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INTRODUCTION

International labor groups seek innovative ways to change corporate behavior toward social responsibility. One method used to achieve this objective is negotiated international framework agreements (IFAs), also referred to as global framework agreements, between organizations represented by labor unions and multi-national corporations. To date, nearly eighty of these agreements have been executed, roughly thirty of them in the past five years.[1] This article elaborates on my previous research regarding why framework agreements are negotiated and the elements that must be incorporated for them to be successful.[2] It also reviews two negotiated agreements and subsequent challenges that resulted from union

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[1] *See generally Framework Agreements*, GLOBAL COUNCIL OF UNIONS (last visited Mar. 13, 2013) http://www.global-unions.org/framework-agreements (providing a list of international framework agreements organized by global union federation and by company). International agreements can take other forms, such as the Joint Memorandum of Understanding on Fire and Building Safety for clothing suppliers in Bangladesh; http://www.workersrights.org/linkeddocs/Bangladesh%20Fire%20and%20Building%20Safety%20MOU-%20Nov%202012.pdf.

[2] *See* Part I (explaining how IFAs have proven to be more effective than codes of conduct) *and* Part II (arguing that IFAs require certain elements in order to be successful); *see also* Owen E. Herrnstadt, *Voluntary Corporate Codes of Conduct: What is Missing?*, 16 LAB. LAW. 349 (2001) [hereinafter *Voluntary Codes*]; Owen E. Herrnstadt, *Are International Framework Agreements A Path To Corporate Social Responsibility ?*, 10 U. Pa. J. Bus. & Emp. L. 187 (2007) [hereinafter referred to as *Path*].

organizing efforts.[3]

I. WHY INTERNATIONAL FRAMEWORK AGREEMENTS?

Today corporate social responsibility programs constitute a multi-billion dollar a year industry. Many of these programs have been created, shaped, and implemented by outside consultants and specialists. Entire corporate departments also are devoted to developing and implementing social responsibility programs. Frequently, these corporate social responsibility programs are reflected in codes of conduct that include standards relating to business ethics, environmental concerns, and employee relations.

While the purpose in establishing unilaterally implemented corporate social responsibility programs vary, they are often the result of efforts to repair a company's tarnished public image. For example, Nike and a number of other companies have been targets of negative consumer campaigns after incidents involving the mistreatment of workers were reported.[4] These companies found themselves embarrassed and faced boycott threats. Codes of conduct presented a solution for responding to critics and avoiding future problems.

Corporate codes of conduct, however, do not placate all groups. Many have been heavily criticized by organized labor. These critics argue that corporate codes of conduct are public relations efforts more intended to placate "conscience-laden consumers" than they are to actually change corporate behavior with respect to workers' rights—a key area of corporate social responsibility.[5]

Codes of conduct often are criticized because they are unilaterally developed, implemented, and enforced by companies with no input or participation by the workers they are intended to help.[6] In addition, codes are criticized because many do not specify which workers they apply to or how they will be implemented and enforced. Others contain only ambiguous content.[7] Without these essential elements, critics argue that codes lack legitimacy with workers and have little possibility of success in changing corporate behavior when it comes to honoring international labor standards, a true benchmark for measuring corporate social responsibility.

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[3] *See infra* Part III (critically examining the Siemens International Framework Agreement and its effectiveness in a labor challenge that arose involving the company) and Part IV(critically examining IKEAs International Framework Agreement and its role during a union organizing campaign).

[4] Steven Greenhouse, *Nike Shoe Plant in Vietnam is Called Unsafe*, N.Y. TIMES, Nov. 8, 1987, *available at* http://www.nytimes.com/1997/11/08/business/nike-shoe-plant-in-vietnam-is-called-unsafe-for-workers.html?pagewanted=all&src=pm.

[5] *Path*, *supra* note 2, at 188; *see also Voluntary Codes*, *supra* note 2, at 350.

[6] *Voluntary Codes*, *supra* note 2, at 187-188.

