



International  
Labour  
Office

## **International Workers' Symposium on decent work in Global Supply Chains**

Geneva, 15th – 17th December 2015



**Summary of main conclusions from the debate**

Bureau for Workers' Activities – ACTRAV



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The International Workers' Symposium on "Decent Work in Global Supply Chains" met in Geneva from the 15<sup>th</sup> to the 17<sup>th</sup> December 2015.

The paper is divided in three sections:

1. "Background and general considerations", which is the introduction and the presentation of the background and of the main challenges related to Global Supply Chains (GSCs).
2. "Summary of proceedings", which is trying to capture the main issues and challenges discussed in each panel.
3. "Main conclusions from the debate", which is capturing the strategic issues covered in the discussion as well as suggestions on the way forward for constituents and for the ILO.

The programme and the final list of participants of the Symposium are attached in annex 1.

## **1) Background and general considerations**

### **Why were we discussing GSC?**

- Globalisation is not new; it is a process that started in the 80s and that has affected the way goods and services are produced globally. This process of globalising production was made possible through the fragmentation of the production cycle and its dispersion through systems of production organised globally and in relation to the interest of enterprises to maximise profits. Since then, production systems are primarily set up in places where cheap and non-unionised labour is available. Labour conditions are heavily affected and are far from the high standards that were achieved in industrialised countries.
- The global production chains and networks that were developed in this context completely redefined the composition of the workforce and the employment relationship worldwide. This process led to the "race-to-the-bottom" rush, where national/local governments create artificially unsustainable comparative advantages by lowering labour standards, slashing welfare provisions and granting tax exemption.
- According to recent ILO estimates, approximately one in five workers work in global supply chains (GSCs)<sup>1</sup>. While it is difficult to estimate the exact number of workers engaged in global supply chains considering the overwhelming number of workers in the informal economy who may be linked to GSC, there is consensus that the number of jobs linked to GSC is growing. UNCTAD estimates that around 80% of global trade is linked to the international production networks of MNEs and the OECD/WTO have estimated that approximately 60-80 per cent of world trade passes through GSCs.
- The growing importance of global supply chains (GSCs), affects the global and regional structure of the world of work. There is a great interest of constituents in this discussion and there is for the ILO a unique opportunity for leading this discussion

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<sup>1</sup> [http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_370189/lang--en/index.htm](http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_370189/lang--en/index.htm)

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and build a strong linkage with the DW agenda and with the implementation of the SDGs.

- GSC is not a north/south issue nor an issue related only to developing or developed countries. It is a global issue that calls for universally agreed policy solutions which need to be developed at different levels and within a framework of policy coherence.
- The loss of 1,136 lives, when Rana Plaza collapsed on 24 April 2013 in Bangladesh, brought to the attention of the global community the appalling working conditions experienced by workers in Global Supply Chains (GSCs).

## Challenges and the ILO discussion at the ILC

- **Lack of workers' rights/enabling rights.** All reports / information gathered via the international labour movement and via national/sectoral trade union centres are highlighting the fact that the enabling rights are not respected. Reports on trade union violations from national and international trade unions are providing extensive information on the violations of workers' rights in GSCs.
- **Asymmetries and unequal bargaining power within GSCs.** Purchasing practices are quite often based on asymmetries and they reflect an unequal bargaining power between the MNEs / lead firms and the suppliers. These pressures often lead to lower prices which are translated in lower salaries and piece-rate production or home-based work. This unequal bargaining power can be expected to aggravate even more with increasing mergers and acquisitions. Already today, according to the Financial Times, 10 automobile companies control 77% of the global automobile market, while the global market of personal computers is controlled by 4 companies.
- **Global value chains and measurement of asymmetries.** Within the supply chain there is a need to look at the internal distribution of the value-added components that make the final price. At the end of the chain suppliers, and the workers, are paying the price of this asymmetric distribution with a small share of the retail price that goes to these lower layers. Governance instruments need to allow for a more equal distribution of gains both geographically and between capital and labour.
- **Lack of collective bargaining in GSCs.** Global competitive pressures (just in time/lean production models and prices) are also at the basis of the downward pressures on wages, working conditions and respect of labour rights in GSCs. This applies also to companies that have direct ownership of overseas subsidiaries. Collective bargaining is almost absent in GSCs.  
The lack of labour relation and collective bargaining has several implications such as;
  - "living wages" or "fair wages" are not making progress
  - Working conditions are worsening (not only in relation with OSH).
  - lack of respect of workers' rights.
- **"Non-standard forms of employment" (NSFE) in GSCs.** Outsourcing and offshoring in global production means that MNEs / lead firms can control production when labour is contracted through the use of labour intermediaries or temporary employment agencies. This labour could include casualized workers, informal workers and homeworkers. These employment relations are defined by the LO as "non-standard forms of employment" (NSFE). Suppliers, under the pressure of global

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buyers (MNEs or lead firms) frequently reduce costs by employing temporary or casual workers which are usually not covered by a collective agreement.

