

**Industrial and Employment
Relations Department
(DIALOGUE)**

**Dialogue in Brief No. 2
July 2010**



International
Labour
Office
Geneva



**Transnational company
agreements on
enterprise restructuring**

*by K. Papadakis
Research and Policy Development Specialist*

“Collective bargaining is playing a key role in the crisis response at all levels and in many countries across the world. Creative agreements have enabled workers and enterprises to save jobs while at the same time maintaining income and securing enterprise sustainability.” (ILO/G20, 2010, p. 66)

Introduction

The present brief highlights a number of socially responsible restructuring initiatives taking the form of innovative transnational company agreements (TCAs).¹ TCAs are labour-management agreements signed between multinationals on one hand, and on the other hand, European and/or international federations of workers representing national unions by sector of activity and/or the European Works Councils (EWCs) of the multinationals.

The brief focuses on those TCAs dealing with enterprise restructuring, that is to say, the act of reorganizing the legal, ownership, operational, or other structures of an enterprise for the purpose of increasing efficiency and profitability, in times of crisis or in anticipation of industrial change. The TCAs highlighted in this brief aim at protecting the levels and terms and conditions of employment within multinationals, notably through the establishment of social dialogue mechanisms that open space for information, consultations and negotiations between labour and management regarding imminent restructuring plans and their impact on the workforce. Furthermore, the brief depicts a number of key drivers for their successful negotiation and implementation.



© ILO/J. Maillard

Such practices are broadly in line with the principles of the Recovering from the Crisis: A Global Jobs Pact, which was adopted in June 2009 by the International Labour Conference, with the participation of Government, employers' and workers' delegates from all ILO member States (ILO 2009). The Pact emphasizes the importance of limiting or avoiding job losses and supporting enterprises in retaining their workforce, through well-considered schemes, designed and implemented through social dialogue and collective bargaining at all levels.

¹ The responsibility for opinions expressed in this brief rests solely with its author, and their publication does not constitute an endorsement by the ILO. Due to the nature of the current crisis and rapid developments in the area of enterprise restructuring, the case studies and practices highlighted in this brief are far from exhaustive. The Industrial and Employment Relations Department of the ILO, in collaboration with external experts, continues to map developments in this area and will disseminate the findings on a regular basis in subsequent briefs.

What has been the impact of the crisis and enterprise restructuring on global employment?

In the period 2008–2010, the world economy experienced one of the most serious economic downturns in modern times, with a major impact on employment.

The ILO estimates that at the beginning of 2010 global unemployment reached 212 million persons, a rate of 6.6 per cent (ILO, 2010). This corresponds to an increase of almost 34 million over the number of unemployed people before the global crisis in 2007. This trend is reflected in a significant increase in the number of restructuring cases, notably in one of the largest economies of the globe, the European Union (EU), where sizable multinational companies are headquartered or operate.

Overall, restructuring cases in the EU were significantly higher in the period 2008–2010, with a peak around the end of 2008 and early 2009 (Hurley et al. 2009). The manufacturing and construction sectors have been particularly hit, while there has been a decline in the proportion of offshored, outsourced, and relocated jobs and some increase in insourcing. Millions of women and men have lost their jobs, often due to closures of operations and bankruptcies. Large numbers of discouraged workers have temporarily ceased active job search, others involuntarily work part time, and workers unable to find formal jobs, especially in developing countries, resort to informal activities.

Box 1. **Main types of restructuring**

- Transfers of production/service provision from one operation to another within the same company (in the same country or in different countries);
- Transfers of production/service provision from outside the company to inside the company (“insourcing”);
- Transfers of production/service provision from inside the company to outside the company (“outsourcing”);
- Reductions of operations;
- Closures of operations;
- Mergers;
- Takeovers;
- Divestments;
- Bankruptcies.

What are transnational company agreements (TCAs)? Who signs them?

TCAs are signed labour-management agreements aimed at covering multiple operations of the companies.

TCAs have emerged in the last few years in two forms: international framework agreements (IFAs) signed between the management of multinationals and global union federations (GUFS), and European framework agreements (EFAs) signed between multinationals and a European industry federation and/or the European Works Council of the multinational enterprise (Da Costa 2010).

