

Why Do Multinational Companies Sign Transnational Company Agreements?

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ABSTRACT

Transnational company agreements are negotiated between the management of a multinational company and employees' representatives. They are instruments of private governance for regulating labor standards and employment relations within companies worldwide. This analysis asks for the "value added" of transnational company agreements and focuses on the incentives of multinational companies to sign these agreements. Prior research into transnational company agreements has almost exclusively been conducted from trade union or NGO perspective and provides only limited insights into the research question. This paper adds a corporate perspective and identifies eight different incentives. The main finding of the paper shows that counter-intuitively most companies do not sign transnational company agreements for public relation purposes. For many multinational companies these agreements rather provide early-warning systems or act as tools for avoiding trade union campaigns. Moreover, a long tradition of collaborative industrial relations strongly favors the conclusion of transnational company agreements. Further research is needed on the variation of incentives between industry sectors and types of specific agreements.

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LIST OF ABBREVIATIONS

BWI	Building and Wood Workers' International
CSR	Corporate Social Responsibility
EUROFOUND	European Foundation for the Improvement of Living and Working Conditions
EFA	European Framework Agreement
ETUI	European Trade Union Institute for Research
EWC	European workers' council
GRI	Global Reporting Initiative
GUF	Global union federation
ICEM	Federation of Chemical, Energy, Mine and General Workers' Unions
IFA	International Framework Agreement
ILO	International Labor Organization
IMF	International Metalworkers' Federation
IndustriALL	IndustriALL Global Union
IPG	Journal for Internationale Politik und Gesellschaft
ITC-ILO	International Training Center of the International Labor Organization
ITGLWF	International Textile, Garment and Leather Federation
IUF	International Union of Food Workers
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
PSI	Public Services International
TCA	Transnational company agreement
UNI	Union Network International
WWC	World workers' council

1 INTRODUCTION

Transnational company agreements (TCAs) have developed over the last two decades in response to economic globalization and exhibit a growing need of some multinational companies for additional governance structures that regulate their business conduct (Telljohann, da Costa, et al. 2009, p. 5). These agreements are negotiated between the management of a company and employees' representatives. They specify the responsibility of a multinational company to follow particular standards with regard to fundamental social rights, working conditions, restructuring practices, health & safety conditions, training, and environmental protection provisions in more than one country and often even worldwide. Recently such agreements were signed at the companies Renault, Air France/KLM, Siemens, BNP Paribas, Ford, EADS, Thyssen Krupp, and Volkswagen.

TCAs are part of a more general development of law- and rule-making in an increasingly interrelated world. Global challenges often demand global solutions and individual states only have a limited capacity to regulate cross border activities. These governance gaps provide the permissive environment for wrongful acts by individuals, companies and states without adequate sanctioning (Ruggie 2008, p. 189). As a reaction, there has been a rapid growth in the body of international law in recent years (van Saksenlaan 2012, p. 5). In particular, there has been a remarkable growth of new transnational regimes that are self-regulatory based on what is called soft law. A new type of "non-state market-driven governance regimes" (Cashore 2002, p. 504) has emerged simultaneously across a number of policy fields (Hassel 2008, p. 233). This general development is mirrored in the transformation of international labor regulation. TCAs are an example of an emerging new global labor governance regime that involves private bargaining partners and global rule-making through private agreements.

However, why do multinational companies sign TCAs? This is a puzzle as in principle the conclusion of such agreements can mean a loss of competitiveness. Labor standards such as the right to collective bargaining are likely to result in higher labor costs (Davies and Vadlamannati 2013, p. 1). All else equal multinational companies would prefer a situation with weaker labor standards and lower costs. Additionally, many multinational companies have already instituted voluntary codes of conduct relating to their own labor policies. The existing literature on TCAs has almost exclusively been conducted from trade union or NGO perspective and provides only limited insights into the question what are possible incentives for multinational companies to sign TCAs (Müller, Platzer, and Rüb 2008; Fichter, Helfen, and Sydow 2011; Hessler 2012; Stevis and Fichter 2012). TCAs are a relatively young phenomenon of the current internationalization of the law and little research has systematically analyzed and focused on the incentives for signing a TCA from a corporate perspective. This gap in the literature is addressed by this paper.

The contribution of this paper is that it identifies eight incentives that are of relevance for multinational companies to enter into TCAs. The paper discusses the following incentives: (1) to maintain or to develop a good relationship with workers' councils and trade unions, (2) to send a credible signal of compliance with social and environmental standards to con-

sumers and investors, (3) to set a safeguard against negative publicity and introduce a specific type of risk management, (4) to legitimate management decisions and to reduce transaction costs, (5) to achieve a better management of global production networks by standardization, (6) to motivate employees, attract skilled workers and develop workers' loyalty, (7) to "level the playing field" in order to overcome competitive disadvantages resulting from higher standards, and (8) to respond to public regulation and to avoid further regulation. When discussing the eight different incentives it is analyzed whether there are objective factors that favor the conclusion of TCAs.

The remainder of the paper proceeds as follows: The second section gives a narrative account of the evolution of law in response to globalization, especially on the transformation of labor standards; the third section presents the theoretical framework; the fourth section defines and gives an overview of TCAs; the fifth section gives the literature review; the sixth section elaborates on the data used; the seventh section discusses the eight different incentives why multinational companies sign TCAs; and the eighth section concludes.

2 ANALYTICAL BACKGROUND - THE EVOLUTION OF LABOR LAW IN RESPONSE TO GLOBALIZATION: TOWARDS A GLOBAL LABOR GOVERNANCE REGIME

A global economy often demands global standards but individual states only have a limited capacity to regulate cross border activities. Some individual states may not have sufficient resources for a comprehensive enforcement of certain labor and environmental standards or have a preference for low enforcement levels. An empirical investigation by Davies and Vadlamannati (2013) finds evidence for competition between governments to relax labor standards and particularly the enforcement of labor standards to attract business (Davies and Vadlamannati 2013). Olney (2013) comes to very similar results (Olney 2013). Pressure to compete on international markets can give incentives to companies to sacrifice labor standards and governance gaps provide the permissive environment for wrongful acts by individuals and companies without adequate sanctioning. Up to a certain degree, globalization can lead in these instances to a race to the bottom. The former United Nations Secretary-General's Special Representative for Business and Human Rights, John Ruggie, (2008) perceives governance gaps created by globalization "as the root cause of the business and human rights predicament" (Ruggie 2008, p. 189).

Often these developments are perceived as market or government failures and regulatory steps are taken in order to raise labor standards worldwide to a level that is considered to be preferable to most states and citizens. In the last decades the traditional regime of labor regulation based on the compliance by governments has been re-shaped by moving away from International Labor Organization (ILO) conventions towards an emerging global labor governance regime (Hassel 2008, pp. 231). This emerging new set of global labor governance takes place in various arenas involving different actors. In contrast to the traditional regime

of labor regulations it is soft law providing incentives and information and it addresses new responsibilities primarily to firms and not to governments (Bartley 2007, pp. 298).¹ There already is a myriad of different initiatives and mechanisms by which a global regime of labor standards is being created: e.g. the Global Compact of the United Nations, the ILO-Core Labor Standards, the Organization for Economic Co-operation and Development (OECD)-Guidelines, and the ISO-26.000 by the International Organization for Standardization. There are as well private initiatives like codes of conduct, the Global Reporting Initiative (GRI), and the Sullivan Principles or the Caux Principles of Business (Hassel 2008, pp. 240). The emergence of private ordering illustrates that some multinational companies perceive it to be in their interest to have certain labor and environmental standards.

The aspiration of TCAs to address the aforementioned governance gaps is stated expressively in an agreement concluded by the multinational company SUEZ S.A.² and three global trade union federations, the Building and Wood Workers' International (BWI)³, the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM)⁴, and Public Services International (PSI)⁵:

"As specified in the agreement, GDF SUEZ will respect national law and regulations. Unfortunately, in too many countries, national laws and regulations are not adequate or are not fully implemented. GDF SUEZ and the signatory Global Union Federations seek good governance and the rule of law." (GDF SUEZ 2010, p. 7)

Underlying reasons for self-regulatory approaches in the field of labor standards can be that financial investors increasingly make their investment decisions conditional on companies' adherence to social, environmental, and ethical standards (International Organization of Employers 2010, p. 8).⁶ Moreover, some consumers demand credible commitments that production processes are fair and environmental friendly. Companies, as the driving forces of globalization, are charged with building bridges between national communities and the

¹In the last decades, the labor standards debate has long been depicted as a distributional conflict between the North and the South. The shift from a state-based to a private regulatory regime enables further progress on global labor standards by diverting distributional trade-offs which governments in low-standard countries may face (Hassel 2008, p. 232).

²GDF SUEZ S.A. is a French multinational electric utility company, which operates in the fields of electricity generation and distribution, natural gas and renewable energy. As of 2010, GDF SUEZ employed 236,000 people worldwide. The French state held approximately 35.7 per cent of GDF SUEZ.

³Building and Wood Workers' International (BWI) is the global union federation of trade unions in the building, building materials, wood, forestry and allied industries. It represents 350 member organizations in 135 countries with a combined membership of more than 12 million employees.

⁴In 2012, the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) joined IndustriALL Global Union. Before ICEM represented 467 industrial trade unions in 132 countries with a membership of around 20 million employees.

⁵Public Services International (PSI) is a global union federation representing 20 million employees in 152 countries. Members work in social services, health care, municipal services, central government and public utilities such as water and electricity.

⁶The United Nations Principles for Responsible Investment are adopted by 1,200 institutional investors administering 35 Trillion US-Dollar.

global economy (Ruggie 2003, p. 3). TCAs add to the general development presented above and are part of the web of private regulation that is emerging in this area of law right now. The different initiatives and developments highlight the importance of the research topic to business, employees, financial investors, international organizations and states. Furthermore, the wealth of examples indicate that the internationalization of labor standards is a trend that is likely to continue and to be relevant in the future.