[7] *Id.*

One response to the criticisms of unilaterally implemented codes has been the development of IFAs. These agreements attempt to address two different but related goals. First, they are a response to non-negotiated, unilateral codes of conduct that do not reflect workers' input, and are inherently unable to advance the goal of corporate social responsibility. Second, they are a response to the shortcomings of national labor and employment laws with respect to fundamental human rights.[8] Global framework agreements differ from corporate codes of conduct because, "they are a product of negotiations between organized labor and the company."[9] They include the workers' perspectives and "attempt to remedy the content and procedural deficiencies associated with [unilaterally implemented] codes."[10]

Negotiating a framework agreement between a global company and workers across the globe is not an easy task. It takes a powerful union in the home country of the corporation that has a good relationship with the multi-national corporation. It also takes a global network of unions that represent workers for the corporation in different parts of the world. Of course, negotiating an IFA also takes corporations that are willing to discuss these matters with labor organizations. With few exceptions, this means corporations who are experienced in engaging in social dialogue with unions. As a consequence, most IFAs have been negotiated between European-based multi-national corporations and European unions and works councils.[11] The fact that most IFAs are European-based is not surprising:

> First, European experience fosters a culture of dialogue. After all, the move toward works councils, supervisory boards, code-determination, and so forth is predicated on a basis of "dialogue" as opposed to one of an adversarial nature. It seems only natural then, that discussion over new mechanisms for achieving corporate social responsibility would emanate from this type of industrial relations system. Second, in contrast, in the United States there is no basis for social dialogue. Indeed, under the structure of the U.S. labor law, IFA's may not, in general, be considered to constitute a mandatory subject for bargaining, and therefore, it is difficult to "compel" a company to negotiate them. Third, in the United States, many employers are opening hostile to unions; and, for the most part, the legal institution of social dialogue does not exist. And,

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[8] *Id.*
[9] *Id.* at 188.
[10] *Id.*
[11] *See* Framework Agreements, *supra* note 1. While a small number of non-European companies do have IFAs, many of them carry the same weaknesses of European IFAs.

> fourth, U.S. workers and their unions do not share certain protections enjoyed by many of their European counterparts concerning health care, retirement security, job security, and benefits. These kinds of issues presumably take priority for many U.S. workers over IFAs, in discussions with an employer.[12]

II. ESSENTIAL ELEMENTS OF A SUCCESSFUL IFA

In order to be fully effective, IFAs must adequately incorporate four fundamental elements: content (including standards), coverage, implementation and enforcement.[13]

A. Content

Content is the most complicated of the essential elements. It is absolutely critical IFAs contain clear, and comprehensive labor standards that will apply anywhere in the world that the company operates. Not just any definition of these standards will do. These standards should be consistent with those developed by the International Labor Organization ("ILO"), an agency of the United Nations. The ILO is, perhaps, the most credible international organization when it comes to defining internationally-recognized labor standards for two reasons. First, the highest body of the ILO Conference is tripartite in nature, composed of equal numbers of employer, labor, and governmental representatives.[14] Second, it takes two-thirds of the ILO governing body, the International Conference, to adopt a standard known as a convention.[15] ILO standards also are accompanied by jurisprudence and interpretations furnished through a committee structure that includes the Freedom of Association Committee, the Committee of Experts, and the Committee on Applications and Standards.[16] ILO conventions are uniquely qualified to serve as

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[12] *Id.* at 191.

[13] Id. at 192-207.

[14] Constitution of the International Labour Organization, 62 Stat. 3485, 15 U.N.T.S. 35, art. 7 [hereinafter "ILO Constitution"] (stating that the fifty-six members of the Governing body consists of twenty-eight representatives of governments, fourteen representatives of employers, and fourteen representatives of employees).

[15] *Id.* at art. 19(2).

[16] *Committee on Freedom of Association*, ILO, http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-on-freedom-of-association/lang--en/index.htm (last visited Mar. 13, 2013); Committee of Experts on the Application of Conventions and Recommendations, ILO, http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-of-experts-on-the-application-of-conventions-and-recommendations/lang--en/index.htm (last visited Mar. 13, 2013); Conference Committee on Applications and Standards,

international labor standards, given the vigorous process for developing, adopting, and interpreting them.

