

# **HOW DO FOREIGN FORMS PARTICIPATE IN INSTITUTIONAL INDUSTRY CREATION WHEN MARKETS ARE CONTESTED?**

THE CASE OF THE SPANISH TEMPORARY STAFFING SECTOR

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# **IAIF**

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**BOUNDARY SPANNING ACTIVITY:  
DOES ENVIRONMENTAL UNCERTAINTY  
MAKE A DIFFERENCE?**

A RESEARCH TO THE PERCEPTION OF THE DUTCH MANAGER OF  
THE DUTCH SME ON THE SPANISH MARKET

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## **I. PREFACE**

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## **II. EXECUTIVE SUMMARY**

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Institutional change can be initiated in differing ways: from within the institutional environment; where institutions see a need to re-invent themselves or go a certain direction. However, change can also be influenced and initiated by entrepreneurs. This institutional entrepreneurship can be defined as ‘Activities of actors who have interest in particular institutional arrangements and who leverage resources to create new institutions or to transform existing ones’ (Maguire, Hardy, Lawrence, 2004).

Industry creation in the institutional context can be initiated by institutional entrepreneurs. When entrepreneurs create a novel industry, the issue of legitimacy occurs. A product, service or process needs to be introduced, understood and then accepted by stakeholders, before benefits could ever occur. According to Aldrich, Fiol (1994) legitimacy is in two related senses: Cognitive (taken for granted) and Sociopolitical (conform to recognized principles). New practices that take root in institutional environments in which they face a liability of illegitimacy some courageous organization are needed that adopt and thereby potentially initiate a process of legitimization (Scott 2001).

To illustrate an occurrence of institutional change and to define what actors are involved, the case of the Spanish legalization of the temporary staffing sector is taken. ‘In their role as private labour market intermediaries they are a major new institutional presence in liberalizing economies’ (Peck, Theodore, Ward 2005). Growth in Spain...is also an outcome of political maneuvering by the largest agencies defining the post-legalization rules of the game. (Peck, Theodore, Ward 2005).

In order to provide an objective and representative view one needed to analyze several actors. Next to the secondary sources mentioned in the previous section, interviews were held. The findings were then divided into the specific milestones in the sector: 1) The situation before 1994. 2)1994 the law for temporary staffing was legalized. 3) The period between 1994 to 1997/9. 4) From 1999 till now. 5) Future visions of several stakeholders

Appropriate respondents were approached using theoretical sampling, where selection was made on basis of relevance to the case. Six interviews in total have been realised to support secondary data and to provide further insights. The protagonists on one side were the Temporary Worker Agencies, User Companies, and the government. The antagonists were mainly the labour unions, thereby heavily influencing the public.

This study builds on existing work by analyzing the effect on legitimacy when contestation is added to the equation. The researcher believes that the case does show that foreign multinationals do can influence institutional change. It does not matter if an industry is being created by national or foreign players who might enjoy beneficial traits. There are too many

factors that need to be taken into account. What is important in industry creation is consensus and what can be learned from this case is when contestation is plausible, more efforts need to be in place to gain legitimacy; transparency, control and continuous dialogue can minimize resistance.

The main contributions are stated below. When markets are contested:

- Resistance can severely hamper or even erode any legitimacy efforts
- There is a need for intraindustry transparency
- The different levels of analysis have different levels of importance, industry legitimacy should be the main focal point
- Even though experience in stakeholder management can contribute and offer similarities to its process, other factors such as culture can have a large influence over expertise

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## 1. INTRODUCTION

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*"We (temporary staffing companies) were (perceived as) a cancer to society"*  
*Rodrigo Martin, CFO Randstad Spain*

Governments, firms, societies are ever increasingly becoming more and more global. Governments work together to solve important issues, companies seek efficiency and new markets by looking over their national borders, and many individuals discover something new in the world every day. Due to this direction, the global pressure to compete has amongst other factors, helped pressure governments to liberalize markets that were previously protected.

When institutional change becomes a necessity and industry creation is a product of this necessity, it is in every stakeholders' interest to turn this change into a success. Legitimacy issues play a vital role in industry creation, which add to the complexity of operating in a institutional setting. Scholars have tried to define how institutional change occurs by providing models to categories changes, sub-segment them into cycles, projects, and to what kind of skills are needed for successful industry creation. (Aldrich, Fiol, 1994, Perkmann, Spicer, 2007)

What seems to be missing is what occurs in real cases - failure. Now failure is a word that encompasses a broad context, but any case of liberalization has had its difficulties. People naturally oppose to change, and so how would theory develop itself when market changes are contested?

A ground for dissimilarities could be found in the fact of differing, or even conflicting interests. Where companies seek legalization and liberalization for the sake of profit: governments seek changes for the wellbeing of its people. Industry is conceptualized as a complex interorganizational field of commercial activity (Hirsch 1985, Ventresca, Porac 2005), and so, how does this interact with the very non-profit activities of governments?

In this study the researcher wants to dip into this topic further and see how existing theory may be changed when the actors initiating an institutional change, are from other geographical markets. Where the influence of players, the institutional entrepreneurs is solid ground, does it make a difference where the nature of this entrepreneur lies? The lobbying activities, the newness of a market, the inexistence of social and professional networks; these factors influence the success of a sector, but how?

In this paper the introduction of Temporary Agency Work (TAW) to the Spanish labour market from its induction in 1994 will be used as a case.

### ***1.1 Objective and Contribution***

The practical purpose of the research is twofold; in order to fulfill requirements for the RSM Erasmus University and to contribute valuable information to the existing interdisciplinary research 'DUTCH FIRMS IN SPAIN: Tendencies, problems and interaction with the Spanish productive system', from the Universidad Complutense de Madrid (UCM) in Spain.

The goal is to realize a clear overview how institutional change due to industry creation could occur, and what minimum ingredients are needed. With this specific research one aims to build on existing theory on legitimacy and contestation, by zooming into the contribution of foreign firms. What issues can arise when foreign players are industry creators, when there

are possibilities to accelerated legitimacy, but also increased obstacles in lobbying activities and newness of market.

The case of the Spanish labour market will be an answer to the following: how has the process of creating the temporary agency work sector within the Spanish labor market been; what was the specific role of the foreign players?

### **1.2 Research question**

The central issue for this study is the international aspect in existing theory on institutional relations. Where theory on legitimacy, contested industries, institutional entrepreneurship are all relevant for this study, the researcher has tried to merge these topics all together; what are the effects when industry created in an institutional context are contested and by specifically looking from a foreign perspective, what does this conclude for transnational operations?

The central theoretical research question for this study is defined as:

*How do foreign firms participate in institutional industry creation when markets are contested?*

Sub-questions that one can keep in mind are e.g.:

- Who are the actors that initiate and/or contribute to an institutional change of industry creation?
- Under what conditions can foreign entrepreneurs initiate and maintain change, and can foreign firms execute more power/influence in the situation of change?
- Is the current situation the expected outcome of the involved actors?
- What are the unintended consequences of action of foreign companies?

### **1.3 Structure Overview**

After this general introduction to the topic, one will be presented a theoretical overview on the specified themes. Additionally, the theoretical framework can be viewed. To illustrate, industry creation under contestation has been researched. A case study is undertaken on the temporary agency work (TAW) sector in Spain and how this has evolved. In the third chapter, the methods of how this research is conducted are presented, followed by the findings of the case study. The interpretation of findings links the results with theory. Propositions are presented and managerial implications are elaborated with suggestions for policy makers. The limitations and future research directions finalize this study.

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## 2. THEORY

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### 2. *Literature review*

Over the years one has seen the liberalizations in the energy market, telecommunications and other (previously) important pillars of one's government. Another sector that has been pushed to liberalize in many geographical areas is the labour market. In order to meet the needs of the market, and to relieve pressure of inflexibility, there was a need for a re-invention of labour markets around the world.

In many countries temporary staffing is nowadays an accepted tool of lowering unemployment and increasing flexibility to one's labour market. Although the discussion of temporary staffing being beneficial or not to one's labour market is not being dealt with in this study, the acceptance of the tool can create insight into the specific industry creation process in an institutional context. Specifically, because temporary staffing agencies for profit, have been perceived as something unlawful. Labour provision should be the 'job' of the government and freely available.

The (re-)creation of a sector in the institutional context has been widely discussed by scholars.

#### 2.1 *Industry creation in the institutional context*

Institutional change can be initiated in differing ways: from within the institutional environment; where institutions see a need to re-invent themselves or go a certain direction. However, change can also be influenced and initiated by entrepreneurs. This institutional entrepreneurship can be defined as 'Activities of actors who have interest in particular institutional arrangements and who leverage resources to create new institutions or to transform existing ones' (Maguire, Hardy, Lawrence, 2004).

Institutions (themselves) are characterized by the elaboration of rules and requirements to which in individual organizations must conform if they are to receive support and legitimacy (the institutional environment) (Scott 1995). The perspective of institutions is on continuity.

Entrepreneurship has a different kind of focus; the perspective of change. By combining these two terms, it offers quite an understanding how and why certain novel organizational solutions, - new practices or new organizational forms for example – come into existence and become well established over time (Maguire, Hardy 2007)

Industry creation in the institutional context can possibly be initiated by institutional entrepreneurs. When entrepreneurs create a novel industry, the issue of legitimacy occurs. A product, service or process needs to be introduced, understood and then accepted by stakeholders, before benefits could ever occur. According to Aldrich, Fiol (1994) legitimacy is in two related senses: Cognitive and Sociopolitical.

- a) Cognitive: how taken for granted is a new form
- b) Sociopolitical: the extent to which a new form conforms to recognized principles or accepted rules and standards

Cognitive legitimacy refers to people understanding what you want to do and/or trying to be, where sociopolitical refers to people finding it important and accept your practice by assigning rules and regulations to it.

Sociopolitical legitimization refers to the process of which key stakeholders, the general public, key opinion leaders, and/or government officials accept a venture as appropriate and right, given existing norms and laws (Aldrich, Fiol 1994). The implications of cognitive or sociopolitical legitimacy differ in various levels of analysis is presented in the following table adapted from Aldrich, Fiol (1994):

**TABLE 1**  
Legitimacy and its various levels of analysis

	Type of Legitimacy	
Level of analysis	Cognitive	Sociopolitical
Organizational	Develop knowledge base via symbolic language and behaviors	Develop trust in the new activity by maintaining internally consistent stories
Intraindustry	Develop knowledge base by encouraging convergence around a dominant design	Develop perceptions of reliability by mobilizing to take collective action
Interindustry	- by promoting activity through third party actors	Develop reputation of a new activity as a reality by negotiating and compromising with other industries
Institutional	- by creating linkages with established educational curricula	Develop legitimacy by organizing collective marketing and lobbying efforts

Trust, reliability, and reputation are methods of attaining cooperation based on increasing familiarity and evidence (Bateson, 1988). When information is scarce, or little evidence is available, one will need to build on trust. When information is available and evidence is solid, one turns to reliability and reputation. Since the foreign players presented in the case were established actors in one's home market and others, has their reputation, reliability, and trustworthiness helped in the process of gaining legitimacy?

Legitimacy is not the only factor influencing whether an industry successfully moves beyond the stage of a few pioneers to fully realized growth. '...the state of the economy, latent demand for the product or service, competitive pressures from related industries and the skills of new ventures owners and workers' (Aldrich, Fiol 1994) can influence the process of growth.

The widely recognized integrative definition of legitimacy as: 'a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions' (Suchman 1995, 576). But what if the actions are not perceived to be desirable, proper or appropriate, and industry legitimacy cannot be realized because actions are contested, unwanted, even perceived as devilish acts?

## **2.2 Industry legitimacy and contestation**

Contestation can occur in many ways in the process of industry creation in the institutional context. Contestation can occur within the same company, where the multinational builds up subsidiaries like one-way hub-and-spoke networks. Contestation can come from employees on subsidiary-level growing unsatisfactory towards their own business (Morgan, Kristensen 2006). Contestation in the institutional context could also arise politically; political sabotage can take place, where changes in the institutional context might be contested by other parties with

different interests, or to disagree with a specific party. Institutional change is thus a political process that reflects the power and interests of organized actors' (Maguire et al 2004:658).

Research is marked with a proliferation of terms and categories and often confounds issues of evaluation contestation and legality particularly in addressing industries and legitimacy (Galvin, Ventresca, Hudson 2005). Researches are reconnecting social structures and organization and the wider linkages between society, organization and industry dynamics (Hoffman 1999, Lounsbury, Ventresca 2002, Phillips, Lawrence, Hardy 2004).