3 THEORETICAL FRAMEWORK

Ginsburg and Shaffer (2010) argue that private actors as companies, non-governmental organizations (NGOs), and activist networks play a significant role in producing international law and rules (Ginsburg and Shaffer 2010, pp. 7). While these actors often influence governments to act in their interest, in the case of TCAs they are direct participants in international rule construction. The theoretical framework of this paper draws on self-regulation theory (Sinclair 1997; Coglianesse and Mendelson 2010; Koenig-Archibugi 2010).

Self-regulation is characterized by Sinclair "as relying substantially on the goodwill and cooperation of individual firms for their compliance" (Sinclair 1997, p. 534). It is regarded as more cost-effective, more speedy, and more sensitive to market circumstances than traditional regulation by state authorities. This produces higher levels of voluntary compliance. In a setting of self-regulation it is a problem that even though companies have better information to reduce negative externalities of their actions, they do not necessarily have better incentives to do so. A general criticism of self-regulation is its inability to significantly realign companies' incentives, and interests and a resulting credibility gap (Coglianese and Mendelson 2010, p. 161). Therefore, self-regulation is only successful when parties decide that it is in their best interest not to defect from the self-imposed standards. When it is assumed that compliance is at least somewhat costly, external forces of some kind will be needed to provide an incentive for voluntary compliance. Moreover, compliance can be connected with offsetting benefits. In the absence of traditional regulation by governments, incentives can arise from non-governmental pressures, like actions by competitors, customers, communities, investors or employees (Coglianese and Mendelson 2010, p. 161).

TCAs can help to bridge the aforementioned credibility gap of self-regulation and offer new possibilities for private ordering. In the literature, the participation of global trade union federations as the bargaining partners of multinational companies is perceived as a tool to overcome the shortcomings of business self-regulation. Hence, it seems particularly fruitful to study TCAs in this theoretical framework as they are not only an example of self-regulation but can help to mitigate a major problem of self-regulation. Schömann et al. (2008) argue that TCAs are able to alleviate the criticized shortcomings of codes of conduct (Schömann et al. 2008a).

4 NEW PHENOMENON: TRANSANTIONAL COMPANY AGREEMENTS

In recent years, TCAs have become an increasing practice in international companies. In 2013, e.g. Renault, Air France/KLM, Siemens, BNP Paribas, Ford, EADS, Thyssen Krupp, and Volkswagen entered into a TCA. According to the European Commission, in 2012, approximately 251 international agreements of different kinds had been signed in around 140 multinational companies covering more than 10 million employees worldwide (European Commission 2012, p. 2).

TCAs are negotiated agreements between the management of a company and employees' representatives. Employees' representatives who are signatories of such agreements are global and European trade union federations, world workers' councils, European workers' councils, and national workers' councils. For the employer side these agreements are mostly signed by the company's CEO or head of human resources, sometimes together with managers of the group's subsidiaries (International Trade Center 2010, p. 17). These agreements specify the responsibility of a multinational company to follow particular standards with regard to fundamental social rights, working conditions, social dialogue, restructuring practices, health & safety conditions, training, and environment protection provisions in more than one country and often worldwide (Wilke and Schütze 2008, pp. 7, 8), (Telljohann, da Costa, et al. 2009, p. 6). The European Commission has defined a TCA as:

"an agreement compromising reciprocal commitments the scope of which extends to the territory of several States and which has been concluded by one or more representatives of a company or a group of companies on the one hand, and one or more workers' organizations on the other hand, and which covers working and employment conditions and/or relations between employers and workers or their representatives." (European Commission 2012, p. 2)

TCAs can be divided into International Framework Agreements (IFAs) and European Framework Agreements (EFAs). The two types of agreements differ in their scope, signatories, content, implementation and monitoring.

4.1 INTERNATIONAL FRAMEWORK AGREEMENTS (IFAs)

IFAs are TCAs that are global in their scope, involve global union federations (GUFs)⁷ as signatories and contain the ILO core labor standards⁸ at a minimum (Fichter, Helfen, and Sydow 2011, p. 73). These agreements focus on respecting labor standards, mostly outside Europe

⁷For a complete list of global union federations, see: <http://www.global-unions.org/about-us.html?lang=en>
Global trade union federations as the bargaining partners of multinational companies have in total 2,400 member organizations representing around 92.5 million members from the majority of countries worldwide (Observatoire sur la Responsabilité Sociétale des Entreprises 2007, pp. 59).

⁸The ILO's core labor standards are (1) freedom of association and the effective recognition of the right of collective bargaining, (2) the elimination of forced or compulsory labor, (3) the abolition of child labor, and (4) the elimination of discrimination in respect of employment and occupation.

(Helfen, Fichter, and Sydow 2012, p. 294). It is important to emphasize that the provisions of IFAs are frequently applicable to the supply chain and subcontractors in developing countries. This gives them potentially a big leverage effect. Therefore, with regard to governance gaps in developing countries IFAs are of particular relevance. It is argued in some publications that IFAs are able to overcome governance gaps by self-regulation (Eichhorst, Kendzia, and Vandeweghe 2011, p. 64), (Schömann et al. 2008b). GUFs as the bargaining partners of the multinational companies are supposed to monitor adherence to the IFAs.

In September 2014, in total 108 IFAs were identified by the author.⁹ In the building and wood sector, the global trade union federation BWI has signed 17 agreements; the IUF¹⁰ has signed a total of seven agreements; in the service sector, UNI Global Union¹¹ has signed 38; and IndustriALL Global Union¹² has signed 46 agreements. A complete list of all identified IFAs can be found in the annex of this paper. The figure 3.1 illustrates the growing importance of IFAs in the last years and shows furthermore the spread of IFAs across different industry sectors. The following figure 3.2 shows the geographical origin of companies that signed an IFA.

4.2 EUROPEAN FRAMEWORK AGREEMENTS (EFAS)

The EU Directive on the establishment of European Works Councils (94/45/EG) provides only for information and consultation rights. However, European Works Councils (EWCs) - alone or in cooperation with national, European or global unions - have signed a considerable number of EFAs (Telljohann, da Costa, et al. 2009, pp. 24). The author has identified 57 different companies that have signed at least one EFA. A complete list of the identified EFAs can be found in the annex of this paper. Most of the companies have concluded several EFAs on different subjects over the last ten years. For example the company Solvay signed EFAs on "Restructuring: Subcontracting", "Health and safety", and "Social management in joint ventures". It is likely that more companies have concluded EFAs, since there is no centralized way to collect the data or receive the information when an EFA has been signed.¹³ The following figure shows the number of EFAs according to the headquarters location of the companies.

⁹Sources: Database of the European Commission <http://ec.europa.eu/social/main.jsp?catId=978>, websites of the GUFs, Observatoire sur la Responsabilité Sociétale des Entreprises, and Telljohann, da Costa, et al. 2009, pp. 30.

¹⁰The International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Employees (IUF) is composed of 336 member organizations in 120 countries, representing more than 12 million employees

¹¹UNI Global Union is a global union federation for skills and services. It's 900 affiliated unions in 140 countries have 20 million members.

¹²In 2012 IndustriALL Global Union represented more than 50 million working people of 140 countries working in different sectors. IndustriALL is an unification of three former global union federations: IMF (International Metalworkers' Federation), ICEM (International Federation of Chemical, Energy, Mine and General Workers' Unions), and ITGLWF (International Textile, Garment and Leather Workers' Federation).

¹³The number of EWCs indicates that the real number of EFAs is probably much larger. According to a database by the European Trade Union Institute for Research (ETUI), 1,298 have been established under the European Directive and 1,098 are still active. http://www.ewcdb.eu/statistics_graphs.php

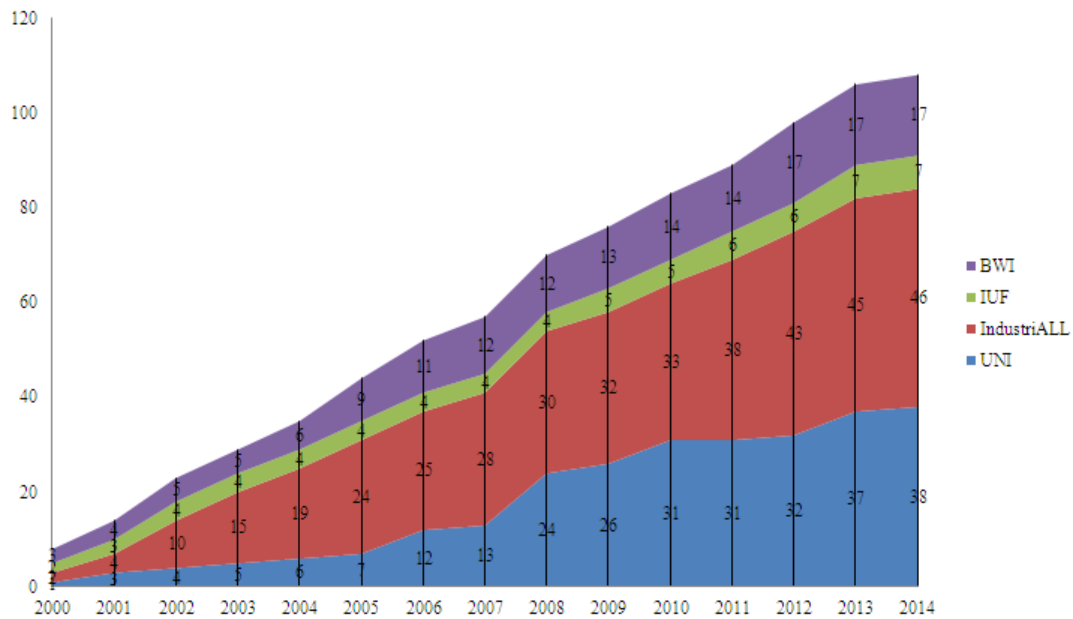


Figure 4.1: Number of IFAs signed by GUFs

A study by Telljohann et al. (2009) finds that most EFAs focus on restructuring and social dialogue (Telljohann, da Costa, et al. 2009, p. 29). Moreover, EFAs typically address issues like: health & safety at work, work life balance, diversity management, data protection, CSR and are more explicit in their provisions than IFAs (European Commission 2014), (Telljohann, da Costa, et al. 2009, pp. 82).