To date, 189 conventions have been ratified by the ILO. Eight of these conventions are referred to as core labor standards.[17] They include prohibitions on forced labor, discrimination, and child labor, as well as freedom of association and collective bargaining. It is absolutely essential that the content of an IFA includes these core standards and explicitly reference the relevant ILO conventions and accompanying jurisprudence such as decisions and comments made by the ILO Committee on Freedom of Association. Specific references to the ILO's core labor standards are key to ensuring that labor standards in the IFA are not vague, ambiguous, or subject to different interpretations and that they can be implemented consistently without misunderstandings.

The content of an IFA must be uniform wherever the company operates. Some companies would like to apply IFAs on a "sliding scale" for operations in countries like China where internationally recognized core labor standards do not exist. This kind of disparate application of the content of an IFA must be resisted, "[A]fter all, how can a corporation claim that it is honoring international labor standards when its IFA cannot be applied to one of the world's largest and fastest growing economies?"[18]

Notably, in other countries like the United States, which have not ratified the ILO Conventions concerning freedom of association and collective bargaining, national law falls short of meeting internationally recognized labor standards.[19] In particular, the lawful use of permanent striker replacements during a labor dispute, prohibitions against secondary

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ILO, http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/conference-committee-on-the-application-of-standards/lang--en/index.htm (last visited Mar. 13, 2013).

[17] Freedom of Association and Protection of the Right to Organize Convention, 1948, July 9, 1948, ILOLEX No. C87, *available at* http://www.ilo.org/ilolex/cgi-lex/convde.pl?C087; Right to Organize and Collective Bargaining Convention, 1949, July 1, 1949, ILOLEX No. C98, *available at* http://www.ilo.org/ilolex/cgi-lex/convde.pl?C098; the Forced Labour Convention, 1930, June 28, 1930, ILOLEX No. C29, *available at* http://www.ilo.org/ilolex/cgi-lex/convde.pl?C029; the Abolition of Forced Labour Convention, 1957, June 25, 1957, ILOLEX No. C105, *available at* http:// www.ilo.org/ilolex/cgi-lex/convde.pl?C105; the Equal Remuneration Convention, 1951, June 29, 1951, ILOLEX No. C100, *available at* http:// www.ilo.org/ilolex/cgi-lex/convde.pl?C100; the Discrimination (Employment and Occupation) Convention, 1958, June 25, 1958, ILOLEX No. C111, *available at* http://www.ilo.org/ilolex/cgi-lex/convde.pl?C111; the Minimum Age Convention, 1973, June 26, 1973, ILOLEX No. C138, *available at* http:// www.ilo.org/ilolex/cgi-lex/convde.pl?C138; and the Worst Forms of Child Labour Convention, 1999, June 17, 1999, ILOLEX No. C182, *available at* http:// www.ilo.org/ilolex/cgi-lex/convde.pl?C182.

[18] *Path*, *supra* note 2, at 198.

[19] *Id.*

activities, and other limitations on the right to strike raise serious questions regarding U.S. compliance with the freedom of association and the right to collective bargaining.[20] IFAs that carve out countries like the United States, which do not comply with ILO standards, present doubts about the IFA's commitment to changing corporate behavior.[21] Workers throughout the world, whether they work in the United States, China, South Africa, Colombia, or anywhere else, deserve the full application and enforcement of fundamental human rights, regardless of national labor law.

Thus, it is entirely inadequate for an IFA to merely obligate its signatories to national or local laws, as it exemplifies the problems of the sliding scale approach. "This is a fundamental issue that distinguishes IFAs from codes of conduct, and for labor groups goes to the core of an IFAs credibility. It makes little sense from a labor group's perspective to negotiate an agreement with a company that sets forth standards that it is already required to honor through national law. Such an IFA would be tantamount to negotiating an agreement that obligates a corporation to obey already-existing laws."[22]