- **Use of migrant labour in GSCs and its exploitation.** GSCs are also associated with significant levels of migrant employment recruited through third party labour contractors and through intermediaries/agencies. This dimension needs to be further explored.
- **Assessment of decent work deficits in GSCs.** How these gaps can be assessed? Can the ILO develop an intervention model for capturing these decent work gaps? How to translate these findings in constituents' driven policies for strengthening decent work in GSCs?
- **Lack of social development in GSCs.** How to address this issue? Is innovation of processes and products enough for assuring resources dedicated for the social upgrading of GSCs (technological change)? Or do we also need to look into GSCs by using the additional information provided by the notion of GVCs in order to address inequalities and asymmetries?
- **EPZs and their crucial role in GSCs.** How to apply a DW methodology for the assessment of working conditions in EPZs? Social developments of EPZs and respect of labour rights.
- **Globalisation of production and fragmentation of labour.** How to address this challenge? Which organising tools need to be developed?
- **The responsibility of business across national jurisdictions.** While recognising the merits of the UNGP, there is a need to go beyond these voluntarily initiatives. The issue at stake is the responsibility of business across national jurisdictions. We need to move forward this debate, with instruments that are binding and related to the long standing history of agreements between employers and organised labour.

At the **macroeconomic level**, how do GSCs need to be transformed in order to promote decent work and sustainable development?

- Is this system of production structurally based on inequalities? With the notion of Global Value Chain we can map and see the overall distribution of added value and how it is distributed geographically and between capital and labour. A fairer re-distribution of value must be part of the solution for enabling GSC to foster social development.
- Are GSCs mutually supporting the development of the four dimensions of decent work? Is there a need to put in place an intervention model for capturing these gaps and for devising policy responses at the different levels?
- Is there a need of opening up political spaces for a macroeconomic discussion on the social and economic impacts of GSCs? How do we reduce and prevent negative externalities of FDI? How can it take place at the national level and at the international levels? And should it be based on policies guidance mainly provided by constituents?

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## 2) Summary of proceedings

### (Panel 1) GSCs state of the art

Chairperson: Ms Anna Biondi, ILO

Speakers: Professor Jennifer Bair, University of Colorado  
Mr Rafael Peels, ILO

#### Questions/issues

1. Key factors for the Emergence of GSCs
2. Key actors and power relations in GSCs
3. Key trends in GSCs

#### Report back

##### **Key factors for the Emergence of GSCs:** Main characteristics of the current GSC:

The debate on GSC is not new. It is about the old relations between trade, development and employment in the global economy. The main features are:

- Fragmentation of production across borders in two or more countries;
- Different actors, firms and individual production involved;
- Lead firms can engage directly by offshoring or outsourcing selected production stages to foreign countries. They dominate GSCs and they manage risks and rewards in supply chains;
- Every Global Commodity Chain (cfr. Gereffi) has: a) an input output matrix; b) territoriality; c) governance structure and power dynamics deciding where, how and who produces the goods and services; and d) institutional context.
- GSCs do not guarantee economic upgrading. Furthermore, economic upgrading does not guarantee social progress and respect for workers' rights. The concept of *social upgrading* is therefore not appropriate for a right's based approach as the one expected from the ILO.

##### **Key actors and power relations in GSCs**

- GSCs/GVCs (Global Value Chains) are defined by fragmented supply chains, with internationally dispersed tasks and activities coordinated by a lead firm (MNEs). Key features of GSC are: 1) functionally integrated, 2) coordinated by a firm, 3) organisationally fragmented and 4) geographically dispersed.
- Lead firms govern the activities of their chain and distribute risks and rewards in the chain. These governance structures are production-driven (eg. automobile sector) or buyer-driven (e.g. apparel). The trend observed is a buyer-driven model. The dark side of buyer-driven governance is that price governs the GSCs dynamics.
- Key challenges for Decent Work are: a) defining the employment relationships (that determines conditions of work) and b) dealing with extra territoriality (how to regulate lead firms).
- Power relation between the big MNEs and developing countries hosting their investments is a key element in the GSC. This is true also for Foreign Direct Investments (FDI) with the result that MNEs detain the upper hand in the power relation with governments in order to maximise their profits.

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- Code of conducts and other private initiatives. They have failed to identify and address violations. The one positive aspect of codes of conduct is that they recognise that MNEs have a responsibility and need to be accountable. This debate should shift into binding obligations regulated by governments and with a recognition of the role of Industrial Relations.

### **Key trends in GSC:**

- Language: GVC (Global Value Chain) is more used than GSC because this concept focuses and highlights the creation of value throughout the chain.
- The trend in GSCs is: a) increasing trade; b) increasing fragmentation of production; c) increasing vulnerability and precarious employment; d) increasing productivity which is not translated into wages for workers. These trends put obstacles for trade unions to organise workers.
- Price competition among lead firms is leading to a downward pressure on the respect of labour rights. There is a correlation between global price competition amongst lead firms and the respect of labour rights in GSCs.
- There is a need for investment and for development, particularly for developing countries and least developed ones, but one must be mindful of potential negative impacts. There is need for more jobs, in quantity and quality. Trade unions should be involved not only in allaying the negative effects of investments but in determining trade and investment policies.
- The ILO MNEs Declaration as well as the Declarations on Fundamental Principles and Rights at Work (1998) and the Social Justice Declaration for a Fair Globalisation (2008) are key instruments to enlighten the upcoming debate.