5 LITERATURE REVIEW

There is a growing literature on TCAs. Different international governmental organizations published reports on TCAs. The European Commission published in 2008 a report called "The role of transnational company agreements in the context of increasing international integration" (European Commission 2008), and in 2012 the staff working document "Transnational company agreements: realising the potential of social dialogue" (European Commission 2012). These publications mainly give an overview of TCAs and investigate their potential contribution to the internationalization of industrial relations. With regard to incentives for companies to sign TCAs arising from restructuring measures, a background paper by Wilke and Schütze (2008) for the European Commission offers a wealth of information (Wilke and Schütze 2008). Moreover, EUROFOUND published reports in 2008 (Schömann et al. 2008a) and in 2009 (Telljohann, Costa, et al. 2009). The ILO published reports in 2010 (Stavis 2010) and 2011 (Papadakis 2011) that give information on a large variety of topics connected with TCAs. Most notably for the research question of this paper is a publication by the

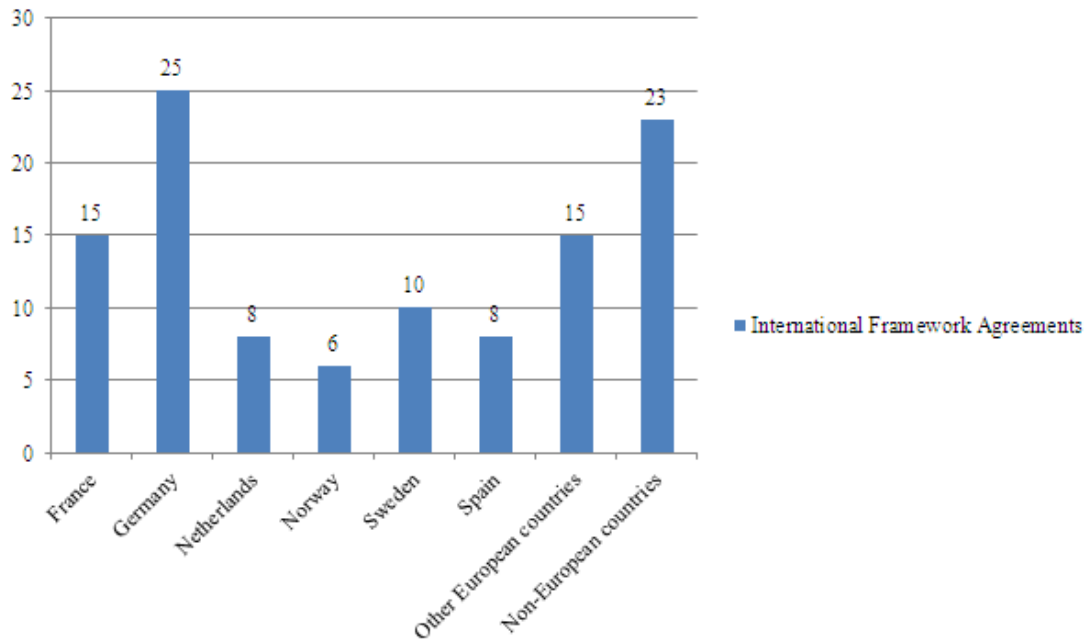


Figure 4.2: Number of IFAs by headquarters location

International Training Center (ITC) of the ILO in 2009. This publication gives a documentation with lessons learned from a series of workshops for management representatives with regard to TCAs (International Trade Center 2010). This publication argues that the incentives for signing a TCA are a deepening social dialogue, the creation of early-warning systems or tools to avoid trade union campaigns, access to public procurement markets, and public relation purposes (International Trade Center 2010, p. 10).

Moreover, there are several publications by non-governmental international organizations. GUFs as the bargaining partners of multinational companies offer a wealth of information on their websites and in the so-called grey literature. More fruitful for the research question of this paper is a publication by the International Association of Employers in 2010 (International Organization of Employers 2010). In this publication, it is argued that companies sign TCAs to achieve a better working relationship with unions, gain advantages with regard to ethical criteria in investment decisions, and as an additional element for their public relations (International Organization of Employers 2010, pp. 8, 9).

Further research into TCAs has almost exclusively been conducted from trade union or NGO perspectives and provide only limited insights into the question what are possible motives for multinational companies to sign TCAs (Müller, Platzer, and Rüb 2008; Fichter, Helfen, and Sydow 2011; Hessler 2012). Many of these publications analyze the conclusion and implementation of TCAs with case studies and do mention different reasons for companies to enter into TCAs but do not elaborate further on them. These publications give valuable anecdotal

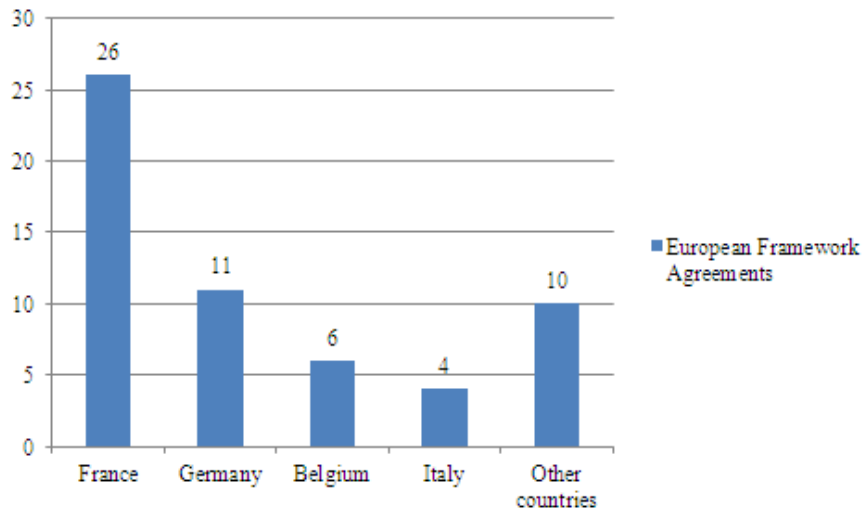


Figure 4.3: Number of EFAs by headquarters location

total evidence for this paper. Fichter et. al. published in 2011 the article - "Regulating Labor Relations in Global Production Networks: Insights on International Framework Agreements" - in the journal *Internationale Politik und Gesellschaft* (IPG). In this article the authors briefly propose that signaling and risk management can be incentives for multinational companies to sign TCAs (Fichter, Helfen, and Sydow 2011).

Only a few academic publications on TCAs are directly related to the research question of this paper. A publication by Egels-Zanden is particularly interesting. The article "TNC Motives for Signing International Framework Agreements: A Continuous Bargaining Model of Stakeholder Pressure" (2009) was published in the *Journal of Business Ethics* (Egels-Zanden 2009, pp. 529-547). Egels-Zanden argues that companies' motives can be linked to a desire to retain a trusting relationship with the labour union movement. The results of this paper are drawn from an explorative study describing the process of a single European multinational company entering into a TCA. Given that the motives why multinational companies sign TCAs are poorly understood the reliance on a single qualitative study is a valid approach. Nevertheless, the results of the study are only of limited generalizability. This paper aims for a higher generalizability by looking at a bigger number of agreements. Additionally, this paper does not consider a single incentive to be strictly determinative in the decisions of companies to sign a TCA.

6 DATA

The most relevant data basis for this research was created by the European Commission.¹⁴ This database lists all TCAs identified and cataloged by the European Commission between the years 1989 and 2014. It contains sheets with details on every company and agreement as well as the full text of most TCAs. This analysis made extensive use of the original wording of these agreements. Moreover, other publicly available data - like information from companies' websites and public statements - were used for the analysis. Additionally, it is relied on anecdotal evidence from case studies in the literature (Telljohann, Costa, et al. 2009; Stevis 2010; International Organization of Employers 2010; Hessler 2012; Fichter, Helfen, and Sydow 2011).

7 ANALYSIS: WHY DO MULTINATIONAL COMPANIES SIGN TCAs?

The number of companies that are signatories to a TCA has been steadily increasing for more than ten years now. However, most multinational companies did not sign a TCA and do not intent to sign such an agreement. An obvious question, then, is what makes multinational companies choose to enter into a TCA? This is a puzzle as in principle the conclusion of such agreements can mean a loss of competitiveness. In this section eight different incentives for multinational companies to sign a TCA are identified and discussed.

7.1 MAINTAIN A GOOD RELATIONSHIP WITH WORKERS' COUNCILS AND TRADE UNIONS

An incentive of multinational companies to enter into a TCA can be to maintain a good relationship with workers' councils and trade unions (International Trade Center 2010, p. 10). The fact that the majority of TCAs was concluded by European companies suggests that the domestic bases is central for explaining the emergence of TCAs. Here, the country of the headquarter is used as a proxy for the quality of prior labor relations. The European focus of TCAs indicates the importance of a long tradition of collaborative industrial relations for entering into a TCA.

This assumption intuitively makes sense. In game theory studies of cooperation over time, one of the critical factors that can determine cooperation is "the shadow of the future". The shadow of the future refers to the possibility that non-cooperation today will produce retaliation in the future. Most of the literature emphasizes the importance of collaborative industrial relations for the emergence of TCAs. Egels-Zanden (2009) developed a "continuous bargaining model of stakeholder pressure" to explain the conclusion of a TCA in a case study (Egels-Zanden 2009). He describes the company's motivation for adopting a TCA as "to retain a trusting corporate-union relationship" (Egels-Zanden 2009, p. 543).

