

# AICGS Transatlantic Perspectives

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## Globalizing Labor Relations across the Atlantic? The Role of Institutions and Actors

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What role do International Framework Agreements play in labor relations in the U.S. and Germany?

What labor policies do German companies pursue in the United States?

Is there evidence of convergence in labor policies for German companies operating in both countries?

Globalization has facilitated the spread of investments and manufacturing by transnational corporations (TNC), opening new opportunities, but also posing new challenges to their business models and raising issues of regulation and governance—both nationally and globally—for TNCs and society in general. In many instances, the underlying restructuring of employment and production is an issue of contention. In my research I focus on the role of labor relations in the operations and policies of German TNCs in the United States. The intent is to gain a better understanding of the role of actors (management, employee representatives, and labor unions) and institutions in the development and implementation of corporate policies.

Over the past decade, the academic debate on “Varieties of Capitalism”<sup>1</sup> has focused attention on systemic differences between liberal market economies (LME), in which firm performance is primarily a function of market relationships, and coordinated market economies (CME), in which firms are embedded in associational and institutional arrangements upon which they rely for their business plan. In this debate, the U.S. (LME) and Germany (CME) have been seen as the prototypes of two rival systems. Labor relations systems in Germany and the U.S., which differ markedly, are a key element of analysis in this discourse.

As a starting point it can be argued that German transnational corporations have developed production systems and labor relations approaches tailored to the political and economic institutional environment in Germany, their home country. However, when investing in a foreign, or host, country, such as the U.S., corporations are faced with the question of how much of their internal systems and processes can be transferred to the external site and how much adaptation to the host institutional environment is necessary to ensure that the final product is up to standards and that the cost of achieving this goal is acceptable. Applying the logic of varieties of capitalism, such corporations would need to learn new ways to operate when they move from a CME to an LME.

Management practices in headquarter-subsidary relationships have also become a major topic of the literature in international human resource management (IHRM) and management research in general. Here, the focus is on how institutionalization processes operate across organizational subsystems and whether a diversity of practices or, by contrast, an isomorphism according to one ‘dominant’ or ‘best’ practice will prevail within a given TNC and its global production networks.

In the case of German corporate investments in the U.S., the question of how to deal with labor relations is particularly pertinent, because of the importance of the U.S. market and the size of investments, and because the labor relations system in the U.S. is so different from the German one. Especially in the case of corporations which pride themselves on their approach to developing a comprehensive program of corporate social responsibility (CSR), the challenge of implementing international standards for labor relations in the U.S. and indeed, throughout their global production networks, is quite formidable. Second, in its European version,<sup>2</sup> CSR is understood to mean practices which go beyond minimum legal requirements. In regard to labor relations, this would mean embracing an active program of employee voice, both individual and collective, allowing for employees to freely choose

to be represented by trade unions. A growing number of German (and European) TNCs have documented their commitment to social dialogue with their employees and their collective organizations by signing International Framework Agreements (IFA) with Global Union Federations (GUF). An IFA is intended to secure practices, which ensure compliance with basic labor standards, in particular with the core labor standards<sup>3</sup> established by the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. In the U.S. environment, such an approach is certainly not unknown, but it is also not mainstream. Institutional recognition for and support of European-style social dialogue is lacking.<sup>4</sup> Today, a preference for unilateral employment relations is particularly manifest in management reactions to organizing drives for union recognition and decisions to invest in "right-to-work" states and non-union greenfield (previously undeveloped) sites. And business lobbying against the labor law reform proposed by the Obama administration is indicative of widespread opposition to changes that U.S. unions and their allies have been pushing.

What policies do German corporations pursue in this environment? After a first round of empirical research, evidence from statistical sources, corporate publications, news media, and interviews suggests that they generally tend to adapt their HRM policies (from middle-management on down) and their handling of labor relations to the standards, traditions, and norms, which they encounter on-site in the U.S. Investments in the southern states of the U.S., usually marked by "right to work" laws, lead to non-union, individual contract-based labor relations, while investment sites in northern states or on the west coast are more likely to be unionized, especially in cases of a merger or acquisition where a union contract already existed. Virtually no evidence could be uncovered that either the generally higher standards of labor relations at home in Germany or their pledges to respect internationally recognized standards played a determining role. As one interviewee put it, "We clearly are a U.S. employer in negotiations over labor issues and in dealing with members of Congress specifically on those type issues, [and] it is also [about] complying with local laws, including local labor laws, local labor practices."