The purpose of TCAs is to stimulate global social dialogue on employment-related issues between the multinational and the representatives of workers, that is, both where the firm is headquartered and in the countries where it operates. Most TCAs aim at promoting compliance with ILO core labour standards, notably in the area of freedom of association and collective bargaining.



© ILO/T. Falise

In addition, many TCAs (especially EFAs) deal with a number of issues of common interest to management and the labour force of multinational companies, including company restructuring, occupational health and safety, human resource management, data protection, subcontracting, equal opportunities and training.

How many and what types of TCAs exist?

By March 2010, 160-plus TCAs (both IFAs and EFAs) had been concluded, covering roughly eight million workers globally. Of these, 52 agreements addressed the issue of transnational restructuring in 23 multinationals, including agreements on related issues such as intra-firm mobility and training. Nine of them were IFAs and 43 EFAs (Da Costa and Rehfeldt, forthcoming). Box 2 depicts three types of TCAs on restructuring.

Box 2.
Transnational company agreements
on restructuring and related issues

Agreements between multinationals and European Works Councils (EWCs). Since the adoption of the EU Directive on EWCs (1994), 1,155 EWCs have been established (ETUI-EWC, s.d.). Many of them dealt with the question of restructuring in two ways:

- EWCs create space for **information** and **consultation** on, among other things, “transfers of production, mergers, cutbacks or closures of undertakings, establishments or important parts thereof, and collective redundancies”.
- A number of EWCs have gone beyond the letter of the Directive in order to **negotiate** specific agreements on restructuring issues with companies. Most of these agreements establish general rules to be applied in the event of restructuring in the European Union area (see the agreements between Dexia, Ford Europe, and Unilever with their respective EWCs, depicted in Table 1).

Agreements between multinationals and European industry federations. These agreements address company restructuring, directly or indirectly, and have exclusively European coverage. Most of these agreements target specific restructuring processes and have been signed especially with the European Metalworkers Federation (five agreements). The latter has obtained a very precise and clear mandate from its affiliates to negotiate and reach agreements with a European-wide coverage (see the ArcelorMittal, Schneider, and Thales agreements, highlighted in Table 1).

Agreements between multinationals and global union federations (GUFs), or international framework agreements (IFAs), which have global coverage (all plants of the company around the world, and sometimes suppliers), sometimes contain a simple reference to the question of restructuring, without providing much detail, let alone dealing with the question of employment security (see the Club Med and Rhodia agreements, highlighted in Table 1).

How do TCAs address restructuring in the context of the crisis?

TCAs on restructuring usually establish social dialogue mechanisms aimed at improving anticipation of change, and staff training and mobility.

Table 1 provides an overview of examples of companies with TCAs on restructuring-related issues. The selected cases do not reflect an assessment of the companies’ or countries’ overall response to the crisis; however they are intended to illustrate noteworthy examples of cross-border level consultations and agreements which support enterprise level measures to protect employment.

Table 1.
Examples of transnational company agreements
on restructuring and key provisions

Company	Industry	Key provisions
ArcelorMittal (Netherlands) – European Metalworkers' Federation (EMF) agreement (2009)	Metal, steel	Protect employment during the ongoing crisis; No permanent plant closures; No compulsory dismissals; Establish dialogue mechanisms to better anticipate future changes; Improve employability of workers through training.
Schneider (France) – EMF agreement (2007)	Energy	Procedures on information in the event of restructuring; Rules on consultations; Principle of timely information, consultation and negotiation; Principle of combined process when it comes to European restructuring plans (local and global dialogue).
Ford Europe (USA) – Ford EWC agreements (2000, 2004, 2006 and 2008)	Automobile	Commitments regarding job protection and investment in the event of restructuring; Active labour-management dialogue.
Club Med (France) – International Union of Food Workers (IUF), European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) agreements (2004/2009)	Tourism	Intra-company labour force mobility (between Turkey and the EU, and between Africa and Europe).
Dexia (Belgium) – Dexia EWC agreement (2007)	Banking	Timely consultations at the Dexia EWC level; Transparency regarding potential buyers of DEXIA's units (e.g. social and job strategies).
Thales (France) – EMF agreement (2009)	Defence	Identify training needs; Anticipate technological change; Improve workers' employability.
Rhodia (France) – International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) agreements (2005, 2009)	Chemical	Fundamental social rights across the global value chain (ILO Conventions and UN Global Compact); Systematic social dialogue; Joint occupational safety and health mechanisms (e.g., joint plant audits).
UNILEVER (USA) – UNILEVER EWC agreement (2008)	Consumer goods	Provision of information on prospective restructuring; The EWC can visit the sites and units; The EWC can express the views of workers regarding management decisions before their implementation.