B. Coverage

In addition to incorporating clear international labor standards, it is critical that IFAs contain effective coverage provisions. They must be broad enough to "cover the entire enterprise, including subsidiaries, suppliers, and joint ventures."[23] Coverage must be broad to ensure the integrity of the agreement as global supply chains continue to expand. Broad coverage is also necessary to ensure that the increased use of contract work and other forms of domestic outsourcing do not allow corporations to escape the commitments that they have made under the agreement. An IFAs failure to cover all employees raises serious issues:

> "It is not difficult to imagine the skepticism of an outsourced employee (as well as the general public) who is not covered by an IFA, particularly when working alongside an employee of the company who is covered by the IFA. Such a situation is untenable and its mere possibility raises serious questions regarding the integrity of the IFA."[24]

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[20] See LANCE COMPA, UNFAIR ADVANTAGE: WORKERS FREEDOM OF ASSOCIATION IN THE UNITED STATES UNDER INTERNATIONAL HUMAN RIGHTS STANDARDS (2004) (providing a new edition of the 2000 Human Rights Watch report).

[21] *Path*, *supra* note 2, at 198.

[22] *Id.* at 197.

[23] *Id.* at192.

[24] *Id.*

C. Implementation

Even if an IFA has significantly broad coverage and detailed content that explicitly contains the ILO's core labor standards it will not be effective if it is not implemented in a meaningful way.[25] Meaningful implementation of an IFA requires both communication and educational activities.[26] With respect to communication, IFAs must be written in a manner that can be understood by the average worker—regardless of the country that the corporation or its suppliers operates. Educational activities are also key to effective implementation of IFAs. Many of the concepts regarding fundamental human rights, like the freedom and of association and collective bargaining or discrimination are complicated concepts which require a basic understanding. All levels of management, workers, and suppliers must receive training to understand these standards and, specifically, the many ways in which they apply in the workplace.

D. Enforcement

If an IFA is not enforced, it will have little relevance to workers it intends to protect. This means that enforcement must provide a deterrent and, when necessary, provide remedies that will have an impact on how the corporation proceeds with respecting the agreed to terms of the IFA.[27] It is critical that a dispute resolution mechanism also be provided when a complaint that the IFA remains unresolved. Binding arbitration and other forms of effective dispute resolution are essential to ensure the integrity of the process.

In order for enforcement to work it must be transparent. Monitoring is a critical tool for ensuring transparency.[28] For monitoring to be effective, it must utilize independent monitors such as trade unions and other NGOs who have familiarity with labor relations.[29] It is also necessary that the monitoring process receive adequate resources so that it can be accomplished in an effective manner. In the spirit of transparency, the procedures for monitoring should also be agreed to and publicized making certain that employees and or their representatives know how to file claims and will be guaranteed an independent response to their complaints in a timely fashion.

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[25] *Id.* at 201-202.
[26] *Id.*
[27] *Id.* at 202-203.
[28] *Id.*
[29] *Id.*

III. INTERNATIONAL FRAMEWORK AGREEMENT BETWEEN SIEMENS AG THE CENTRAL WORKS COUNCIL OF SIEMENS AG, THE IG METALL AND THE INDUSTRIALL GLOBAL UNION

On July 25, 2012, the Central Works Council of Siemens AG, IG Metall (the German metalworkers union) and IndustriALL Global Union entered into an international framework agreement with Siemens AG.[30] The agreement is typical of many IFAs. It addresses matters related to content, coverage, and implementation. It also provides for a process when allegations have been made by one of the signatories that the IFA has been violated. Like many IFAs, although the Siemens IFA references these matters, it falls short of meeting the essential elements previously discussed. Among other things, it fails to clearly adopt the ILO convention concerning the freedom of association and does not contain a binding dispute resolution mechanism. These failings presented serious challenges during a union organizing drive at one of its U.S. facilities.