This is not to say that German TNCs have no binding corporate policies for all of their global operations. Corporate culture (identity) and factors such as product standards, global branding, integrated production processes, and policies for global management mitigate a complete assimilation to the host country environment. As stated in one corporate publication, the company "pursues a global human resources strategy that is in line with its corporate goals. It is based on five pillars: profitability, a competitive workforce, future oriented managerial expertise, high attractiveness as an employer, and professional organization." And, it seems, certain crucial policy issues, such as finances and investments, environmental protection, or anti-corruption measures, are under the control of headquarters management.

Regarding U.S. operations, the bottom line of corporate citizenship is abiding by the local and national laws of the host country. But as global players, many corporations have endorsed not only the ILO-based framework agreements mentioned above, but have also signed on to voluntary initiatives such as the UN Global Compact or the Global Reporting Initiative. Corporate websites also make regular reference to recognizing the OECD Guidelines for Multinational Corporations. What comes across officially in most cases is a clear interlocking of national and international laws and norms. For example:

*"Our actions are guided by clearly defined values and standards of conduct. These go beyond formal compliance with laws and regulations, we act in accordance with internationally recognized standards." And: "The working conditions of our employees are, at minimum, in compliance with internationally recognized labor standards and the laws of the countries we operate in. [...] When we align labor and social standards with local conditions, we comply with the national industry standard."*

But as straightforward as that sounds, in particular in the U.S. case, national labor law does not always mesh with international standards. The U.S. has yet to ratify ILO Convention 87, which was passed in 1948 and enshrines the principle of recognition of trade unions. While the U.S. has argued that its labor law is in line with ILO standards, the procedural and substantive discrepancies between

the international standard set by ILO convention 87 and the election process of the National Labor Relations Act are certainly evident when scrutinized. The upshot is that in their U.S. operations, corporations tend to opt out of their commitment to an international norm in favor of a less restrictive legal provision, even if that is a questionable anti-union “right to work” provision. While one of the German corporations has announced publicly that it “prefers to deal with its personnel on an individual basis, rather than through a union,” the statement made by an HR manager is more typical of the policy approach:

*“We clearly believe that we can be successful in a union or a non-union setting. There’s no doubt about that. But the general U.S. view is that ‘Let me talk to my employees directly, let us resolve these things jointly without a third party. You know, a paid-for third party.’”*

In sum, there is at this point no evidence for a convergence of labor relations policies toward one global corporate design emanating from headquarters in Germany. Rather, my findings point to a high level of embeddedness in the economic, political, and legal environment of the U.S. With the level of unionization at foreign-owned manufacturing subsidiaries significantly higher than in U.S.-owned businesses, there is no evidence of across-the-board union-busting in such companies. Union contracts have generally continued to be honored in plants after their acquisition by a foreign company, even in “right to work” states. But where there was no union presence, or in cases of a new greenfield investment, management policy is to keep the plant non-union.

Second, in light of this embeddedness, the question arises as to the potential impact of U.S. labor relations (especially in non-union cases) on labor relations in Germany and whether this is a consideration for corporate management. In any case, as globalization continues to drive corporate restructuring, employment and labor relations will remain a contested field and a political issue, both within the company and in society in general. Institutional settings of national labor relations systems are powerful constraining factors, but not exclusive determinants. Much will depend on how actors in labor-management relations in both home (Germany) and host (U.S.) countries shape their policies domestically and across borders. In general, corporate management of German companies in the U.S. prioritizes local embeddedness over internationally-defined norms, while labor unions are calling for just the opposite and beginning to construct corporate-oriented transnational policy approaches around such demands. Still, whether unions can find more lasting ways to facilitate cooperation is an enormous challenge, as is the question as to whether both sides can find common ground for the kind of social dialogue, which was a key factor in Europe’s recovery after World War II. Considering the global scale of economic challenges ahead, a common understanding of employee voice and collective representation on the one hand, and competitiveness and productivity on the other hand, would seem imperative in the interest of long-term global sustainability.

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## NOTES

1 Peter A. Hall and David Soskice, "An Introduction to Varieties of Capitalism," in *Varieties of Capitalism. The Institutional Foundations of Comparative Advantage*, ed. Peter A. Hall and David Soskice (Oxford: University Press, 2001): 01 - 68.

2 EU Commission, Green Paper. Promoting a European Framework for Corporate Social Responsibility, COM(2001): 366 final, Brussels.

3 The core labor standards refer to the prohibition of child labor (ILO co. 138 and 182) and forced labor (ILO co. 29 and 105), to non-discrimination and equal pay (ILO co. 100 and 111), and to freedom of association and collective bargaining (ILO co. 87 and 98). See ILO, *ILO Declaration on Fundamental Principles and Rights at Work* (Geneva, 1998).

4 As defined by the ILO, social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy.

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