



2010 ITC-ILO TCAs project:
*lessons learned from a series of
workshops with and for management*

Brussels, EC Fifth Meeting of the Expert Group on Transnational
Company Agreements, 3th May 2011



EU funded project



Purpose:

...strengthening management reps' capacity to make better informed decisions when considering, engaging in and implementing TCAs, through the development and exchange of knowledge, tools and practices...

Output:

- 5 workshops
- Publication
- Final event



Confederación Española de Organizaciones Empresariales






5 workshops 5 cities

Berlin	15th April 2010
Brussels	12th May 2010
The Hague	28th May 2010
Paris	25th June 2010
Madrid	16th September 2010



5 workshops 5 cities

- Open platform of dialogue
 - Among peers
 - Same format, same training team
 - Case study approach
 - Input by trade unions & academia
- Profile of participants:
- business executives and professionals from companies (IR, HR, legal, etc)
 - Professionals from employers' organizations



Workshop objectives

- Disseminate and exchange knowledge and practices on TCAs
- Identify and consider issues to take into account during the process (pre, during and post TCAs)
- Reflect on advantages/ downsides



Some statistics...

- **Total number:** 134
- 49.2% from companies, 38% from different national, regional and international EOs
- **Gender:** 48 women, 86 men
- **Companies:** 43
- **Coverage:** 6 million employees
- **Multi-sectoral** (top sectors: metalworking, banking, energy, gas, petrol, chemical, pharma, construction, telecom, auto, postal services, electronics, airlines, etc)
- **Half of participants** from companies were top management

Project publication

- “...set of useful issues and advice...guide employers’ choices and action when considering engaging...”
- “.. as presented by those directly involved...or poised to become so.”
- “...not...a “one-size-fits-all solution””



The image shows the cover of a publication titled "Key issues for management to consider with regard to Transnational Company Agreements (TCAs)". The cover features a blue header with a photograph of a modern office interior. Below the header, there are logos for the European Union, ITC (International Training Centre), and several national business federations: FEB (Federation of Enterprises in Belgium), MEDEF (Association des Entreprises de France), VNONCW, BDA (Die Arbeitgeber), and the Confederación Española de Organizaciones Empresariales. The title of the publication is written in blue text. At the bottom, an orange banner contains the text: "Lessons learned from a series of workshops with and for management representatives".

KEY ISSUES FOR MANAGEMENT TO CONSIDER WITH REGARD TO TRANSNATIONAL COMPANY AGREEMENTS (TCAs)

In collaboration with

BUSINESSEUROPE OJE BDA Confederación Española de Organizaciones Empresariales

FEB Federation of Enterprises in Belgium MEDEF Association des Entreprises de France VNONCW

Key issues for management to consider with regard to Transnational Company Agreements (TCAs)

Lessons learned from a series of workshops with and for management representatives

December 2010



Project publication

- **PART I. TCAS: A USEFUL TOOL FOR EMPLOYERS?**

1. *The need for a strategic analysis*
2. *The pros and cons*
 - 2.1 *Reasons for engaging in TCAs*
 - 2.2 *Reasons against engaging in TCAs*
3. *Trade union strategies*

- **PART II. KEY ISSUES TO CONSIDER WHEN ENGAGING IN A TCA**

1. *Internal coordination*
2. *Drafting and language*
3. *Legitimacy and representativeness of the parties*
4. *Extending the scope of the agreement to subsidiaries, subcontractors and suppliers*
5. *Legal content and considerations*
6. *Reference to the ILO' s international labour standards*
7. *Implementation and monitoring*
8. *Dispute settlement mechanisms*



Main conclusions

TCAs: a useful tool for employers?

- No two experiences are the same, nor can they be. TCAs remain an individual response shaped by the reality of the business itself
- The need for a strategic analysis
- IR and non-IR related pressures



Main conclusions

Pros

- Good vehicles for deepening social dialogue
- “...buying stability and peace...”
- Early warning systems
- Better management of IR relations
- CSR: access to public procurement, social rating agencies



Main conclusions

Cons

- Not useful, not the right option
- Concern over creation of new levels of regulations
- Negative impacts on the legal structures for national collective bargaining
- Potential legal consequences
- Local vs. central
- Renewal



Main conclusions

Trade union strategies

- IR, not CSR
- Home country rights
- Adjustment of bargaining levels
- Union recognition rights
- Recruitment and activity



Main conclusions

Internal coordination

- Coherent internal strategy
- Companies with successful TCAs are those that have taken considerable time and effort over creating something that suits their needs and that of their partners and that followed a rigorous internal and external process of consultation



Main conclusions

Drafting & language

- Model agreements
- Detail versus brevity
- Translation



Main conclusions

Legitimacy and representativeness of the parties

- Issues of capacity
- Separate legal personality
- Unions representation



Main conclusions

Extending the scope of the agreement to subsidiaries, subcontractors and suppliers

- Dominant influence
- Compliance with the TCA mandatory for suppliers



Main conclusions

Legal content and considerations

- Legal status has not been tested
- Legal issue not a key determinant
- Companies should treat these agreements as if they were legal texts



Main conclusions

Reference to the ILO's international labour standards

- ILS addressed to members states not companies
- Companies should be aware of the content of the Conventions and understand what obligations could be incurred by including them in any text



Main conclusions

Implementation and monitoring:

- Good internal communication and endorsement by management of these agreements are factors in successful implementation
- Suppliers are rarely involved in monitoring the TCA itself
- Newer TCAs increasingly share the cost of implementation with their union counterparts.



Main conclusions

Dispute settlement mechanisms

- Still rare
- Not often used by both sides although there are exceptions
- A good conflict-resolution system can minimize disputes
- Content is still evolving
- It is important is to ensure that the system meets the company's needs, helps implementation and does not become simply a grievance mechanism for all issues and all locations
- Companies still prefer to resolve issues at the local level whenever possible.



Overall conclusions

- Corporate labour dynamics are changing
- Still a somewhat marginal phenomenon
- The uncertainties as to the legitimacy and representativeness of the parties, and to the language used, may reflect the intention of the parties - TCAs are not legally binding, nor are they seen as collective bargaining agreements (or a first step towards them)
- Some companies have achieved success with their TCAs, securing market share and avoiding conflict
- Need to make rational decisions throughout the process