### **(Panel 2) Are GSCs contributing to development?**

Chairperson: Ms Hilda Sanchez Martinez, ILO

Speakers: Ms Rosa Pavanelli, General Secretary, PSI

Ms Hilma Mote, ITUC Africa

Mr Kjeld Jakobsen, TUCA

### **Questions/issues**

1. Trade and investment policies: impact on development
2. GSC Taxation policies: impact on development
3. MNE policies – impact on development
4. Role of trade unions to ensure inclusive socio-economic upgrading and development

### **Report back**

- If we define “development” as the process of achieving social and economic well-being of societies and communities, then GSCs do not contribute to development. To the contrary, GSCs promote the race to the bottom, with no value to quality of human life.
- GSCs are well known to have forced countries and sovereign governments to offer them tax holidays and reform labour laws with the intention of minimizing working conditions.
- While GSC incomes and profits continue to swell, the working conditions continue to degenerate as exemplified by the excessive long working hours, increasing job

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insecurity, unwarranted flexibilities, low wages, attack on freedom of association and the right to collective bargaining.

- The avoidance of taxation by GSCs and MNEs has a devastating effect on public services, including the ability of governments to provide basic infrastructure such as water, sanitation, healthcare and education.
- As a way forward, it is imperative that there is a “new paradigm” that will invoke macro-economic, finance and investment policy frameworks for sustainable and inclusive development. This new paradigm shift will need to consider the following:
  - i. Tax reforms that remove unnecessary concession for MNCs, by reforming the international tax system so that the massive illicit flow is abated.
  - ii. Trade and investment rules remove import tariffs that are needed for upstream linkages; export taxes for downstream; and bind intellectual properties that inhibit technology transfer.
  - iii. Monetary policy frameworks that do not solely focus on inflation targeting, but pay particular attention to employment, promotes fiscal policy, encourages aggregate demand and creates favourable borrowing conditions for domestic firms.
  - iv. Fiscal policy that grants fair concessions for local enterprises and does not exclusively focuses on GSCs to the detriment of local investment, with special attention to rural development.
  - v. Public procurement should give precedence to local firms and to MNEs that have a good record on labour relations.
- ILO Decent Work Agenda as critical stage in the sustainable development as prescribed in Goal 8 of the *Transforming Our World: The 2030 Agenda for Sustainable Development*. The decent work framework is based on the understanding that work is not only a source of income but more importantly a source of personal dignity, family stability, peace in community, and economic growth that expands opportunities for productive jobs and employment. These are the yardsticks against which we should judge the work of GSCs in our countries.
- Trade unions need to extend mobilization drives beyond workers, and reach out to non-member social movements. The mobilization should include organizing, educating the masses and forming strategic alliances with those in power as well as the broad range of society (the working class, the unemployed, the consumers and the broader community).

### **(Panel 3) The impact of GSCs on Decent work**

Chairperson: Ms Sharan Burrow, General Secretary, ITUC

Speakers: Ms. Prihanani Boenadi, Indonesia  
Ms. Pheng Sunday, Cambodia  
Mr. Alexandre Bento, Brazil  
Mr. Bheki Ntshalintshali, South Africa  
Ms. Alke Boessiger

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## Questions/issues

1. The impact of GSCs on Decent Work
2. Global campaign on GSCs

## Report back

- Stories from workers in global supply chains are similar all over the world;
  - Pay are below the poverty line
    - Unions demand for the basics - minimum living wage
  - Precarious, contract and informal work is growing
    - Unions demand permanent contracts in order to earn social security benefits (health, pension, maternity)
  - Slavery and forced labour is current (forced overtime with the possibilities of being fired if refused)
    - Unions demand laws of slavery to be used against this
  - There are no guarantees of safe work
    - Unions demand freedom of association, decent working conditions (including working hours), work in dignity
- Unions are campaigning at national, regional and global level
  - Unions need to campaign together (ITUC, GUFs, National unions)
  - National unions need to speak with one strong voice, support each other
  - National unions need international support
  - Rule of law is the first priority
  - Companies should be named and made responsible
  - Building on previous campaigns – name and shame – make a global scandal about companies not fulfilling their responsibilities
  - Companies should ensure workers’ rights wherever they operate
  - Targeting Governments not implementing the laws
- Also linked to ILO discussion June 2016
  - The highest union ambition is to have a Convention. It can and must be done. The ambition is to upgrade the MNE declaration with voluntary arbitration and mediation mechanism and include the reference to the UN Guiding Principles with due diligence linked to ILS
  - France: new legislation will provide due diligence. We want this legislation in at least 5 European countries.
- We need jurisdictions that could govern enterprises wherever they are operating