Source: TCAs; EC 2009b and 2009c; Telljohann et al. (Eurofound) 2009; Da Costa 2010.

What have been the key outcomes of TCAs during the crisis?

During the period under examination, the above TCAs contributed to mitigating the impact of restructuring plans on employment, notably by:

- avoiding compulsory redundancies;
- establishing accompanying measures, such as training or outplacement assistance;
- designing management plans of change with a focus on professional development and social dialogue; and
- establishing transnational intra-firm mobility mechanisms to apply in the event of seasonal or more permanent unemployment.²

Boxes 3 and 4 present in more detail two noteworthy cross-border agreements: the ArcelorMittal-EMF agreements (EFAs) on restructuring (2009), and the Club Med, IUUF, EFFAT agreements (IFAs) on intra-firm transnational mobility (2004 and 2009).

Box 3. **The case of the ArcelorMittal –** **European Metalworkers' Federation (EMF) agreement, 2009**

A giant in the metallurgical industry, ArcelorMittal, headquartered in Luxemburg, was hard hit by the crisis; in Europe the company had to shut down (temporarily) 50 per cent of its production plants and take various measures affecting employment, including technical unemployment, part-time arrangements, etc. The enterprise did not, however, resort to complete closings or compulsory dismissals, even though unions expected that it was an “ideal moment” for the management to complete an earlier restructuring process initiated before the crisis. This was largely so because of (1) the need to maintain a labour force ready to participate in the delivery of orders expected after the crisis; and (2) a pioneer agreement on restructuring which was concluded between the company and the European Metalworkers' Federation (EMF) (see below).

In late October 2009 a management communiqué announced a number of measures affecting the labour force of ArcelorMittal because of the economic crisis. These included (a) a temporary pause to growth plans until market conditions improved; (b) a reduction of net debt; (c) an increase in temporary production cuts to 35 per cent in response to the period of de-stocking; (d) a reduction in Selling, General and Administrative Expenses (SG&A) of USD1 billion; and (e) a voluntary separation programme across the Group. In total the programme involved up to 9,000 employees across the world, or some three per cent of ArcelorMittal's total global work force.

In early November 2009 a groundbreaking agreement on restructuring was signed with the EMF. The agreement, negotiated and signed just three months after wide consultations on both sides, covered only the European operations of the company. The general aim of the agreement was to protect employment, better anticipate future changes, improve the competitiveness of the company and the employability of workers so as to adapt to the new economic context created by the crisis.

In sum, the agreement highlighted the intention of the company to maintain the workforce, machinery, tools, and plants. The company promised to make use of short-time working arrangements,

² Drawing on Papadakis 2010.

provide training to those affected by the crisis, and avoid compulsory dismissals; in the event such dismissals were unavoidable, the company committed to entering a process of social planning for dismissed workers. The company also guaranteed that there would be no complete plant closures but only temporary shutdowns. Finally, a Social Dialogue Group composed of 12 representatives of unions (led by the EMF) and 12 management representatives was established with a view to monitoring the implementation of the agreement and anticipating restructuring and industrial changes in the near future. The Group would meet three to four times per year (the first meeting took place in late January 2010). Furthermore, National Follow-up Committees were set up in all the European plants of the company so as to promote and oversee national-level implementation.