The preamble to the Seimens IFA states:

> With this background Siemens accordingly accepts the social responsibility principles referred to and explicitly acknowledges the fundamental employee rights defined in the relevant international conventions, the fundamental conventions of the International Labour Organization (ILO) . . . [including] freedom of association and collective bargaining . . . . The international dialogue has to respect and balance both the local legal requirements and processes of every jurisdiction as well as the diversity and global presence of Siemens . . . .[31]

Section 2.4 of the agreement entitled "Freedom of Association and the right to collective bargaining" states:

> The right of employees to form labour unions, join existing labour unions and conduct collective negotiations is acknowledged. Members of employee organizations or unions will be neither advantaged nor disadvantaged on account of their membership (see principles of ILO Conventions 87 and 98). A constructive approach will be taken to cooperation with employees, employee representatives and unions on the basis of

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[30] International Framework Agreement between Siemens AG the Central Works Council of Siemens AG, the IG Metall and the IndustriALL Global Union, *available at* http://www.industriall-union.org/sites/default/files/uploads/documents/siemens-gfa-2012-english_final_0.pdf [hereinafter referred to as "Seimens IFA"].

[31] *Id.* at Section 1.

> local law. Even in contentious disputes, the continuing objective will be to maintain effective constructive cooperation and to seek solutions with the aim of balancing our commercial interests and the interest of our employees.
>
> If the level of protection granted to employees in a country in which Siemens operates fails to essentially reflect these principles, Siemens will nevertheless apply these higher standards to its employees.[32]

The Siemen's IFA references the freedom of association and collective bargaining, but qualifies these references by stating merely that the company "acknowledges" these rights.[33] But what does acknowledging these rights actually mean? After all, a company can acknowledge rights and then choose to narrowly interpret and apply them or ignore them altogether. The Siemen's IFA also states that it "accepts the social responsibility principles" referenced in ILO conventions.[34] Again, however, it does not specify what acceptance of these principles actually commits the company to honoring. One argument is that obligating a company to honoring principles is not the same as honoring the conventions themselves. For example, a company can recognize the right of its employees to form their own union without adhering to the actual rights reflected by the ILO's Convention on Freedom of Association.

The Siemens agreement also states the need to respect local requirements while requiring the company to apply higher standards to its own employees if the company operates in a country that "fails essentially to reflect these principles."[35] Does this mean that the Company's operations in countries that do not respect freedom of association and collective bargaining will implement these fundamental human rights? Will it mean that the Company will recognize a legitimate independent union, even if the union is not recognized under its own national or local laws?

The Seimens IFA fails to satisfy the essential elements for an IFA by not clearly adopting the rights reflected in actual ILO conventions and accompanying jurisprudence. This failure left the signatories to the agreement with different interpretations of its meaning and application. Like other IFAs that contained similar flaws, it did not take long for a dispute to arise under the Siemens IFA.[36] An organizing drive to represent Siemens employees at one of its sites in the United States was met with an

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[32] *Id.* at Section 2.4.
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] *See e.g. Path*, *supra* note 2, at 198-199 (describing a dispute between an anonymous employer and union that emerged shortly after the creation of an IFA).

anti-union campaign.[37] In one letter sent to an employee, the Company made its position on the union effort known:

> I want to take this opportunity to emphasize that Siemens does not believe a union is in the best interest of our employees here . . . . The reason is two-fold: Unions haven't delivered on their promises and unionized employers can have difficulty being competitive in today's global economy. We believe our futures are better served by working together toward a common goal, without interference from an outside third party concerned about its own interests. We believe we can accomplish more and we can compete better in securing ours for . . . [this] facility if we work together, one-on-one and in teams without unions.[38]

In a letter to Siemens AG, IndustriALL's General Secretary, Jyrki Raina listed numerous allegations indicating anti-union conduct on behalf of the company, including threats to employees.[39] He noted that the union had filed unfair labor practice charges with the National Labor Relations Board and expressed concern that the actions by Siemens management enumerated in the letter violated the IFA.[40] Raina referenced language in the IFA concerning the company's acknowledgement of the rights of employees to form labor unions, the objective of constructive cooperation in contentious disputes, and provisions regarding the need for Siemens to honor higher standards when it operates in a country that does not reflect the principles of freedom of association.

