

CONFEDERATION
SYNDICAT
EUROPEAEN
TRADE UNION



ETUC Project

Building an enabling environment for TCAs

The ETUC Position / 1

«More & Better EFAs»

«EFAs can (...) ***promote upwards harmonization of working conditions*** throughout the operations of the same transnational company in different countries so that higher standards prevail everywhere (...). They can ***support and enhance social dialogue*** (...) ***especially in countries where it is still weak***»

Position on the EC consultation on TCAs adopted at the Executive Committee on 17-18 October 2012

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The ETUC Position / 2

«Towards an OLF for TCAs»

«The **absence of a reference framework** of rules represents a **significant obstacle to the potential impact of TCAs** expected by social partners who negotiate them, as well as to the negotiations themselves.

The ETUC, together with the ETUFs, advocates for the establishment of an **Optional Legal Framework for TCAs»**

Resolution on the proposal of an OLF for TCAs adopted at the Executive Committee on 11-12 March 2014

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MAIN FEATURES of an OLF for TCAs

An Optional Legal Framework for TCAs should be composed of different elements. Among them the most important ones are:

- 1. *Opt-in clause*:** signatories should explicitly affirm their will to benefit of the legal framework
- 2. *Signatory parties*:** on the trade union side, only the ETUFs should be entitled to sign transnational agreements with multinational companies
- 3. *Scope of application*** should always be clarified
- 4. *Non-regression clause*:** TCAs cannot impose pejorative changes of labour standards and working conditions agreed upon at national level, be it sector or company
- 5. *Internal dispute settlement*:** each TCA should specify the signatory parties' common responsibility in its implementation. It should also indicate the internal complaint mechanisms.

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The PROMOTIONAL ROLE of the ETUC project

It wants to create the *pre-conditions* for supporting and further developing the phenomenon of TCAs. In particular, it aims at:

CAPACITY BUILDING

Establishing a channel of dialogue among the ETUFs in order to share the best practices established in recent years for negotiating and managing TCAs as well as promoting convergence

CONSENSUS BUILDING

Identifying the key obstacles which hampers or prevents the bargaining agents from entering into negotiations and promoting the proposal of an OLF for TCAs

BUILDING AN ENABLING ENVIRONMENT

The legal research wants to analyse critical uncertainties and propose solutions for their removal

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BUILDING AN ENABLING ENVIRONMENT / 1

The absence of a clear legal status hampers the enforcement of TCAs

The OLF proposed by the ETUC could provide the TCAs with the necessary legal recognition both at European and national level but the experts' team has shown that however ***the mandate is crucial for the enforcement of the agreements.***

For such reason the ETUC is cooperating with the ETUFs for promoting a greater convergence, that means setting up

***A MORE COHERENT SET OF RULES COVERING ALL THE SECTORS
for collecting the mandate, negotiating and managing TCAs
which can make the latter
more binding and enforceable***

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BUILDING AN ENABLING ENVIRONMENT / 1

The leading role of the ETUFs

The leading role in the negotiations of TCAs has to stay in the hands of the European Federations in order to respect the ***autonomy of social partners*** granted in the Treaties as well as the ***right to collective bargaining*** which is a prerogative of trade unions

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The EWCs involvement

The **partnership** between ETUFs and EWCs plays a **key role** in TCAs, indeed the latter “are able to **detect the opportunity** for a TCA, (...) **pave the way** for the negotiations and help in ensuring the **transparency and dissemination** of information concerning the agreements to the workers involved”

Anyway, it is up to the ETUFs to **autonomously** decide how to involve EWCs. Some existing practices:

IndustriAll

“EWCs should be involved from the beginning (...). The delegation will be composed of (...) and unionised members of the EWCs, duly mandated”



EPSU

“The negotiating team may include EWC representatives”

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BUILDING AN ENABLING ENVIRONMENT / 2

The articulation between TCAs & national CAs

The ETUC wants to support the development of TCAs but ***without undermining the collective bargaining at national level,***

SO

**NON REGRESSION
CLAUSE**

The OLF should provide with a non-regression clause (NRC) which prevent any conflict with national agreements and makes sure the TCAs cannot impose pejorative changes to the labour standards granted by the agreements at national level

**HETERONOMOUS
IMPLEMENTATION**

The TCA has to be implemented in each Member State according to the national laws, collectively agreed rules and practices governing that specific collective bargaining system

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BUILDING AN ENABLING ENVIRONMENT / 3

Which could be the ***added values*** for the further promotion of TCAs through the OLF?

ADR

An extra-judicial dispute resolution mechanism at European level – preferably mediation – is a desirable last resort tool for both trade unions and employers' organisations in case of failure of the internal procedure provided for by the TCAs

SUPPLY CHAIN

A better enforcement of TCAs in the supply chain is desirable for both TUs (spreading higher working standards) and MNEs (strengthening the control over lower managers, subsidiaries, sub-contractors and suppliers as well as avoiding reputational risks)

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*THANKS FOR YOUR
ATTENTION!!!*

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