Contestation over industry products, strategies, and practices changes over time and changes the industry boundaries (McGuire, Granovetter 2005). Industries do not engage in battles over legitimacy with other industries and publics. Legitimacy is not an attribute of an industry per se; legitimacy struggles take form as concrete strategies by firms and other agencies, social movements, key individual actors and others, but in the context of interorganizational fields comprising complex organizational linkages, governance arrangements and institutional logics (Friedland, Alford 1991, Scott 1994, Phillips, Lawrence, Hardy 2004). Legitimacy is structured into legitimacy by asking legitimate for whom, and legitimate under what institutional conditions. A new industry's legitimacy can be hampered in many points in one's process and/or in the different levels of obtaining legitimacy.

Industry as a complex interorganizational field of commercial activity (Hirsch 1985, Ventresca, Porac 2005) currently works on the organization and sociology of industries focusing on actors, including incumbent and challenger firms, other stakeholders such as trade associations or consumer groups and expert intermediaries (Fligstein 1996, Greenwood, Hinings Suddaby 2002, Rindova, Pollack 2004, Zuckerman 1999) Galvin, Ventresca, Hudson (2005) identify location, forms, and level of contests that shape industry legitimacy, and how to move forward the level of contestation, and implications for foreign, international relations.

A new population must carve out a space for itself within the community of populations, either by creating a new niche or by invading an already-occupied niche. (Aldrich, Fiol 2007) A fundamental niche represents the full range of conditions under which a population could be sustained. A realized niche is the 'restricted environmental space in which a population can be sustained even in the presence of competing populations of organizations (Hannan, Carroll 1995: 34).

Their struggle as an industry is very much a collective effort, although not necessarily a collaborative one, something that can hamper the legitimization process. According to Aldrich, Fiol (1997) two contextual factors in particular, seem important in the discouragement of potential founders; the lack of effective organizational knowledge and lack of external legitimacy for the new activity. Especially in the case when potential founders are incumbents in home and/or global markets, having to start all over again can be met with unpleasant surprises. One needs to go back to its roots, to re-define its purpose, its definition and try to translate to this new society its going to operate in.

Pioneering entrepreneurs must learn new schemata. Even though pioneering entrepreneurs might have experience, every case is unique and one needs to go back to level zero. A new population's growth also depends upon the extend to which its potential audience learns more about it. It is therefore important that the population in its whole carries the same message.

Scholars often advice on how to obtain legitimacy in an industry context. Collective actions and business-interest associations can be created; Population-level collective action facilitates both

learning and legitimacy. A small handful of independent actors can generate social networks that in the aggregate result in population-level collective action.

An example can be trade associations and other inter-firm entities. They play a critical role in helping founders promote a population's cognitive legitimacy by raising its standards to a taken for granted status (Aldrich, Staber 1988) Trade association can increase the rate of population-level learning. Trade and occupational associations can also constrain new population growth when they try to protect the status quo against new populations threatening their resources.

Collective action is for the better of all organizations, regardless of their own contributions. New populations face the classic problem of free-riders not participating in collective activities (Moe 1980, Olson 1965). Free-riders benefit from the efforts expended by their peers, but do little or nothing themselves to advance those efforts.

Associations can maintain organizational discipline against free riders by creating a compliance structure for monitoring, detecting, and sanctioning defections. Generally involving government regulations that require all organizations in the population to follow the same standard and practices can increase participation and theoretically increase acceptance. Although, collective action in a population can be threatened by the existence of *multiple* associations, representing different standards or interest. Too much representation of a population can therefore be harmful as well (Aldrich, Fiol 2007).

Established organizations in affected populations often strongly oppose the rise of new ventures seeking to exploit similar resources, and try to block them at every turn, including calling into question their compatibility with existing norms and values.

Aldrich, Fiol (2007) argue that only *if* cooperation emerges in a population, *then* that population will gain a selective advantage, to the extent that it overcomes problems of internal coordination and external legitimacy.

But till what degree needs cooperation be in place and in what form specifically; between sector associations, stakeholders, and more importantly will these arguments hold when contestation occurs? How does contestation from society and other stakeholders play an unforeseen role in the development and de-institutionalization of an industry?

### **2.3 *Transnational operations in the institutional context***

Limited attention has been paid to the origins of a new population. So, if the population is formed out of foreign entities; how does this affect industry legitimacy and related issues?

Aldrich, Fiol (2007) argue that researchers often attempt to distinguish between new organizations that copy well known practices in their population and truly innovative new organizations, pioneering practices without precedent. Also, the need for collecting patterns of contact between the entrepreneurs who founded early ventures, and especially on any efforts they undertook to create vehicles for collective action (Granovetter, McGuire 1998), will bring the necessary insights into the study of legitimacy and institutionalization.

Sanders, Tuschke (2007) provide interesting findings from researching early adapters of contested practices that gives insights to the initiators, the institutional entrepreneurs of a specific sector as well. Courageous adapters of contested practices are likely to have 1) exposure to high status institutional environments in which the practices are legitimate and 2) experience with other contested practices (Sanders, Tuschke 2007).

New practices that take root in institutional environments in which they face a liability of illegitimacy some courageous organization are needed that adopt and thereby potentially initiate a process of legitimization (Scott 2001). However, finding early adopters is only a start in convincing all relevant stakeholders of one's credibility. Many firms' institutional contexts are actually multidimensional, and opportunities and constraints confront firms not only from their primary institutional environment, but also from others in which they are simultaneously embedded (Sanders, Tuschke 2007).

Little attention has been focused on the diffusion of managerial theories and practices over national and institutional contexts (Gooderham, Nordhaug, Ringdal 1999: 508). Consequently, relative little is known about how practices spread over distinct institutional contexts, particularly contexts with widely different norms and values.

This study attempts to illustrate how a practice spreads from one institutional environment, where it is widely prevalent and taken-for-granted, to another environment, where its introduction is far from acceptance. Sanders, Tuschke (2007) describe with the term 'institutionally contested practice'.

'Institutionally contested practices are new organizational practices that face stiff opposition from key constituents in potential adopters' primary institutional environment, though some actors in that environment may advocate them; (Sanders, Tuschke 2007). Or as (Fiss, Zajac 2004, Kraatz, Broschak, Shah 2002) define it 'contested terrain': an institutional environment into which a new practice is introduced where at least some powerful actors oppose it.

The process of change associated with the introduction of institutionally contested practices may be somewhat different to from processes associated with relatively simple migration from one accepted environment to another environment. This particular study will attempt to build up support for this argument.

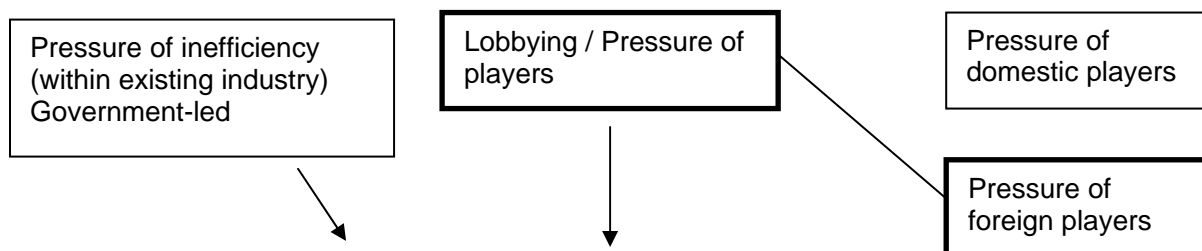
Taking existing theory on legitimacy in industry creation, and apply it to today's dynamics of transnational operations; and contestation, which is a very plausible effect when introducing a novel product, practice or such, the study seeks to provide insights in what the role is of foreign firms in institutional industry creation when markets are contested.

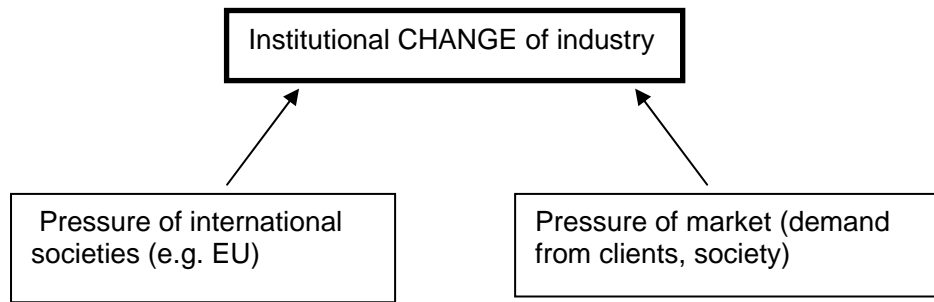
#### 2.4 Framework

In order to respond to the research question of: 'What is the role of foreign firms in institutional industry creation when markets are contested?' One needs to identify possible stakeholders that could have been of influence.

In the following model, the researcher has visualized possible variables that influence an institutional change towards a new industry creation.

FIGURE 1  
Influences of institutional change





What has not been previously researched in literature is the background of the players. In this globalizing world, it is interesting to see if and how the background of players on a market play a role in the legitimization part of institutional change. How do factors as international experience, cultural differences, entry modes, etc. contribute to the process of legitimization. It is the interest of this study to determine if a difference in legitimacy issues occur and have influence on the institutional change process.

International players obviously differ from national players for various reasons. For the sake of clarity the following table on some of the possible advantages and disadvantages in setting up business and industry creation is presented. In the following chapter, the research methods for obtaining clarification on the institutionalization process are discussed.

TABLE 2  
Advantages and disadvantages of players

	Possible Advantages	Possible Disadvantages
International players	Image of Experts Experience in industry creation Experience in lobbying activities Experience in setting up business Experience in different settings International social/formal network Resources- financial and human Efficient operations	No social and formal network in host country No or little understanding of culture of host country No or little understanding of business principles and practices in host country No grounds for collaboration with domestic players to raise industry legitimacy Language barriers
Domestic players	Relatively low entry and start-up costs Lower exit costs Lower risk Networks in place Better assessment of market place, information	Relatively little bargaining power Need for more manpower to fight legitimacy issues Little experience

### 3. METHOD

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To illustrate an occurrence of institutional change and to define what actors are involved, the case of the Spanish legalization of the temporary staffing sector is taken. 'In their role as private labour market intermediaries they are a major new institutional presence in liberalizing economies' (Peck, Theodore, Ward 2005). This sector is on first sight interesting since it appeared to be international players that have initiated the industry creation in this geographical area. Growth in Spain...is also an outcome of political maneuvering by the largest agencies defining the post-legalization rules of the game. (Peck, Theodore, Ward 2005) To provide an overview and present the sentiment of this market liberalization, the following means are adopted.

#### 3.1 Description of research design

By analyzing the case how entrepreneurs initiate and accelerate a change in a specific market, the explorative nature of the study is evident. Not much information is known about the previous situation of the sector in Spain, where information and data is very much fragmented. There is a need to better comprehend the nature of the phenomena and therefore to explore this area. A descriptive study tries to discover answers to the questions *who, what, when and where* (Blumberg, Cooper, Schindler 2005). Description will contain a part of this study since traditional literature needs to be researched to provide a historical point of the topic in question.

The case study method is chosen since it can lead to new and creative insights, development of new theory and have high validity with practitioners.

The research area of this study is to provide a clear overview of the events that have taken place in the Spanish TAW sector, by incorporating viewpoints from several stakeholders. In the words of Leonard, Barton (1990); 'A case study is a history of a past or current phenomenon drawn from multiple sources of evidence. It can include data from direct observation and systematic interviewing as well as from public and private archives. In fact, any fact relevant to the stream of events describing the phenomenon is a potential datum in a case study, since context is important.' Finding support in Yin (1994); 'Case studies are rich, empirical descriptions of particular instances of a phenomenon that are typically based on a variety of data sources'.

The unit of analysis will be the temporary staffing industry within the Spanish labour market. All actors in this industry can provide independent content and so increase construct validity (triangulation). The unit of analysis will therefore be on an organizational level. Companies, the government, unions and sector associations are analyzed.

Furthermore, these subjects were approached through theoretical sampling, where selection was made on basis of relevance to the case. The subjects interviewed from the TWAs were all directly involved during the process of legalization.

The study was a one-shot (cross-sectional) study as the data was gathered just once, where the extent of researcher interference is minimal. Although it somewhat portrays a before and after picture; much emphasis is given to the period before liberalization and to portray the opinions and views of all stakeholders. Additionally, due to time constraints and nature of this obligation it was not feasible to opt for a longitudinal study.