Siemens' response to IndustriAll's allegations reaffirmed the company's commitment to core labor standards and basic employee rights, including the right to bargain collectively through freely chosen representatives.[41] It denied that its actions were in violation of the IFA by maintaining that it had not violated local labor laws by its conduct, stating, "By respecting the legal rights of employees to choose if they wish to be represented by and/or associated with a union and by complying with local legal requirements, Siemens is acting both within the letter and the spirit of the IFA."[42]

Is Seimen's response denying the allegations that its actions are in violation of the IFA the end of the complaint process? The Siemens IFA

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[37] *See* John Logan, *Consultants, Lawyers, and the 'Union Free' Movement in the U.S.A. Since the 1970's*, 33 INDUS. REL. J. 197-214 (2008).

[38] Letter from Siemens to Siemens employees (July 24, 2012) (on file with author).

[39] Letter from Jyrki Raina, General Secretary, IndustriALL Global Union, to Siemens AG (Aug. 24, 2012) (on file with author).

[40] *Id.*

[41] Letter from Siemens AG, to Jyrki Raina, General Secretary, IndustriALL Global Union (Aug. 29, 2012) (on file with author).

[42] *Id.*

provides that the resolution of grievances "should first exhaust the internal and local/national complaint and arbitration facilities."[43] The fault with this approach is that if national law does not meet international labor standards, as is the case with respect to some aspects of U.S. labor law, then exhaustion of national complaint mechanisms may not result in the satisfaction of the terms of the IFA. In such a circumstance, the alternative for resolution provided under the Seimens IFA lies with the Central Works Council, which "has the task of . . . advising on suitable measures . . . ." including "pursuing serious reports and complaints that cannot be resolved through the local and national complaint and arbitration facilities . . . .".[44]

Under the Seimens IFA, however, no provisions providing for binding arbitration from a neutral party are included. This raises the question of whether there is any effective recourse for signatories that claim the company violated the IFA. What authority does the works council have to resolve the dispute, or at the very least direct the dispute to a neutral party? If the ultimate decision regarding the outcome of the dispute rests with the Company, then how seriously will local management and workers take the IFA? Without clear answers to these questions, and a final resolution of the dispute, confidence in the IFA is greatly diminished. Moreover, instead of creating good will through an IFA, the IFA may be the source of frustration and resentment because it has created such high expectations.[45]

These are especially poignant questions and comments not only for the Seimens IFA, but for all IFAs. They are not intended to denigrate existing IFAs but to emphasize the importance of negotiating IFAs that are strong, effective and that can fulfill the objective of changing corporate behavior when it comes to respecting international labor standards.

IV. INTERNATIONAL FRAMEWORK AGREEMENT BETWEEN IKEA AND THE BUILDING WOODWORKERS INTERNATIONAL

The Global Framework Agreement between IKEA and the Building and Wood Workers' International ("BWI") was entered into in 1998, with what was then known as the International Federation of Building and Woodworkers, BWI's successor. The agreement was further developed in

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[43] Seimens IFA, *supra* note 32, at Section 2.10.5.

[44] *Id.*

[45] See *Siemens Anti-Union Campaign Bullies Workers Out of Organizing*, INDUSTRIALL UNION (Sept. 13, 2012), http://www.industriall-union.org/siemens-anti-union-campaign-bullies-workers-out-of-organizing; *see also*, *Path*, *supra* note 2, at 205 (noting that modern communication can make the failure of an IFA even more well-known, and therefore more pronounced).

2001 and is now known as the IKEA Way on Purchasing Home Furnishing Products.[46]

The agreement addresses three of the four major elements that are required for a successful framework agreement: coverage, content and implementation. With respect to coverage, the agreement includes suppliers, which "must comply with national laws and regulations and with international conventions . . . ."[47] The IKEA Agreement also specifically references labor standards. It states that the framework agreement, "is based on eight core conventions defined" by the 1998 ILO Declaration of Fundamental Principles and Rights at Work, the Universal Declaration of Human Rights, and other human rights instruments.[48] The agreement further provides that suppliers "must comply with international conventions concerning social and working conditions."[49] The agreement explains that these conditions include "not preventing workers from associating freely with any workers' association or group of their choosing or collective bargaining."[50]

The agreement includes a provision for implementation. It states that "suppliers shall effectively communicate to all its sub-suppliers, as well as to its own co-workers, the content of the IKEA Way on Purchasing Home Furnishing Products."[51] However, there does not appear to be a provision educating local management and workers about the actual international rights reflected by the eight ILO conventions referenced in the agreement.