According to management representatives of ArcelorMittal and the Deputy Secretary General of the EMF, by March 2010 the company had respected the most important guarantees of employment: there have been no permanent plant closures and no compulsory dismissals. The company is progressively reopening its plants in Europe and abroad. The company recently informed the EMF that it has already recovered 75 per cent and 80 per cent of its production capacity in the EU and globally, respectively. The EMF and the company will soon be discussing – in the Social Dialogue Group – the details of the reopening of the sites that had been temporarily shut down, particularly regarding the terms and conditions of employment of workers.

Box 4.

The case of the Club Med, International Union of Food Workers (IUF), European Federation of Food, Agriculture and Tourism Trade Unions (EFFAT) agreements (2004 and 2009)

The well-known French tour operator Club Med may figure prominently among examples of socially responsible practices in terms of transnational agreements in times of crisis, not because of an open pledge to protect employment in times of crisis, but because it establishes measures and structures aimed at the transnational mobility of workers. In times of economic downturn, such mobility agreements have proved to be beneficial, especially to workers outside the EU who are interested in migrating to industrialized countries. The original Club Med IFA on “fundamental rights” signed in 2004 between the tour operator on one hand, and the IUF and EFFAT on the other, aimed to promote: (a) the ILO fundamental Conventions, notably in the area of freedom of association and collective bargaining; and (b) intra-firm mobility of its labour force between Turkey and the EU.

In July 2009 a new agreement was signed which extended the scope of geographical application to all workers from Africa (notably Tunisia, Morocco and Senegal). The rationale behind this agreement is that giving qualified workers of summer holiday locations the possibility to work in the winter resorts of Club Med represents a win-win situation for both the company (faced with the need to employ qualified workers for its “alpine villages” which traditionally lack qualified personnel) and the employees (faced with the problem of seasonal closures of the resorts during the winter period). The current crisis, which has led to shorter tourist seasons especially in summer resorts, proved that this agreement was timely.

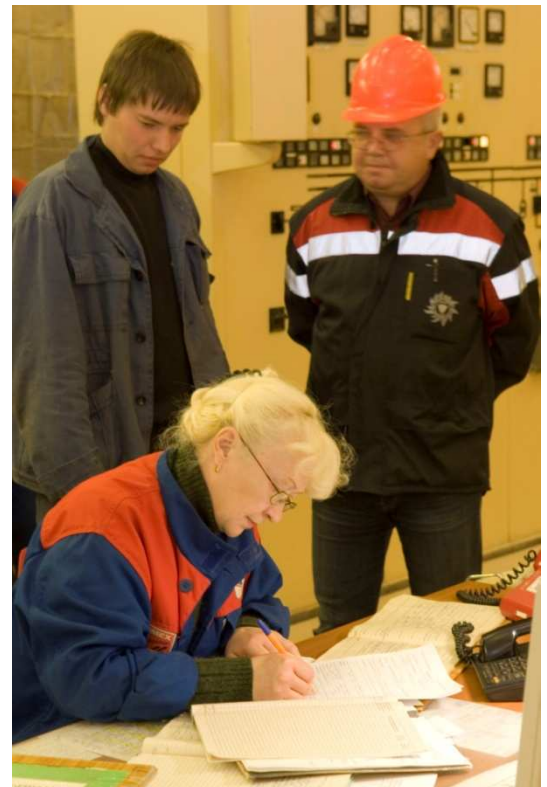
While the agreement does not explicitly spell out the right of workers to employment protection, during the crisis the mobility policy has in fact mitigated the impact of the extended seasonal closures and consequent unemployment. The scarcity of qualified personnel in some alpine Club Med resorts (which seem to have suffered less serious losses during the crisis) has triggered discussions aimed at extending the 2009 EU-Africa mobility agreement also to non-EU Member States, starting with Switzerland. Furthermore, the agreement has served as a tool for cross-border coordinated bargaining (for instance, in the case of the Club Med Kos resort in Greece which faces extended seasonal unemployment due to the crisis). It should be noted that the July 2009 agreement was officially communicated to the ILO and the European Commission (DG Employment and Social Affairs) by the HR Director of Club Med on 17 February 2010.