### 3.2 *Data sources*

Extensive desk research was conducted where secondary data was collected through publicly as well as privately<sup>1</sup> accessible reports and articles such as government releases, press releases from firms, associations, labour unions, company reports, academic reports, independent as well as initiated and sponsored by companies and associations, and newspaper articles from various media.

The research will therefore encompass a mixture of historical and recent documents on market changes and opinions over time. It goes without saying that many associations/organizations share the same main viewpoints and therefore not every single actor's opinion will be specifically described in the analysis, however generally the following actors are taken into account:

- **Labour Unions:** CCOO and UGT. These labour unions are the two largest and most powerful in Spain. Both organizations have an own department focused partially on the work of TWAs (CCOO-COMFIA, FeS-UGT)<sup>2</sup>
- **Temporary Worker Agencies:** (International) Multinationals: Adecco, Manpower, Randstad, Vedior, Alta Gestión, Flexiplan, USG People
- **Associations:** SINDETT: The organisation involving labour unions and TWAs  
AGETT: The association of the largest TWAs  
AETT: representing the small and medium-sized TWAs (mostly domestic, local and/or regional players)  
FEDETT: representing the smallest TWAs (mostly in Murcia, a region in Spain)  
CIETT: The association of TAW on European and International level
- **Government:** The Ministry of Labour
- **Academic:** Universities and research institutes

Additionally, primary data was collected through qualitative, semi-structured interviews with industry players to support and question findings from secondary data.

### 3.3 *Data Collection*

Next to the secondary sources mentioned in the previous section, interviews were held.

First a preliminary interview and desk research was needed to come up with the structure. The findings were then divided into the specific milestones in the sector:

- 1) The situation before 1994
- 2) 1994 the law for temporary staffing was legalized
- 3) The period between 1994 to 1997/9
- 4) From 1999 till now
- 5) Future visions of several stakeholders

Appropriate respondents were approached using theoretical sampling, where selection was made on basis of relevance to the case. Six interviews in total have been realised to support secondary data and to provide further insights. One of the six was conducted with a TAW

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<sup>1</sup> For an extensive list on the specific materials provided by various stakeholders, please consult Appendix IV

<sup>2</sup> See Appendix II Glossary for more information



association (AGETT). The remaining five interviews were conducted with (previous) managers of firms; specifically, two CFOs of two of the largest TWAs, One lobbyist (Secretary General) of the largest TWA in Spain, a former CEO of a large TWA and a former Managing Director of a small TWA that has ceased operations.

It was important to conduct the semi-structured interviews in the way that the subjects were not influenced by distracting means. “Noise” variables were limited, since subjects were interviewed at their natural surroundings, at their premises of office. The respondents interviewed from the firms were all directly involved in and experienced the process of legalization in Spain in 1994. Interviews took 1 to 1.5 hours each. Three out of six interviews were taped on recorder, and all six were manually transcribed as well.<sup>3</sup> All electronic transcriptions were realised within 48 hours of conduct.

### 3.4 Data Analysis

When reading into preliminary data, it was evident that specifically two events have had a significant impact on the TAW sector in Spain; the legalization of the sector, where the leading towards this moment is one of the core aspects of this research, and the price equalization law in 1997. Data was therefore firstly divided into corresponding time periods to identify sentiments in different stages of the process of institutionalization.

TABLE 3  
Chronology of Events

<i>Year</i>	<i>Event</i>
80s-90s	(illegal/a-legal) offering of Temporary Agency Work
90s	The first association of TAW was formed: GEESTA
1993	Forum TAW in Spain, initiated by GEESTA, CIETT (the European Association of Temporary Work Agencies (TWA) and the Spanish government
1994	Legislation on temporary agency work (TAW)
1994	GEESTA is renamed to Asociación Estatal de Trabajo Temporal (AETT): which split up to AETT (representing the SMEs) and the Asociación de Grandes Empresas de Trabajo Temporal (AGETT- representing the MNEs/large agencies)
1997	Price equalization law for TAW

Data extracted from secondary sources were divided into these time periods to start of, where the semi-structured, qualitative interviews were designed along these periods as well. To give the data more substance, the researcher went back into secondary sources to support and strengthen and/or reject interview outcomes. Through this triangulation, and re-checking of information, the researcher has tried to erode biased findings and false hearsay and build on content validity. Furthermore, whenever new qualitative data led to new insights, a review of literature was undertaken to assure close integrated of theory with practice in order to create a closely-knit paper.

No contradictions or conflicts have arisen, although there was one moment of confusion, where it was mentioned by two multinationals that they had taken over one specific

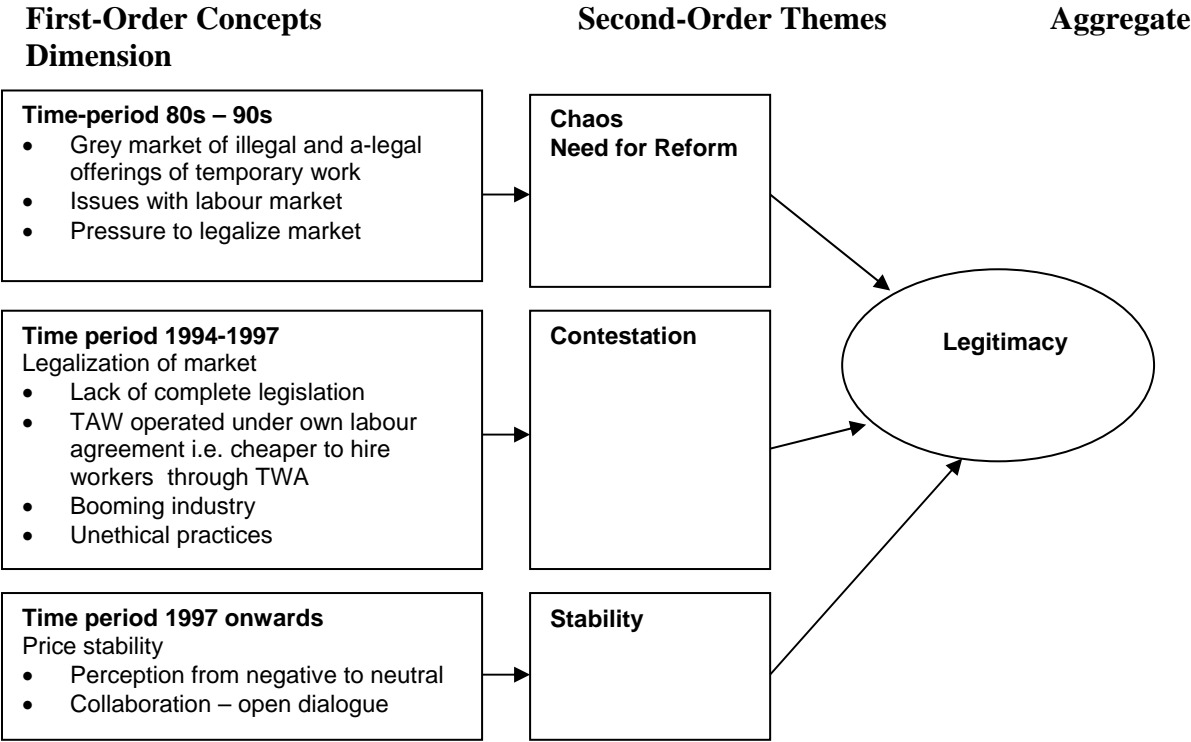
<sup>3</sup> Summaries of the interviews can be found in appendix V. Voice recordings are available upon request

competitor. With further research it became apparent that there were actually two companies with a very similar name that caused the confusion.

The measurement of concepts was addressed by an extensive interview protocol, where by asking open questions and keeping the interview semi-structured one can build up a sound analysis for the study. Interviewing has the advantage of flexibility in terms of adopting and changing the questions as the researcher proceeds with the interviews (Sekaran 2003).

In order to truly assess the severity of legitimacy issues and contestability of the market, the researcher has had included some specific questions on these topics, by further probing for deeper explanation. Although these possible numbers cannot be quantified, it gives a supporting idea of the situations addressed. Perception by society can be assessed through qualitative research and insights from newspaper articles.

FIGURE 2  
Data Structure



In the following three tables, the first-order concepts are supported by some quotes and observations from primary and secondary sources. In the Findings chapter one can find a further elaboration on the concepts and themes of this study. The Second-Order Themes represent the sentiment of the corresponding time periods, which illustrate different stages of a legitimacy process, which is depicted here to be the aggregate dimension.

TABLE 4  
Data supporting the Theme ‘Chaos’

<i>Associated First-Order Concepts</i>	<i>Representative Quotations</i>
Illegal / a-legal offering of TAW	(on working that time) 'very annoying, the integrity of the work was pressured, as if you were sitting on a bomb' (Int. 6)
Issues with labour market	They (the user firms) were afraid since it was a-legal, disputable illegal, and/or management was being stopped, contested by the permanent staff, feeling threatened by the possibility that TAW workers would come to take their jobs. (Int. 6)
Pressure to legalize market	The market starting responding with a flourished underground economy (illegal offering of TAW) (Cebrián et al. 2005) There was an enormous unemployment rate and a very high temporality rate (various sources) CIETT and GEESTA organized a congress to lend the Spanish government a helping hand with their issues in the labour market (Int. 6) Temporary Agency Work is actually what led society into legality (Int. 6) The labour authorities were forced to deal with a sector already put into place (Int. 3, 4, 6)

TABLE 5  
Data supporting the Theme 'Contestation'

<i>Associated First-Order Concepts</i>	<i>Representative Quotations</i>
Lack of complete legislation	Lawmakers were somewhat naïve with dealing with TWA in 1994, offering many unplanned loopholes in the legal framework for the TWAs to take advantage of (various sources) Act.No.14/1994 was a surprisingly short piece of legislation, far too concise to be able to cope with all the peculiarities a trilateral contract of employment, as temporary work is, can produce (Pinero Royo 2001)
Special labour agreement Booming industry	Minimalistic regulatory technique (Pinero Royo 2001) The sector started to grow exponentially, since TAW was used as a substitute for cheap labour costs (various sources) With the price advantage of TWAs over any other contracts, the TAW business started booming (various sources)
Unethical practices	What you see is a proliferation of small companies, there was no control. Every HR manager from around 40 years said; 'now I can make money', and started a TWA (Int.3) Many small TWAs were involved in illegal/unlawful activities; daily news paper articles would address another TWA did not pay their employees etc (Int. 1, 3, 4, 5, 6) You're trying to do your business and a lot of small illegal companies are pulling you down. (Int.3)

TABLE 6  
Data supporting the Theme ‘Stability’

<i>Associated First-Order Concepts</i>	<i>Representative Quotations</i>
Perception from negative to neutral	Due to social dialogue and then due to a new law, there was a convergence of salaries between permanent and agency workers (M. Pimentel) Companies began to utilize TWAs as a new tool of personnel management (Jesus Fernandez)
Collaboration – Open dialogue	The government is reliant on the unions for approval. If the unions agree, there won’t be any problems (Int. 1, 3, 4, 5) ‘This recognition by the two most important unions, without a doubt, is a historic moment in the social relations of our sector (Francisco Aranda) ‘The relations with the unions are good, contribution of our sector is recognized, companies perceive this and now see TWAs as an interesting way towards stable employment’ (Luis del Olmo)

#### 4. FINDINGS

##### THE SPANISH TEMPORARY AGENCY WORK INDUSTRY

As many European countries, the supply of temporary workers where up till the 1990s forbidden practices. In Spain, till 1994, the service of offering temporal employment was solely provided through the “Instituto Nacional de Empleo” National Employment Institute or most frequently, the INEM, being a state organ. Temporary employment agencies were authorised for the first time in Spain by Law 14/1994. In this law the following definition was

used: “a temporary employment agency is one whose activity consists in temporarily providing another user company with workers hired by the agency”. (Rodriguez, Royo 2005).

As of 1994, foreign TWAs immediately entered the newly opened Spanish market with its introduction of this previously unknown business model, therefore no serious Spanish competitors were present and foreign TWAs could gain from their knowledge advantage and first-mover advantages (pioneer). ‘Growth (of the industry) in Spain... is also an outcome of political maneuvering by the largest agencies defining the post-legalization rules of the game. Adecco, in particular, established an early presence in Spain, even before market liberalization...and used their first-mover advantages to ‘lock up’ the Spanish market’ (Peck, Theodore, Ward 2005). Therefore, not only had foreign firms first hand in taking large market shares; through their lobbying activities at the national government and by portraying themselves as ‘the experts’, legislation, norms and values were written in conjunction with the main players in the industry. The influence of their experiences led to the formal regulations to their hands.