## (Panel 4) Governance of GSCs at the national level

Chairperson: Ms Alison Tate, ITUC

Speakers: Mr Chang-Hee Lee, ILO

Mr Pierre Yves Chanu, President of the French Trade Union Platform on RSE

Mr Felix Anthony, President of ITUC-AP

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## Questions/issues

1. Application of national labour laws at the national level
2. Role of the government
3. Role of the social partners
4. Role of labour inspectors
5. French CSR legislation

## Report back

- Good Governance requires appropriate legislation, the political will and effective infrastructure to enforce rules and regulation that secure safe working conditions and enable workers to organise themselves as an independent voice and force in collective bargaining and social dialogue
- International trade rules have a major impact on national economic performance and governance systems. The TTP will require Vietnam to reform its sourcing structure and its labour law in order to fully respect FPRW and allow for the first time to register independent trade unions. Who captures the gains from the new trade regime will crucially be influenced by the national governance systems. This requires also law enforcement capacity through effective labour inspections reaching also second and third tier suppliers.
- Existing trade unions will have to change themselves fundamentally and new trade unions will have to build bottom up structures. ILO needs to support this process of capacity development and also to ensure that other forms of workers' participation like management-workers committees of Better Work support and not complicate the development of genuine trade unions.
- Legal responsibility lies not only with producing countries but also with the home countries of multinational companies and brands. National platforms can be important tools to bring all relevant stakeholders together in this context and initiate policies and solutions that ensure effective due diligence concerning workers' rights. Initiatives like the currently discussed French law on duty of care of parent companies and subcontractors are important steps in that direction. However, fierce resistance against this initiative show that there is no real consensus commitment for respect of workers' rights as soon as it seemingly puts competitiveness at risk.
- Despite the terrible tragedy of Rana Plaza and the global recognition of the unacceptable working conditions in the garment sector in Bangladesh progress on the ground has been slow. Legal changes to enable workers to organize have been insufficient. Still 30% of a workforce need to be organized before registration, international and external support is not permitted, and unions official are not protected by law.
- Whilst international pressure resulted in more registration of trade unions, many of them are not effective on the ground but created by employers as mere subservient organisations to satisfy international pressure.
- The Bangladesh ACCORD has increased the pressure on Multinational companies to take up responsibility for the dangerous working conditions in the industry, but remains a limited stop-gap measure as long as real respect for FoA and workers' organisations on the ground is lacking.

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- A strong message was given for ILO to prioritise the work of the Dhaka office on this burning question and work closely with the Global Unions and the local union to compel the Bangladesh government complying with FPRW and improve the labour and working conditions.

In the light of the very limited progress it is time to bring the case of workers' rights to the attention of the ILO supervisory mechanisms and increase the international pressure on the Bangladesh government to make genuine progress on respect for workers' rights

### **(Panel 5) "Governance of GSC; assessments of gaps at the global level and role of trade unions and MNEs**

Chairperson: Mr Eckhard Voss, WMP Consult

Speakers: Ms Jenny Holdcroft, Policy Director, IndustriALL

Ms Jin Sook Lee, BWI

Mr Victor Garrido Sotomayor, IndustriALL / INDITEX

Mr Javier Diaz, INDITEX

#### **Questions/issues**

1. To start with a broad overview concerning governance's gaps in GSCs
2. Proposals to meet these governance gaps (GFAs and the role of cross border labour relations)
3. Meeting the challenges (for workers' organisations) of cross border and industry – wide governance. Linkages between the global level and workers.
4. How to address private initiatives

#### **Report back**

- Governance gaps in the GSC are found both at the government level (regulations and enforcement mechanisms) and at the MNE level.
- CSR declarations and codes of conduct are insufficient to address such gaps. There is a need to have stronger commitments in the form of negotiated instruments between the companies and the trade unions.
- Concerns were expressed on the ILO pursuing PPPs with companies without full consultation with the GUFs.
- GFAs can be efficient tools to respond to governance gaps. GFAs are useful tools to promote collective bargaining but should in no way replace it. GFAs combine the promotion of decent work in supply chains with strong labour relations. When Global Unions negotiate GFAs with companies there are attempts to include clauses that ensure decent work through the GSC and in particular for BWI through the sub-contracting system; however, this is challenging as companies refer to their own internal policies and standards what they perceive to be good labour standards, working conditions, wages, and so on through the company's GSC. Some GFAs were signed but not implemented between the parties (in this case BWI and industriALL both agree that they should activate and develop its content to give efficacy or they should be terminated).