¹⁴<http://ec.europa.eu/social/main.jsp?catId=978&langId=en>

The International Organization of Employers (2010) argues that TCAs can help spreading and developing a culture of dialogue with trade unions throughout the company (International Organization of Employers 2010, p. 11). The objective of TCAs to maintain or create a good working relationship between the management of a company and employees' representatives found its way into several agreements. It is for example expressed in a TCA signed between Telenor ASA and UNI Global Union:

"The Parties to this Agreement are determined to promote good and trusting relations between the employees, their representatives and the companies within the Telenor group through mutual cooperation supporting continued development of sustainable business growth in the Telenor group and sustainable and satisfying working conditions for the employees." (Telenor ASA 2013, p. 1)

A long tradition of social dialogue is one of the objective factors that seems to strongly favor the conclusion of TCAs. Most IFAs and EFAs were signed in Germany and France. Moreover, compared to the size of their economy, Norway and Sweden host a large number of companies with IFAs in place.

However, the number of agreements signed in non-European companies is steadily and overproportionally increasing (see figure 7.1). Furthermore, it has to be emphasized that the number of agreements signed in the service sector by UNI Global Union is as well overproportionally increasing for some years (see figure 3.1). Traditionally companies in the service sector are not faced with strong trade unions or workers' representatives and a long tradition of collaborative industrial relations. Stevis (2010) points out that TCAs are not widespread in Japan in spite of a collaborative industrial system (Stevis 2010, p. 11). More importantly, only few multinational companies in Europe have signed a TCA although many more companies in this region are faced with a strong workers' council or trade unions and have a long tradition of collaborative industrial relations (Schömann et al. 2008b, p. 116). Additionally, while the conclusion of TCAs is on the agenda of GUFs since 1970, multinational companies only started signing these agreements after the year 2000 in considerable numbers (Telljohann, Costa, et al. 2009, pp. 508). This all indicates that the incentive to maintain a good relationship with workers' councils and trade unions is an important explanatory factor but can not be the only driver for companies to sign a TCA.

7.2 CREDIBLE SIGNAL OF COMPLIANCE WITH SOCIAL AND ENVIRONMENTAL STANDARDS

An incentive for a multinational company to sign a TCA can be to credibly signal to the media, consumers and investors that a company complies with certain social and environmental standards. This is an incentive that is often briefly mentioned in the publications on TCAs (Hassel 2008; Coleman 2010; Helfen, Fichter, and Sydow 2012).

For some years a general trend seems to be that the demand for fair and environmental

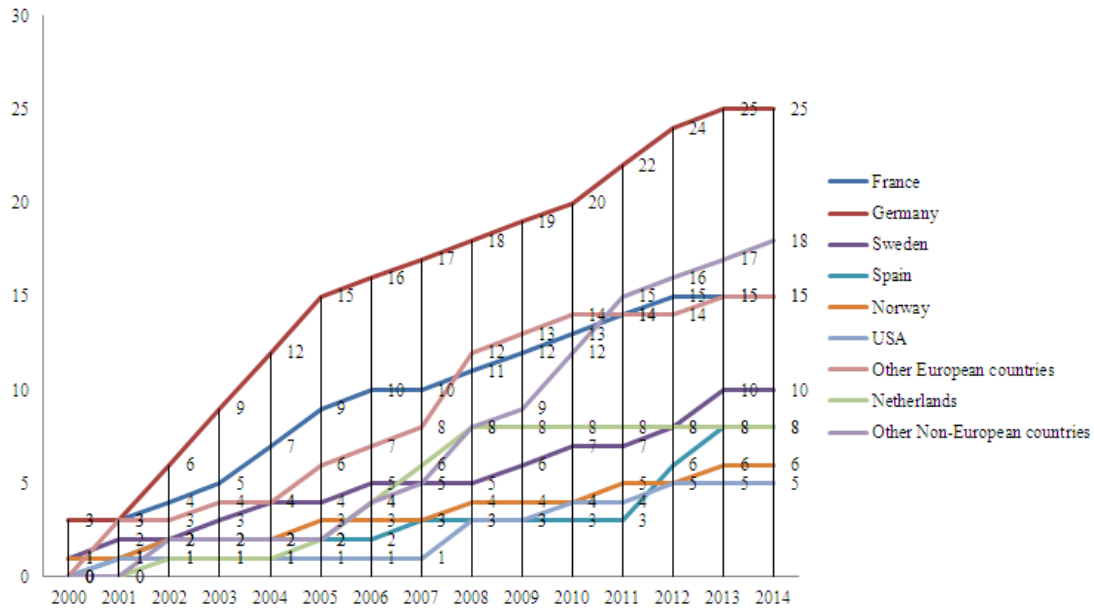


Figure 7.1: Development of IFAs by headquarters location

friendly produced products is growing.¹⁵ But most of the time, consumers and investors cannot verify themselves whether a product was produced in this way. They have to believe the statements of companies. Therefore, the starting point of this analysis is characterized by information asymmetries. When it is assumed that a company has all relevant information whether it complies with certain social and environmental standards and consumers and investors lack this knowledge then this information asymmetry can result in shrinking markets.

The two primary solutions to this problem are screening and signaling (Akerlof 1970, pp. 499). By signaling companies credibly convey information about themselves to other parties. Here, a major factor is credibility. Consumers and investors are asking for tangible proofs for a fair and sustainable behavior of companies. Codes of conduct are a commonly used way of companies to react to these requirements (Hassel 2008, p. 239). Sometimes independent monitoring groups are commissioned to supervise the adherence to codes of conduct in order to increase the credibility of those codes towards other stakeholders.

With the conclusion of TCAs the workers' councils and international trade union federations become directly involved in monitoring compliance with provisions formerly lead down in unilateral codes of conduct (International Trade Center 2010, p. 12). Workers' councils have established networks in the companies and with their direct contact to the companies' workforces they are eminently suitable to detect deviations from labor or environmental stan-

¹⁵According to the "Forum Fairer Handel" the revenue of fair produced products grew from 121 million Euro (2005) to 650 million Euro (2012) in Germany (Edler 2013, p. 2). A publication by Fairtrade International estimates the worldwide revenue of fairtrade products was about 4.8 billion Euro in 2012 (Fairtrade International 2013, p. 12).

dards. They are parts of the companies and have therefore unique insights into the companies that all other NGOs or compliance agencies lack. Global trade union federations have in total 2,400 member organizations representing around 92.5 million members from the majority of countries worldwide (Observatoire sur la Responsabilité Sociétale des Entreprises 2007, pp. 59). This gives them a vast international network. Additionally, greater expertise and economic resources make them less susceptible to localized employer coercion. Hence, the conclusion of TCAs and the following monitoring by workers' councils and global trade unions associations can increase the credibility of companies' promises towards consumers and investors vis-à-vis companies with unilateral codes of conduct (Schömann et al. 2008b, p. 120).

Additionally acquired credibility can be a motivation for multinational companies to sign a TCA instead or in addition to a code of conduct. This motivation for signing a TCA has found its way into the wording of several agreements. In a joint statement of the CEO of Groupama S.A.¹⁶, Thierry Martel, and the European Works Council of Groupama, they state expressively that this TCA should develop a "positive image of the group with regard to its members, clients, suppliers, employees and partners" (Groupama 2013, p. 3). Furthermore, a whole section of this TCA is dedicated to promoting the values of the agreement externally. In an interview, managers of the multinational company LEONI AG¹⁷ confirmed the motivation that an agreement with an international trade union association would provide some more credibility (Observatoire sur la Responsabilité Sociétale des Entreprises 2007, p. 67). The International Organization of Employers (2010) argues in a publication that:

"with an increased focus on "ethical criteria" for investment decisions in financial markets, some companies have noticed that, in concluding an IFA [TCA], this has resulted in advantages in this respect." (International Organization of Employers 2010, p. 8)

However, a basic condition has to be fulfilled to make it possible that TCAs enhance the credibility of firms' promises and in this way their reputations. They must be externally communicated to consumers or investors by the companies. This means that companies actually use TCAs to shape their corporate identity. Most multinational companies use their websites to signal their commitment to social and environmental values and to present their corporate identity. Often a whole section - named "Sustainability" or "Our Commitments" - of a company's website is devoted to this task.

The author analyzed the websites of all companies that concluded IFAs in the last five years and the results are displayed in table 7.2.¹⁸ As an objective measure it was recorded how many mouse clicks are necessary to find a reference to the IFA on the website. Furthermore, a subjective scale from 1 - 4 was used to evaluate how easily the IFA is accessible and how prominently it is positioned on the companies' websites. This was coded on a scale 1 (refer-

¹⁶Groupama S.A. is a French insurance group and employed in 2012 around 38,000 people in 14 countries.

¹⁷LEONI AG is a German manufacturing company and employed in 2010 around 55,160 people.

¹⁸The literature attributes symbolic value explicitly to IFAs and IFAs are more likely to serve an expressive function than EFAs. Therefore, the analysis of websites was limited to companies that signed an IFA in the last five years.

ence to the IFA is easily accessible on the company's website and prominently positioned) to 4 (no reference on the company's website to the TCA and no press release on the conclusion of the IFA) (see the following table 7.1 for more information on the coding of the websites).