The IKEA agreement, notably, does not have any provision which addresses enforcement. Consequently, there is no recourse for the parties when there are different interpretations of the agreement. The agreement does contain language concerning the formation of a "global compliance and monitoring group."[52] The language is vague, however, and does not provide for a dispute resolution mechanism, such as arbitration.

The strength of the IKEA Way agreement was tested in 2008 by the North American trade union, the International Association of Machinists and Aerospace Workers ("IAM"). In 2006, the IAM learned that Swedwood, a subsidiary of IKEA, would be opening a manufacturing facility in Danville, Virginia, to supply IKEA with wood products.[53] The union immediately began working with BWI and the Swedish union, GS, which represents Swedwood workers in Sweden, for assistance in its

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[46] IKEA, BWI, Dec. 19, 2001, http://www.bwint.org/default.asp?Index=46&Language=EN; IKEA Way on Purchasing Home Furnishing Products, *available at* http://www.bwint.org/pdfs/iwayma.pdf.

[47] *Id.*

[48] *Id.*

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] *Id.*

[53] Email from BWI to author (Oct. 30, 2006) (on file with author).

organizing campaign. The IAM had hoped that the framework agreement was an indication that Swedwood would be neutral during its organizing campaign by not engaging in negative, anti-union, activities.[54]

Efforts were made at the earliest stages of the organizing campaign to meet with the Company under the auspices of the agreement and to reaffirm what BWI, GS, and the IAM understood to be the company's commitments regarding freedom of association, which they believed encompassed neutrality.[55] After the facility was operational, producing wood products for IKEA, a meeting was scheduled in Danville, Virginia. Participants were to include the IAM, the General Secretary of BWI and a representative from the Swedish unions.[56] The meeting was eventually held under protest, without the IAM's participation.

Throughout the campaign, calls for Swedwood to honor the framework agreement were made by numerous union representatives in the U.S. and abroad.[57] Despite these efforts, the company conducted an anti-union campaign, hiring a law firm "which has made its reputation keeping unions out of companies."[58] Per-Olof Sjoo, the President of GS who visited with Swedwood's workers in Danville, commented: "The most consistent theme I believe was the fear factor. Partly, people dare not openly support the union." Adding her thoughts on the situation at Swedwood, International Trade Union Confederation President, Sharan Burrow, noted, "Clearly all is not well at this factory . . . IKEA is taking advantage of the lax US workers protection."[59]

The IAM's efforts did not rest exclusively on the strength of the framework agreement. It received national interest in the press and media at home and in Sweden. For example, the campaign received attention from *The Daily Show* and a prominent news program in Sweden.[60] Several thousand support letters from workers all over the world were delivered to

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[54] Email from author to BWI (Apr. 8, 2008, 10:04 EST) (on file with author).

[55] *Id.*; Email from BWI to Swedwood (Apr. 30, 2008, 8:55 AM EST) (on file with author).

[56] Catherine Amos, *IKEA Inviting Union Leaders to Tour Swedwood Facility*, REGISTER BEE (Jul. 26, 2009); *International Union Chiefs Will Tour Plant*, RICHMOND TIMES-DISPATCH (JUL. 28, 2009).

[57] *See IKEA is Violating Labour Rights in the United States*, BWI (Dec. 7, 2009) http://www.bwint.org/default.asp?index=3180&Language=EN.

[58] Nathanial Popper, *Ikea's U.S. Factory Churns Out Unhappy Workers*, L.A. TIMES, Apr. 10, 2011, *available at* http://www.latimes.com/business/la-fi-ikea-union-20110410,0,5341610.story.

[59] *ITUC Condemns IKEA Anti-Union Discrimination Practices in USW*, BWI, May 24, 2011, http://www.bwint.org/default.asp?index=3503&Language=EN.

