

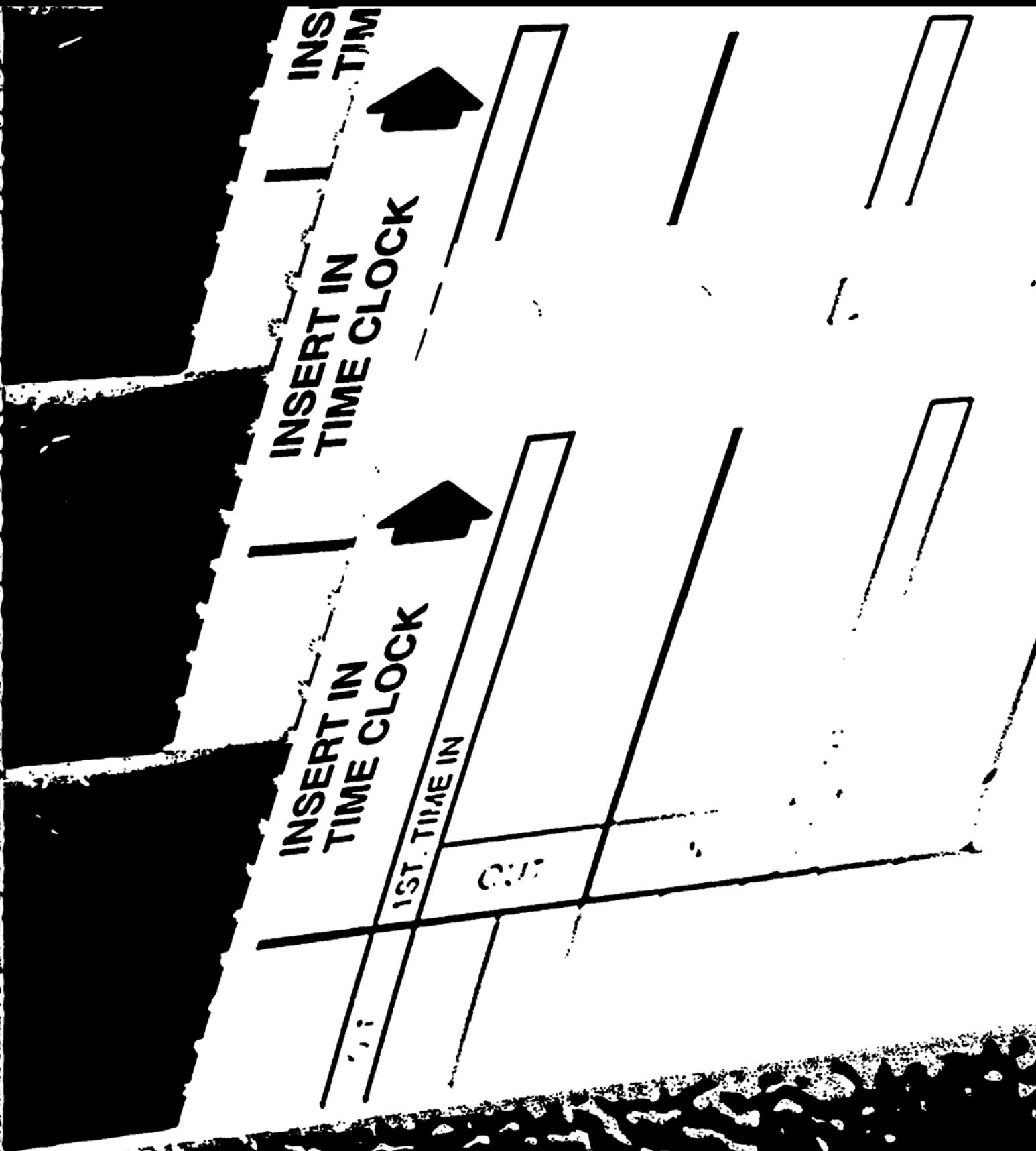


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# Employment & Industrial Relations Law

Newsletter of the International Bar Association Legal Practice Division

**VOL 20 NO 2 SEPTEMBER 2010**





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# Global labour strategies for multinational employers

**W**ithin the past two years, North American operations of multinational and multijurisdictional employers have begun to experience the negative impact of global union federations. The early results have been increased union organising and decreased competitiveness of these North America operations.

## **What is a global union federation and how does it make inroads into North America?**

With headquarters primarily in Europe, a global union federation is an international federation of national and regional trade unions whose mandate it is to organise workers in specific industry sectors. Although

based thousands of miles away, a global union federation is able to successfully reach into North America through the application of an International Framework Agreement ('IFA'). The primary purpose of an IFA is to establish an employer's written commitment to adhere to core labour standards wherever in the world the employer conducts business.

Here's how it works: a global union federation approaches a multinational employer based in a country known to be union friendly (such as Denmark, France and Sweden.) and encourages the multinational to sign an IFA containing terms consistent with the basic themes of the International Labour Organisation ('ILO'). These themes include: no forced labour, no child labour, equality, no discrimination, and freedom of association. The multinational employer,

committed to fairness and sound labour practices, signs the IFA, not appreciating the impact it could have on its operations in countries with low union density (such as Canada and the United States).