Code	Description
1	Reference to the IFA is easily accessible on the company's website and prominently positioned
2	There is a reference to the IFA on the company's website.
3	There is no reference to the IFA on the website or it is very difficult to find, but the company issued a press release on the conclusion of the IFA
4	No reference on the company's website to the IFA and no press release on the conclusion of the IFA

Table 7.1: Rules for coding the websites

Company	Accessibility on company's website	Number of clicks	Year	Country (HQ)	Global Trade Union	Number of Employees
ITAÚ-UNIBANCO S.A	4	-	2014	Brazil	UNI	96,000
GDF SUEZ	3	4	2014	France	IndustriALL	138,200
Loomis AB	4	-	2013	Sweden	UNI	20,000
Codere	4	-	2013	Spain	UNI	14,043
Solvay	1	1	2013	Belgium	IndustriALL	29,400
Melia	4	-	2013	Spain	IUF	34,352
Enel S.p.A.	3	5	2013	Italy	IndusriALL	73,402
Norske Skog	1	3	2013	Norway	IndustriALL	3,274
Telenor ASA	4	-	2013	Norway	UNI	31,000
Metro	2	4	2013	Germany	UNI	269,493
Lafarge	2	3	2013	France	IndustriALL	65,000
Banco do Brasil	4	-	2013	Brazil	UNI	111,547
Svenska Cellulosa AB (SCA)	1	1	2013	Sweden	IndustriALL	43,697
Renault	1	2	2013	France	IndustriALL	128,000
Eurosport	4	-	2012	France	UNI	750
OHL	4	-	2012	Spain	BWI	19,811
Siemens	3	4	2012	Germany	IdustriALL	367,000
SAAB	4	-	2012	Sweden	IndustriALL	13,968
Ferrovial	4	-	2012	Spain	BWI	57,276
Ford	4	-	2012	United States	IndustriALL	166,000
MAN SE	3	-	2012	Germany	IndustriALL	52,500
Volkswagen	3	-	2012	Germany	IndustriALL	549,000
Securitas	2	3	2012	Sweden	UNI	318,800

Industria de Diseño Textil, S.A. (INDITEX)	2	4	2012	Spain	IndustriALL	120,314
Lukoil	3	-	2012	Russia	IndustriALL	150,000
FCC	3	3	2012	Spain	BWI	11,421
CONSTRUCCIÓN						
SODEXO	3	-	2011	France	IUF	428,000
Umicore	3	-	2011	Belgium	IndustriALL	14,438
Danone	2	2	2011	France	IUF	102,401
Mizuno	2	3	2011	Japan	IndustriALL	5,238
Petrobras (Petróleo Brasileiro S.A.)	4	-	2011	Brazil	IndustriALL	80,497
ZF Friedrichshafen	3	2	2011	Germany	IndustriALL	71,488
Mann+Hummel	3	2	2011	Germany	IndustriALL	15,321
Pfleiderer	4	-	2010	Germany	BWI	41,277
PSA Peugeot Citroen	2	2	2010	France	IndustriALL	204,287
Electrolux	3	-	2010	Sweden	IndustriALL	59,461
Orange S.A. (formerly France Télécom S.A.)	3	3	2010	France	UNI	170,000
Kimberley Clark	2	4	2010	United States	UNI	58,000
Norsk Hydro	3	-	2010	Norway	IndustriALL	21,566
Statoil ASA (formerly StatoilHydro ASA)	2	2	2010	Norway	IndustriALL	29,500
Telkom Indonesia	4	-	2010	Indonesia	UNI	25,683
Antara	4	-	2010	Indonesia	UNI	66,434

Media Prima Berhad	4	-	2010	Malaysia	UNI	1,924
Shoprite Checkers	3	-	2010	South Africa	UNI	95,000
Telcel	4	-	2009	Brazil	UNI	25,683
Telcomunicações Wilkhahn	1	3	2009	Germany	BWI	600
Elanders	4	-	2009	Sweden	UNI	8,300
Club Méditerranée	4	-	2009	France	IUF	15,000
Électricité de France (EDF)	3	-	2009	France	IndustriALL	15,467
ENI S.p.A.	2	2	2009	Italy	IndustriALL	82,300

Table 7.2: Accessibility of IFAs on company's websites

A content analysis of the websites of the 50 companies that concluded IFAs in the last five years led to counter-intuitive results. Only the companies Solvay, Renault, Norske Skog, Svenska Cellulosa AB (SCA) and Wilkhahn use the signed IFAs as a prominent feature for the CSR sections on their websites. On the websites of ten other companies, a reference to the signed IFA is easily accessible. 16 companies do not mention the conclusion of a IFA on their websites, but issued a press release when the agreement was concluded. Over a third of the companies do not make a reference to the concluded IFA on their websites nor did they issue a press release on the conclusion of the IFA. To summarize, most of the companies do not use IFAs as a tool to present a corporate identity committed to certain labor standards and to signal to other stakeholders.

There is variation among groups of companies. Companies that signed an agreement with the global union federation IndustriALL Global Union use the IFA more frequently for public relation purposes than other companies. Companies that signed an IFA with UNI Global Union rarely use this agreement for public relation purposes. During the last five years 16 companies signed an agreement with UNI Global Union and eleven of the companies do not make a reference to the concluded IFA on their websites nor did they issue a press release on the conclusion of the IFA.

When companies rarely communicate externally that they have signed a IFA this indicates that IFAs only have limited value to companies for external symbolic gestures to build up a good reputation in the social and environmental field.¹⁹ This implies that the standard theoretical explanations from business ethics literature explaining why companies sign codes of conduct is not be readily applicable to IFAs.

7.3 SAFEGUARD AGAINST NEGATIVE PUBLICITY AND RISK MANAGEMENT

Furthermore, an incentive for multinational companies to sign a TCA can be that companies see those agreements as a safeguard against negative publicity (Helfen, Fichter, and Sydow 2012, p. 304), (International Trade Center 2010, p. 10). The explicit acceptance of obligations raises expectations about behavior that, once made, are reputationally costly for companies to violate. Therefore, most of the literature attributes additional trustworthiness to TCAs in the sense that these agreements have a positive effect on deterrence (Hassel 2008; Helfen, Fichter, and Sydow 2012; Coleman 2010).

With the emergence of TCAs international institutions of social dialogue are created, which provide additional conflict resolution arenas in multinational companies (for an overview

¹⁹However, there are other ways how TCAs can influence the corporate identity of a company and in this way the corporate reputation in the long run. For example, codes of conduct and TCAs can influence the corporate culture. This can translate in a changed corporate identity, a changed perceived corporate image and over time to a better reputation of the company in the social and environmental field. Moreover, there are different ways for a company to communicate their corporate identity. A next step could be an analysis of the annual reports of these companies. Besides, for the communication with important investors and stakeholders, companies may use other communication channels than their websites and their annual reports. Further research is needed on the reputation effects of TCAs.

see table 9.2 in the annex). In the absence of TCAs the only opportunity to create pressure on a company for workers' councils and trade unions is sometimes exposing misconduct to the public. Some companies are particularly vulnerable to consumer campaigns via reputational risks. These multinational companies will refrain to deviate from labor or environmental standards with the prospect of being outlawed in the public arena. This constitutes a big threat to multinational companies and serves as a deterrence mechanism. In such situations, TCAs can help to reduce the risk that a deviation becomes public. In most TCAs the signatories agree to meet at least annually to discuss contentious matters. The TCA concluded by the Siemens AG stipulates that "[...] employee representative bodies should first exhaust the internal and local/national complaint and arbitration facilities[...]" (Siemens AG 2012) before external communication and in a TCA signed by Telenor ASA it reads "[...]any differences [...] [shall] be examined jointly [...] to ensure that necessary discussions can take place before possible external communication [...]" (Telenor ASA 2013). In a publication of the International Organization of Employers one company used the term "alert" to describe the role of their TCA and expressed the hope that it would act as an indicator of major problems (International Organization of Employers 2010, p. 12). A study by Schömann et al. (2008) finds that 79 per cent of the existing TCAs contain provisions on dispute settlement (Schömann et al. 2008a, p. 70). Many of the agreements stipulate that discussions on contested issues have to take place confidentially.

In essence, companies agree to respect certain standards, and, in return, unions agree not to engage in negative publicity campaigns that can damage a company's reputation and profitability. This idea of internal conflict resolution is most explicitly spelled out in a TCA between Sodexo²⁰ and the International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Employees (IUF)²¹:

"IUF agrees that it will not initiate or support any international boycotts, adverse publicity, corporate campaign or other similar adverse activity against "Sodexo", as long as dialog on the questions at stake is pursued under this agreement."
(Sodexo 2011, p. 6)

Private conflict provisions mitigate the threat that companies are exposed in public for wrongful behavior and reduce in this way the costs for companies connected with deviations from labor and environmental standards. For many multinational companies TCAs provide early-warning systems (International Trade Center 2010, p. 10) or act as tools for avoiding trade union campaigns (Helfen, Fichter, and Sydow 2012, p. 305). Therefore, an incentive for multinational companies to sign a TCA can be that companies see those agreements as a safeguard against negative publicity.²²

²⁰Sodexo is a French food services and facilities management multinational company with 380,000 employees and is present in on 34,000 sites in 80 countries.

²¹The IUF is composed of 336 member organizations in 120 countries, representing more than 12 million employees

²²Moreover, this analysis suggests that the effect of TCAs on deterrence is less clear than proposed in the literature. The analysis showed that the effect of TCAs on deterrence seems to be ambiguous. From an ex post perspective - after the detection of a deviation - newly created conflict resolution procedures make it more

7.4 LEGITIMATION OF MANAGEMENT DECISIONS AND THE REDUCTION OF TRANSACTION COSTS

An incentive of multinational companies to sign a TCA can be to gain additional legitimation for a particular measure or to foster transparency. In a globalized world, national trade unions are increasingly unable to deal with the demands of multinational companies' managements (Fichter, Helfen, and Sydow 2011, p. 69). Besides additional legitimation for certain management decisions the reduction of transaction costs can be an incentive for multinational companies to sign TCAs. Many TCAs with a European scope and signed by European works councils are designed to introduce a common policy in a group of companies in different countries.