#### ***4.1 1980s and beginning 1990s: a-legality and illegality***

Throughout the 1980s and early 1990s the Spanish Socialist Workers’ Party PSOE government dominated the political scene. Until 1976 when the democratic transition of the power in Spain began, the country had previously been ruled under dictatorship for more than 40 years. The labour laws that were created in that period served for a basis of the laws created under democracy. The protectionists’ ways, closed economy, very strong paternalistic view, describes the position of the country.

People like to be taken care of; I am looking for a fixed job, with a fixed income and then all my problems will be solved. (Interview 3)

Firms started operating when the Spanish labour law was still prohibiting any kind of employee leasing. Jurisdictionally qualified as ‘cesión de trabajadores’ (provision of workers) was illegal and therefore subject to civil, administrative even criminal sanctions. In the case of providing workers, the responsibility factor was unclear, who was responsible and could be held accountable in case of accidents, paying of the taxes etc.

An example of the illegal provision of workers would be when a TWA says to provide waiters for regular hosted Spanish parties like weddings. These weddings are very large and for example 30 waiters are needed for the night. The agency delivers the waiters, and after the service, workers are given cash as they go. No taxes are paid; no social securities are in place for workers, etc.

Deriving from Spain’s restrictive regulations, the market started responding with a “flourished underground economy’ (Cebrian et al 2005), an illegal market started working, where companies such as Adecco were quick to jump in. It is disputable if one can say that what Adecco and all the other firms operating in that time period did was not illegal, but a-legal since for TAW activities no law existed.

It was a difficult business to be in; when talking to potential clients, there was always the need to explain what TAW was actually about, since this was previously unknown to companies (user firms). There was a need to persuade clients in providing this service to them, and even though it was clear that companies did have this need, they were afraid since it was a-legal, disputable illegal, and/or management was being stopped, contested by the permanent staff, feeling threatened by the possibility that TAW workers would come to take their jobs.

Since the market was not regulated, and no official legal framework was to be obliged to, these businesses fell under regular labour law. Many labour inspections were the reality and many problems arose from this since TWAs needed to operate under a law that was not suitable for their situation.

An interviewee describes working in this time period as; very annoying, the integrity of working was pressured, as if you were sitting on a bomb. At any moment something could happen, which was extremely frustrating, we did not commit any fraudulent actions, always perfectly paid obligations such as social security and taxes, but the illegal way of working, the black circuit, was the reason behind the extreme controls of the business (interview 6).

Adecco, out of the firms currently still in the market, took the first initiative in the start of lobbying and negotiating with the government. The GEESTA, the first TAW-related association, was established in the 1990s to stand collectively strong towards the government and clients, workers etc. Many small companies joined GEESTA, and even ECCO<sup>4</sup> became a member, even though they were a more established company.

The experience of a respondent was that; the ambiance was 'very precautious'. Scared. More hostile environment than collaborative. Lots of fighting. It became a punishment to attend to participate in meetings (Interview 6).

Furthermore, it was difficult to identify who was responsible at the unions, since unions are divided into sectorial and territorial sections. Since TAW work operates across all these disciplines, the right person to talk to was non-existent. Still some ties were starting to be established especially with CCOO who has a communist background. Though, in 1994 and the years before the PSOE were in parliament, and relied more on the socialist-born UGT union. Therefore, in the beginning there was very little communication with the unions, and the law was negotiated through the government, even though as it is evident now, in order to discuss anything on the labour market, the unions need to be persuaded. The government is reliant on the unions for approval. If the unions agree, there won't be any problems (interview 5). Lobbying was on done in a very careful manner, one was afraid for repercussions, losing face (interview 6).

In 1992 in Segovia, The international TAW association CIETT and the national TAW association GEESTA organized a congress on Temporary Agency Work, to give it more publicity, and to help the Spanish government. This has led to interest from foreign MNEs to explore the Spanish market.

Temporary agency work is actually what led society into legality (interview 6).

#### **4.2 LAW 14/1994**

Labour reform, legalization of Temporary Agency Work

As an emergency solution imposed by the government to the economic and employment crisis in Spain, TWAs were regulated in 1994 as part of a major labour reform.

Since Spain was one of the few countries in the European community that had yet to legalize the market, the country received pressure from European level. The government also saw that TAW was an accepted tool in incorporating more flexibility. Furthermore, the government had to cope with the somewhat loose situation it had on hands at that time, and needed to

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<sup>4</sup> ECCO (French origin) merged in a later stage with ADIA (Swiss) to form ADECCO, the current market leader in the Spanish TAW sector

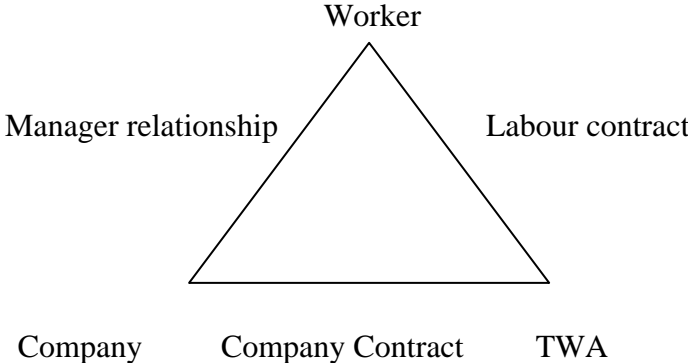
address the a-legal and illegal activities that were taking place. To deal with these grey activities, the labour authorities were forced to deal with a sector already put into place. Additionally, the internal labour market had been suffering a whopping 18% unemployment rate, and temporary contracts were up to 40% of all contracts. The government saw the contribution TAW could make to its labour market, and the experiences in other countries were positive.

The law that was formed in 1994, was not the best law (Interview 6)

The TWA regulation came at the worst moment in 1994 in the labour market; there was an enormous unemployment rate and a very high temporality rate. Furthermore, many were afraid that companies would have difficulties with indefinite contracts, and would drop their workers and obtain workers for a more economic price, since ETT were governed for a national unique covenant that could be cheaper compared to some sectors and businesses. These practices generated a lot of refusal.

(Translated quote from Francisco Aranda, President, Secretary General AGETT)

FIGURE 3  
Trilateral relations of Temporary Agency Work



There are three parties involved, the Company or User Firm, the Worker and the TWA. The TWA makes a Labour Contract with a worker. The TWA makes a Company Contract for temporary work available at the user firm, and agrees on the specific worker coming to work at the user firm. The company then has a manager relationship with the worker.

Lawmakers were somewhat naïve with dealing with TWA in 1994, offering many unplanned loopholes in the legal framework for the TWAs to take advantage of. In a way they underestimated the complexity of this form of employment. This led to TWAs strongly competing on the basis of prices, which led to the fact that it was simply cheaper for a firm to hire a worker through a TWA than doing it directly with a fixed/term contract of employment.

Furthermore, what this law lacked was instead in writing up a full extensive legal framework towards this new business model, the regulation was more focused on some particular parts of the sector, where non/described parts just fell under ordinary labour and commercial law, which is based on bilateral contracts. This Spanish labour law approach has been called 'minimalistic regulatory technique' (Pintero, Royo 2001).

Act.No.14/1994 was a surprisingly short piece of legislation, far too concise to be able to cope with all the peculiarities a trilateral contract of employment, as temporary work is, can produce (Pintero, Royo 2001).

### 4.3 *Period 1994 - 1997/9*

**TURBULENT PERIOD** booming business for the most-hated industry  
Consequences from the short piece of legislation on TAW

Imagine, you have a secretary working for you, not that well-educated, not that good, earning 3000 euros a month, why, because she's been with the company for 20 years  
All of a sudden, it's possible to hire someone, younger, educated, and able to do the job for half the pay. The new person wouldn't care about earning less than the previous person, s/he needs a job and will take any position offered.

The sector started to grow exponentially, since TAW was used as a substitute for cheap labour costs. With the price advantage of TWAs over any other contracts, the TAW business started booming. From that moment on, the number of enterprises rose at an impressive pace<sup>5</sup>, just as the volume of their activity did. In little time, all big multinational firms were present in the Spanish labour market competing with national firms for a booming sector. The created price advantage, according to the European TAW association CIETT 'Our capital sin', has been one if not the largest impact on the development of the sector.

The market grew very fast, since it looked like a relatively easy business. A lot of people thought, easy money. What you see is a proliferation of small companies, there was no control. Every HR manager from around 40 years said; 'now I can make money', and started a TWA (interview 3).

The negative image that was perceived was also strengthened by the players themselves. Many small TWAs were involved in illegal/unlawful activities; daily news paper articles would address another TWA did not pay their employees etc. These actions were severely damaging the image of society on TAW.

During 1997, 40% of the contracts written by the ETT were of maximum 5 days. Some TWAs hire workers from Monday to Friday and say bye for the weekend. Therefore, TWAs save salary and quotation, and hire them back on Monday.

(Translated quote from Dolores Liceras, representative CCOO in negotiations)

Furthermore what became apparent in this period, and is perceived to be one of the reasons behind the start of the grey market in the beginning of the 1990s was the existence of 'hidden advantages'. TWA did not only provide flexibility, economies of scale, specialization in personnel management, what they also provided was an instrument for reducing direct labour costs, hiding the real size of a firm's workforce, and to reduce union activity.

Unions saw temporary agency work as taking away permanent work, since already a high percentage of temporary contracts were in the Spanish market. TAW would imply an increase of this. The labour unions were extremely disheartened by the TWAs having their own labour agreement (and so could imply lower prices) and were in that way so shocked, that they started to campaign against the TWAs. With strong messages and anti-TAW campaigns to the society, UGT and CCOO convinced people that, good people are getting fired today because of TWAs, and tomorrow that could happen to you.

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<sup>5</sup> see period 1999 and onwards for numbers on TWAs in the market



Furthermore, the unions presented a series of petitions that limit actions activities of TWAs, resulted in a law on labour risk in 1997.

‘TWAs should not be allowed to operate in the Public Administration sector; they should not be used to utilize to cover stable jobs. TWAs should become a source of skilled labour, efficiency, useful for the businessman and above all, stable.’

(Translated quote from Josefa Solá, executive secretary UGT)

The image of being the ‘bad guys’ was directly captured in its legal framework, which the objective became more to restrict the activities of these companies, whether to use them to fight the real problems of the labour market. Legal bans that aimed to restrict the activity of the sector and numerous limitations in sectorial and territorial collective agreements were put into place, meaning less business for the sector.

Another issue was the TAW association, AETT (formerly known as GEESTA). Many small firms doing unlawful activities, dragging down the not even yet established image of TAW was dividing up the association. AETT represented 156 of almost 450 TWAs in Spain.

It goes against your business. You’re trying to do your business and a lot of small illegal companies are pulling you down (interview 3).

In the beginning there were between 400-500 companies, small companies, of people that put their own money in. People get very nervous. In the first two/three years the meetings in the staffing association were horrible, everybody talking, everybody shouting, there was no policy, and nobody was able to deal with the issues (interview 3).

We never got unity there; everyone was going into a different direction. Some ... just wanted to be there for while, make some money, not always acting very correctly. The bigger, international companies, this is their core business, so they want to stay, they want continuity, the want to develop the market (interview 4). And so a split in representation was inevitable, on the surface one could see two streams;

The big companies, who were foreign and multinationals

The small companies, who were local and national small medium sized firms

The MNEs started to fall under representation of AGETT

The SMEs fell under the representation of AETT

Social unrest against TWAs was growing as the sector was increasing as well. Offices of TWAs were being attacked, even bombed. A respondent was personally threatened by anarchists (interview 3). ETA, the internationally recognized terrorist organization from the North of Spain even at one point had foreign multinationals in human resources industry, as strategy of their attacks. Another example is GRAPO terrorist group which have bombed some TWAs as well, and were pressed charges against.

It was very difficult in some years 95/96/97; we even had physical attacks to some of our branches, to some of our people. That’s very tough; because in the end you are an employer...Imagine what the level of stress is for your own people with these kinds of circumstances (interview 4).

Social recognition was not attained, even worse a very negative image was reality. TWAs found themselves in the middle of a number of critics and complaints from different sectors of society. TWAs were blamed for the many problems and obscure details detected in their

activity, seen as an instrument for the exploitation of workers, main factor causing imbalances.