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- The GFA signed by H&M, INDITEX as well as the revised Lafarge GFA cover the supply chain / subcontractors and they provide examples for the way forward. The task now is to boost the trade union initiative for the leading brands of the apparel industry, particularly the head of the USA, Italy, UK, Germany, France, Belgium, Holland, Spain, Japan, etc., translate their commitments Social Responsibility effective Global Framework Agreements with effective intervention rights of local unions throughout the production chain. This is a particular responsibility of trade unions to the headquarters of multinationals such brands.
  - The GFA signed by INDITEX provides access to factories and it has mechanism for monitoring its implementation together with IndustriALL.
  - For BWI it has been challenging to negotiate with companies of access for trade unions during the organizing process as companies have referred to applicability of national laws. However, once GFAs are concluded trade unions are given access. There is a need to go beyond the traditional approach (organise single companies) and move towards an industry-wide approach to address governance gaps within countries/sectors.
  - The Bangladesh Accord on Fire and Building Safety is the only legally-binding agreement so far concluded between global unions and more than 200 brands.
  - The ACT process provides another example on industry wide initiative to address wages in the garment industry and ensure that purchasing practices are linked to the guarantee of providing living wages for workers. In the framework of that initiative, a Memorandum of Understanding was signed by IndustriALL with 17 garment brands aiming at developing industry bargaining in garment producing countries and ensuring that freedom of association is guaranteed.
  - For BWI and IndustriALL: the challenge is to bridge the ground and the global level by bringing on board national unions and include them in the process of negotiation of GFAs.
  - BWI is mainly using three organising tools in GSC:
    - GFAs
    - Forest certification programs (FSC and PEFC) to ensure decent work and core ILO standards for workers in the wood and forestry sector
    - the OECD guidelines (ie. Campaign against FIFA in the construction sector in Qatar currently in the mediation process).

#### INDITEX (Company)

- INDITEX is using the following tools to address supply chains
  - social audit,
  - direct contact with suppliers,
  - GFAs to engage with workers and to hear their voices.
- Clusters are used in sourcing countries to engage with stakeholders in the supply chain (platform of dialogue).
- Social audits are used to check conditions in the supply chain but they are insufficient because of lack of knowledge on situation of workers in the factory.
- GFAs are needed as they give a direct voice to the workers. Social audits are not enough.

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## INDITEX (Workers)

- CSR is not enough. There is a need for an effective legal framework based on ILO standards.
- The largest companies in the garment sector have signed GFAs (Inditex and H&M).
- The GFA is also used for conflict resolution. Suppliers were inspected under the current GFA (Workers/Employers delegations) in Turkey, Morocco, Portugal, Brazil, Myanmar, Argentina, Cambodia, China, Vietnam, India.
- In Vietnam the first national trade union network for textile industry has been created. The aim is to improve the conditions for local/sectoral collective bargaining.
- GFAs can be effective if they are supported by national/sectoral/enterprise unions on the ground. Need to articulate union structures within Inditex from the headquarters to workers that are part of the operations in the GSCs.
- GFAs need to be opening doors to mature industrial relations.

### **(Panel 6) Governance of GSCs: critical assessments of existing international mechanism**

Chairperson: Ms Maria Helena André, ILO

Ms Githa Roelans, ILO

Ms Cristina Tebar, Head, Responsible Business Conduct Unit, OECD

#### **Questions/issues**

Strengths and Weaknesses of:

1. ILO MNE Declaration / ILO supervisory system
2. UN Guiding Principles on Business and Human Rights
3. OECD guiding principles and other regional initiatives
4. Way forward for the governance of transnational corporations (including the possibility of a supranational jurisdiction)

#### **Report back**

- The ILO has two instruments that speak directly to enterprises: the Declaration on FPRW from 1998 which clarifies that enterprises have to respect the Core Labour Standards reiterated in the Declaration irrespectively of whether the countries in which they operate have ratified them or not and the ILO MNE Declaration.
- **ILO MNE Declaration from 1977**
  - It **covers** all areas of the Decent Work Agenda
  - The **implementation** strategy includes capacity building of tripartite constituents to promote social dialogue on implementation, ILO Helpdesk for Business on ILS, support of constituents at the country level, capacity building of national statistical offices on measuring of MNEs on decent work

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- The **follow-up mechanism** includes promoting dialogue (national tripartite, company-union, home-host country dialogue), new element are 1 reports from tripartite regional meetings.
  - Its **strengths** include that it is a tripartite and global instrument which covers more scope for action. Clarified the roles of governments, employers, TU; covers the full decent work agenda (rights, employment, social dialogue, social protection). It has a strong guidance on how you get to sustainable development.
  - **Weaknesses** mentioned is the critique that it is a soft law instrument and does not have a grievance/complaints mechanism, and that in many cases the constituents do not know about it.
- **UN Guiding Principles on Business and Human Rights**
    - They **are** a set of principles that operationalize the “Protect, respect, remedy” of framework and they were adopted by the UN Human Rights Council in 2011. They **cover** the important aspect that; clarifies that this responsibility should be met by undertaking Due Diligence (DD). DD is a concept which tells companies that they need to know what is happening in their GSC and they need to mitigate if violations occur.
    - The **follow up** includes promotion through UN working group and annual UN Forum on Business and Human Rights
    - **Strengths** include that they explicitly include the CLS, clarify the roles of governments and business and the fact that business has the responsibility to respect human rights wherever they operate irrespectively of the fact whether governments meet their obligation to protect human rights.
    - **Weaknesses** include that they have not been negotiated in a tripartite manner, but both have endorsed it afterwards and that they are voluntary
    - In addition to the UNGPs, the UN HR Council has set up an intergovernmental working group in 2014 to elaborate possibilities of a legally binding instrument on business and HR
  - **OECD Guidelines on MNEs**
    - They **are** an International standard for Responsible business conduct covering many areas of business ethics, including Employment and Industrial Relations and Human Rights. Adherents are 46 (OECD and NON-OECD) governments who commit to implement the GL. Since the 2011 revision they also the aspect of due diligence from the UNGPs. The OECD publishes guidance on due diligence for different industrial sectors (minerals, agriculture, finance).
    - The **follow up** is operationalized through the obligation of adherents to set up National Contact Points (NCPs) which take complaints on non-respect of the GL. NCP now exist in 46 countries, and NCPs also have to deal with cases occurring in countries which are not adherents to the OECD GL.
    - **Strengths** include that they embed ILO core labour standards and that they have a grievance mechanism at all (unlike many other instruments).
    - **Weaknesses** include that the quality of the work of the NCP differs greatly, some NCPs perform poorly, TU complain that many cases are not admitted.