There are many TCAs specifically on restructuring measures (e.g. Air France/KLM in 2013, Alstom in 2007, RWE in 2007). TCAs that deal with restructuring measures often have a European scope and are initiated by European Works Councils (Wilke and Schütze 2008, p. 3). In Europe, there exists a variety of different national provisions of employee involvements in cases of restructuring. In BNP Paribas' European Social Charter is agreed under the section "Anticipating Change":

"It is the signatories' express wish that, in countries where no specific legislation exists, or where employee representation is not provided for in law, a discussion forum be established for management and employee consultation on matters affecting the workforce. The European Work Council is just such a key forum, enabling representatives from different European countries to understand changes from a strategic and global perspective and to discuss their impacts." (BNP Paribas 2012, p. 5).

Wilke and Schütze (2008) argue in a background paper for the European Commission that there is primarily an added value of TCAs with regard to restructuring, when it comes to transnational or even global restructuring (Wilke and Schütze 2008, p. 13). While mostly EFAs focus on restructuring, some IFAs deal as well with restructuring or address restructuring issues (Wilke and Schütze 2008, p. 13).

The management of a multinational company may have an incentive to pursue international dispute settlement when they anticipate considerable domestic opposition by employees' representatives. Then the incentive to enhance legitimation of management decisions can

likely that a company voluntarily agrees to comply with the contested standards in the future and not to continue its deviating behavior. However, from an ex ante perspective - before a deviation is detected - a TCA can set perverse incentives because the agreement can reduce ex ante the expected total costs for a deviating behavior. A TCA can do this by reducing the probability that a deviating behavior becomes public knowledge. This eases the threat of consumer boycotts, negative media coverage or throwbacks at the financial markets from signatory companies. Which effect prevails is an empirical question. The theoretical contribution of this analysis is that TCAs do not necessarily help to mitigate the problems of business self-regulation but can rather aggravate the connected problems. Nevertheless, although this analysis has substantial limitations, closer attention should be paid to the characteristics of the signatory companies to determine the final effect of TCAs on deterrence.

be especially important in order to mitigate opposition in the different subsidiaries of a company. Here, it can be preferable for a multinational company to have a single international bargaining partner than to go through several rounds of negotiations with national workers' representatives and possible strikes (International Trade Center 2010, p. 10), (International Organization of Employers 2010, p. 12). Having to undertake the bargaining process at each branch abroad can involve struggles against hostile locale trade unions and put the company's image each time at risk. Here, TCAs can provide an overall collaboration framework that can contribute to a better management and harmonization of industrial relations throughout the whole company.

7.5 BETTER MANAGEMENT OF GLOBAL PRODUCTION NETWORKS BY STANDARDIZATION

An incentive for multinational companies to sign a TCA can be to smooth trade relations by common standards in production networks. Common standards can reduce transaction costs and increase the reliability of the supply chain (Nadvi 2004), (Fichter, Helfen, and Sydow 2011, p. 77). Multinational companies at the end of buyer-driven commodity chains may find advantages in making TCAs part of the contractual obligation of suppliers and subcontractors (Hammer 2005, p. 525). This is particularly true for IFAs because they have a wider geographical scope. In the IFA signed by Enel S.p.A. it reads:

"Industrial and labor relations also have a major impact on the quality of services provided by the business." (Enel S.p.A. 2013, p. 5)

Most of the existing IFAs contain provisions defining their application to the company's suppliers and subcontractors (Telljohann, da Costa, et al. 2009, p. 32). With such references in TCAs, the contracting parties create incentives for third parties to follow the agreed standards. The central management of a multinational company has sometimes no direct control over the business conduct of local management in other regions, and over the actions of suppliers and subcontractors, which in turn increases the risk of violations of central values of the company. However, the content of the clauses relating to the application to suppliers and subcontractors varies considerably among the different agreements (Telljohann, da Costa, et al. 2009, p. 32). Telljohann et al. (2009) find that 31 per cent of the IFAs do not mention suppliers and subcontractors at all, 46 per cent take the responsibility to inform their suppliers and encourage them to adhere to the IFA, 14 per cent of the companies will take measures to ensure that suppliers do comply with the IFA, and nine per cent of the IFAs assume responsibility for the whole supply chain (Telljohann, da Costa, et al. 2009, p. 32). The mandatory application of standards in a TCA in the whole supply chain can give raise to criticisms in so far as non-members are highly affected by self-regulatory decisions.

Particularly in the textile sector, a certain number of TCAs include detailed sanctions when suppliers or subcontractors do not obey to the standards set out in TCAs (Wilke and Schütze 2008, p. 10). Moreover, TCAs establish internal conflict resolution mechanisms. This gives multinational companies a low-cost method of ascertaining when low-level managers are

failing to follow the wishes and strategy of upper management. The TCA concluded by Inditex²³ makes an explicit reference to the monitoring role of trade unions in its supply chain:

"Local trade unions have an important role to play in ensuring the implementation of the IFA within the Inditex's supply chain (Industria de Diseño Textil, S.A. (Inditex) 2012, p. 2)"

A more strict approach with regard to the supply chain is also taken in the construction industry. Monitoring is as well more elaborated. Provisions regarding suppliers and subcontractors are more often mandatory than in other TCAs.

7.6 MOTIVATE THE EMPLOYEES, ATTRACT SKILLED WORKERS AND DEVELOP WORKERS' LOYALTY

An incentive of multinational companies to sign a TCA can be to signal to employees and to attract skilled workers (Fichter, Helfen, and Sydow 2011, p. 76). Applicants have to judge the prospective employer, in part, by reputation. Companies with better reputations will presumably - *ceteris paribus* - be able to hire employees on better terms. Moreover, motivated and satisfied employees can be necessary to be able to offer services of high quality (Helfen, Fichter, and Sydow 2012, p. 304). TCAs can be used as an innovative way to deal with human resource issues and to develop workers' loyalty. (Eichhorst, Kendzia, and Vandeweghe 2011, p. 61).

The intention to attract employees is explicitly stated in a "Statement of Workplace Wellness" by Lafarge S.A.²⁴ This agreement reads that "[i]n order to attract, motivate and retain its staff, the Group wishes to treat each employee to a healthy work-life balance [...]" (Lafarge S.A. 2013, p. 4). AREVA, a French public multinational industrial conglomerate writes in its TCA: "AREVA wishes to continue being an employer of choice" (AREVA 2011, p. 3). At least in some countries there impends a shortage of skilled labor. Having a good reputation in the fields of professional training, career development, health and safety in the workplace, and a good work life balance can help to attract future employees. Furthermore, in highly developed countries some skilled employees can have a preference to work for an employer that has a good reputation in the social and environmental field. For some multinational companies TCAs can be a way to position themselves as a responsible employer in order to attract skilled labor. Furthermore, in less developed countries, TCAs can create a two-tier regime of industrial citizenship in which the distinction between the first and the second tier is not defined by the boundary of a state but by the boundary of a firm. In this case it might be as well preferable for some multinational companies to position themselves as responsible employers in order to be able to attract the best employees.

However, the incentive to use TCAs to motivate employees, attract skilled workers or to deal

²³Industria de Diseño Textil, S.A. (Inditex) is a Spanish multinational clothing company with around 120,000 employees

²⁴Lafarge S.A. is a world leader in building materials and employed in 2013 around 64,000 people.

with human resource issues becomes only apparent in EFAs.

7.7 "TO LEVEL THE PLAYING FIELD"

Some multinational companies are particularly vulnerable to public pressure and provisions in TCAs can put an additional burden on them. Those companies have an incentive to rise the standards in the whole sector in order to avoid unfair competition (Helfen, Fichter, and Sydow 2012, p. 304). They have an interest in sharing that burden with other competitors in the sector to make sure that they are not driven out of business (Helfen, Fichter, and Sydow 2012, p. 305). This idea is very explicitly spelled out in a TCA between Sodexo²⁵ and the international trade union federation IUF:

"The parties acknowledge that "Sodexo" operates in a highly competitive environment and is facing, in numerous countries, competition by enterprises that disregard national law and practice with respect to the principles set forth in this Agreement. "IUF" commits to establishing a dialog with other multi-national enterprises in the sectors in which "Sodexo" operates in order to negotiate agreements similar to this one and to create an environment in which all companies in the sector will be able to improve social and working conditions without compromising their competitive position." (Sodexo 2011, p. 1)

The interest of high-standard companies to impose these standards as well on other companies is a valuable stabilization mechanism of a private self-regulatory regime. Hence, the conclusion of other TCAs in this sector are connected with positive externalities for all companies that already apply these standards. Within the group of companies that signed a TCA, companies have an incentive to monitor each others behavior in order to avoid to have a competitive disadvantage (Hassel 2008, p. 232). These interest may lead to a spiral of upward regulation, as companies have incentives to monitor each other and to pressure global trade union federations to look at other companies as well. A crucial limitation of this upward spiral is that companies only have a preference to bring other companies up to their level but no further (Hassel 2008, p. 235).

Besides, companies can have an incentive to position itself vis-à-vis its competitors as the only company that adheres to certain standards. In particular cases this might be a competitive advantage. This advantage is gone when the whole industry sector starts to adhere to certain labor or environmental standards. In this special constellation high-standard companies do not have an incentive to induce other companies to enter into a TCA their selves.²⁶

²⁵Sodexo is a French food services and facilities management multinational company with 380,000 employees and is present in on 34,000 sites in 80 countries.

²⁶This constellation can not only delude the incentive to bring other companies to a higher level of compliance with certain standards but can also lead to a "race-over-the-top".

7.8 THE SHADOW OF STATE POLICIES

Private ordering invariably operates in the shadow of the law. Most of the literature dealing with TCAs does not pay close attention to the so-called shadow of state policies. Stevis (2010) is an exception as he gives in his report for the ILO a few examples how state policies can influence the incentives of companies to sign a TCA (Stevis 2010, p. 12).