How can you work for a staffing company, they are thieves! (Interview 4)

Organizations of all kinds and orientations shared the same attitude of strong opposition to temporary work; from extreme leftist to fascist political parties, unions and traditional political parties. At least two times<sup>6</sup>, bombing campaigns were initiated by terrorist groups against offices of TAW.

Even though we receive low margins compared to for example the banking sector. We are hated much more than they are (interview 4).

(TAW sector) started growing with circumstances like high unemployment, bad image, bad economic situation, strong labour unions, low payments; it was a cocktail of complications (interview 3).

#### **4.4 LAW 29/1999**

Labour reform, leading to the wage equalization of the services

The liberalization of the Spanish labor market had led to an explosive growth in the number of agencies and workers placed. By 1999 there were 403 staffing firms operating, with 1752 branch offices placing approximately 660,000 workers daily (CIETT 2000). The contestation obvious from the previous timeframe was slowed down by the law in 1999 (initiated in 1997).

The biggest objection labour unions had against the work of TWAs was that they believed companies used TWAs in order to get workers to work, for a relatively cheap price.

Through the unrest of workers and labour unions on the price advantage that TWA held, legislation leading to wage equalization was approved. The consequences of this piece of legislation had dropped their advantage, so prices have grown significantly and labour cost reduction is no longer possible. Small TWAs suffer dramatically from this equalization, and user firms have changed their strategy in assessing the use of temporary work, since prices are equalized. In 1999 for the first time the absolute number of TWAs in the country decreased (and will continue dropping marginally), and the sector sees its volume reduce as well.

In Spain equal treatment is in general guaranteed by the constitution and by several laws pertaining to agency staff and temporary workers in relation to permanent workers in the user enterprise. This general principle was strengthened by legislation in 1999 which stipulated that pay for agency workers should be the same as that of comparable workers in the user firm. However other salary complements regulated on an ad hoc basis, such as profit sharing or extra salary payments are not included.

#### **4.5 FROM 1999 ONWARDS Social Peace<sup>7</sup>**

Better legislation means better development (interview 1)

‘In Southern Europe, the private employment agency business is frequently misunderstood. ..Such as Spain, public opinion has traditionally viewed private employment agencies as organizations that simply help companies to substitute permanent, well-paid workers, with temporary low-paid agency workers. Fortunately, first of all due to social dialogue and then due to a new law, there was a convergence of salaries between permanent and agency workers.’

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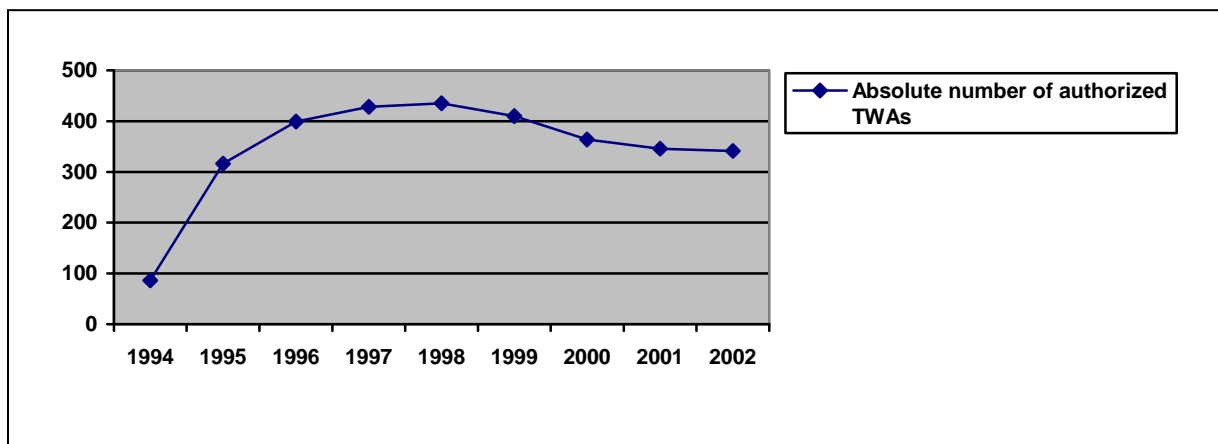
<sup>6</sup> Randstad, People

<sup>7</sup> definition derived from CIETT-AGETT presentation

(Quote from Mr. Manuel Pimentel, Former Minister of Labour Spain)

After the equalization of wages law the sector slowed down as a result from the law where 2000 and 2001 stagnation was observed. 2003 was the year of recovery where in 2004 They've surpassed this stagnation. Along with these developments, the absolute number of TWAs also stagnated. That's why if you look at the graph you can see that just when the market was liberalized a huge surge in the number of TWAs can be found, where in the following years this has only made a decline.

FIGURE 4  
Number of authorized TWAs from 1994-2002



1994	1995	1996	1997	1998	1999	2000	2001	2002
86	316	399	428	435	411	364	346	341

Source: INEM statistics, CCOO, UGT, Pinero Royo 2001

The very positive effect was that the typical conversation on the street about temporary staffing agencies taking parts of the salary of the employees was with the convergence law removed (interview 4)

The better times and sending positive messages to society has begun. The labour unions start backing the TAW sector by cautiously expressing their support. Still the negative stigma on TAW work does not seem to disappear.

Private initiative is still under suspicion, continuously questioned, and mistrusted (Pinero, Royo 2001).

One critique the UGT has is that the TWAs are still competing on the basis of prices, and the announced direction of greater specialization. In the meantime TWAs still act like business groups with growing activities in the business of multi-services.

Labour precariousness is directly associated (by the public, labour unions, even some government officials) with the work of TWAs. Which according to Aranda<sup>8</sup> reflect a still absolute ignorance of the sector and the industrial advantages that we offer.

In this stage the TAW sector has been supported by UGT and CCOO who have repeatedly indicated that they believe TAW is that best form of channeling temporary contracting in Spain. This has had consequences for the labour unions as well, of changing their opinion of favoring TWAs instead of working against them; some minority groups (anarchists) perceived them as traitors.

‘This recognition by the two most important unions, without a doubt, is a historic moment in the social relations of our sector.

(Translated quote Francisco Aranda, secretary general AGETT)

‘When user firms realized there are no longer advantages in price, firms saw other ways to use TWAs to identify wanted profiles and the possibility to incorporate TAW employees into their business.

Companies began to utilize TWAs as a new tool of personnel management’  
(Jesus Fernández Delegated Counselor of Vedior Laborman)

‘The attitude of user firms towards the demand of workers has been focused on the capabilities to do the work, adaptation to a new environment, and to be creative to look for people that enjoy working’.

(Enrique Garcia, General Director Adecco)

‘TWAs are businesses of first employment and to resort to them from time to time to verify capacities of future candidates, can be seen as a trial period. ...In an average period of between four to six months, a TAW worker could obtain an indefinite contract in the user firm’.

(Juan José Quintas, General Director of People)

‘The fact that companies are resorting to our services, is thanks to the well management to change the image of the sector. The relations with the unions are good, contribution of our sector is recognized, companies perceive this and now see TWAs as an interesting way towards stable employment.’

(Luis del Olmo, Vice president Randstad Spain)

In 2001, 30% who obtained temporary employment through a TAW were offered indefinite contracts at user firms. The TWAs are starting to publicize that they can be a gateway to permanent employment.

Though, for TWAs also a negative effect was present. The negative effect of one that our product became more expensive, but also our administrative process became much more complex, because of the thousands of CLAs we have to pay according to. You can find sectorial CLAs, national ones, regional ones, per province, per User Company etc. We have to look and study every single CLA to pay our temp workers accordingly, which has brought some very unfair situations (interview 4).

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<sup>8</sup> Secretary General AGETT, presently President of AGETT

Imagine you work as an assistant for a pharmaceutical company and you do one specific work. You get paid according to the pharmaceutical sectorial CLA 20.000 euros per year. You get the same job, same specific work and function, but then at a chemical company. You will be paid according to the sectorial CLA e.g. 15.000 euros a year. In the eyes of the employee, this is unfair. You are doing the same work, same quality, same person, but different CLA. So, this is complicated in the administrative sense, and made it for the TWAs very difficult to explain to workers.

And still restrictions to TWAs activity exists. Even though the image of TAW has been bettered, TWAs are still frequently being blamed for Spain’s high temporality rates, being the highest among EU members (33% in 2005), and while Spain’s unemployment rate has consistently been, and continues to be, among the highest in Western Europe (Economist Intelligence Unit 2006). In 2005, 94% of the hiring was done through temporary contracts. Only 14.6% was managed by TWAs (CIETT).

FIGURE 5

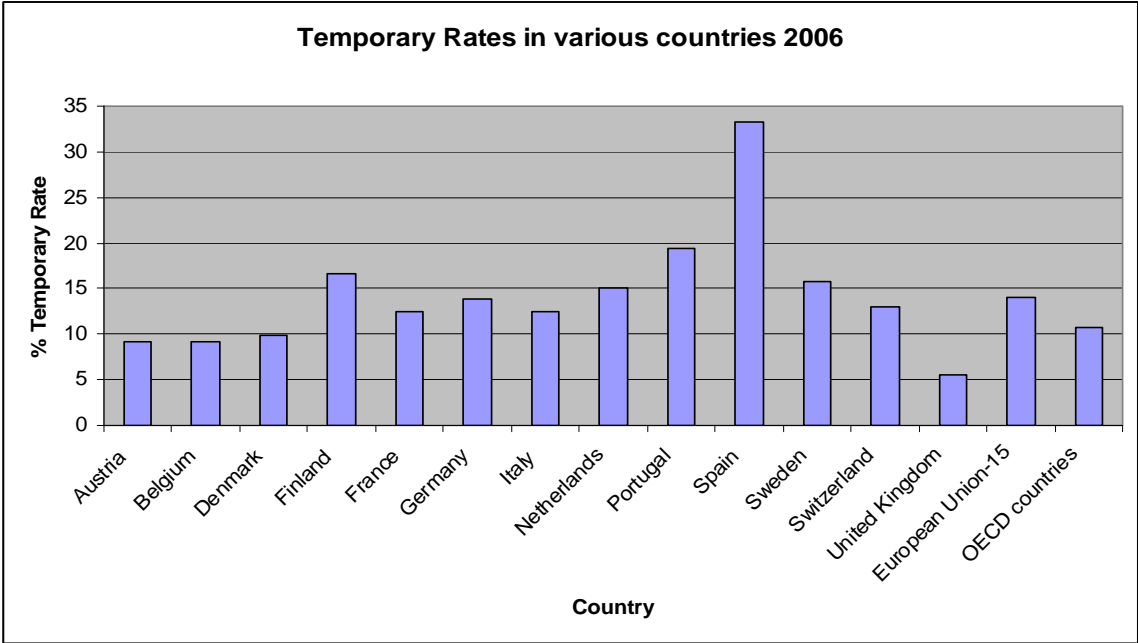


FIGURE 6



In 2004, the TWAs had asked for elimination of some legal barriers that obstruct their activity. At this point they are still being held responsible or the stigma still exists of TWAs being responsible for temporality and labor accidents. José Ramón Caso, president of AGETT at that point, rejects this case by comparing the numbers 1994 there was a 35% temporality rate, compared to 30% in 2004. Most labor accidents that happen are in the construction sector, which is a sector TWAs are not allowed to operate in. Furthermore in recent years the rate of labour accidents has actually increased, meaning (according to TAW associations and TWAs) that the TAW sector is not a main determinant in this issue.

In recent years the labour market conditions have improved significantly, reflecting largely stronger demand, but also reforms that have increased the flexibility of the labour market. These factors have seen the number of people in employment increase by more than half in the decade to 2005, and in the rate of unemployment fall from more than 18% in 1995 to just over 9% in 2005 (Economist Intelligence Unit 2006).

The association representing the largest TWAs, AGETT is moving on from this situation and is working on becoming part of the solution, to obtain recognition of the positive role of TWAs in the labour market, through all social agents and public opinion. TWAs fight the abuse of temporary contracts, since it only responds to real temp needs. It needs to be considered as a professional and well-regulated sector (AGETT).

#### **4.6 Current Situation**

##### **4.6.1 Legislation**

Even though the sector is legalised, it is still very much regulated. At the moment, Spain's system is very detailed and complicated. The government has divided the regulation and conditions regarding collective labour agreements CLA, in industry blocks, e.g. for construction market exist another CLA than the hospitality sector. Then, on top of that, every region can have their own addition to the rules conditions, and in order to operate as a TWA, much research needs to be done to comply with the exact right CLA, and pay your workers accordingly. This system raises many eyebrows and even anger, when explained to employees why, while doing the same job, but at another industry, a wage cutback could be possible. Spain is a much decentralized country, with many cultural differences. Language differences, decentralized power to the local governments in the autonomous communities, so some specific issues in the way things are done differ from another area.