### **The commitment to freedom of association has caused the greatest harm**

Traditionally, freedom of association protected workers' rights to join a trade union should this be the majority's wish. Freedom of association was never intended to silence an employer's right to lawfully express its desire to remain union-free.

However, in recent years, the ILO has made concerted and successful efforts to persuade some international, political and business leaders that freedom of association includes the right to unionise. This has been interpreted to mean where a multinational employer has signed an IFA recognising freedom of association, that employer has thereby agreed to support unionisation, or at the very least remain neutral in the face of union organising, anywhere in the world the employer operates.

This has hurt North American employers governed by an IFA. Prohibited from exercising their lawful right to express their views against union organising, local leaders have had no choice but to leave their employees with only one side of the debate – the union's side. The result is almost always a unionised workplace in a primarily non-unionised jurisdiction, and an employer now facing significant, competitive disadvantages.

### **How to protect North American operations**

We believe the way to protect North American operations is for each multinational employer to decline the invitation to sign an IFA. Instead the employer should develop and implement its own global labour strategy, taking into account the different labour laws and business environment in which the employer carries on business.

Alternatively, if a multinational employer finds it necessary to sign an IFA, at the very least an attempt should be made to write the agreement in a way that recognises the significant labour relations and business differences in the relevant jurisdictions.

### **The components of a global labour strategy**

At a minimum, a global labour strategy will include a 'Code of Conduct' developed and implemented by the employer, outlining its core labour standards and expectations. These generally include a commitment to the ILO themes identified above: no forced labour, no child labour, equality, and no discrimination, as well as compliance with basic occupational health and safety standards. Often, application of a Code of Conduct is extended to third-party suppliers as a term of the contract of service between the supplier and multinational employer.

A global labour strategy may also address a multinational employer's position with respect to unionisation. This can present a challenge if the employer operates in jurisdictions whose laws and norms vary significantly in terms of union influence and density. For example, in parts of the European Union, it is mandated that employee committees or 'works councils' be established once an employer has a certain number of employees. In France, only 23 per cent of the workforce is unionised. However more than 93 per cent of that country's workforce is covered by works councils typically dominated by trade unions. The role and strength of unions in these jurisdictions is therefore very different from the role and strength of unions in North American.

### **The benefits of adopting a global labour strategy**

Designing and adopting a global labour strategy will benefit a multinational employer in a number of important ways. The process will:

- educate the multinational employer regarding the labour laws and business environment within each of the jurisdictions in which the employer operates;
- ensure the multinational employer understands the potential negative implications of entering into an IFA;
- reduce the risk multinational employer will enter into an IFA which will hurt its operations in jurisdictions with low union density;
- result in a set of protocols and labour standards designed by the multinational employer – not by a global union federation – tailor-made to reflect the business reality in which the employer operates;

- insulate the multinational employer from pressure from global union federations to execute an IFA, by demonstrating that a Code of Conduct has already been implemented protecting basic labour rights;
- foster positive public relations and head off accusations by labour unions and other interested groups that the multinational employer promotes and profits from poor labour conditions particularly in developing countries; and
- improve the working conditions for the multinational's employees worldwide; raising workplace morale, improving productivity and reducing the employees' desire for, or the role of, a union in the workplace.

### Developing a global labour strategy

When developing a global labour strategy, input should be sought and received from a range of stakeholders, across jurisdictions. This includes the executive management team, local human resource professionals, front line employees, and in some cases employee representatives. Each stakeholder brings a unique and important perspective about the employer's workplace and the practical implications of any strategy adopted.

### The IFA: a final word and tangible example

As mentioned at the outset, the primary purpose of an IFA is to establish an employer's written commitment to adhere to core labour standards wherever in the world the employer carries on business. This may sound similar to a Code of Conduct. However, an IFA is different in two fundamental ways. First, an IFA is a bilateral agreement negotiated between a multinational employer and a global union federation, and as such

cannot be amended unilaterally by the employer should the need arise. Second, an IFA almost always includes a commitment – direct or indirect - on the part of the employer to support unionisation, or at the minimum to take a neutral position in the event of union organising in any of the employer's workplaces around the world.

The second factor can have significant, negative, impact upon Canadian and American operations. Consider the following example: The Ontario operations of a multinational employer based in Europe finds itself the subject of union organising. In response, the Ontario operations engages its lawful right to express to employees its desire to remain union-free. The local Ontario union, through global channels, pressures the multinational's European headquarters to enforce the terms of an IFA which includes the provision that the employers remain neutral in the face of organising. The European headquarters, not fully appreciating the impact the IFA is likely to have on its operations in Ontario, instructs local Ontario leadership to remain neutral. The result will invariably be a unionised workplace in a primarily non-unionised jurisdiction (Ontario), and Ontario operations now facing significant, competitive disadvantages.

### Final thoughts

As multinational employers continue to expand across borders and jurisdictions, it has become increasingly important that each employer develops its own global labour strategy. Today, more than ever, it is critical to productivity and competitiveness, that a multinational corporation appreciates the global implications of labour-related decisions, and establishes a single, global strategy for its labour standards worldwide.