First, multinational companies are sometimes (partly) owned by states. There is a large share of ex-public sector companies among those companies that have signed TCAs (International Organization of Employers 2010, p. 8). Those companies have traditionally a strong union presence. An example in Germany is VW, which concluded TCAs in 2002, 2009 and 2012 (European Commission 2014). In a TCA, signed by Petrobras, a semi-public Brazilian multinational energy company, one chapter is explicitly dedicated to "Relations with Society and Government Bodies" (Petrobras 2011, p. 3). In this section it is stipulated that Petrobras respects and contributes to inspections and controls by public authorities (Petrobras 2011, p. 3).

Second, states can give incentives to companies by regulatory frameworks. In France, social responsibility reporting policies may facilitate TCAs (Stevis 2010, p. 12). Stevis (2010) reports that the state of Norway had expressed support for negotiating more TCAs (Stevis 2010, p. 12). Seven Norwegian companies have signed TCAs in the last years. That is respectively to other States a high number given the overall size of the Norwegian economy.

Third, States can influence the incentives for companies to sign TCAs with access rules for public procurement markets (International Trade Center 2010, p. 10). TCAs can help to fulfill governmental procurement stipulations and give access to these markets. To credibly respect fundamental labor rights can for example be an advantage in the constructing industry that continuously discusses public procurement regulation and blacklisting (Hammer 2005, p. 526). A TCA between Ballast Nedam²⁷ and the International Federation of Building and Wood Workers (IFBWW)²⁸ explicitly takes this into consideration:

"The IFBWW and FNV BOUW will attest Ballast Nedam vis-à-vis state and international institutions and major private clients a particularly positive role as setting a good example of responsible corporate management, the yardstick of which is the implementation of this agreement" (Ballast Nedam 2002, p. 2)

While states can facilitate the conclusion of TCAs with specific policies, companies can also have an incentive to conclude TCAs in order to avoid further public regulation. Any industry shares some degree of collective interest in ensuring that each member of the industry acts responsible because the least responsible company potentially determines the regulatory costs imposed on the industry by state regulation and placed on the other companies

²⁷Ballast Nedam is a Dutch-based construction and engineering company with around 4,000 employees and a revenue of approximately 1.4 billion Euro.

²⁸The IFBWW is now part of the Building and Wood Workers' International (BWI). The IFBWW represented around 12 million members in 135 countries.

(Coglianese and Mendelson 2010, p. 160). Here, TCAs or sectoral agreements²⁹ can be a way to avoid governmental interference.

8 RESULTS

To sum up, TCAs come in a dizzying array of forms. Some TCAs have dispute resolution mechanisms while others do not, monitoring provisions vary from significant to almost nonexistent, and some TCAs are highly detailed while others are extremely vague. There is no single incentive that can explain on its own why multinational companies sign TCAs. The conclusion of TCAs seem to require the existence and interplay of a whole range of favorable company-specific factors. Often a mixture of the analyzed incentives will be decisive why companies enter into TCAs.

However, there are some generalizable observations that can be made. A long tradition of collaborative industrial relations strongly favors the conclusion of TCAs. Albeit, for a few years, the number of agreements signed in non-European companies as well as in the service sector is steadily and over-proportionally increasing. This development indicates that the reasons why multinational companies enter into TCAs are becoming even more heterogeneous.

The conjecture that companies sign TCAs for public relation purposes is often briefly mentioned in the literature on TCAs (International Trade Center 2010; International Organization of Employers 2010; Fichter, Helfen, and Sydow 2011). However, the main finding of this paper shows that counter intuitively most companies do not sign TCAs for public relation purposes. Most of the companies do not use IFAs (TCAs) as a tool to present a corporate identity committed to certain labor standards and to signal to other stakeholders on their websites. Moreover, there is variation among groups of companies. Companies that signed an agreement with the global trade union federation IndustriALL Global Union use the IFA more frequently for public relation purposes than other companies. Companies that signed an IFA with UNI Global Union rarely use this agreement for public relation purposes on their websites. This finding implies that standard theoretical explanations from business ethics literature explaining why companies sign codes of conduct is not readily applicable to TCAs.

The wording of many agreements and interviews with management representatives (International Organization of Employers 2010, p. 12) indicates that for many multinational companies TCAs rather provide early-warning systems or act as tools for avoiding trade union campaigns. Conflict resolution can therefore become more private and be solved more silently within multinational companies. This mitigates the threat that companies are exposed in public for wrongful behavior.

Most of the existing IFAs contain provisions defining their application to the company's suppliers and subcontractors (Telljohann, da Costa, et al. 2009, p. 32). This can increase the

²⁹An example is the Bangladesh ACCORD on Fire and Safety Standards, which was concluded between 150 apparel companies from 20 countries and the global trade union federations IndustriALL Global Union and UNI Global Union. <http://bangladeshaccord.org/>

reliability of the supply chain and help to protect the reputation of a multinational company. Particularly in the textile sector, a certain number of TCAs include detailed sanctions when suppliers or subcontractors do not obey to the standards set out in TCAs. A more strict approach with regard to the supply chain is also taken in the construction industry.

Moreover, an incentive of multinational companies to sign a TCA can be to gain additional legitimation for restructuring measures (Wilke and Schütze 2008). TCAs can help reducing the transaction costs of negotiating agreements with multiple parties. Sometimes it can be preferable for a multinational company to have a single international bargaining partner than to go through several rounds of negotiations with national employees' representatives.

Some TCAs explicitly mention the intention to motivate employees and attract skilled workers. Especially in EFAs the incentive to use TCAs as an innovative way to deal with human resource issues becomes apparent. This incentive is not observable with regard to IFAs.

The interest of a high-standard company to impose these standards as well on other companies only becomes apparent in one agreement. However, this incentive can be a valuable stabilization mechanism of a private self-regulatory regime.

Private ordering invariably operates in the shadow of the law. Many multinational companies that concluded TCAs are (partly) owned by states or are ex-public sector companies. Moreover, states can give incentives to companies by regulatory frameworks, for example with access rules for public procurement markets (Stavis 2010). The incentives arising from state policies seem to be particularly strong in the constructing industry that continuously discusses public procurement regulation. Furthermore, companies can also have an incentive to conclude TCAs in order to avoid further public regulation. The influence of state policies deserves a more thorough investigation.

To conclude, after the identification of eight different incentives and a first examination of the relevance of these, there is further research needed on the variation of incentives between industry sectors and types of specific agreements.

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9 ANNEX

Company	Private conflict mechanism
TELENOR ASA	"[...] Both parties commit to working with their national affiliates and managers in order to enable freedom of association to be exercised in a non-confrontational environment, avoiding misunderstanding and minimizing conflict. [...] Any differences [...] will be examined jointly [...] to ensure that necessary discussions can take place before possible external communication [...]"
Renault Group	"[...] Keen to engender a climate of confidence in these circumstances, the signatories will endeavor, as a priority, to find a solution by means of dialog, as opposed to any other action, ensuring at all times the confidentiality of such discussions [...]"
Enel S.p.A.	"[...] Where any deviations from or violations of this agreement are found to exist, the Parties shall move quickly to inform one another. [...] The Parties agree that the balance between transparency and confidentiality is extremely important for the proper management of this agreement [...]"
Industria de Diseño Textil, S.A. (INDITEX)	"[...] agree to keep the information provided by INDITEX as confidential and shall be held liable for the appropriate use thereof by trade unions and affiliated member thereto. [...] Where local trade union would detect any potential breach regarding the enforcement of the IFA in any of Inditex's suppliers or external manufacturers, it shall notify to INDITEX [...]"
SODEXO S.A.	"[...] The parties agree to provide evidence supporting allegations of non-compliance with this agreement, and, upon presentation of such evidence, the parties will attempt to resolve any disagreements or to fashion appropriate means of compliance through good faith and direct dialog [...]"
Orange S.A. (formerly France Télécom S.A.)	"[...] If a signatory to this agreement considers that the agreement is not respected, they must notify the WWC steering committee in writing [...]"
GDF SUEZ S.A.	"[...] If an agreement is not possible, the signatories may seek mediation based on agreement on the selection of the mediator by the parties [...]"

MAN SE	"[...] Extraordinary incidents are dealt with directly and without delay between representatives of the parties and under the management of the MAN SE Executive Board member responsible for employee relations [...]"
SAAB AB	"[...] In incidents of non-compliance, employees are encouraged and expected to report this to relevant internal officers [...]"
Siemens AG	"[...] In the event of grievances, employees and employee representative bodies should first exhaust the internal and local/ national complaint and arbitration facilities [...] in order to prevent external legal disputes. [...]"
...	...

Table 9.1: Examples of private conflict mechanisms in TCAs

Company	Country (HQ)	Date	Employees
Satander	Spain	2014	186,763
Michelin	France	2014	105,700
Pernod Ricard	France	2014	19,000
Air France/ KLM	France	2013	95,000
Safran	France	2013	62,500
GDF Suez	France	2012	321,000
Thyssen Krupp AG	Germany	2012	15,000
Rheinmetall	Germany	2012	21,767
Veolia	France	2012	317,000
Allianz	Germany	2012	144,094
AXA Assistance	France	2012	6,357
Valeo	France	2012	74,800
Groupama	France	2012	32,000
Alstom	France	2012	86,252
BNP Paribas	France	2012	16,000
EADS	Netherlands	2011	144,061
Areva	France	2011	46,513
AXA Group	France	2011	160,000
Lafarge	France	2011	65,000
DB Apparel	France	2010	19,122
Etex	Belgium	2010	17,422
Pinault Printemps Redoute	France	2010	35,000
Recticel	Belgium	2010	8,054
RWE	Germany	2010	70,208
Schneider Electric	France	2010	139,959
Thales	France	2010	65,992
Unicredit	Italy	2009	156,000
Econocom	Belgium	2009	8,300
ArcelorMittal	Luxembourg	2009	232,000
Europcar	France	2008	6,500
BP Europe Region	Germany	2008	80,000
PSA Peugeot	France	2008	204,487
Total	France	2007	97,126
Siemens	Germany	2007	41,000
Starwood Lodging	USA	2007	145,000
Daimler Chrysler	Germany	2007	274,616
Dexia	Belgium	2007	1,885
General Motors Europe	Switzerland (USA)	2007	327,000
If Insurance	Sweden	2006	6,600