To start an agency one needs to obtain a license to set up business, then is monitored by special institutions in place. TWA have obtain a license to set up business and need to oblige before the Public Administration some administrative and financial guarantees that assure salary of workers and payment of quotations at the Social Security (so in case of bankruptcy, salary will still be sustained). TWA need to administrate authorizations to exercise their activity, they have obligations in terms of information, and there are supposedly numerous controls on the part of Work Inspection. Although regulations are extensive and detailed, several national reports present evidence of little to non-observance of the law.

#### **4.6.2 Representation of TWAs**

Presently one can find four associations representing the TWAs that have taken responsibility over the lobbying activities of the sector. Additionally, Adecco and Randstad have a lobbying department (institutional relationships) in-house:

**AGETT**, Asociación General de Empresas Trabajo Temporal, is the Association of the (6) largest TWAs, representing Adecco, Altagestion, (part of Adecco Group), Randstad, Laborman (part of the Vedior<sup>9</sup> group), Start People (part of USG People) and Flexiplan (part of EULEN group). Flexiplan is currently the only TWA in AGETT that is still in Spanish hands. Previously large domestic players, like Human Group and Umamo, have respectively been taken over by Adecco Group and Randstad Group in recent history. Manpower is also considered as one of the major players in Spain, although currently no longer part of AGETT nor is it represented by any other of the sector's organizations.

Manpower is an individual entity amongst the TWAs and does not work with the government. The option is there for them to work with us; however they are a big company and have not yet approached us to such extent.

(Celia Ferrero, Director of Communications AGETT Interview 2 2007)

AGETT represent for about 60-80% of the TAW contracts (AGETT, CIETT). A detailed percentage cannot be given, since the sector is not transparent enough to assess this more specifically.

**AETT** is the association representing the small to medium sized TWAs operating in the Spanish market. This association has approximately 100 members (CCOO). AETT is therefore representative of around 25% of all TAW contracts (CIETT). AETT is also a CIETT member as well as AGETT.

**FEDETT** is the management associated with the smallest businesses. This federation is also more focused on the TWAs in the province of Murcia (CIETT).

**ACETT** is the association looking out for the interests of the small and medium sized businesses in the Catalan region in Spain. This association is focused exclusively on the Catalan environment.

The penetration rate of TAW is 0.8% where the EU member states average is 1.6%. Presently, there are still restricted sectors where TWAs cannot operate in, such as public administration and the construction sector, since TWAs are forbidden to operate in 'risky' sectors. Though, companies in 'risky' sectors are allowed to hire workers on a temporary contract directly.

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<sup>9</sup> In near future incorporated in Randstad Group

### 4.6.3 Contestation

To illustrate contestation, and that society's perception is still disputable, can be seen in recent articles where even though not limited to, TWAs are still targets to attacks. Public perception of agency work has generally become more positive, although in some of the southern European countries; public suspicion remains (CIETT 2005). Prejudice is still believed to exist in the heads of the unions (interview 5).

Even though the perception is far better than in a decade ago, through the convergence law people might have accepted the service, but not necessarily embraced the sector.

Their struggle is very much a collective effort, although not necessarily a collaborative one (Aldrich, Fiol 2007), which is over-evident in this case. All stakeholders involved realize the necessity of re-defining / improve the image of the definition to Empresa Trabajo Temporal. Especially the 'Trabajo Temporal' part is what still can confuse people. Temporary Work is perceived the same as Temporary Contract, which is considered to be a negative one to have (instability, restriction e.g. not able to buy a house, etc).

We still, not so big percentage, find some percentage of people that are confused about the work. I would say a minority, but still a huge group that still thinks that you are taking a part of my salary etc. I think there is still work to be done (interview 4).

In one or two generations more, I think if we do our work in a proper way, if we treat people well, we can change people's perception (interview 4).

The collaboration with unions and between the representatives of TAW, the associations is increasingly improving. Just in late December 2007 the four staffing associations and two unions realised and agreed upon five new collective agreements, fixed till 2010 (interview 5).

The lobbying activities continue to take up much time, where two of the MNEs have realised their own internal in/house lobbying department, on top of their reliance on AGETT. Officially AGETT members meet once a month, but continuously (daily) communication lines are open.

With the unions the collaboration is obviously increasing for the better as well. Even though it is still difficult to efficiently and effectively collaborate, since the internal structure of the unions delivers many complications. The sectorial-territorial matrix as explained earlier also provides a ground for conflicts. Conflicting interests between certain sectors or territories hamper the process in getting agreeable views. A certain sector might be against TWAs being allowed to operate there, but now the ties with the unions are prospering, negotiations are simultaneously done with the heads of unions that could impose an overall agreement.

The government has expressed that they want TAW to be in the possibilities in bettering the labour market. One respondent (interview 5) believes that the acceptance of TAW work is definitely increasing but when needed to quantify would say around 70% would agree with the service they deliver. Accepting, not necessarily embracing the sector.

Multinational TWAs have been learning considerably from their experiences in operating in the Spanish market. Interviewed representatives all agree that the period has been a learning curve, and are learning from their experiences. The large multinational TWAs are all looking into (not only in Spain, but overall to be seen in global corporate strategies) in becoming a provider of total human resources personnel services. Multinationals are trying to make way to provide a sort of one-stop shop for their clients, and retaining their workers by offering



trainings and see through career development plans. Gradually and collectively they believe in fighting contestability with doing what they do best; centralize the human aspect, treat all stakeholders well and through mouth to mouth advertisement increase the trustworthiness and honesty of the business.

To fight off the negative stigma the word ETT Empresa Trabajo Temporal (TWA) has, Some companies think of renaming their businesses redefining what it is what they do and move into new or yet unknown legislation. They gained the knowledge have now a way better position in the market and have build up good relations.

The future for (our) TWA is to move into a new form of business, Agencia de Empleo / Employment Agency and to lobby for a combination law (interview 5). There are no laws existing for AEs yet. This TWA believes it can fight the bad stigma of TT, Trabajo Temporal / Temporary work, concerned to be temporary, bad, short time, change perception through also offering permanent contracts, more training, with sufficient and structuring resources.

I would still consider Spain to have a very strong adversity against temporary workers. Because it is (perceived to be) directly related to uncertainty, low skilled jobs, the bad image etc (interview 3).

A respondent is an advocate of bringing large and small firms together. ....once said; it seems to be that the small ones in life need the big ones; the poor need the rich, children need fathers. I think in our business, that the big ones also need the small ones, much more even, because they can do much more harm for the big ones (interview 3). He pleads for one association, which will represent all TWAs at once.

Another respondent has a similar approach in mind, but more specified on bringing all the professional firms in one association. It might not have worked in the beginning years, but according to him the companies that have been in this business for over a decade (including the small ones) are professionals, and will see the need for transparency (interview 4).

Treat people well to really be able to match interest of persons with the interests of the organizations, in itself a goal it will develop the market (interview 4). Other goals for the future are enlarging the portion of the market and increase penetration rate, enlarging their core business, since many lessons can be drawn from their history, and would like to move into the HR solutions company.

The overall strategy of TWAs is to become 'Global Careers Managers and going into the direction of changing the concept TWAs to Private Employment Agencies PrEAs and so encompass more business and be more useful for labour market and society. The labour unions are somewhat still hesitant on a full acceptance of the TAW sector. Through still restricting certain sectors it shows that they are on the look/out for what the sector will do next. However, unions have come a long way from being the initiators in anti-TAW campaigns, to cooperating and drafting up new collective agreements with the TAW associations, which have been finalized last December (Antonio Aguayo CCOO)

The unions continue striving for safe and guaranteed labour, by continuously questioning, investigating and making suggestions towards the sector. (When companies allow them, unions have representatives on-site). Recently, the UGT has held a presentation on 'supporting the employability in line with Europe' where a proposition was made on how to go further with the Temporary staffing sector. CCOO recognized now that TAW has not been a determinant factor in the evolution of temporality (one of the main issues in the Spanish

labour market). Still, sometimes this reason still comes up in discussions on the sector (UGT). It is perceived that the unions are somewhat hesitant to show their support publicly. Where in the past, the labour unions were publicly attacking the work of temporary work agencies through publicly organised campaigns; no real public communication has been initiated to show their current support towards the TWAs.

An issue now of the labour unions is that the TWAs had announced greater specialization and qualification in the instalment of their services. Still as of 2003 they're focus was on growing their business multi-services. This is confusing for the labour unions, since they do not clearly see where the direction TWAs wants to move in. This is thought to be one of the reasons why unions are reluctant to publicly support TWAs.

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## 5. DISCUSSION and LIMITATIONS

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### 5.1 *Interpretation of findings*

The case researched shows a situation where a controversial industry that was actively resisted by several stakeholders.

The protagonists on one side were the Temporary Worker Agencies, national as well as international companies. Some large MNEs had entered the market in a very early stage, having a stake in the pressuring of authorities to legalize the sector. The TWAs have also initiated in developing associations to represent them by bringing a collective voice.

User companies were obviously a large group in favour of the legalization, proven by the explosion of the market in the beginning period. Still, user companies were even then somewhat, scared, reluctant and afraid to use the services of TWAs, because of the contestation from the public. 'In order (to have user firms) to adopt a practice that is technically illegal, potential adopters must not only fight an ideological war with opponents, but must also maneuver their way around existing laws and regulations to make the practice possible' (Sanders, Tuschke 2007).

The government, by implying rules and regulations was also a protagonist of the institutional change, although it seems like the authorities did not incorporate any resistance and were somewhat surprised by the contestation. It appears that after the legalization, they have stayed quiet and had the market deal with the problems itself. Only till 1997 where labour unions and the public had been pressing for price equalization, has the government made a statement by accepting a new law.

The antagonists were mainly the labour unions, thereby heavily influencing the public. Since a special labour agreement was formed without the knowledge of the labour unions, this had offset their view on the TAW sector. In that beginning period, many TWAs were also not acting completely ethical, and because of the power of the labour unions, they were extremely effective in making the whole TAW sector illegitimate. By heavy campaigning the 'unfair' activities of TWAs, the perception of TWAs has been permanently damaged.

In this case, the labour unions are one stakeholder group that has dominated the legitimacy discourse. However this does not prove or support that this is typical, although it is plausible that any one of the relevant actors in an institutional context can hamper the legitimization process.

The main contributions are stated below:

When markets are contested:

- Resistance can severely hamper or even erode any legitimacy efforts
- There is a need for intraindustry transparency
- The different levels of analysis have different levels of importance, industry legitimacy should be the main focal point
- Even though experience in stakeholder management can contribute and offer similarities to its process, other factors such as culture can have a large influence over expertise

#### 5.1.1 *Legitimacy and contestation*

Building on the work of Aldrich, Fiol (1994, 2007), rather to reconsider their theory rather to challenge it, when contestation exists, outcomes of this study can add to the existing theory. In contestation, the need for intraindustry (sector) transparency is a must. When it is publicly known how a sector operates and information is out there, industries can minimize contestation.

The case shows how the various levels of analysis depicted by Aldrich, Fiol (1994) occurred simultaneously in real-life. A step-by-step approach (with some overlaps) is considered more suitable when a market is contested, stressing the need for continuous dialogue.

Furthermore, in adding to the model of Aldrich, Fiol (1994), it appears that in industry creation, the importance of the certain levels presented shift to mainly industry legitimacy. Where one company does something illegal, this will be stretched over the whole collective image of a yet-legitimate industry practice. When and if laws and regulations are amended to permit easier adoption of a contested practice, such legal sanctioning is likely to open the floodgates'. And so they have a huge surge in business in the industry was the reality, which at that point actually led to a contestation, not so much the underground grey market of the 80s and 90s. The fierce contestation was brought upon the legalization of the law resulting in publicly opposition to the collective sector rather than the specific wrong-doers.

The lobbying at government-level needs to be much more, seen as a collaboration rather than persuasion of activities. It is in the best interest of authorities as well that a newfound sector operates accordingly. Obtaining rules and regulations set by the government actually does not imply 'real' legitimacy, and does not imply cognitive legitimacy to be in place either. The researcher finds that this division of cognitive and sociopolitical legitimacy is not interlinked, although it can influence each other.

Contestability can therefore eliminate and/or severely hamper any efforts of legitimization of an institutional change. When contestation is from a severe level, resorting to new definitions and legislation than trying to fight for a full understanding of your once novel practices could be an option.