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- **Conclusions**

- There is a need to move towards a much stronger regulatory framework with binding obligations to hold MNEs accountable. Maybe it is time for more innovative instruments. We need to clarify the role of the ILO among all these instruments.

### **(Panel 7) EPZs and GSCs; trends and challenges**

Chairperson: Claude Akpokavie, ILO

Speaker: Professor Jean-Marc SIROEN, Université Paris-Dauphine

#### **Questions/issues**

1. Role of EPZ in GSCs

#### **Report back**

- **EPZ are industrial zones** with special incentives set up to attract foreign investment. In many cases EPZ are characterized not only by economic subsidies (such as tax exemptions, duty free access of components and privileged access to public services) but also by “legal subsidies” to business in terms of rights at work.
- **EPZ were instrumental in the emergence of GSC** as they are at the heart of the currently dominant model of “vertical” division of labour in the global economy. Vertical division means that countries specialize in certain steps of production (e.g. assembly) instead of specializing on final products, which is reflected in an increased trade in intermediary goods. The duty free access of parts and components in many EPZ privileges and promotes this this division of labour. In emerging and developing countries EPZ have been the major instrument for the liberalization of trade worldwide. They are also a major driver behind the trade increase in countries like China, in which more than 50% of exports come from EPZ.
- **EPZ continue to play an important role in GSC:** While EPZ originated in the garment sector, they now cover a whole range of sectors including agricultural products. The strong link between GSC and EPZ is also shown by the fact that the sectors which are mostly organized in GSC are also those in which EPZ are most common. According to ILO estimated there are more than 3900 EPZ in the world today across different sectors. In contrast, the research of Prof. Siroen covers only those EPZ in which the incentives and breaks are limited to a defined geographical area (e.g. the Chinese model of EPZ) and not those EPZ which do not have a strict localization criterion such as the Maquiladora in Latin America. Therefore his research covers only 1083 EPZ in the world, out of which half are located in Asia and Oceania.
- **There is a controversy about the economic success of EPZ:** while some argue that they are instrumental in poverty reduction, others are sceptical as to whether EPZ spread development and new technologies outside their borders. According to Prof. Siroen, one can also question whether the growth strategy of EPZ is sustainable on long term, as EPZ may create excessive dependence on TNCs and on industrialized

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countries. There is also a risk of countries losing their competitive advantages if wages rise in the EPZ.

- **The social success of EPZ is contrasted:** while some EPZ provide employment opportunities for rural and female workers where otherwise there is little alternative employment, this employment mostly comes with the prize of blatant violations of labour rights.
- **While some argue that there is a regression in the number of EPZ, others argue that there is a further growth trend of EPZ** linked with a relocation to low wage regions like Africa. Since 2012 in many countries which had a lot of EPZ (like China), imports of intermediary goods have dropped, while there is an increase in the imports of intermediary goods in some African countries. This shows that perhaps Africa is going to be the South-East Asia of the future.
- According to Prof. Siroen, there is a need for trade unions to present **alternative policy proposals** on how EPZ can be transformed in such a way that they promote development.
- **While trade union organizing** is often very difficult in EPZ, some participants have reported of successful strategies of organizing workers in EPZ. Some successful strategies are also summarized in the ACTRAV manual on EPZ.

#### **(Panel 8) Decent work in GSCs - what future role for the ILO and constituents**

Chairperson: Mr Shigeru Wada, ILO

Speakers: Ms Esther Busser, Secretariat of the ILO Workers' Group

Mr Mac Urata, ITF

Mr Ruwan Subasinghe, Legal Advisor, ITF

#### **Questions/issues**

1) Presentation of proposals on possible future roles for the ILO and constituents with respect to the ILC discussion on GSCs

#### **Report back**

- We need a more comprehensive approach to deal with GSC
- The spokesperson of the workers' group at the General Discussion on GSC in 2016 will be Ms Catelene Passchier, vice president of FNV from the Netherlands
- The Workers' Groups is seeking the following outcomes from the ILC Discussion:
  1. **Conclusions** which reflect the violations of workers' rights in GSCs and the fact that the current development model of GSC is not delivering for workers and their families
  2. A **revision of the MNE Declaration** which includes the responsibilities of MNEs and employers and increased enforceability. The revision should also contain reference to the ILC discussions on the informal economy and on the protocol on forced labour as well as references to the UNGP and to the updated OECD guidelines. It should include reference to recently adopted relevant conventions and recommendations and make reference to due diligence and its meaning in ILO context. The follow up

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mechanism should also be revised and shift from an interpretation mechanism to a mediation/arbitration/complaints mechanism.