Generali	Italy	2006	61,000
Geopost	France	2005	19,000
Unilever	Netherlands/ UK	2004	179,000
Philip Morris	Switzerland (USA)	2005	80,000
Porr	Austria	2004	10,500
Metro	Germany	2004	264,000
Ford Europe	Germany (USA)	2004	283,000
Deutsche Bank	Germany	2004	75,000
ENI	Italy	2003	70,000
Solvay	Belgium	2003	30,000
Vinci	France	2003	142,000
Lhoist	Belgium	2002	7,000
Diageo	United Kingdom	2002	22,000
Marazzi	Italy	2001	4,300
Club Méditerranée	France	2001	20,000
Bouygues	France	2001	122,000
Danone	France	2001	100,000
Nordea	Sweden	2001	8,000
Hartmann	Germany	1999	8,000

Table 9.2: List of EFAs

Company	Country (HQ)	Year	Global Trade Union	Sector	Number of Employees
ITAÚ-UNIBANCO S.A	Brazil	2014	UNI	Banking	96,000
GDF SUEZ	France	2014	IndustriALL	Utility	138,200
Codere	Spain	2013	UNI	Entertainment/ Gaming	14,043
Loomis AB	Sweden	2013	UNI	Services	20,000
Solvay	Belgium	2013	IndustriALL	Chemicals	29,400
Melia	Spain	2013	IUF	Tourism	16,820
Enel S.p.A.	Italy	2013	IndustriALL	Utility	73,402
Banco do Brasil	Brazil	2013	UNI	Banking	111,547
Norske Skog	Norway	2013	IndustriALL	Pulp and paper	4,000
Telenor	Norway	2013	UNI	Telecommunications/ Media	31,000
Metro	Germany	2013	UNI	Retail	244,601
Renault	France	2013	IndustriALL	Manufacturing	128,000
Lafarge	France	2013	IndustriALL	Building materials	64,000
Svenska Cellulosa AB (SCA)	Sweden	2013	IndustriALL	Personal Care	43,697
Eurosport	France	2012	UNI	Telecommunications/ Media	750
OHL	Spain	2012	BWI	Construction	19,811
Siemens	Germany	2012	IndustriALL	Manufacturing	367,000
SAAB	Sweden	2012	IndustriALL	Manufacturing	13,968
Ferrovial	Spain	2012	BWI	Construction	57,276
Ford	USA	2012	IndustriALL	Manufacturing	166,000
MAN SE	Germany	2012	IndustriALL	Manufacturing	52,500
Volkswagen	Germany	2012	IndustriALL	Manufacturing	549,000
Securitas	Sweden	2012	UNI	Service	318,800
Industria de Diseño Textil, S.A. (INDITEX)	Spain	2012	IndustriALL	Manufacturing	120,314
Lukoil	Russia	2012	IndustriALL	Oil and gas	150,000

FCC CONSTRUCCIÓN	Spain	2012	BWI	Construction	11,421
SODEXO	France	2011	IUF	Service	428,000
Norsk Hydro	Norway	2011	IndustriALL	Manufacturing	21,566
Umicore	Belgium	2011	IndustriALL	Manufacturing	14,438
Danone	France	2011	IUF	Manufacturing	102,401
Mizuno	Japan	2011	IndustriALL	Manufacturing	5,238
Petrobras (Petróleo Brasileiro S.A.)	Brazil	2011	IndustriALL	Oil and gas	80,497
ZF Friedrichshafen	Germany	2011	IndustriALL	Manufacturing	71,488
Mann+Hummel	Germany	2011	IndustriALL	Manufacturing	15,321
Pfleiderer	Germany	2010	BWI	Manufacturing	41,277
PSA Peugeot Citroen	France	2010	IndustriALL	Manufacturing	204,287
Electrolux	Sweden	2010	IndustriALL	Manufacturing	59,461
Orange S.A. (formerly France Télécom S.A.)	France	2010	UNI	Telecommunications	170,000
Kimberley Clark	USA	2010	UNI	Manufacturing	58,000
Statoil ASA (formerly StatoilHydro ASA)	Norway	2010	IndustriALL	Oil and gas	29,500
Telkom Indonesia	Indonesia	2010	UNI	Telecommunications/ Media	25,683
Antara	Indonesia	2010	UNI	Telecommunications/ Media	66,434
Media Prima Berhad	Malaysia	2010	UNI	Media/ Television	1,924
Shoprite Checkers	South Africa	2010	UNI	Retail	95,000
Tel Telcomunicações	Brazil	2009	UNI	Telecommunications/ Media	25,683
Wilkhahn	Germany	2009	BWI	Manufacturing	600
Club Méditerranée	France	2009	IUF	Service/ Tourism	15,000
Elanders	Sweden	2009	UNI	Retail	8,300
Électricité de France (EDF)	France	2009	IndustriALL	Electric utility	158,760

ENI S.p.A.	Italy	2009	IndustriALL	Oil and energy	78,000
G4S	Great Britain	2008	UNI	Service	625,000
Takashimaya	Japan	2008	UNI	Retail	7,830
Aker	Norway	2008	IndustriALL	Resource, Manufacturing, Construction	28,000
Ability Tecnologia	Brazil	2008	UNI	Telecommunication	150,000
Icomon	Brazil	2008	UNI	Telecommunication	80,000
Danske Bank	Denmark	2008	UNI	Banking	19,122
Adecco	Switzerland	2008	UNI	Temporary Agency Work	31,000
Manpower	USA	2008	UNI	Temporary Agency Work	30,000
Randstad	Netherlands	2008	UNI	Temporary Agency Work	29,300
USG Pople	Netherlands	2008	UNI	Temporary Agency Work	7,160
Olympia Flexgroup	Germany	2008	UNI	Temporary Agency Work	7,800
Kelly Services	United States	2008	UNI	Temporary Agency Work	8,800
Italcementi	Italy	2008	BWI	Building materials/ Manufacturing	20,760
Vallourec	France	2008	IndustriALL	Manufacturing	24,053
Faber Castell	Germany	2008	BWI	Stationery/ manufacturing	7,000
Rhodia	France	2008	IndustriALL	Cemicals	14,130
ISS A/S	Denmark	2008	UNI	Services	533,544
ArcelorMittal	Luxembourg	2008	IndustriALL	Manufacturing	232,000
Funke Mediengruppe (formerly WAZ)	Germany	2007	FIJ	Telecommunications/ Media	17,000
Quebecor World Inc	Canada	2007	UNI	Manufacturing/ printing	43,000
Brunel	Netherlands	2007	IndustriALL	Service	13,000
Thyssen Krupp AG	Germany	2007	EWC/ World Work Council	Manufacturing	167,961
VolkerWessels	Netherlands	2007	BWI	Construction	13,500

National Australia Group (NAG)	Australia	2006	UNI	Banking	43,399
Staedler	Germany	2006	BWI	Manufacturing	3,000
Euradius	Netherlands	2006	UNI	Manufacturing	-
Nampak	South Africa	2006	UNI	Manufacturing	12,369
Royal BAM	Netherlands	2006	BWI	Construction	27,000
Portugal Telecom	Portugal	2006	UNI	Telecommunications/ Media	32,058
Airbus Group (EADS)	Netherlands	2005	IndustriALL	Aerospace Defense	143,358
BMW	Germany	2005	IndustriALL	Manufacturing	110,351
Falck A/S	Denmark	2005	UNI	Services/ Rescue assistance	29,000
Veidekke	Norway	2005	BWI	Construction	6,300
Schwan Stabilo	Germany	2005	BWI	Stationery/ manufacturing	3,335
Prym	Germany	2004	IndustriALL	Manufacturing	3,800
Röchling	Germany	2004	IndustriALL	Manufacturing	7,500
Bosch	Germany	2004	IndustriALL	Manufacturing	281,381
Impregilo	France	2004	BWI	Construction	28,000
Svenska Kullagerfabriken AB (SKF)	Sweden	2003	IndustriALL	Manufacturing	44,740
Rheinmetall AG	Germany	2003	IndustriALL	Automotive/ Defense	21,767
GEA Group AG	Germany	2003	IndustriALL	Manufacturing	24,498
Evonik (RAG)	Germany	2003	IndustriALL	Cemicals	33,298
Leoni AG	Germany	2002	IndustriALL	Manufaacturing/ engineering	55,160
AngloGold Ashanti (formerly Anglogold)	Angola	2002	IndustriALL	Mining	62,046
Ballast-Nedam N.V.	Netherlands	2002	BWI	Construction	3,700
Daimler AG (formerly Daimler Chrysler)	Germany	2002	IndustriALL	Manufacturing	274,616

Fonterra	New Zealand	2002	IUF	Manufacturing/ retail	17,000
Endesa, S.A.	Spain	2002	IndustriALL	Public Utility	25,580
Chiquita Brands International Inc.	USA	2001	IUF	Agriculture	20,000
Indesit S.p.A. (Merloni Elettrodomestici S.p.A.)	Italy	2001	IndustriALL	Manufacturing	16,331
Telefónica S.A.	Spain	2001	UNI	Telecommunication	272,598
IKEA	Sweden	2001	BWI	Retail	139,000
Skanska AB	Sweden	2001	BWI	Construction	57,105
Hellenic Telecoms AG (OTE)	Greece	2001	UNI	Telecommunications	27,330
Triumph	Switzerland	2001	IndustriALL	Textiles	36,433
Hochtief	Germany	2000	BWI	Construction	70,657
Freudenberg	Germany	2000	IndustriALL	Manufacturing	39,897
Carrefour S.A.	France	2000	UNI	Retail	364,969
Accor S.A.	France	2000	IUF	Hospitality/ tourism	160,000

Table 9.3: List of IFAs