### ***5.1.2 Transnational operations***

User companies did see the benefit of TWAs for the obvious reasons like increased flexibility and cost efficiency. This could also have been strengthened by user companies having a global background. The TAW sector's legitimacy was already approved in some high-status institutional environment and so may have spilled over to other institutional contexts (Kostova, Zaheer 1999). Legitimacy in a high-status institutional context decreases the likelihood that a practice will be rejected simply because it violates a domestic institutional logic (Sanders, Tuschke 2007). This argument explains the adoption of TAW by the Spanish government; interindustry legitimacy and institutional legitimacy might be influenced by other high-status institutional contexts. However, legitimacy towards the public does not appear to be effective.

Experience dealing with stakeholders in the institutional environments that oppose certain practices and actions also allows a firm to learn how to deal with these obstacles, and knowledge and experience gained from past situations give the firm adroitness when dealing with similar hotly contested situations in the present or the future (Sanders, Tuschke 2007). This argument is disputable, since at the time of the MNEs entering the Spanish labour market, all companies had previous experiences moving into new markets, although not necessarily contested ones. After the entrance in Spain though, MNEs did move into Italy shortly, which has also legalized the market. It does not appear that MNEs had more necessarily more success, because of their gained experience in stakeholder management.

The case of the Spanish TAW sector has functioned to illustrate how foreign multinationals can influence institutional change. The researcher believes that the case does show that foreign multinationals do can influence institutional change. However, if it was for the better or worse is difficult to say since this is not a comparative case. The researcher found that it

does not matter if an industry is being created by national or foreign players who might enjoy beneficial traits. There are too many factors that need to be taken into account. What is important in industry creation is consensus and what can be learned from this case is when contestation is plausible, more efforts need to be in place to gain legitimacy; transparency, control and continuous dialogue can minimize resistance.

## **5.2 Propositions**

### **5.2.1 Legitimacy**

In order to derive answers to the research question; what is the role of foreign firms in industry creation in an institutional context when activities are contested, the case researched concludes that foreign firms have pushed the Spanish government to legalize the market, where normal procedures involve discussions with labour unions to agree to a standards and imposition of a law.

When institutional change occurs in the form of new industry creation, little knowledge and/or direct experience can be drawn upon by the government. In that case, foreign multinational firms can be perceived as experts in the begin phase / forming phase, because of their expertise, experience in other countries, reputation, and their willingness to cooperate and collaborate in comprising a legal framework. Furthermore, they can have the backing of influential international organs. Legitimacy therefore, towards government bodies can have an accelerated effect. Leading to the first proposition:

**Proposition 1: Foreign firms enjoy accelerated legitimacy over in (institutional) industry creation due to (perceived) experience, trust, reliability**

On the other hand, one needs to keep in mind that there are always at least two scenarios possible. In theory and practice, transnational operations are not bound to be profitable. When firms go international, it is not a given that one shall succeed. Foreign firms can come across many obstacles, which hamper the road to success. This could potentially have a significant influence on industry legitimacy.

In the case researched, one respondent noted specifically that the main reason for his failure in Spain is most probably because of the fact he holding another nationality. Indirectly respondents have also mentioned and commented on the specific management of competing companies run by foreigners and how this is a 'wrong' approach to the market. This reasoning leads to a contra-proposition:

**Proposition 2: Foreign firms suffer from a decelerated legitimacy process due to foreignness, language differences, and cultural differences**

When examining novel industry creation, other actors, besides government and companies, have been considered to contribute to an institutional change. Markets nowadays do not necessarily depict a specific country anymore; markets are becoming more global geographical areas, one part of a larger piece, leading to the higher probability of interference from more (in-)direct stakeholders. Foreign governments, collective governments, such as the European Union, and other (collective) stakeholders can influence and/or pressurize institutional frameworks.

This case provides data on how CIETT, the international association, taking the initiative (in collaboration) in organizing a forum, which has most possibly led to the legalization of the market. This forum reveals how interference from this kind of international actors can

motivate international companies to take that risk and enter an unknown territory. This leads to the following proposition:

**Proposition 3: Interference / Pressure from international actors (firms, governments, etc) motivate institutional change**

#### 5.2.2 *Contestation*

While researching the process of industry creation in the institutional context, the researcher found that all levels, categorizations, ‘tips and tricks’ in building up legitimacy is somewhat pushed into the background when contestation is present.

In the case of contestation, illegitimacy needs to be gained at all relevant stakeholders levels, and therefore obtaining legitimacy is an interlinked process, and collaboration with institutions is necessary to obtain legitimacy from all stakeholders. If one of the social partners is not understanding, not willing to understand, or not willing to accept, the whole legitimization process can be eroded.

In the case, a business association was set up early on, even before legalization and specific definition forming of the temporary activities in the labour market. Lobbying is mostly done through associations, and the vast majority of companies have joined into one of the designated associations to unify their actions. Still, little is being obtained and the progress of the general public being acceptable of the TAW business could also be explained as a purely evolutionary effect, where the young and female population is increasingly looking for temporary work, where 10 years ago this was far less the case. It is therefore difficult to determine if the actions of associations have directly influenced the legitimization process. Therefore proposition 4 is as follows:

**Proposition 4: Unforeseen contestation leads to an increase in legitimacy issues and can hamper or even prevent legitimization**

In the case researched the results are still not up to (European and industry) standards, that even companies are looking in the direction of dropping the term altogether and lobby for new legislation for a new *definition* of their business.

There is a need for a different kind of additional preparation to a market when contestability is present. A different kind of skills set, including extreme flexibility of one’s company structure to be able to act and react in the proper way to fight off contestation and win stakeholders over.

**Proposition 5: Firms need tighter collaboration (international as well as national players) in industry creation to assure minimization of contestability, by collective and collaborative sense making**

#### 5.2.3 *Transnational operations*

Building on Barkema, Vermeulen (2004) suggesting certain entry modes to be more applicable in specific situations, the case led to a suggestion to which entry mode is more applicable when a market is prone to contestation. Peck, Theodore, Ward (2005) observed the fact that multinational (staffing) companies have all reduced their reliance on domestic markets by pursuing a mix of organic and acquisition/led growth overseas.

One’s strategy to enter a market is depending on several factors. It can be what a company policy holds, but more viable, what the company’s growth strategy is. Depending on what kind of player a company wants to be in this specific market, a Greenfield or acquisition or

maybe even a combination of the two can be applied. When a market is (possibly) contested, an organic entrance to a market is most plausible, since communication, systems and such need to all be in place and all done well at once. Greenfield offers flexibility, which is key when an industry is contested. When entering through an acquisition one can fall into, besides the usual issues, contestation and negative attitude towards one's business. As mentioned by respondents, an example was Creyf's Interim. To make a quick entrance and reap the benefits of Spain's booming temporary labour market, they acquired an existing agency, found out it was a mess, and shortly left the market, only to re-enter when the market was more stable. Leading to the next proposition:

**Proposition 6: When a market is (prone to) contestation, a Greenfield entry strategy is more suitable.**

Another issue in (institutional) industry creation that can be argued is entry barriers. Low barriers of entry are positive for competition, when creating a novel industry, the low barrier of entry could be negatively associated, since industry legitimacy is at its core. Anyone can damage the yet to be obtained definition and legitimacy of this novelty business. Entrants can enjoy from hit-and-run strategy and benefit quickly from all insecurities. For the sake of the industry this can lead to cannibalization of the sector, leaving a lasting negative stigma, and illegal practices, as one could see from the researched case. Therefore, proposition 7:

**Proposition 7: low barriers of entry disrupt the legitimization process negatively when contestability is predicted**

### 5.3 Managerial Implications

It is clear that Temporary Agency Work is still to this day, not a fully accepted practice in the Spanish society. Over a decade since its introduction, cognitive legitimacy, the 'taken granted for' form, is still not the case for the TAW sector. Managers of MNEs support this statement, since lobbying solely on the definition of 'ETT' (Spanish for TWA) is still an ongoing activity.

*Viewing the process from an international business aspect, one can contribute to management decision-making. Established companies moving into a new (institutional) area can be confident in their operations being successful, since they are already a successful company and business elsewhere is profitable. The problem here is that companies can 'become blind' to the obvious obstacles that may occur and without a proper entry strategy could minimize their penetration into the market, and in the worst case, need to retreat.*

*As is explained by Koene, Paauwe, Groenewegen (2004); '...HR experts, especially when operating in an international context, need to realise (that) the acceptance of temporary work as 'normal work' next to, for example, open-ended contracts and project work, is not self-evident everywhere.'*

#### 5.3.1 Legitimacy and contestation

This section is structured around the relating themes of this study: legitimacy, contestation and transnational operations. Contestation on top of theory regarding legitimacy is described through the various levels of analysis adopted from Aldrich, Fiol (1994):

TABLE 7  
Legitimacy and its various levels of analysis

	Type of Legitimacy	
Level of analysis	Cognitive	Sociopolitical
Organizational	Develop knowledge base via symbolic language and behaviors	Develop trust in the new activity by maintaining internally consistent

		stories
Intraindustry	Develop knowledge base by encouraging convergence around a dominant design	Develop perceptions of reliability by mobilizing to take collective action
Interindustry	By promoting activity through third party actors	Develop reputation of a new activity as a reality by negotiating and compromising with other industries
Institutional	By creating linkages with established educational curricula	Develop legitimacy by organizing collective marketing and lobbying efforts

**Organizational level:** Foreign firms had already established cognitive as well as sociopolitical legitimacy on organizational level. Through their existing operations elsewhere, company policies and culture showed consistency in their activities. Although, the fact is; even though everything is well arranged in your organization, this could be not the case in others. The first issues regarding contestation on top of legitimacy may arise.

**Intraindustry level:** Intraindustry and interindustry levels are the most vital in the process of industry creation, since contestation fights on these levels, and not so much on organizational level. The sector has secured some of the vital steps in legitimization (Aldrich, Fiol 2007) where associations are in place that provides strong incentive for members to contribute and not to defect. Even though collective action was quickly mobilized, the participation rate in the business association was low, and the quality of businesses was nearly not existent.

Collective action in a population can also be threatened by the existence of multiple associations representing different standards or interest (Aldrich, Fiol, 2007), as we can see today in the Spanish TAW sector. MNEs and SMEs have obvious and less obvious similarities and differences in goals and interests. In Spain, this is the reason for the MNEs and SMEs being represented through different TAW associations. This could be a hampering factor in the already slow legitimization process of the sector.

Additionally, respondents all have been addressing the need for transparency; how they would like to make the *sector* transparent, not only their individual businesses. To be clear to stakeholders what TAW work is about, and what they stand for. There is a need to define clearly who you are and what you do, to the largest audience at once that misunderstandings, speculation and hearsay are minimized. Even though they have the business association representing them in this message, clearly this is not optimal.

**Interindustry level:** services of TWA were skyrocketing, so user companies were convinced of TAW activities and the obviously the demand was there. The government had legalized the market and written up legislation, and had seen in other countries how TAW benefited their markets as well. The issue was at the labour unions and so the general public. Negotiations with labour unions and the communication and promotion of the activities were strengthened by the TAW associations (even though divided, at least this was in place). Eventually, negotiation and continuous dialogue with the labour unions (in Spain a sort gateway to governmental agreements) together draw up and agree upon collective agreements, and so create a compliance structure, where TWA are recognized and accepted in the context of rules



and regulations regarding same standard and practices. The issue here is to research in the beginning how political streams work. If the industry knew beforehand, that the labour unions are extremely powerful in Spain, and when creating an industry in the institutional context, speaking to the labour unions minimizes contestation; this process could have been smoother.

**Institutional level:** Instead of having the institutional level *to build on* the foundation and *support* legitimacy, in this specific case you can see that this level is another means of *obtaining* industry legitimacy. Organizations and their representing associations use renowned universities to prove and support their claim of the benefits of TAW business to the country. Furthermore to obtain sociopolitical legitimacy, lobbying efforts have been brought under the premier duty of their representing associations.

That need for collective marketing and lobbying activities was already established in Aldrich & Fiol (1997). The issue in the occurrence of contestation is that the need emphasizes collaborative marketing and lobbying activities, and most importantly, as a whole. The involvement and participation of all relevant actors is needed to ensure non-contestation.