What could be the “hidden” agenda of TCAs from a labour and management perspective?

TCAs constitute one possible way of addressing concerns that the crisis will lead (a) to more location shopping as multinationals search for lower cost locations, putting downward pressure on wages and labour standards in a classic “race to the bottom”, and (b) to social unrest due to massive layoffs.

From a union perspective, by providing a framework for dialogue during restructuring in the context of deepening economic integration, TCAs may not only safeguard employment through joint monitoring measures, but also contribute to cross-border coordination of collective bargaining strategies and union action which in turn may contribute to further avoiding a downward spiral of wages and conditions of employment.

From a management perspective, positive outcomes of TCAs may include: increased levels of trust between labour and management; easier acceptance of change and a better understanding of the challenges ahead; and the strengthening of a common corporate identity across the global operations. Furthermore, management expects that by protecting the labour force of the company during the crisis, the company will be in a better position to respond to market opportunities in the post-crisis period, thus ensuring the long-term viability of the enterprise.



© ILO/M. Crozet

What seems to be key to the successful negotiation and implementation of TCAs?

Research and policy debates on TCAs carried out at the ILO, the European Commission, the European Trade Union Institute and the European Foundation for the Improvement of Living and Working Conditions (Eurofound) have highlighted a number of trends which seem to be associated with successful negotiation and implementation of TCAs.³

³ Drawing on Schmitt 2008; Papadakis 2008; EC 2009a, 2009b and 2009c; Telljohann et al. (Eurofound) 2009; Da Costa and Rehfeldt (forthcoming).

Three factors seem to have facilitated the signing of innovative cross-border restructuring agreements:

- forward-looking human resources (HR) strategies which see TCAs as tools for managing risk during the process of business expansion and internationalization of the company's activities, and give a central role to transnational processes for labour-management relations (such as European Works Councils or World Employee Committees);
- trade union coordination resulting in specific mandates given to global and European industry unions (or alternatively, the European Works Councils of companies) to negotiate and sign an agreement at the cross-border level directly on behalf of workers of the enterprise and their affiliated unions in countries where the multinational operates; and
- joint commitment to ensure stability and minimize the risk of conflict during the crisis ("have dialogue before strikes erupt"), especially in major operating sites located in countries with a tradition of mobilization (e.g., Germany, France, Luxemburg and Belgium).



Four key drivers for the successful implementation of TCAs can be identified:

- communication before, during and after the agreement so as to ensure workers' buy-in or "ownership" of the agreement;
- effective, joint monitoring and follow-up procedures (ideally linking the headquarters/global and local operations levels);
- a forward-looking strategy of the company which is often summed up in a management belief in the capacity of its existing labour force to continue to be employable after the crisis; a commitment to insourcing (rather than outsourcing) and investment in job saving measures (e.g., training, paid leave); and
- availability of income support measures from public funds available in locations where the companies operate.

Conclusion: Can TCAs ensure socially responsible restructuring in multinationals?

TCAs may constitute one venue for achieving socially responsible restructuring in the global operations of multinationals. However, the effectiveness of any socially responsible restructuring process during the crisis, at any level, depends largely on the existence of tripartism and mature systems of industrial relations in the countries where the multinationals operate.

The presence of tripartite social dialogue and mature systems of industrial relations appears to be an essential precondition for schemes which enable enterprises to adjust effectively to crisis situations and be sustainable (Miller 2008; Rychly 2009; Ghellab 2009; Ulrich et al. 2009). Such systems:

- allow for the functioning of independent trade union representatives;
- provide incentives for embarking on an agreed programme of joint manager/worker training aimed at developing a better understanding and promotion of dialogue; and
- create space for negotiating a set of management systems dealing with industrial relations that enhances mutual understanding and provide the means to avoid future problems.