[60] Nathanial Popper, *The Daily Show Takes on IKEA Controversy*, LA TIMES, June 30, 2011, http://latimesblogs.latimes.com/money_co/2011/06/the-daily-show-takes-on-ikea-controversey.html; Aktuellt-TV, 4/21/2010; http://svtplay.se/v/1972939/akteullt/21 _4_21_00?cb,a1366518,1,f,-1/pb,a1366516,1,f,-1/pl,v,,1974536/sb,p102536,1,f,-1.

Swedwood's workers prior to the election.[61] The campaign proved to be a success and the IAM easily won the NLRB election in 2011.[62]

Even though the framework agreement did not keep Swedwood from engaging in an anti-union campaign, it did provide the basis for dialogue between the Company and BWI. Through this dialogue, the IAM was able to convey its concerns over Swedwood's behavior to IKEA's top level management. Additionally, it provided a forum for representatives of BWI and the Swedish union representing Swedwood workers to meet with the Company in Danville. It also may have influenced Swedwood in subsequent collective bargaining negotiations. Swedwood and the IAM reached a collective bargaining agreement without controversy for the Danville workers in a timely fashion.[63]

Outside the U.S., the IKEA framework agreement was an important factor in the recent conclusion of a collective bargaining agreement between nearly 9,000 workers in Poland and Swedwood.[64] As Ambet Yuson, the General Secretary of BWI commented**:**

> The success in Poland is clearly an example of the need for dialogue and engagement at both the national and international level . . . . While the unions in Poland were negotiating with the management in Poland, we were in discussions with the IKEA management at the global level to provide the necessary support. In the case of Poland, it was evident to s [sic] from the beginning that IKEA wanted to have an amicable conclusion as soon as possible. We look forward to working with IKEA to address concerns of [workers.]"

V. CONCLUSION

IFAs can change corporate behavior in the global workplace. Their effectiveness depends on whether the four essential elements described in the beginning of this article are adequately included in the agreement. When the content of agreements does not clearly incorporate international labor standards as reflected by ILO Conventions and accompanying jurisprudence, they are subject to different interpretations and often mired in dispute. Likewise, if an IFA is implemented without proper training

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[61] *100,000 Support Swedwood Workers in Danville*, BWI, July 22, 2011, http://www.bwint.org/default.asp?index=3627&Language=EN.

[62] *Danville, Virginia: Swedwood Workers Vote Union YES!*, BWI, July 27, 2011, http://www.bwint.org/default.asp?index=3639&Language=EN.

[63] *The First Collective Agreement for the Workers at the Swedwood Plant in Danville*, BWI, Dec. 19, 2011, http://www.bwint.org/default.asp?index=3869&Language=EN

[64] *Swedwood Unions in Poland Sign Collective Agreement*, BWI, Feb. 6, 2013, http://www.bwint.org/default.asp?index=4675&Language=EN.

about the standards it imposes or if it is not distributed along with comprehensible information in a timely fashion, covered managers and workers may not understand the standards that are supposed to be enforced. Additionally, if IFAs do not cover suppliers, growing global supply chains will make them irrelevant. Lastly, if the IFA is not enforceable through a dispute resolution mechanism, like binding arbitration, the parties' differences will most likely remain unresolved, frustrating them and greatly reducing the value of the IFA.

The Seimens IFA illustrates this problem. It failed to include a binding enforcement mechanism. As a result, when differences emerged over its interpretation, the union was left with no recourse under the IFA. It was also left with many questions about the ability of the IFA to change the company's behavior towards union organizing efforts in the United States.

The IKEA IFA also comes up short due to its lack of an enforcement mechanism. The success of the union at Swedwood (a supplier to IKEA covered by its IFA) was built on social dialogue with IKEA management, a global union federation (BWI), and its Swedish unions. This social dialogue was enhanced by the IFA. The lack of enforcement was offset to some extent by a global campaign to change the company's behavior.

While social dialogue can be helpful, IFAs do more than provide a mechanism for dialogue. They must provide a stand-alone, binding commitment by a corporation to change its behavior towards the application of international labor standards wherever it operates in the world, including, of course, the United States. In order to do so, IFAs must fully incorporate the essential elements previously described.