3. A **decision to work towards a Convention on GSC**. It should clarify the roles and responsibilities of governments (in home and host countries), possibly with provisions for establishing legal accountability and guidance on what home and host country governments are supposed to do in terms of policy and legislation to ensure respect for workers' rights in the supply chains. It should also clarify the roles and responsibilities of employers (suppliers and buyers) and deal with the employment relationship and non-standard forms of work in supply chains, determine the right of workers in particular with respect to freedom of association and collective bargaining and provide clarity as to with respect to which employer rights can be made effective and promote secure employment relationships; it could further provide guidance for the promotion of sectorial collective bargaining and industry wide collective bargaining and minimum wage setting; and it could provide guidance on labour inspection in supply chains.
  4. A commitment to work towards **increased transparency and traceability in GSCs** including a commitment from employers on transparency of their supply chains.
  5. A commitment to work towards **increased safety and reduction of temporary contracts and contract/agency labour** in supply chains
  6. The pursuit of a **mechanism for legal recognition and enforcement of international agreements**
  7. **Establishment of minimum living wage rates** and minimum wage setting mechanisms and promotion of sectorial collective bargaining
  8. Promoting cooperation and exchange of information between national labour inspectorates and the **strengthening of national labour inspection**
  9. **Elimination of forced and child labour in supply chains** and **elimination of informal work**
  10. Promote a discussion, maybe a separate one (meeting of experts for example) on how to address the total lack of Decent Work in **export processing zones**
  11. There is a need to use the time between now and the conference for exposing as much as possible the scandalous practices and violations of workers' rights in supply chains
- A case of a global supply chain, where urgent action is required, is the one of the Thai fishing industry.
  - Research from ITF shows abysmal working conditions, including excessive working hours of up to 21 hours per day often at poverty wages of 150 USD per month, forced labour and child labour, very poor safety, and complete lack of FoA and access to judicial or non-judicial mechanisms to seek redress.
  - The role of the ILO and its constituents in this specific sector includes:
    1. The development of a **Convention** to establish binding corporate accountability of MNEs for human rights violations in their supply chains
    2. The work towards an **in-house mediation/arbitration mechanism** for violations
    3. The work towards a **global labour inspectorate**, which could be set-up sector-wise

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### 3) Main conclusions from the debate

The International Workers' Symposium on "Decent Work in Global Supply Chains" reached the following conclusions:

- Within an ILO's perspective, the issue of governance of GSC should be related to the four dimensions of Decent Work with the aim of promoting a "sustainable social and economic upgrading" of GSC. The ILO should provide **a policy framework for identifying, measuring and addressing the Decent Work gaps in GSC**. This baseline, related to decent work, should be used for designing and agreeing with constituents global, regional and national, sectoral and enterprise policies aimed at improving social and economic conditions in GSCs. **The design and implementation of national policies has to be anchored with DWCPs and with the Global Jobs Pact.**
- The issue of assessing gaps related to labour rights deserves a special attention in GSC and EPZ. **The ratification of ILS, in particular of the ILO core conventions and of the ones ensuring income security, better working conditions and secure employment relationships, would be a key element of a credible policy on GSC.** The effective implementation of these standards, via national law and legal systems, are a prerequisite for leveraging working conditions in GSC. For this reason, regulatory frameworks at the national level are a key component of the process of governance. Further to the national dimension, bilateral, sub-regional and regional agreements need to maintain a close link to upholding ILS while pursuing trade and other economic agreements.
- **Key role of labour relations together with continuing the engagement for securing FoA and CB rights for workers at national level, in a context of globalized productions.** It is crucial to develop cross border labour relations for strengthening collective bargaining and the capacity for trade unions to organize workers in MNEs and in their supply chains. It is time for GFAs, as certain examples are showing, to move from apex bodies to become real engines for more democratic industrial relations, hence to improve working conditions along global supply chains. The agreements have the potential to build union networks, promote freedom of association and collective bargaining, and help to organize workers in MNE subsidiaries and through suppliers.
- The discussion on GSC is closely related and interlinked with **Export Processing Zones (EPZs)**. These EPZs have contributed to the emergence of GSC and they serve as a major artery of GSC. The challenge for the ILO is to provide **policy guidance for fostering social development and workers' rights in the EPZs.**
- **The upcoming revision of the ILO MNE Declaration and its follow-up** should also offer concrete guidance and avenues for the governance of GSCs and for the implementation of ILS.
- There is also a need for a specific discussion regarding countries that have a poor record of ratifications, in particular of core conventions, or that have been repeatedly called by the ILO's supervisory machinery to report on their poor record of implementation of labour standards. How should we address the issue of workers'

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rights in those countries? **What is the responsibility of business operating in those countries?** We need to put at the centre of the discussion on GSCs **the responsibility of MNEs to respect ILS, in particular ILO core conventions** and the conventions included in the annex to the ILO MNE Declaration, in their operations / GSCs, even if these conventions are not ratified or, like in a large number of ILO's member states, they are ratified but not systematically applied for poor governance and lack of political will.