© ILO/M. Crozet

References

- Da Costa, I. 2010. "Restructuring in Europe and social dialogue in times of crisis", document presented at the workshop on "Social dialogue and restructuring in Europe: Consequences and results", 4-5 May 2010, Europe et Société, Paris.
- ; Rehfeldt, U. Forthcoming. "International framework agreements and company restructuring: Evidence from the European automobile sector", in K. Papadakis (ed.): *Practices and outcomes of an emerging global industrial relations framework* (Geneva, ILO).
- European Commission (EC). 2009a. "Transnational company agreements in times of economic and social change", Issues Paper presented at the first meeting of the Expert Group on Transnational Company Agreements, 5 May, Brussels.
- . 2009b. "Draft minutes of the first meeting of the Expert Group on Transnational Company Agreements", presented at the Second Meeting on Transnational Company Agreements, 27 Nov., Brussels.
- . 2009c. "Latest examples of trans-national texts", Working document presented at the second meeting of the Experts Group on Transnational Company Agreements, 27 Nov., Brussels.
- European Trade Union Institute-European Works Councils (ETUI-EWC), s.d. European Works Councils online database, available at: <http://www.ewcdb.org/ewc.php>, accessed 11 Mar. 2010.
- Ghellab, Y. 2009. "Recovering from the crisis through social dialogue", Dialogue in Brief No. 1 (Geneva, ILO, DIALOGUE).
- Hurley, J. et al. (Eurofound). 2009. "ERM Report 2009: Restructuring in recession", in *Eurofound*, Nov. Available at: <http://www.eurofound.europa.eu/publications/htmlfiles/ef0973.htm>, accessed 5 Mar. 2010.
- International Labour Organisation (ILO). 2010. *Global Employment Trends January 2010* (Geneva, ILO). Available at: http://www.ilo.org/empelm/what/pubs/lang--en/docName--WCMS_120471/index.htm, accessed 8 July 2010.
- International Labour Office (ILO). 2009. *Recovering from the crisis: A global jobs pact*, June. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_108456.pdf, accessed 5 Mar. 2010.
- ILO/G20. 2010. "Employment and social protection policies from crisis to recovery and beyond: A review of experience", ILO report to the G20 Labour and Employment Ministers Meeting, Washington, DC, 20–21 April 2010. Available at http://www.ilo.org/public/libdoc/jobcrisis/download/g20_report_employment_and_social_protection_policies.pdf, accessed 1 June 2010.
- Miller, D. 2008. "The ITGLWF's policy on cross-border dialogue in the textiles, clothing and footwear sector: Emerging strategies in a sector ruled by codes of conduct and resistant companies", in K. Papadakis (ed.): *Cross-border social dialogue and agreements: An emerging global industrial relations framework?* (Geneva, ILO, International Institute for Labour Studies).

- Papadakis, K. 2010. "Restructuring enterprises through social dialogue and labour-management agreements: Social responsibility practices in times of crisis", Briefing Note (Geneva ILO), Mar. Available at: http://www.ilo.org/public/libdoc/jobcrisis/download/restructuring_enterprises.pdf, accessed 5 Aug. 2010
- . 2008. "Social dialogue in times of restructuring: What role for European and international framework agreements?", International Industrial Relations Association (IIRA) Bulletin No. 77, Dec. Available at: <http://www.ilo.org/public/english/iira/bulletin/index.htm>, accessed 2 Feb. 2009.
- Rychly, L. 2009. "Social dialogue in times of crisis: Finding better solutions", DIALOGUE Working Paper No. 1 (Geneva, ILO).
- Schmitt, M. 2008. "Restructuring and anticipation dimension of existing transnational agreements: Analysis and overview table", report done for the European Commission, EMPL/F/3 (Directorate-General for Employment, Social Affairs and Equal Opportunities, Adaptation to Change and Working Conditions Unit), May.
- Telljohann, V. et al. (Eurofound). 2009. *European and international framework agreements: Practical experiences and strategic approaches* (Luxembourg, Office for Official Publications of the European Union). Available at: www.eurofound.europa.eu/publications/htmlfiles/ef08102.htm, accessed 12 Mar. 2010.
- Ulrich, S; Rogovsky, N.; Lamotte, D. 2009. "Promoting responsible and sustainable enterprise-level practices at times of crisis" (Geneva, ILO, Sustainable Enterprise Programme).