global Union (2013):

[http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=236.](http://ec.europa.eu/social/main.jsp?catId=978&langId=en&agreementId=236;)

## LIST OF INTERVIEWS

NAME	SURNAME	COMPANY OR TRADE UNION ORGANISATION
<b>Barilla European Convention on Health and Safety (2017)</b>		
Giorgio	Grandi	Barilla
Mauro	Macchiesi	Flai Cgil (Italy)
Enrico	Somaglia	EFFAT
<b>Engie European Labour Relations agreement (2016)</b>		
Jonathan	Hayward	Unite (UK)
<i>Olivier</i>	<i>Hérout</i>	<i>ENGIE*</i>
Claire	Jourdain	ENGIE
Nicolas	Lefebure	ENGIE
Sylvain	Lefebvre	IndustriAll Europe
Thomas	Leopold	EWC member (Germany)
Robert	Textoris	FNME-CGT (France)
<b>Safran European Framework Agreement for Professional Integration of Young People (2013, renewal in 2017)</b>		
Isabelle	Barthes	IndustriAll Europe
Chloé	Demulder	SAFRAN
Alain	Lorgeoux	SAFRAN
Bart	Samyn	ABVV (Belgium) – interviewed for its experience within IndustriAll Europe
Corinne	Schievene	FGMM-CFDT (France)
<b>Schneider Electric European agreement on the anticipation and development of competencies and employment (2007, renewal in 2017)</b>		
Laure	Collin	Schneider Electric
Thierry	Jacquet	FGMM-CFDT (France)
Sabia	Moussaoui	Schneider Electric
Philippe	Saint-Aubin	FGMM-CFDT (France)
<b>Suez European agreement on fundamental principles for health and safety at work (2014)</b>		
Corinne	Borralho	SUEZ
Franck	Reinhold	FNSCBA-CGT (France)
<b>Thyssenkrupp Elevator Implementation of an Ideamanagement Health and Safety (2012)</b>		
José	Durán Batalla	ThyssenKrupp Elevator
Juan Carlos	Garcia	CCOO (Spain)
Ralf	Goetz	IGMetall (Germany) – interviewed for its experience within IndustriAll Europe
Klaus	Neuberger	ThyssenKrupp Elevator
<b>Enel Global Framework Agreement (2013)</b>		
Cristina	Cofacci	ENEL
Antonio	Losetti	Flai Cisl (Italy)
Luigi	Sedran	Flai Cisl (Italy)
<b>Metro Joint Statement with UNI Global Union (2013)</b>		
Mathias	Bolton	UNI Global Union
Peter	Wiesenecker	Metro

\* When drafting the final report, the experts took into consideration the presentation done by Olivier Hérout during the workshop in Berlin.





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