- While recognising the merits of the UNGP, there is a need to go beyond these voluntary initiatives. This also applies to corporate social responsibility (CSR) and to private compliance initiatives (PCI). Further development of negotiated instruments, such as GFAs, are more suitable for responding to the governance needs of MNEs and organised labour (GUFs). These instruments are related to the long standing history of agreements between employers and organised labour and they need to be further developed and updated.
- Management-driven CSR programmes lack a comprehensive involvement of workers and they are not designed to develop sustainable labour relation systems. They are not negotiated and properly supervised and they are based on unilateral decisions of companies. It should also be highlighted the weaknesses of audits, mainly driven by internal /external management structures, that often fail to detect major violations of core labour rights.
- The concept of “workplace compliance” needs to be redefined (within the ILO). What does it mean to work towards “workplace compliance”? This concept has its foundations on social dialogue and it has the following dimensions; it is based on the effective enforcement of national laws; the development of collective bargaining agreements; an effective system of labour administration / labour inspection and, whenever available, on the role that private compliance initiatives could play beyond the respect of the law and of the negotiated agreements.
- The concept of social upgrading has been developed and currently used by social science researchers / scientists. The fact that this notion was forged within academic circles clearly explains the reasons why its dimensions are broad and generic. They usually include indicators related to wages and employment creation while they are not exploring the key dimension of workers' rights. The concept that should be brought in the ILO's discussion on GSCs is “social progress”, which is also used in the ILO's MNEs Declaration. Social progress has a rights' based approach (ILS) and it reflects the four dimensions of decent work.
- The concept of GSCs has a management connotation and it is addressing suppliers' management issues with the objective of producing, at the best cost, goods and services through a complex and interrelated systems of suppliers/layers, usually based in different countries.

Global Value Chains are not focused on suppliers' management but on the creation of added value through the different suppliers. GVCs capture the value added through the different steps that are needed to finalise goods and services for the final markets of destination.

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## Governance of Supply Chains.

### 1. At the national level

- Implementation of an ILO's policy framework **addressing Decent Work gaps in GSCs. This framework should first address ILS and assure the linkages with DWCPs.**
- Development of a national policy discussion based on the Global Jobs Pact, with a focus on the role of GSCs. This national (macroeconomic) discussion should assess the role of GSCs and of EPZs to foster both economic and social development. FDI, trade and fiscal policies should also be scrutinized in relation with the role of GSCs and EPZs.
- Ratification and full implementation of ILS, in particular of the ILO core conventions and of the ones ensuring income security and social protection.
- Provide an effective and updated legislative framework for labour relations and for the development of national sectoral CBAs.
- Strengthen labour inspection systems in relation with GSCs and EPZs.
- Development and implementation of National Action Plans (NAPs) for strengthening workers' rights and for the implementation of the ILO MNE Declaration.

### 2. At the international level

- Development of cross-border social dialogue and labour relations within GSCs for scaling up the process of governance in countries where there is an evident gap in term of labour legislation and implementation of international labour standards.
- Global Governance of Supply Chains via a revised and updated ILO MNE Declaration with a new follow up mechanism based on mediation and arbitration; use of a new follow up for the resolution of disputes between MNEs and trade unions with the possibility for the social partners to include this mechanism in GFAs.
- Re-launch the collaboration with WTO and monitor trade agreements and FDI in relation with the implementation of ILS.
- Develop a convention or an ILO recommendation (for policy guidance) on due diligence in GSCs with a focus on the revised MNE's declaration.

### Open questions

- Due diligence is mainly a “business concept and practice” and it is based on a voluntary basis. Due diligence frameworks cover different areas such as financial, production and management audits. The OECD guidelines and the Guiding Principles for Business and Human Rights promote standards of corporate behavior, including human rights (prevent or mitigate adverse human rights impacts that are directly linked to business operations). In reference to “Due Diligence” it is important to clarify that it is not a definition that “replaces” core labour standards but supports their implementation, as it cannot replace standards and public policy set by the State. **Can we develop a concept of “workers’ due diligence” that is not sidelining labour relations, but on the contrary is reinforcing them? Can we have a bargaining table focused on labour relation (at different levels) and a second table with the**

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**MNEs, where workers develop “workers’ due diligence” and they produce arguments for making business responsible of labour violations?**

- An alternative concept of "mandatory chain liability “was pushed by the ETUC towards the Commission once discussing the Posting of Workers Directive 67 of 2014.

**This final version reflects the debate that took place during the Symposium and it was sent to all participants for collecting their views and advice.**