*By not only collectively as an industry fighting off contestation, collaboration and communication are key to fully penetrate and enlarge the total industry's penetration in a market. Furthermore, the preparation stage provides insights as well.*

### **5.3.2 Transnational operations**

Market research is definitely key in determining the opportunity of a new market. This is not a regular entry to a market, this market still needs to, or just was legalized. If the foreign TWAs would have looked more into the pros and cons of entering this market, and assess if they have the time, energy and (financial) resources to back it up, not so many businesses would have failed and investments made worthless. Even though one cannot predict the severity of contestation, one can prepare oneself for the worst case scenario, but plunging into something that needs to be clearly defined as of the start, any missed information is cannibalizing your own (future) market. In the case of TAW in Spain, all TWAs realize now that this market could be so much larger, but having too many issues between players has hampered even their current opportunities of enlarging the sector.

An important aspect in market research is culture. 'National culture does not affect the choice for TAW per se it does however affect the typical institutionalization of TAW' (Koene 2007). The Spanish background and national culture, being 40 years under dictatorship, protectionism, nationalism, a history in deferring international firms from national and local markets (at one point, the terrorist group ETA's main strategy was attaching foreign Human Resources MNEs)<sup>10</sup>; all these facts have shaped the institutionalization process of TAW in Spain.

### **5.3.3 Implications for policymakers**

Obviously, to ensure a successful implementation of an institutional change, policy makers need to provide a solid starting point as well. It is also in the best interest of the institution to make a change worthwhile. Communication from the government to the public before opening the market has been lacking; one needed to explain how a legalization of something that was forbidden previously can be beneficial to the country and specifically to the people. Preliminary negotiations, rules and regulations needed to be set up instead of making legislation along the way. Spain had the backing of the European Union to legalize the market (pressure); it would have done the country good if they had asked for additional help in legislation, and research the work of TWAs to better understand the need and how this can be

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<sup>10</sup> Attempted attacks against the French Adecco and Dutch Randstad in Irún (2006)

positively communicated to the stakeholders. Especially since for over a decade, employment and labour issues have been in the top three concerns of the country (int. 5).

The European Union could have also been more of a helping hand. By implying that, Spain needs to legalize certain areas in the labour market, has not really the best interest in helping the country with its labour issues. The EU could have explained the pros and cons more specifically and given recommendations on legislation to help start the sector in Spain. The same implications count for CIETT.

‘In the beginning CIETT, the EU told us; if you want your market to grow you have to follow this checklist. We had all those things in place, and still we are struggling. Now, we do get more useful help from CIETT’ (interview 5).

Opening markets that were previously monopolies, government-run, or just inexistent, the need for solid legislation is vital. In case of possible contestation, it is recommended to be rather extremely strict in the beginning and liberalizing along the way, then to throw open the market and let it cannibalize. The low entry and exit barriers for (small) companies make the industry extremely flexible. On the other hand, in institutional terms, towards the legalization of a sector, the entry barriers are high, due to the high upfront investment, risky business and negotiation and lobbying expenses that need to occur. Taking the time to understand the matter, call for (internal) market experts will definitely improve the process of institutional change, especially when it is known that the market could be resisting the upcoming change. When communication is frequent and open, this takes away suspicious towards others, and can overcome fear.

#### **5.4 *Limitations and future research***

Difficulties in this research adapted from Siggelkow (2007) are amongst others; too small of a sample, low generalizability, less chance of broad explanation of research questions and theoretical elaboration.

The sample for primary data could have been better; due to time constraints and response rate this was not feasible. The time period for interviews has not been optimal; MNEs were closing their financial year, in the processes of negotiating new collective agreements with labour unions, and due to the holiday season. Still, the subjects interviewed and the data collected are highly suitable, relevant and of quality. The researcher has tried to minimize interviewer bias by keeping the interview semi-structured and carefully presenting the questions in a non-leading way.

Due to the time period the legalization was realized, digitalization was just being introduced to the public, and little promotional material is to show for certain campaigns that were executed. Still, through written documentation and back-up files from newspaper articles on certain events and qualitatively collected data, the contestation against this market is validated.

Another limitation of this study is through the work of MNE, ever since the legalization, the sector has seen many takeovers, bankruptcies and mergers. These consolidations and other exits of firms are blurring some historical information from firms. The vagueness on who has initiated from other TWAs is therefore not always clearly traceable. E.g. Umamo Group was acquired by Randstad, Human Group and Altagestión by Adecco, Flexiplan from Grupo Eulen, was believed to be acquired in the near future. Therefore emotions and recall of experiences can be suffering from incompleteness and/or exaggeration.

When researching processes of change, many researchers are criticized that only subjects that have prevailed, have survived experiences are drawn from. The more interesting case (Aldrich, Fiol, 1994, etc) is to see how companies have failed in this setting. The researcher has managed to interview one previous owner of a TWA in Spain that has ended his activities there and believes that the collection of this sort of data is highly valuable and would recommend this for further research.

Perkmann and Spicer (2007) argue that activities can be divided into projects and necessary complimentary skills, where projects are linked to phases in institutional change. To recommend for further research is to see if that holds when a market is contested and in cases of transnational operations whether phases introduced will differ or remain the same.

Channeling from Morgan, Kristensen (2006) and to link to the previous introduced propositions, it might also be interesting to see how contestation differs and reacts in different contexts, such as in Morgan, Kristensen (2006) within transnational operations of a firm between headquarters and subsidiary, and what manner is desired in contested markets.

## IV. APPENDICES

### I. LIST OF REFERENCES

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## II. GLOSSARY

**AETT:** Asociación Estatal de Empresas de Trabajo Temporal.

AETT represents the Small and Medium-sized Temporary Worker Agencies in Spain. This association was founded in 1994, right from the beginning of the legalization of this sector, at a later stage this association was split up to an association for the biggest players (AGETT) and SME (AETT)

**AGETT:** Asociación de Grandes Empresas de Trabajo Temporal.

AGETT represents the largest TWAs in Spain: Adecco, Altagestion (part of the Adecco group), Randstad, Vedior (Laborman), Start People (part of USG People), and Flexiplan (Eulen)

**CCOO:** The Workers Commission. CCOO has overtaken the UGT as Spain's largest labour union. Historically linked to the Communist Party, the CCOO turned away from political activism in the 1990s and has developed a more moderate and constructive program, which gives priority to job creation over wage growth

**COMFIA CCOO:** Confederación Sindical de Comisiones Obreras – Servicios Financieros y administrativos. COMFIA CCOO is the special department initiated out of the general labour union CCOO to specifically address the issues commissioning the sectors of Finance, Administration, Telemarketing and Temporary Staffing. <http://www.comfia.net/ett>

**CEOE:** Confederación Española de Organizaciones Empresariales.

The business confederation in Spain

**CIETT:** International Confederation of Private Employment Agencies. Founded in 1967 in Paris, CIETT brings together the national associations of the sector

**EU:** European Union

**ETT:** Empresa Trabajo Temporal. Spanish for TWA

**Fundación SINDETT:** The social agents have created together with the TWAs the foundation SINDETT: a non-profit entity that dedicates itself to form and develop related activities and looks at the conditions of workers. Their mission is to seek a greater recognition for the social contribution that Temporary Work Agencies make to labour markets (knowledge of labour market dynamics and trends)

**GEESTA:** Asociación Española de Empresas de Trabajo Temporal

The first association dedicated to represent temporary work agencies. After the legalization the association was renamed into AETT. <http://www.boe.es/boe/dias/1998/11/27/pdfs/B18368-18379.pdf>

**ILO:** International Labour Organisation

**INE:** National Bureau of Employment

**MNE:** Multinational Enterprise

**OECD:** Organisation for Economic Co-operation and Development

**Participation rate:** The proportion of the total population that is either working or seeking work



**Penetration rate:** Number of agency workers assigned through TWAs on any given day as a percentage of total employment

**PP:** Partido Popular, the Popular Party

**PrEA:** Private Employment Agency

**PSOE:** Spanish Socialist Workers' Party

**SME:** Small and Medium Enterprise

**TAW:** Temporary Agency Work (sector)

**TWA:** Temporary Work Agency (company)

**UGT:** Unión General de Trabajadores, one of the two most powerful labour unions in Spain. The General Workers' Union has historically been the main labour union. In the first half of the 1990s it suffered a leadership crisis and a serious loss of support. The UGT was aligned with the PSOE until 1988, when disagreements over economic policy led to a formal split. [www.ugt.es](http://www.ugt.es).

**FeS-UGT:** The Unión General de Trabajadores, Federación de Servicios is the special department initiated out of the general labour union UGT to specifically address the issues commissioning the service-sector.

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Las Empresas de Trabajo Temporal y las transiciones laborales en Espana: Un analisis diferenciado para hombres y mujeres

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Mercado Laboral y Temporalidad en Espana 2004-2005

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Documento para la mesa de dialogo social sobre Mercado de trabajo, eaborado por el Ministerio de Trabajo.

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Sintesis de Documentos de interes 2006

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Las ETT estan capacitadas para ser agents globales de empleo. La Gaceta de los Negocios. 17/07/06

Queremos trabajar con Gobierno y sindicatos en la segunda modernización de las ETT. Nuevo Trabajo. 16/07/06

Donde trabajan las ETTs hay siempre menos precariedad. El Economista. 08/05/06

Las limitaciones a las ETTs son barreras al empleo de calidad. La Gaceta. 08/05/06

Francisco Aranda Manzano 'Pontenciar las ETTs es parte de la solución a la excesiva tasa de temporalidad que padece España. Ejecutivos. 01/05/07

Las ETT están democratizando la intermediación del mercado laboral. Expansión. 27/04/07

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CEOE.-Informe sobre Situación Socioeconómica. May 2006

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**Provided by ADECCO: (Interviews + Reports)**

AGETT documents Mercado de Laboral 2006

**Provided by RANDSTAD: (interviews)**

**Provided by MANPOWER:**

Even though Manpower chooses not to participate in the collaborative activities managed by the association AGETT, several reports initiated by Manpower show that to remain their competitiveness they do study the Spanish market in detail. Where general reports can be

found on employment and such topics, only few country specific reports are found and nearly all country reports published are on the Spanish market. Nine reports from various authors (Prof. Joseph Oliver of Universitat Autònoma de Barcelona, with special participation of the economist Guillermo Oglietti). One report in particular focuses on employment in the public sector which is known to be currently still a sector that the TWAs are forbidden to operate in.

**Provided by UGT:**

UGT tomará medidas contra la contratación por ETT de trabajadores en la Agencia Tributaria. UGT will take measures against the contracting by TWAs Workers for Agency Tax. 25 January 2007

The unions will mobilize against the contracting by TWAs of workers for INEM. 22 January 2007

The IV Collective bargaining agreement for TWAs has been signed by the State, TWAs and UGT. 19 April 2004

Reached draft agreement of TWAs in the IV State Collective Bargaining Agreement. 19 January 2004

Working conditions yielded by Temporary Agency Work. Proposed to Board of Directors adopted by the Commission of the European Union' Appraisal of UGT 19 April 2002

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CCOO rechaza que las administraciones públicas contraten empleados a través de ETT. 21 June 2007

Los diplomados en FP cobran 8% más que los universitarios. Ramon Muniz. La voz de Asturias. 15 September 2007

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Sindicatos y ETTs se unen para mejorar el trabajo temporal. 20 October 2004

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- 45.- *Configuración estructural y capacidad de producción de conocimientos en los sistemas regionales de innovación: Un estudio del caso español*. Mikel Buesa, Joost Heijs, Mónica Martínez Pellitero y Thomas Baumert (2004). (Disponible en inglés)
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- 56.- *Inserción laboral y trayectoria profesional de los licenciados de la Facultad de Ciencias Económicas y Empresariales de la UCM*. Iñaki Iriondo Múgica, M<sup>a</sup> Dolores Grandal Martín, Covadonga de la Iglesia Villasol y Elena Gallego Abaroa (2007).
57. - *Internationalisation of small consultancy firms: An exploratory study on how small Dutch consultancy firms achieve and maintain successful establishment in the Spanish market*. Nicolette Schnepper (2007)
- 58.- *El pufó vasco*. Mikel Buesa (2007)
- 59.- *Los sistemas regionales de innovación en Europa. Una literatura con claroscuros*. Mikel Navarro Arancegui (2007)

60.- *A Novel way of measuring regional systems of innovation: Factor analysis as a methodological approach.* Mónica Martínez Pellitero, Mikel Buesa, Joost Heijs y Thomas Baumert (2008).

61.- *The IAIF index for European regional innovation systems.* Mónica Martínez Pellitero, Mikel Buesa y Joost Heijs (2008).

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64.- *Políticas alemanas de I+D+I : instrumentos seleccionados.* Thomas Baumert y Joost Heijs (2008)

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